

D.R. 8/2016

NATIONAL LAND CODE (AMENDMENT) BILL 2016

AMENDMENT IN COMMITTEE

ENGLISH LANGUAGE TEXT

Clause 12

Subclause 12(c) of the Bill is amended by substituting for the words “temporary occupation licences” the words “permits to extract, remove and transport rock material”.

EXPLANATORY STATEMENT

This amendment seeks to amend the relevant provision to streamline the term used in the Code in relation to issuance of permits relating to rock material.

A BILL

i n t i t u l e d

An Act to amend the National Land Code.

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WHEREAS it is expedient for the purpose only of ensuring uniformity of law and policy that the National Land Code be amended:

NOW, THEREFORE, pursuant to Clause (4) of Article 76 of the Federal Constitution, **IT IS ENACTED** by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the National Land Code (Amendment) Act 2016.

(2) This Act comes into operation in each State on a date to be appointed by the Minister, with the approval of the National Land Council, by notification in the *Gazette* of the Federation, and the Minister may, with the approval of the National Land Council, appoint different dates for the coming into operation of different provisions of this Act.

(3) This Act comes into operation in the Federal Territory of Kuala Lumpur, the Federal Territory of Putrajaya and the Federal Territory of Labuan on such date to be appointed by the Minister, by notification in the *Gazette* of the Federation, and the Minister may appoint different dates in respect of different provisions of this Act.

Amendment of section 5

2. The National Land Code [*Act No. 56 of 1965*], which is referred to as the “Code” in this Act, is amended in section 5—

(a) by inserting after the definition of “subdistrict” the following definition:

‘ “subdivided building”, in relation to subdivision of any building under the Strata Titles Act 1985 [*Act 318*], includes subdivision of building or land;’;

(b) in the definition of “territorial waters”, by substituting for the words “subsection 4(2) of the Emergency (Essential Powers) Ordinance, No. 7 1969 [*P.U. (A) 307A/1969*]” the words “subsection 3(3) of the Territorial Sea Act 2012 [*Act 750*]”; and

(c) in the definition of “trust”, by substituting for the word “Muslim” the word “Islamic”.

Amendment of section 5D

3. Subsection 5D(3) of the Code is amended—

(a) in paragraph (b), by substituting for the word “Code” the word “Act”; and

(b) in subparagraph (b)(ii), by inserting after the words “licence or permit” wherever appearing the words “or lease of reserved land”.

Amendment of section 14

4. Subsection 14(1) of the Code is amended—

- (a) in paragraph (f), by inserting after the words “other incidents of,” the words “including matters relating to refund or forfeiture of any sum paid as deposit,”; and
- (b) in paragraph (i), by deleting the words “or any collecting agent as approved by the State Authority”.

Amendment of section 15

5. Subparagraph 15(1)(e)(i) of the Code is amended by inserting after the words “to produce for inspection” the words “or any other purpose provided under this Act,”.

Amendment of section 16

6. Subsection 16(2) of the Code is amended by inserting after the words “in the name of his office” the words “and shall not in any circumstances be in the name of any officer”.

Amendment of section 42

7. Paragraph 42(2)(a) of the Code is amended by substituting for the words “the Mining Enactment” the words “any written law for the time being in operation relating to mining”.

Amendment of section 43

8. Paragraph 43(c) of the Code is amended by substituting for the words “Diplomatic and Consular Privileges Ordinance 1957 [*Ord. No. 53 of 1957*]” the words “Diplomatic Privileges (Vienna Convention) Act 1966 [*Act 636*], International Organizations (Privileges and Immunities) Act 1992 [*Act 485*] and Consular Relations (Vienna Convention) Act 1999 [*Act 595*]”.

Amendment of section 46A

9. Section 46A of the Code is amended—

- (a) in the shoulder note, by inserting after the words “**share in land**” the words “**or parcel of subdivided building**”; and
- (b) by inserting after the words “Where an undivided share in land” the words “or parcel of a subdivided building”.

Amendment of section 66

10. Section 66 of the Code is amended—

- (a) by renumbering the existing section as subsection (1);
- (b) in subparagraph (1)(b)(i) as renumbered—
 - (i) by substituting for the words “Senior Inspector of Mines” the words “Director of Mines”; and
 - (ii) by substituting for the word “mining” the words “mineral development”;
- (c) in subparagraph (1)(c)(ii) as renumbered, by substituting for the colon at the end of the subparagraph a full stop;
- (d) by deleting the proviso to subsection (1) as renumbered; and
- (e) by inserting after subsection (1) as renumbered the following subsection:

“(2) Nothing in this section shall authorize the Land Administrator to issue temporary occupation licences in respect of:

- (a) any such river and up to fifty metres of the bank of any such river; or

(b) any such lake or spring and up to fifty metres from the edge of any such lake or spring,

as may be declared by the State Authority by notification in the *Gazette* in accordance with the proviso to section 13.”.

Amendment of section 68A

11. Section 68A of the Code is amended by inserting after the words “as security for” the words “the due performance and observance of the provisions to which the licence is subject and”.

Amendment of section 71

12. Section 71 of the Code—

(a) by renumbering the existing section as subsection (1);

(b) in paragraph (1)(c) as renumbered—

(i) by substituting for the words “Senior Inspector of Mines” the words “Director of Mines”; and

(ii) by substituting for the word “mining” the words “mineral development”; and

(c) by inserting after subsection (1) as renumbered the following subsection:

“(2) Nothing in this section shall authorize the Land Administrator to issue temporary occupation licences in respect of:

(a) any such river and up to fifty metres of the bank of any such river; or

(b) any such lake or spring and up to fifty metres from the edge of any such lake or spring,

as may be declared by the State Authority by notification in the *Gazette* in accordance with the proviso to section 13.”.

Amendment of section 75c

13. Section 75c of the Code is amended by inserting after the words “Land Administrator” the words “or any officer authorized by the State Authority”.

Amendment of section 80

14. Subsection 80(3A) of the Code is amended—

- (a) by inserting after the words “Notwithstanding subsection (3)” the words “and subsection 180(1)”; and
- (b) by inserting after the words “where it appears just and expedient,” the words “dispense with the issuance of qualified title and proceed to”.

