



UNDANG² MALAYSIA

Akta A128

**AKTA PROBET DAN PENTADBIRAN (PINDAAN
DAN PERLUASAN), 1972**



Tarikh Persetujuan di-Raja ... 19hb Jun, 1972

Tarikh di-terbitkan dalam *Warta* 22hb Jun, 1972

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REKOD-REKOD 2.000/1972
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UNDANG² MALAYSIA

Akta A128

AKTA PROBET DAN PENTADBIRAN (PINDAAN DAN PERLUASAN), 1972

Suatu Akta bagi meminda Ordinan Probet dan Pentadbiran, 1959, dan bagi memperluaskan kuatkuasa Ordinan itu, sa-bagaimana di-pinda, ka-semua bahagian Malaysia.

[23. 6. 72]

MAKA INI-LAH DI-PERBUAT UNDANG² oleh Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong dengan nasihat dan persetujuan Dewan Negara dan Dewan Ra'ayat yang bersidang dalam Parlimen, dan dengan kuasa daripada-nya, saperti berikut:

1. Akta ini boleh-lah di-namakan Akta Probet dan Pentadbiran (Pindaan dan Perluasan), 1972. Tajok ringkas.
2. Ordinan Probet dan Pentadbiran, 1959 (kemudian daripada ini di-sebut Ordinan itu), sa-bagaimana di-pinda oleh Akta ini, dan perundangan kechil yang di-buat di-bawah-nya itu ada-lah dengan ini di-perluaskan untuk di-pakai di-seluruh Malaysia. Perluasan Ord. 35/59.
3. Ordinan itu ada-lah dengan ini di-pinda dengan menggantikan sekshen 1 dengan yang berikut— Pindaan bagi s. 1.

"Short title and commencement.

1. (1) This Ordinance may be cited as the Probate and Administration Ordinance, 1959, and shall come into force on such date as the Minister may by notification in the *Gazette* appoint and the Minister may appoint different dates for the coming into force of this Ordinance in different States.

(2) In bringing this Ordinance into force in Sarawak the Minister may by order make such modifications thereto as he deems necessary in consequence of any modifications made to the Small Estates (Distribution) Ordinance, 1955, under section 1 (2) of that Ordinance."

Pindaan
bagi s. 9.

4. Sekshen 9 Ordinan itu ada-lah dengan ini di-pinda dengan menambah sekshen-kecil baharu yang berikut—

“(3) If the Court is satisfied that any person who is or may become entitled to representation has been personally served with the notice of hearing for the grant of representation, and the person fails to appear or file any objection, he shall be deemed to have renounced his right of representation.”.

Pindaan bagi
s. 35 (2).

5. Sekshen 35 (2) Ordinan itu ada-lah dengan ini di-pinda dengan menggantikan perkataan² “the Court may for any sufficient reason increase or decrease the number of the sureties, or dispense with or reduce the amount of the bond” dengan perkataan² “the Court may for any sufficient reason increase or decrease the number of sureties or dispense with them, and may reduce the amount of the bond”.

Bahagian
baharu VA
s. 77A.

6. Ordinan itu ada-lah dengan ini di-pinda dengan memasukkan sa-lepas sekshen 77 Bahagian baharu VA berikut yang mengandongi sekshen 77A—

“PART VA

POWERS OF REGISTRAR, DEPUTY REGISTRARS, SENIOR ASSISTANT REGISTRARS AND ASSISTANT REGISTRARS

Powers of
Registrar.

77A. (1) The Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court, other than Assistant Registrars constituted as such under subsection (2), shall have jurisdiction to seal any grant of probate or letters of administration granted by any court or authority in the Commonwealth outside Malaysia by whatever name designated, having jurisdiction in matters of probate and to hear and determine applications for, and to grant, probate or letters of administration—

- (a) in all cases which are uncontested; and
- (b) in all contested cases where it appears that the gross value of the estate of the deceased does not exceed twenty-five thousand dollars.

(2) All First Class Magistrates, other than ex officio Magistrates, shall be Assistant Registrars of the High Court for the purpose of hearing

and determining applications for probate or letters of administration under this section where it appears that the gross value of the estate of the deceased does not exceed twenty-five thousand dollars, and shall have jurisdiction to grant probate or letters of administration in those cases accordingly.