New section 90A

15. The Code is amended by inserting after section 90 the following section:

“Extension of land alienated for a term of years

90A. (1) The proprietor of any land alienated for a term of years may apply to the State Authority for the term to be extended.

(2) The application shall be made before the expiry of the term specified in the document of title.

(3) Upon receiving any application referred to in subsection (1), the Land Administrator shall endorse, or cause to be endorsed, a note on the register document of title to the land to which the note relates.

(4) The State Authority shall not entertain any such application unless the State Authority is satisfied with respect to every person or body having a registered interest in the

land, either that he has consented to the application or that his consent ought in the circumstances of the case to be dispensed with.

(5) The approval or rejection of an application under subsection (1) shall be at the discretion of the State Authority, and such approval if given, may be subject to—

(a) payment of premium as may be determined by the State Authority; and

(b) other charges as may be prescribed.

(6) Subject to subsection (9), where the State Authority approves such application, the Land Administrator shall cause to be served on the proprietor a notice in Form 5A requiring him to pay any sum specified in subsection (5) within the specified time and if any such sum is not paid within such time the approval of the State Authority shall lapse.

(7) As soon as may be after the sum referred to in subsection (6) has been paid, the Land Administrator shall endorse, or cause to be endorsed, a memorial to effect such extended term on the register document of title to the land and on the issue document of title if he is able to secure or when the title is produced to him.

(8) In the case of land with subdivided building, the application may be made by the management corporation on the authority of a unanimous resolution and such application shall be regarded as an application in respect of the alienated land and provisional block, if any, consist therein and in the case where the payment is made upon approval of the application in accordance with the foregoing provisions, the memorial to be endorsed as provided under subsection (7) shall be construed to apply also to the subsidiary titles relating to the approval.

(9) Nothing in this section shall preclude the State Authority from considering the application together with any other application provided under this Act.”.

Amendment of section 92C**16.** Section 92C of the Code is amended—

(a) by inserting after subsection (1) the following subsection:

“(1A) For the purpose of subsection (1), the Registrar may register and issue document of qualified title first before its continuation into final title where it appears just and expedient.”; and

(b) in subsection (6), by deleting the words “final Registry”.

Amendment of section 92D**17.** Section 92D of the Code is amended—

(a) in subsection (2), by inserting after the words “underground land under section 92C” the words “and the approval of the application together with the depth of the alienated land of the proprietor shall be endorsed on the document of title to the alienated land and the depth, which may also include reference to the plan issued by the Director of Survey and Mapping shall, for the purpose of this Act, operate as express conditions, and the provisions of this Act relating to the express conditions shall accordingly apply”; and

(b) by inserting after subsection (6), the following subsection:

“(6A) The conditions as endorsed on the document of title referred to in subsection (6) may also include reference to the plan issued by the Director of Survey and Mapping.”.

Amendment of section 95**18.** Section 95 of the Code is amended—

(a) by deleting the words “within the State”; and

(b) by inserting after the words “as may be prescribed” the words “or through any person or body as approved by the State Authority”.

New section 96A

19. The Code is amended by inserting after section 96 the following section:

“Rent of land with subdivided building

96A. (1) Upon the coming into operation of Part IVA of the Strata Titles Act 1985, the provisions of Part Six of this Act except section 101 (which relates to revision of rent), shall not be applicable in respect of land with subdivided building and any action taken for non-payment thereof shall be in accordance with the Strata Titles Act 1985.

(2) The application of section 101 in respect of land with subdivided building shall be in accordance with the provision of subsection 101(7).

(3) In the event of termination of the subdivided building in accordance with section 57 of the Strata Titles Act 1985, the rent in respect of the land shall become payable as from the beginning of the calendar year next following in accordance with this Act.”.

Amendment of section 101

20. Section 101 of the Code is amended by inserting after subsection (6) the following subsections:

“(7) Notwithstanding the operation of Part IVA of the Strata Titles Act 1985, this section shall also apply to land with subdivided building in accordance to section 96A.

(8) The rent of the land with subdivided building shall become payable only upon the termination of subdivision in accordance with Part IVA of the Strata Titles Act 1985.”.

Amendment of section 122

21. Paragraph 122(d) of the Code is amended by inserting after the words “the use” the words “or uses”.

Amendment of section 124

22. Section 124 of the Code is amended—

- (a) in the further proviso to subsection (1), by inserting after the words “unless any rent due has been paid” the words “and if it relates to express conditions endorsed on the title by virtue of subsection 92B(2) and subsections 92D(2) and (6)”;
- (b) by inserting after subsection (1A) the following subsection:

“(1B) Upon receiving any application referred to in subsection (1), the Land Administrator shall endorse, or cause to be endorsed, a note on the register document of title to the land to which the note relates.”; and
- (c) in subsection (7), by inserting after the words “under his hand and seal” the words “of which the entry shall be made upon payment in accordance with subsection (8)”.

Amendment of section 160B

23. Section 160B of the Code is amended—

- (a) by inserting after subsection (2) the following subsection:

“(2A) Such action in relation to the land with subdivided building shall also be made to the subsidiary register.”; and
- (b) in subsection (5), by substituting for the words “which contains a note under subsection (2)” the words “and subsidiary register, which contain a note under subsection (2) or (2A), as the case may be,”.

Amendment of section 160c

24. Section 160c of the Code is amended—

- (a) by renumbering the existing section as subsection (1); and

(b) by inserting after subsection (1) as renumbered the following subsection:

“(2) In the case of land with subdivided building, the title in continuation shall be issued in respect of every document relating to parcel held under subsidiary title comprised thereto and the Land Administrator shall, pursuant to subsection (1), cause the relevant strata register in Form 2 and Form 3 in the First Schedule to the Strata Titles Act 1985 to be reestablished.”.

Amendment of section 166

25. Section 166 of the Code is amended by inserting after subsection (3) the following subsection:

“(4) For the purpose of paragraph (1)(h), if the part acquired refers wholly or in part to underground land, the title in continuation to be issued for the part left unacquired shall be endorsed in accordance with the provision of subsection 92B(2).”.

Amendment of section 170

26. Section 170 of the Code is amended—

(a) in subparagraph (1)(a)(iii), by inserting after the words “Form 4” the words “or Form 4A, as the case may be,”;

(b) in paragraph (1)(b), by inserting after the words “under this Act” the words “or the Strata Titles Act 1985, as the case may be,”; and

(c) by inserting after subsection (2) the following subsection:

“(3) In the case where the title in continuation is a land with subdivided building, a note relating to particulars of the title thereby continued shall be endorsed on Form 2 and Form 3 and the register document in Form 4 or Form 4A, as the case may be, in the First Schedule to the Strata Titles Act 1985.”.

Amendment of section 175F

27. Subsection 175F(4) of the Code is amended—

- (a) by inserting after the words “under this Act” the words “or the Strata Titles Act 1985, as the case may be,”; and
- (b) by inserting after the words “register document in question” the words “including the strata register, if any”.

Amendment of section 183A

28. Section 183A of the Code is amended by inserting after the words “where it appears just and expedient,” the words “dispense with the issuance of qualified title and proceed to”.

Amendment of section 184A

29. Section 184A of the Code is amended by inserting after the words “where it appears just and expedient,” the words “dispense with the issuance of qualified title and proceed to”.

Amendment of section 185A

30. Section 185A of the Code is amended by inserting after the words “where it appears just and expedient,” the words “dispense with the issuance of qualified title and proceed to”.

Amendment of section 199

31. Section 199 of the Code is amended by substituting for the shoulder note the following shoulder note:

“Re-vesting of land and destruction of issue document”.

Amendment of section 204B

32. Section 204B of the Code is amended—

- (a) by renumbering the existing section as subsection (1); and
- (b) by inserting after subsection (1) as renumbered the following subsection:

“(2) In relation to land held under qualified title, an application for surrender and re-alienation under this Part may only be entertained if the land has been duly surveyed and in respect of which a certified plan has been approved by the Director of Survey and Mapping except where the State Authority directs otherwise either generally or in any particular case.”.

Amendment of section 204D

33. Paragraph 204D(1)(c) of the Code is amended by substituting for the words “lot or lots” the word “portion”.

Amendment of section 204E

34. Section 204E of the Code is amended—

- (a) in subsection (3)—
 - (i) by substituting for the colon at the end of the subsection a full stop; and
 - (ii) by deleting the proviso to subsection (3); and
- (b) by inserting after subsection (3) the following subsections:

“(3A) Where the original title is a title in perpetuity, unless the proprietor apply for the land to be re-alienated to him for a term of years, the period for which the land is to be re-alienated shall also be in perpetuity, and where the original title is for a term of years, the period for which the land is to be re-alienated

shall not be less than the remainder of the term of years for which the land was held under the original title, except where the State Authority approves the application under section 90A, and in the case where there are dissimilarities as to the periods for which the original titles are held, the period for which the lands are to be re-alienated shall be as the State Authority may think fit.

(3B) The State Authority may in deciding the application, alienate adjoining State land to the proprietor.”.

Amendment of section 204G

35. Subsection 204G of the Code is amended by inserting after subsection (2) the following subsection:

“(2A) The memorial referred to in subsection (1) shall only be made—

(a) if all the sum due upon approval in accordance with the matters specified in subsection 79(2) have been paid; and

(b) in the case where section 204GA applies, after the charge subsisting in the title is discharged.”.

Amendment of section 204GA

36. Section 204GA of the Code is amended by substituting for subsection (2) the following subsection:

“(2) Where the State Authority approves such application under subsection 204E(3), the acceptance of the approval by the proprietor under subsection 204E(4) shall also include the consent by the chargee as to the discharge of the charge and for a fresh charge to be executed and presented in respect of the titles to be issued upon re-alienation.”.

Amendment of section 211

37. The proviso to subsection 211(1) of the Code is amended—

- (a) in paragraph (iii), by inserting after the comma the word “or”;
- (b) in paragraph (iv), by substituting for the words “, or” a full stop; and
- (c) by deleting paragraph (v).

Amendment of section 214A

38. Section 214A of the Code is amended—

- (a) in subsection (2), by inserting after the words “by the Board” the words “, or in the case where subsection (9) applies, a written approval of the State Authority”;
- (b) in subsection (10)—
 - (i) by substituting for the words “not exceeding RM10,000” the words “not less than one hundred thousand ringgit and not more than one million ringgit”; and
 - (ii) by substituting for the words “RM1,000” the words “five thousand ringgit”; and
- (c) in subsection (10A), by substituting for the words “not less than one year and not more than three years and to a fine not exceeding ten thousand ringgit” the words “not more than five years or to a fine not less than one hundred thousand ringgit and not more than one million ringgit, or to both”.

Amendment of section 241

39. Section 241 of the Code is amended by inserting after subsection (4) the following subsections:

- “(5) Subject to subsection (3), a charge in respect of alienated land or any lease of alienated land may be created in favour

of a financial institution notwithstanding that such institution having beneficial rights pursuant to any transaction contracted in compliance with Syariah.

(6) For the purpose of subsection (5), the financial institution shall be those institutions licensed under any written law relating to financial institutions or development financial institutions.”.

Amendment of section 254

40. Paragraph 254(1)(b) of the Code is amended by inserting after the words “in the charge” the words “which shall not be less than one month”.

Amendment of section 281

41. Subsection 281(1) of the Code is amended by deleting the words “for a loan”.

New section 292A

42. The Code is amended by inserting after section 292 the following section:

“Lodgment of instrument in electronic form

292A. (1) The Minister may, with the approval of the National Land Council by order published in the *Gazette* of the Federation, make such modification relating to any provision of this Act to facilitate lodgment of any such instrument in electronic form.

(2) In this section, “modifications” includes amendments, additions, deletions, substitutions, adaptations, and non-application of any provision.”.

Amendment of section 294

43. Paragraph 294(3)(b) of the Code is amended by substituting for the words “by section 47 of the Strata Titles Act 1985 shall be accompanied by the certificate required by paragraph (3)(c) of that section” the words “under the Strata Titles Act 1985 shall be accompanied by the relevant document required under the appropriate provision of that Act”.

Amendment of section 305

44. Section 305 of the Code is amended by inserting after subsection (2) the following subsections:

“(2A) For the purposes of paragraph (1)(e), the Registrar shall inform the person or body from whom the document was obtained to collect the document.