(3) No grant of probate or letters of administration shall be invalid by reason of the assets and effects of the deceased being subsequently found to be of greater value than twenty-five thousand dollars but the grantee shall be required to give such security for the due administration of the estate as is appropriate to the enhanced value.

(4) Unless in such case as is referred to in subsection (3) the grantee complies without delay with the requirements of that subsection the grant may be revoked at the instance of the Registrar or on the application of any person having any interest as beneficiary or creditor in the assets of the estate.

(5) Unless the Registrar in any particular case otherwise orders no security shall be required where the gross value of the estate does not exceed ten thousand dollars except where the person for whose use and benefit the grant is made is a minor.

(6) This section shall have no application to an estate which falls to be dealt with under the provisions of the Small Estates (Distribution) Ordinance, 1955.”

7. Sekshen 83 Ordinan itu ada-lah dengan ini di-pinda saperti berikut— Pindaan bagi s. 83.

- (a) dengan menggantikan perkataan “Whenever” di-permulaan sekshen-kecil (1) dengan perkataan² “Subject to subsection (2), whenever”;
- (b) dengan menggantikan perkataan² “five thousand dollars” dalam sekshen-kecil (1) (a) dengan perkataan² “twenty-five thousand dollars”;
- (c) dengan menomborkan sa-mula sekshen-kecil (2), (3) dan (4) yang ada sa-bagai sekshen-kecil (3), (4) dan (6);

(d) dengan memasokkan di-tempat² yang sesuai sekshen-kecil baharu (2) dan (5) yang berikut—

41/67.

“(2) (a) When the Official Administrator is satisfied that the value of any such property as is referred to in subsection (1) which comes into his possession or which may have come into the possession of the Police under section 23 of the Police Act, 1967, does not exceed two hundred and fifty dollars he may direct that the same or any part thereof be delivered, without letters of administration taken out, to any person or persons on his being satisfied as to the title of the claimant and value of the property by the oath or affirmation of the claimant or by such other evidence as he may require and he may in his discretion take such security as he thinks proper for the due administration of the property or the protection of the rights of any other person.

(b) Nothing in this subsection shall affect the right of any person to recover the whole or any part of the property delivered under paragraph (a) from the person to whom it may have been delivered.

41/67.

(c) If no person makes any claim on any such property within a period of thirty days from the date on which the property came into the possession of the Official Administrator or, in the case of property affected by section 23 of the Police Act, 1967, from the date on which it was taken charge of by the Police, the property may be sold by direction of the Official Administrator and the proceeds shall be paid into the Consolidated Fund :

Provided that, if at any time thereafter the owner of the property appears and claims the same, restitution shall be made on the claim being established to the satisfaction of the Official Administrator.

(d) If the property is of no appreciable value or its value is so small in the

opinion of the Official Administrator as to render impracticable the sale thereof, the Official Administrator may direct the property to be destroyed or otherwise disposed of as he thinks fit.

(5) The proceeds of the sale of any property received by the Official Administrator in accordance with section 23 (2) of the Police Act, 1967, shall be dealt with in the same manner as the property is by this section ordered to be dealt with.”.

8. Sekshen 85 Ordinan itu ada-lah dengan ini di-nomborkan sa-mula sa-bagai “85. (1)” dan di-pinda dengan menggantikan perkataan² “five thousand dollars” dengan perkataan² “twenty-five thousand dollars”. Pindaan bagi s. 85.

9. Sekshen 86 Ordinan itu ada-lah dengan ini di-pinda saperti berikut— Pindaan bagi s. 86.

(a) dengan menggantikan perkataan “Where,” di-permulaan sekshen-kecil (1), dengan perkataan “Subject to subsection (3), where”;

(b) dengan menambah sekshen-kecil baharu yang berikut di-akhir sekshen-kecil (2)—

“74/65. (3) Where the amount remaining in the hands of the Official Administrator in the circumstances set out in subsection (1) in respect of any estate is less than fifty dollars, the moneys shall be dealt with in the manner set out in sections 5 and 7 of the Unclaimed Moneys Act, 1965, as if they were monies paid into court with the words “three years” substituted for “fifteen years” in section 5 of that Act.”.

10. Ordinan itu ada-lah dengan ini di-pinda dengan menambah sekshen baharu yang berikut sa-lepas sekshen 89— Sekshen baharu 90.