(2B) Where any document of title and duplicate lease, sub-lease or charge presented or produced in connection with the registration is not collected by the person or body from whom it was obtained upon being informed under subsection (2A) within the prescribed time, the release of such document thereafter shall be upon payment of such fees, as may be prescribed.

(2C) For the purposes of paragraph (1)(d), such action in respect of land held under land office title registered by virtue of paragraph 166(1)(j) or section 187^{AA} and the documents of which were kept by the former district shall be made by the Registrar in respect of the former district.

(2D) For the purposes of subsection (2C), “former district” refers to the district where the documents were first registered.”.

Amendment of section 323

45. Subsection 323(2) of the Code is amended—

(a) by inserting after the words “section 211” the words “notwithstanding that the provisions dealt with dealings in alienated land,”; and

- (b) by inserting after the words “in the land or a particular interest only” the words “, and the last known address of the proprietor if the caveat is to be expressed to bind the land itself or an undivided share in the land”.

Amendment of section 324

46. Section 324 of the Code is amended by inserting after subsection (3) the following subsection:

“(4) Notwithstanding the provision of subsection 431(1), it is sufficient for the notification to be served by ordinary post and shall be deemed to have been effected at the time at which the notification would be delivered in the ordinary course of post.”.

Amendment of section 325

47. Subsection 325(1) of the Code is amended by inserting after the words “by a notice in Form 19G” the words “, duly attested in accordance with the provisions of section 211 notwithstanding that the provisions dealt with dealings in alienated land,”.

Amendment of section 326

48. Section 326 of the Code is amended by inserting after subsection (1A) the following subsection:

“(1AA) Notwithstanding section 431, the service of notice in Form 19C may be effected by facsimile transmission to the person or body at whose instance the caveat was entered and it shall be deemed to have been duly served where there is a return acknowledgment by electronic or other means to the effect that the notice has been received by such person or body.”.

Amendment of section 330

49. Section 330 of the Code is amended—

- (a) in subsection (1), by deleting the words “for a loan”; and
- (b) in subsection (2), by inserting after the words “section 211” the words “notwithstanding that the provisions dealt with dealings in alienated land”.

Amendment of section 333

50. Subsection 333(2) of the Code is amended by inserting after the words “section 211” the words “notwithstanding that the provisions dealt with dealings in alienated land”.

Amendment of section 344

51. Subsection 344(4) of the Code is amended by deleting the words “the provisions of section 36 of”.

Amendment of section 351

52. Paragraph 351(3)(b) of the Code is amended by inserting after the words “undivided share in land” the words “or parcel of a subdivided building”.

Amendment of section 377

53. Section 377 of the Code is amended—

- (a) in subsection (1)—
 - (i) by inserting after the words “The Registrar may” the words “require the particulars of the person or body by whom the instrument or document was presented or delivered to be recorded and”; and
 - (ii) by inserting after the words “mark any instrument” the words “or document”;

(b) in subsection (2), by inserting after the words “any such instrument” the words “or document”; and

(c) by inserting after subsection (2) the following subsection:

“(3) The requirement under subsection (2) may also include any other method available to the Registrar.”.

Amendment of section 378

54. Section 378 of the Code is amended—

(a) by renumbering the existing section as subsection (1);

(b) in subsection (1) as renumbered, by substituting for the words “The Registrar may” the words “Subject to subsection (2), the Registrar may”; and

(c) by inserting after subsection (1) as renumbered the following subsection:

“(2) In the case of a natural person, such change may also refer to the description of his citizenship or the number of identity card issued to him under the National Registration Act 1959 [Act 78] or, where no such identity card has been issued to him, the number appearing in his passport or any other official document of identity.”.

Amendment of section 383

55. Subsection 383(1) of the Code is amended by inserting after the words “registered instrument of dealing” the words “or other document”.

Amendment of section 390

56. Subsection 390(1) of the Code is amended by deleting the word “country”.

Amendment of section 396A

57. Subsection 396A(3) of the Code is amended by inserting after the words “the register” the words “and the subsidiary register, if any,”.

Amendment of section 400

58. Subsection 400(3) of the Code is amended by substituting for the word “hundred” the word “thousand”.

Amendment of section 400A

59. Section 400A of the Code is amended by substituting for the word “ten” the word “twenty”.

Amendment of section 403

60. Section 403 of the Code is amended—

(a) in paragraph (a), by substituting for the word “hundred” the word “thousand”; and

(b) in paragraph (b), by substituting for the word “three” the word “five”.

Amendment of section 422

61. Section 422 of the Code is amended by substituting for the words “not exceeding five thousand ringgit and, in default of payment of such fine, to imprisonment for a term not exceeding three years” the words “not exceeding five hundred thousand ringgit or to imprisonment for a term not exceeding five years, or to both”.

Amendment of section 423

62. Section 423 of the Code is amended by substituting for the word “three” the words “five hundred”.

Amendment of section 424

63. Subsection 424(1) of the Code is amended by substituting for the words “five hundred” the words “one thousand”.

Amendment of section 425

64. Section 425 of the Code is amended—

(a) in subsection (1)—

- (i) by substituting for the word “ten” the words “five hundred”; and
- (ii) by substituting for the words “one year” the words “five years”; and

(b) in subsection (1A)—

- (i) by substituting for the word “ten” the words “five hundred”; and
- (ii) by substituting for the words “one year” the words “five years”.

Amendment of section 425A

65. Section 425A of the Code is amended by substituting for the word “two” the word “ten”.

Amendment of section 426

66. Section 426 of the Code is amended—

- (a) in subsection (1), by substituting for the word “fifty” the words “five hundred”; and
- (b) in subsection (1B), by substituting for the word “fifty” the words “five hundred”.

Amendment of section 426A

67. Section 426A of the Code is amended—

(a) by substituting for the shoulder note the following shoulder note:

“Power of arrest, seizure, etc.”;

(b) by inserting after paragraph (1)(a) the following paragraph:

“(aa) stop and examine any vehicle, tractor or any other thing whatsoever which he has reason to believe was used or is being used in the commission of an offence under that section;”;
and

(c) by inserting after subsection (5) the following subsection:

“(6) Any person who fails to cooperate with the authorized officer in the exercise of his power under subsection (1) commits an offence and shall, on conviction, be liable to a fine not exceeding five thousand ringgit, or to imprisonment for a term not exceeding six months, or to both.”.

Amendment of section 427

68. Subsection 427(2) of the Code is amended by substituting for the word “hundred” the word “thousand”.

Amendment of section 428

69. Subsection 428(2) of the Code is amended by substituting for the word “two” the word “five”.

Amendment of section 428A

70. Section 428A of the Code is amended by substituting for the word “one” the word “five”.

Amendment of section 429A

71. Section 429A of the Code is amended by substituting for the word “Code” the word “Act”.

Amendment of section 429B

72. Subsection 429B(1) of the Code is amended—

(a) by deleting the word “reasonably”; and

(b) by inserting after the words “committed an offence” the words “, which is prescribed to be compoundable,”.

Amendment of section 431A

73. Section 431A of the Code is amended—

(a) by inserting after the words “the Registrar” the words “or the Land Administrator,”;

(b) by substituting for the word “direct” the word “cause”; and

(c) by deleting the words “or may cause the notice to be sent by post to the Official Administrator”.

Amendment of section 432

74. Subsection 432(1) of the Code is amended—

(a) by inserting after the words “the Registrar” the words “or the Land Administrator”;

(b) by substituting for the word “order” the words “cause the”; and

(c) in subparagraph (1)(a)(ii)—

- (i) by substituting for the words “in a market” the words “a community hall”; and
- (ii) by inserting after the words “other public place” the words “as he thinks fit”.

Amendment of section 433

75. Paragraph 433(a) of the Code is amended—

- (a) in subparagraph (i), by deleting the words “and on the penghulu’s office or balai in the area in which the land is situated”; and
- (b) by substituting for subparagraph (ii) the following subparagraph:
 - “(ii) on a court-house, mosque or penghulu’s office or *balai*, or a community hall or other public place as the State Director or Registrar or Land Administrator thinks fit, in the area in which the land is situated; and”.

Amendment of section 433A

76. Section 433A of the Code is amended in the definition of “foreign company”—

- (a) in paragraph (a), by substituting for the words “subsection 4(1) of the Companies Act 1965 [*Act 125*]” the words “the Companies Act 2016 []”;
- (b) in paragraph (b), by substituting for the words “Companies Act 1965” the words “Companies Act 2016”; and
- (c) in paragraph (c), by substituting for the words “Companies Act 1965” the words “Companies Act 2016”.

Amendment of section 433B

77. Section 433B of the Code is amended—

- (a) in the proviso, by deleting paragraph (aa);

(b) in subsection (4)—

(i) by inserting after the words “subject to the category “agriculture” or “building” ” the words “or “industry” ”; and

(ii) by inserting after the words “agricultural or building” the words “or industrial”;

(c) by deleting subsection (5); and

(d) in subsection (6), by substituting for the words “Subsections (3), (4) and (5)” the words “Subsections (3) and (4)”.

Amendment of section 433E

78. Subsection 433E(1) of the Code is amended in the proviso by deleting paragraph (a).

Amendment of section 433H

79. Section 433H of the Code is amended—

(a) in the shoulder note, by inserting after the word “**Part**” the word “, *etc.*”;

(b) by renumbering the existing section as subsection (1); and

(c) by inserting after subsection (1) as renumbered the following subsection:

“(2) Without prejudice to subsection (1), no corporation considered to be foreign incorporated or registered under any written law shall be capable of holding any land except in accordance with this Part.”.

Amendment of section 434

80. Subsection 434(2) of the Code is amended by substituting for the words “Arbitration Act 1952 [*Act 93*]” the words “Arbitration Act 2005 [*Act 646*]”.

Amendment of section 436A

81. Section 436A of the Code is amended—

- (a) in subsection (1), by substituting for the words “natural individual” the words “natural person”; and
- (b) in subsection (2), by substituting for the words “natural individual” the words “natural person”.

Savings and transitional

82. (1) All applications or other matters that are pending approval or registration or otherwise under sections 204B, 323, 324 and 326, immediately before the commencement of this Act shall, after the coming into operation of this Act, be continued or concluded as if the National Land Code had not been amended by this Act.

(2) Any order or proceedings that is pending or commenced under sections 214A, 400, 400A, 403, 422, 423, 424, 425, 425A, 426, 427, 428, 428A and 429B, before the coming into operation of this Act, shall be continued and concluded as if the National Land Code had not been amended by this Act.

EXPLANATORY STATEMENT

This Bill seeks to amend the National Land Code (“the Code”).

- 2. *Clause 1* contains the short title and provisions on the commencement of the proposed Act.
- 3. *Clause 2* seeks to amend section 5 of the Code to introduce the new definition of subdivided building into the Code and to substitute the law referred to in the definition of “territorial waters” to state the current law in operation regarding the matter that is the Territorial Sea Act 2012.
- 4. *Clause 3* seeks to amend section 5D of the Code to enable the issuance of lease of reserved land to be made in accordance with the Electronic Land Administration System under the Sixteenth Schedule to the Code. Consequential amendment to the Sixteenth Schedule of the Code will be made by the Minister with the approval of the National Land Council, in accordance with section 5D of the Code.

5. *Clause 4* seeks to amend section 14 of the Code to enable the State Authority to make provisions in the State Land Rules relating to refund and forfeiture of any deposit paid as security for the issuance of licence and permit under section 68A or 74 of the Code respectively. This amendment also seeks to facilitate the collection of rents through any appointed agent without having to provide under the State Land Rules which is consistent with the amendment to section 95 of the Code. This provision was previously included in section 14 *vide* Act A1333.

6. *Clause 5* seeks to amend section 15 of the Code to enable the Director of Lands and Mines, the Registrar of Titles and the Land Administrator to issue notice in Form 2B to require production of documents not only for the purpose of inspection or standardisation of express conditions or restriction in interest, but also for any other purposes. Consequential amendment to Form 2B in the First Schedule of the Code will be made by the Minister on the recommendation of the National Land Council, in accordance with section 9 of the Code.