“Saving and transitional.

90. (1) Nothing in this Ordinance shall affect the validity of proceedings instituted under the laws repealed by this Ordinance but the same shall be carried on in accordance with this Ordinance and any such proceeding may be amended as may appear to be necessary or proper to bring it into conformity with this Ordinance.

(2) Subject to this Ordinance the Official Administrator, Malaysia, shall be deemed to have taken the place of the Administrator General, Sabah, and of the Probate Officers in Sarawak."

Pindaan
bagi Jadual
Kedua.

11. Jadual Kedua kepada Ordinan itu ada-lah dengan ini di-pinda dengan menambah yang berikut di-akhir Jadual itu—

"F.M. Ordinance 43 of 1948	The Courts Ordinance, 1948	Section 105
Sabah Cap. 109	The Probate Administration Ordinance	The whole
Sarawak Cap. 80, 1948 Revised Edition	The Administration of Estates Ordinance	The whole."

Pindaan²
kecil dan
yang ber-
bangkit.

12. Pindaan² yang di-nyatakan dalam Jadual kepada Akta ini, ia-itu pindaan² kecil dan pindaan² yang berbangkit dari peruntukan² yang di-atas, ada-lah dengan ini di-buat kepada Ordinan itu.

JADUAL

(Sekshen 12)

PINDAAN² KECIL DAN YANG BERBANGKIT

Sekshen	Pindaan
2, ta'arif "Court"	Gantikan "Registrar and Assistant Registrars" dengan "Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars".
"lunatic"	Masokkan "or the corresponding written law in force in Sabah or Sarawak" sa-lepas "1952,".
"Minister"	Potong.
"minor"	Potong.
"Official Administrator"	Gantikan "Federation of Malaya" dengan ", Malaysia, ".
"Registrar"	Gantikan "an Assistant Registrar" dengan "the Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court".
"trust corporation"	Masokkan "or the corresponding written law in force in Sabah or Sarawak" sa-lepas "1949".
"will"	Masokkan " , 1959, or the corresponding written law in force in Sabah or Sarawak" sa-lepas "Ordinance".



LAWS OF MALAYSIA

Act A128

**PROBATE AND ADMINISTRATION (AMENDMENT
AND EXTENSION) ACT, 1972**



Date of Royal Assent ... 19th June, 1972

Date of publication in *Gazette* ... 22nd June, 1972

AG 1138

PROHIBIT AND RESTRICTED FROM SALE
AND EXPORTATION OF THIS

Revised Act
97

Incorporated

3

LAWS OF MALAYSIA

Act A128

PROBATE AND ADMINISTRATION (AMENDMENT AND EXTENSION) ACT, 1972

An Act to amend the Probate and Administration Ordinance, 1959, and to extend the operation of that Ordinance, as amended, to all parts of Malaysia.

[~~23-6-72~~]

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Ra'ayat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Probate and Administration (Amendment and Extension) Act, 1972. Short title.
2. The Probate and Administration Ordinance, 1959 (hereinafter referred to as the Ordinance), as amended by this Act and the subsidiary legislation made thereunder are hereby extended to apply throughout Malaysia. Extension of
Ord. 35/59.
3. The Ordinance is hereby amended by substituting the following for section 1— Amendment
of s. 1.
 1. (1) This Ordinance may be cited as the Probate and Administration Ordinance, 1959, and shall come into force on such date as the Minister may by notification in the *Gazette* appoint and the Minister may appoint different dates for the coming into force of this Ordinance in different States.
(2) In bringing this Ordinance into force in Sarawak the Minister may by order make such modifications thereto as he deems necessary in consequence of any modifications made to the Small Estates (Distribution) Ordinance, 1955, under section 1 (2) of that Ordinance.”

"Short title
and com-
mencement.

34/55.

Amendment
of s. 9.

4. Section 9 of the Ordinance is hereby amended by the addition of the following new subsection—

“(3) If the Court is satisfied that any person who is or may become entitled to representation has been personally served with the notice of hearing for the grant of representation, and the person fails to appear or file any objection, he shall be deemed to have renounced his right of representation.”.

Amendment
of s. 35 (2).

5. Section 35 (2) of the Ordinance is hereby amended by substituting for the words “the Court may for any sufficient reason increase or decrease the number of the sureties, or dispense with or reduce the amount of the bond” the words “the Court may for any sufficient reason increase or decrease the number of sureties or dispense with them, and may reduce the amount of the bond”.