7. *Clause 6* seeks to amend section 16 of the Code to clarify that any actions, suits or other proceedings relating to land shall be brought against the Director of Lands and Mines in the name of his office, without naming any particular officer. This proposed amendment is necessary due to the decision of the Federal Court in the case of *Kerajaan Malaysia & Ors. v Lay Kee Tee & Ors.* [2009] 1 MLJ 1.

8. *Clause 7* seeks to amend section 42 of the Code to make general references to the current law being in operation relating to mining. Although most of the states have enforced the Mineral Enactment, the Mining Enactment is still being used in certain states.

9. *Clause 8* seeks to amend section 43 of the Code to update the references to the laws currently in operation relating to the diplomatic and consular matters as well as international organizations.

10. *Clause 9* seeks to amend section 46A of the Code to provide that in the case where the proprietor of any parcel of a subdivided building dies without any heirs as provided under section 351 of the Code or other related laws, such parcel of a subdivided building shall revert to the State Authority and vested in the statutory authority.

11. *Clause 10* seeks to amend section 66 of the Code to provide that the officer to be referred to by the Land Administrator in processing applications for Temporary Occupation Licence on mining land is the Director of Mines as appointed under the written law relating to mineral development. The post of Senior Inspector of Mines no longer referred to in the current legislation.

This proposed amendment also seeks to improve the provision in its application to the proviso to subsection 13(1) of the Code which does not authorize the Land Administrator to approve licences in and within fifty metres from any shore, lake and spring which have been gazetted.

12. *Clause 11* seeks to amend section 68A of the Code to make provision for the State Authority to collect deposits as security for due performance and observance of the conditions for Temporary Occupation Licence.

13. *Clause 12* seeks to amend section 71 of the Code to provide that the officer to be referred to by the Land Administrator in processing applications for permits to extract, remove and transport rock materials on mining land is the Director of Mines as appointed under the written law relating to mineral development. The post of Senior Inspector of Mines is no longer referred to in the current legislation.

This proposed amendment is also made to streamline this provision with the proviso to subsection 13(1) of the Code which does not authorize the Land Administrator to approve permits in and within 50 metres from any shore, lake and spring which have been gazetted.

14. *Clause 13* seeks to amend section 75C of the Code to provide that upon approval of application under section 75B of the Code, other than the Land Administrator, any officer authorized by the State Authority may issue on behalf of the State Authority, a permit in Form 4D.

15. *Clause 14* seeks to amend subsection 80(3A) of the Code which was introduced into the Code *vide* Act A1333 to provide that the Registrar may, upon approval of alienation of any land, register the final title without issuing the qualified title if it appears to be just and expedient to do so.

16. *Clause 15* seeks to introduce a new section 90A into the Code to provide for the procedure and process for applications of extension of land alienated for a term of years, at any time, before the period expires. However, the approval is subject to the discretion of the State Authority. If approved, the endorsement as to the extension of the tenure of the title shall only be made after the payment has been cleared. In such a case, unless the payment is made, in the event of the land being subjected to acquisition, subparagraph 1(1D) of the First Schedule to the Land Acquisition Act is still applicable.

17. *Clause 16* seeks to amend section 92C of the Code to make provision for the Registrar to issue qualified title upon alienation of underground State land before issuing final title (in the form of Registry title) if it appears to be just and expedient to do so and the Minister may by order, make modifications to the forms for qualified title corresponding to the Registry title.

18. *Clause 17* seeks to amend section 92D of the Code to provide that the depth of the surface land of the proprietor as approved by the State Authority is to be endorsed as an express condition to that title. This proposed amendment also clarifies that endorsement relating to depth in a title in the case of final title may also refer to a plan issued by the Director of Survey and Mapping.

19. *Clause 18* seeks to amend section 95 of the Code to expand the places and mechanism for payment of rents.

20. *Clause 19* seeks to introduce a new section 96A into the Code to make provision for the imposition of rents in respect of titles with subdivided building under the Strata Titles Act 1985 when Part IVA of the Act comes into operation, in which case the rents of the land will no longer be collected and enforcement for failure to pay rent must be made based on the provision of the Strata Titles Act 1985. Upon the termination of subdivided building, the rent in respect of the land shall become payable beginning of the next following calendar year according to the prevailing rate being in force then as a result of revision carried out from time to time under section 101 of the Code.

21. *Clause 20* seeks to introduce new subsections 101(7) and (8) into the Code to provide that the revision of rents in respect of land with subdivided building will still be carried out in accordance with the provisions of the Code even though Part IVA of the Strata Titles Act 1985 is in operation.

The proposed new subsections also clarify that a new rate based on the revision shall be endorsed in the title. However, the rent of the land is not payable until the subdivision of the building is terminated. Only then the rent of the land becomes payable as indicated under the proposed new section 96A.

22. *Clause 21* seeks to amend section 122 of the Code to clarify that more than one land use for any building may be imposed in the condition by the State Authority. This clarification is necessary since more than one land use may be specified in respect of alienation of underground land pursuant to subsection 92B(1) of the Code.

23. *Clause 22* seeks to amend section 124 of the Code for the following purposes:

- (a) to amend the proviso to subsection (1) to restrict any application for variation of conditions for titles having been endorsed with depth limit, since the land underneath is State land;
- (b) to ensure the endorsement is made once application is submitted in accordance with the new proposed subsection (1B); and
- (c) to ensure that payment had been made before the new condition is endorsed in the title, as amended under subsection (7).

24. *Clause 23* seeks to amend section 160B of the Code to make provision for actions to be taken by the Land Administrator when a new district is created, for the matter involving titles for land with subdivided building. Note relating to creation of the new district must be made on the subsidiary register (whereby under section 5 of the Code includes the strata register as defined under the Strata Titles Act 1985) by the Land Administrator who maintains these documents in the former district. The strata register under the Strata Titles Act 1985 which refers to section 15 (as amended *vide* Act A1450 comprises of Form 2, Form 3 and titles in Form 4 and Form 4A in the First Schedule to that Act). All of these documents must be kept in the former district.

This proposed amendment also seeks to clarify that the strata register which has been endorsed cannot be removed from the former Land Office.

25. *Clause 24* seeks to amend section 160C of the Code to clarify the issuance of title in continuation in respect of land with subdivided building when a new district is created. The Land Administrator of the new district is required to issue title in continuation for all parcels held under subsidiary titles (including strata titles) comprised in the titles involved in such exercise. The Land Administrator is also required to reestablish the respective Form 2 and Form 3 in the First Schedule to the Strata Titles Act 1985 in accordance with the particulars of the title thereby continued.