New Part
VA s. 77A.

6. The Ordinance is hereby amended by inserting after section 77 the following new Part VA containing section 77A—

“PART VA

POWERS OF REGISTRAR, DEPUTY REGISTRARS,
SENIOR ASSISTANT REGISTRARS AND ASSISTANT
REGISTRARS

Powers of
Registrar.

77A. (1) The Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court, other than Assistant Registrars constituted as such under subsection (2), shall have jurisdiction to seal any grant of probate or letters of administration granted by any court or authority in the Commonwealth outside Malaysia by whatever name designated, having jurisdiction in matters of probate and to hear and determine applications for, and to grant, probate or letters of administration—

(a) in all cases which are uncontested; and

(b) in all contested cases where it appears that the gross value of the estate of the deceased does not exceed twenty-five thousand dollars.

(2) All First Class Magistrates, other than ex officio Magistrates, shall be Assistant Registrars of the High Court for the purpose of hearing and determining applications for probate or letters of administration under this section

where it appears that the gross value of the estate of the deceased does not exceed twenty-five thousand dollars, and shall have jurisdiction to grant probate or letters of administration in those cases accordingly.

(3) No grant of probate or letters of administration shall be invalid by reason of the assets and effects of the deceased being subsequently found to be of greater value than twenty-five thousand dollars but the grantee shall be required to give such security for the due administration of the estate as is appropriate to the enhanced value.

(4) Unless in such case as is referred to in subsection (3) the grantee complies without delay with the requirements of that subsection the grant may be revoked at the instance of the Registrar or on the application of any person having any interest as beneficiary or creditor in the assets of the estate.

(5) Unless the Registrar in any particular case otherwise orders no security shall be required where the gross value of the estate does not exceed ten thousand dollars except where the person for whose use and benefit the grant is made is a minor.

(6) This section shall have no application to an estate which falls to be dealt with under the provisions of the Small Estates (Distribution) Ordinance, 1955.”

34/55.

7. Section 83 of the Ordinance is hereby amended as follows— Amendment
of s. 83.

(a) by substituting for the word “Whenever” at the beginning of subsection (1) the words “Subject to subsection (2), whenever”;

(b) by substituting for the words “five thousand dollars” in subsection (1) (a) the words “twenty-five thousand dollars”;

(c) by re-numbering the existing subsections (2), (3) and (4) as subsections (3), (4) and (6);

(d) by inserting in the appropriate places the following new subsections (2) and (5)—

41/67.

“(2) (a) When the Official Administrator is satisfied that the value of any such property as is referred to in subsection (1) which comes into his possession or which may have come into the possession of the Police under section 23 of the Police Act, 1967, does not exceed two hundred and fifty dollars he may direct that the same or any part thereof be delivered, without letters of administration taken out, to any person or persons on his being satisfied as to the title of the claimant and value of the property by the oath or affirmation of the claimant or by such other evidence as he may require and he may in his discretion take such security as he thinks proper for the due administration of the property or the protection of the rights of any other person.

(b) Nothing in this subsection shall affect the right of any person to recover the whole or any part of the property delivered under paragraph (a) from the person to whom it may have been delivered.

41/67.

(c) If no person makes any claim on any such property within a period of thirty days from the date on which the property came into the possession of the Official Administrator or, in the case of property affected by section 23 of the Police Act, 1967, from the date on which it was taken charge of by the Police, the property may be sold by direction of the Official Administrator and the proceeds shall be paid into the Consolidated Fund:

Provided that, if at any time thereafter the owner of the property appears and claims the same, restitution shall be made on the claim being established to the satisfaction of the Official Administrator.

(d) If the property is of no appreciable value or its value is so small in the

opinion of the Official Administrator as to render impracticable the sale thereof, the Official Administrator may direct the property to be destroyed or otherwise disposed of as he thinks fit.

(5) The proceeds of the sale of any property received by the Official Administrator in accordance with section 23 (2) of the Police Act, 1967, shall be dealt with in the same manner as the property is by this section ordered to be dealt with."

8. Section 85 of the Ordinance is hereby renumbered as "85. (1)" and amended by substituting for the words "five thousand dollars" the words "twenty-five thousand dollars". Amendment of s. 85.