26. *Clause 25* seeks to amend section 166 of the Code to enable the issuance of title in continuation due to partial acquisition which relates to whole or part of the underground land and subsection 92B(2) of the Code applies for issuance of such title in continuation.

27. *Clause 26* seeks to amend paragraph 170 of the Code to clarify that in the case of title in continuation, the issue documents of title in respect of strata titles can also be produced in accordance with the Strata Titles Act 1985 after the issuance of the register documents of title in continuation.

This proposed amendment also seeks to clarify that title in continuation involving subsidiary title under Strata Titles Act 1985 also include Form 4A, in accordance with section 15 of that Act as amended *vide* Act A1450.

This proposed amendment further seeks to enable the Registrar to endorse particulars of the title in continuation in the respective strata register kept in his office if it involves title with subdivided building. In this case, it is sufficient for the Registrar to note in Form 2 and Form 3 and the register document in Form 4 or Form 4A in the First Schedule to the Strata Titles Act 1985, as the case may be, to note that the main title has been continued.

28. *Clause 27* seeks to amend section 175F of the Code to provide that the issue document of title or the strata register issued by the Registrar or Land Administrator under this section shall be in the form appropriate under the Code and Strata Titles Act 1985.

29. *Clause 28* seeks to amend section 183A which was introduced into the Code *vide* Act A1104 to provide that the Registrar may, after approval of subdivisions, register final titles, without first issuing the qualified titles even though applications have been made for issuance of qualified titles, if it appears just and expedient to do so.

30. *Clause 29* seeks to amend section 184A which was introduced into the Code *vide* Act A1104 to provide that Registrar may, after approval of partition, register final titles without first issuing the qualified titles even though applications have been made for issuance of qualified titles, if it appears just and expedient to do so.

31. *Clause 30* seeks to amend section 185A which was introduced into the Code *vide* Act A1104 to provide that the Registrar may, after approval of amalgamation, register final titles without first issuing the qualified titles even though applications have been made for issuance of qualified titles, if it appears just and expedient to do so.

32. *Clause 32* seeks to amend section 204B of the Code to provide that in relation to land held under qualified title, the application for surrender and re-alienation may only be entertained if the land has been duly surveyed and the application must also be accompanied with a certified plan approved by the Director of Survey and Mapping unless the State Authority directs otherwise.

33. *Clause 33* seeks to amend section 204D of the Code to streamline the terms used to be in line with other provisions in the Code.

34. *Clause 34* seeks to introduce a new subsection 204E(3A) into the Code to enable the State Authority to approve re-alienation for a term of years (leasehold period) although the original title is held in perpetuity, on the application of the proprietor (particularly land held by the Federal Government involves in privatisation). Taking into consideration the decision of the Federal Court in *Pengarah Tanah dan Galian, Wilayah Persekutuan v. Sri Lempah Enterprise Sdn Bhd* [1979] 1 MLJ 135, the State Authority can approve such changes of tenure only by the application of the proprietor. In the case where the title of the land is held for a term of years, the State Authority may approve for re-alienation for a longer term if it is also being considered under section 90A. The State Authority may also determine the periods for the land to be realienated if the periods in the original titles are different, as long as the proprietor is not given a less favourable term from the one currently enjoyed by him.

This proposed amendment also seeks to streamline the terms used with other provisions in the Code. In addition, this proposed amendment seeks to clarify that the State Authority may decide to alienate State land adjoining to the land owned by the applicant.

35. *Clause 35* seeks to amend section 204G of the Code to provide that a memorial on the reversion of land to the State in the register document of title shall be made only after full payment is made in accordance with Form 5A and the issue document of title will then be destroyed consequently. When section 204GA applies, the memorial for reversion will only be made after subsisting charge, if any, is discharged.

36. *Clause 36* seeks to amend section 204GA of the Code to provide that the acceptance of the proprietor upon the approval by the State Authority pursuant to section 204E in respect of title subjected to a charge shall include the consent by the chargee as to discharge of the charge and for a fresh charge to be executed on the realienated land. It implies that such consent shall not be necessary if the repayment for the financing secured by the charge has been made in full prior to the approval of the State Authority, leading to its discharge.

37. *Clause 38* seeks to amend section 214A to provide that the document to be submitted to enable the Registrar to register any transfer of estate land is the written approval of the State Authority, in the case where the State Authority approves the appeal against the decision of the Estate Land Board pursuant to subsection 214A(9) of the Code.

Clause 38 also seeks to amend subsections 214A(10) and (10A) of the Code to increase the penalty for offences relating to transfer or attempt to transfer estate land contrary to the provisions of this section and to enable the punishment to be meted out either in the form of imprisonment or fine or to both.

38. *Clause 39* seeks to amend subsection 241 of the Code to provide that the financial institutions which comply with syariah principles may create charges for any kind of transactions or arrangements entered. For this purpose, the financial institutions shall be those institutions licensed under the related laws.

39. *Clause 40* seeks to amend section 254 of the Code to provide that the alternative period in Form 16D shall not be less than one month, to tally with the provision of subsection 254(1) of the Code.

40. *Clause 41* seeks to amend section 281 of the Code to enable lien to be created as security and not necessarily for loans.

41. *Clause 42* seeks to introduce a new section 292A into the Code to provide that the Minister, with the approval of the National Land Council, by order, to make such modifications relating to any provisions of this Code to facilitate lodgement of instrument electronically. Such order may cover matters such as actions to be taken by the Registrar during the pre-registration and post-registration in respect of such presentations and forms to be used (in lieu of the forms provided in the First Schedule to the Code). Such order may also cover matters currently governed by the provisions of the Tenth Schedule to the Code.

42. *Clause 44* seeks to introduce new subsections 305(2A) and (2B) into the Code to enable the return of any document after registration of any instrument of dealing is made by the person or body who collects the document upon being notified accordingly. Fees as provided under the State Land Rules will be imposed if it is not collected within the period given.