9. Section 86 of the Ordinance is hereby amended as follows— Amendment of s. 86.

(a) by substituting for the word "Where," at the beginning of subsection (1), the words "Subject to subsection (3), where";

(b) by adding the following new subsection at the end thereof—

"(3) Where the amount remaining in the hands of the Official Administrator in the circumstances set out in subsection (1) in respect of any estate is less than fifty dollars, the moneys shall be dealt with in the manner set out in sections 5 and 7 of the Unclaimed Moneys Act, 1965, as if they were monies paid into court with the words "three years" substituted for "fifteen years" in section 5 of that Act."

74/65.

10. The Ordinance is hereby amended by adding the following new section after section 89— New section 90.

"Saving and transitional.

90. (1) Nothing in this Ordinance shall affect the validity of proceedings instituted under the laws repealed by this Ordinance but the same shall be carried on in accordance with this Ordinance and any such proceeding may be amended as may appear to be necessary or proper to bring it into conformity with this Ordinance.

(2) Subject to this Ordinance the Official Administrator, Malaysia, shall be deemed to have taken the place of the Administrator General, Sabah, and of the Probate Officers in Sarawak.”

Amendment
of 2nd
Schedule.

11. The Second Schedule to the Ordinance is hereby amended by adding the following at the end thereof—

“F.M. Ordinance 43 of 1948 The Courts Ordinance, 1948 Section 105

Sabah Cap. 109 ... The Probate Administration Ordinance The whole

Sarawak Cap. 80, 1948 Revised Edition The Administration of Estates Ordinance of The whole.”

Minor and
conse-
quential
amendments.

12. The amendments specified in the Schedule to this Act, being minor amendments and amendments consequential upon the foregoing provisions, are hereby made to the Ordinance.

SCHEDULE

(Section 12)

MINOR AND CONSEQUENTIAL AMENDMENTS

Section	Amendment
2, definition of “Court”	For “Registrar and Assistant Registrars” substitute “Registrar, Deputy Registrars, Senior Assistant Registrars and Assistant Registrars”.
“lunatic” ...	After “1952,” insert “or the corresponding written law in force in Sabah or Sarawak”.
“Minister” ...	Omit.
“minor” ...	Omit.
“Official Administrator”	For “Federation of Malaya” substitute “, Malaysia,”.
“Registrar” ...	For “an Assistant Registrar” substitute “the Deputy Registrars, Senior Assistant Registrars and Assistant Registrars of the High Court”.
“trust corporation” ...	After “1949” insert “or the corresponding written law in force in Sabah or Sarawak”.
“will” ...	After “Ordinance” insert “, 1959, or the corresponding written law in force in Sabah or Sarawak”.

Insert the following new definitions in their proper places in alphabetical order—

7/64.

1. “ ‘Chief Justice’ has the meaning assigned thereto in the Courts of Judicature Act, 1964;”.

PROBATE AND ADMINISTRATION (AMENDMENT AND EXTENSION) 9

Section	Amendment
	2. " 'commencement of this Ordinance' in relation to any State means the date on which this Ordinance comes into force in that State;".
8 (2)	For "advocate and solicitor" substitute "advocate".
16 (proviso (b)), 42 (1), 86	Omit "legal" before "personal representative".
27, 29, 45, heading to Part III, 51, 52, 53, 56 (1), 58, 63, 80 (1), 83 (1)	For "the Federation" substitute "Malaysia".
39 (1)	Omit "of the Federation of Malaya".
54	1. For "the Federation" substitute "West Malaysia". 2. Renumber the existing provision as "54. (1)" and add the following as subsection (2)— " (2) In the application of subsection (1) to Sabah and Sarawak references to the Estate Duty Enactment, 1941, of the Federated Malay States, and provisions thereof shall be construed as references to the corresponding written laws and provisions of those laws in force in Sabah and Sarawak.".
78 (1), 87	For "Federation of Malaya" substitute "Malaysia".
83 (1) (b) 34/55.	Omit " , in the case of property situate in the States in which the Small Estates (Distribution) Ordinance, 1955, has effect,".
83 (4)	For "Part III" substitute "Part III or IV".
85	Add the following new subsection— " (2) For the purpose of this section "Gazette" means the <i>Gazette</i> of the State in which the proceedings are had.".