This proposed amendment also seeks to clarify that in the case where title in continuation has been issued consequent to the creation of a new district, the requirement in respect of endorsement of any documents kept by the former district shall be carried out by the Registrar of the former district.

43. *Clause 45* seeks to amend subsection 323(2) of the Code to clarify that the provision relating to attestation of instrument of dealings in section 211 of the Code is also applicable in the case of entry of private caveat even though it involves non-dealings. It also seeks to require a caveator to indicate the details of the proprietor's known address in the application form to facilitate the service of notice by the Registrar to the proprietor. Consequential amendment to Form 19B in the First Schedule of the Code will be made by the Minister on the recommendation of the National Land Council in accordance with section 9 of the Code.

44. *Clause 46* seeks to amend subsection 324 of the Code to enable the service of notice of the entry of private caveat to the proprietor be made by ordinary post.

45. *Clauses 47 and 50* seek to amend subsections 325(1) and 333(2) of the Code respectively to clarify that the provision regarding attestation of instrument of dealings in section 211 of the Code is also applicable in the case of withdrawal of private caveat and trust caveat even though it involves non-dealings.

46. *Clause 48* seeks to amend section 326 of the Code to enable the service of the notice of intended removal of the private caveat be made by facsimile to the caveator.

47. *Clause 49* seeks to amend section 330 of the Code to enable caveat to be entered by lien as security and not necessarily for a loan. This proposed amendment also clarifies that the provision regarding attestation of instrument of dealings in section 211 of the Code is also applicable in the case of lien-holders' caveat even though it involves non-dealings.

48. *Clause 53* seeks to amend section 377 of the Code to enable the usage of any system or other mechanism available at the time for verification of person who executes or presents instrument or document at the Registry or Land Office.

49. *Clause 54* seeks to amend section 378 of the Code to enable any alteration of particulars such as citizenship, passport number or any identification documents to be recorded in any document of title or other instrument relating to the said land or interest.

50. *Clause 55* seeks to amend subsection 383(1) of the Code to enable the Registrar to furnish a certified copy of other documents, other than register document of title or registered instrument of dealing, for instance, roll of approved application which is a document kept in the land office based on the provisions of the previous land law as indicated in the proviso to subsection 81(3) of the Code.

51. *Clause 56* seeks to amend subsection 390(1) of the Code to clarify that the application for private right of way may be created over Registry titles and not only Land Office titles. This proposed amendment also to better clarify the amendment previously made vide Act A587 in which section 389 was amended to enable Land Administrator's rights of way to be created not only on country land (Land Office title if it does not exceed 4 hectares in accordance with subsection 77(3) of the Code) but also on town and village land. Consequential amendment to Form 28A in the First Schedule of the Code will be made by the Minister on the recommendation of the National Land Council in accordance with section 9 of the Code.

52. *Clause 57* seeks to amend section 396A of the Code to enable the Registrar to make an entry in the subsidiary register, as described in section 15 of the Strata Titles Act 1985, similar to the entry made in the register document of title as a result of amendment to the survey plan.

53. *Clauses 58, 59, 60, 61, 62, 63, 64, 65, 66, 68, 69 and 70* seek to increase and streamline the penalty for offences specified under sections 400, 400A, 403, 422, 423, 424, 425, 425A, 426, 427, 428 and 428A respectively. *Clause 61* also seeks to enable the punishment to be meted out either in the form of fine or imprisonment or to both.

54. *Clause 67* seeks to amend section 426A of the Code to confer power to the Land Administrator to stop and examine any vehicles or other things for the purpose of enforcement under section 426 of the Code. The *clause* also seeks to introduce a new subsection 426A(6) into the Code to provide penalty for any person who refuses to cooperate with the authorized officer in the exercise of his power under section 426A of the Code, where the penalty imposed is a fine not more than five thousand ringgit and imprisonment for a term of not more than six months or to both.

55. *Clause 71* seeks to amend section 429A of the Code to standardise the term used to be in line with other provisions in the Code.

56. *Clause 72* seeks to amend section 429B of the Code to streamline with provisions relating to compound in other laws. This proposed amendment also to clarify that compoundable offences must be prescribed in the State Land Rules, pursuant to paragraph 14(1)(ja) of the Code.

57. *Clause 73* seeks to amend section 431A of the Code to allow the Land Administrator to handle service involving proprietor who is dead, not confined only to the Registrar which refers to the Registrar of Titles for registry title and Land Administrator for land office title. Therefore, substituted service may be made without having to refer to the Registrar of Titles first, if it involves registry title. For example, substituted service for notice in Forms 6A, 7A and 8A.

58. *Clause 74* seeks to amend section 432 of the Code to allow the Land Administrator to handle substituted service, not confined only to the Registrar which refers to the Registrar of Titles for registry title and Land Administrator for land office title. Therefore, substituted service may be made without having to refer to the Registrar of Titles first, if it involves registry title. For example, substituted service for notice in Forms 6A, 7A and 8A. This proposed amendment also seeks to streamline the provisions relating to substituted service with the provisions relating to publication of notices or notifications.

59. *Clause 75* seeks to amend section 433 of the Code to streamline the provisions relating to publication of notices or notifications with the provisions relating to the substituted service as amended in *clause 71*.

60. *Clause 76* seeks to amend section 433A of the Code in relation to the interpretation of certain provisions in view of the new law relating to companies.

61. *Clause 77* seeks to amend subsections 433B(1), (4) and (5) of the Code to clarify that the restrictions would also be imposed on land with the category “industry” or land for industrial purposes, similar to the restrictions already being imposed on land with category “agriculture” or “building” or land for agriculture and building purposes.

62. *Clause 78* seeks to amend paragraph 433E(1)(a) of the Code in consequent to the amendment to section 433B.

63. *Clause 79* seeks to amend section 433H of the Code to clarify that foreign corporations which can hold land are only corporations incorporated under the laws relating to companies.

64. *Clause 81* seeks to amend section 436A of the Code to standardise the terms used to be in line with other provisions in the Code.

65. *Clause 82* seeks to provide for savings and transitional provisions.

66. Other amendments not specifically dealt with in this Statement are amendments which are minor or consequential in nature.

FINANCIAL IMPLICATION

This Bill will involve the Government in extra financial expenditure the amount of which cannot at present be ascertained.

[PN(U2)2986]