SYSTEM OF LAND TENURE IN THE FEDERATED MALAY STATES (EXCLUDING MINING LAND)
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(EXCLUDING MINING LAND)

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LAND LAW.

The law governing the tenure of land in the Federated Malay States is the Land Code 1926, which came into force on the 1st of January, 1928, superseding the Land Enactment of 1911 and the Registration of Titles Enactment of the same year. The general system, both of alienation of land and of registration of title is based on the Torrens system of Australia, with only such variations as have been found necessary to suit local conditions.

The Land Code divides land into the following categories:—
- Town Land,
- Village Land,
- Country Land exceeding 10 acres in area,
- Country Land not exceeding 10 acres in area,
- Foreshore and sea bed.

All land which is not alienated, nor reserved for a public purpose, nor reserved forest, is State Land. State Land vests in the Ruler of the State in which it is situated, and may be alienated only to

(a) an individual person, not being a minor,
(b) a company authorized by its constitution to hold land and incorporated under the Companies Enactment of the Federated Malay States,
(c) a company authorized as above, incorporated outside the Federated Malay States, which has complied with the provisions of the British and Foreign Companies Enactment 1912,
(d) a body corporate authorized to hold land and incorporated by any law in force, or constituted by Royal Charter or Letters Patent of His Britannic Majesty.

ORGANIZATION.

For the purpose of land administration, as well as for other purposes, the States of the Federation are divided into districts, a list of which is appended to this article. (Appendix A.)

Each district is under the charge of a District Officer, who for the purposes of the Land Code is a Collector of Land Revenue. With him are usually one or more Assistant Collectors of Land Revenue, whose powers under the law are the same as those of the
Collector. In Kuala Lumpur and Seremban districts there are specialized Land Offices under the charge of a Collector of Land Revenue, and the title of District Officer no longer exists.

**TOWN AND VILLAGE LANDS.**

Town and Village lands may be conveniently considered together. They comprise all land within the limits of a town or village declared by law.

Title to town and village lands is either a Grant, or a Lease of State Land. A grant conveys absolute title in perpetuity subject only to an annual quit rent and the observance of the implied conditions under the Land Code together with the express conditions or restrictions in interest which may be imposed in the Grant. There are also certain rights reserved to the State on all alienated land. A lease conveys the rights and interests in the land set forth in the document of lease, and is for a term of years decided in each case by the Resident.

Alienation of town and village lands is in almost all cases by auction, the successful bid including, as a rule, all payment for premium, survey fees, cost of boundary stones and preparation and registration of title. These items are usually included in the upset price. Quit rent is at the rate of $2/- per 2,400 square feet on building lots, and on larger areas at the rate of $5/- an acre.

**COUNTRY LANDS EXCEEDING 10 ACRES IN AREA.**

Country lands exceeding 10 acres in area are alienated on Grant or Lease of State Land. The approval of an application for such land, as also the premium to be paid and the conditions to be imposed on the title are at the discretion of the Resident of the State in which the land is situated. As to premia it may be said in general that, except for oil palm land, of which mention is made later on, there is nothing in the nature of a fixed premium for agricultural land. All that can be said is that premia are generally lower in Pahang than in the other three States, owing to its larger area and less advanced stage of development. The day of purely nominal premia is however past, and at any rate in the three Western States, premia are made to bear some relationship to the market value of the land, particularly if it is to be alienated on Grant in perpetuity.

Quit rent on this class of land is $1/- an acre a year for the first 6 years, and thereafter $4/- an acre a year. There are provisions for rebate of rent for land planted with padi, or certain other approved agricultural products.

Survey fees are charged at a fixed schedule rate which will be found in Appendix B, and there are also small office fees payable for engrossment and registration of title.
COUNTRY LAND NOT EXCEEDING 10 ACRES IN AREA.

Country land not exceeding 10 acres in area is a division made in the interests of Malay or other small holders. Alienation of this class of land lies with the Resident, but he may delegate his powers to the District Officer. The title to such land may be a Grant or a Lease or an Entry in the Mukim Register.

A mukim is a subdivision of a District, and is under the control of a headman called a Penghulu. An Entry in the Mukim Register made by the Collector of Land Revenue in the manner prescribed by the Land Code gives a valid title to land. To every holder of land by this method is issued a copy of the entry in the register, known as an Extract from the Mukim Register, locally abbreviated into E.M.R. This extract contains a plan of a land made after survey.

European applicants for country land not exceeding ten acres however may expect to be given Grants or Leases.

For purposes of rent such land is divided into two classes, the rent being $1.60 to $4/- an acre on first class lands, and 80 cents to $1.20 on second class lands. In Pahang there are also third class lands the rent on which is 60 cents an acre.

The same considerations as to premium, survey and other fees apply here as to country lands exceeding ten acres.

FORESHORE AND SEA BED.

The Code enacts that the title for land of this class shall be lease of State Land for a period not exceeding twenty years. The term sea-bed applies to the territorial waters of the State.

APPLICATIONS.

Applications for State Land should in the first place be addressed to the District Officer of the District in which the land is situated. Applications are required to be made on a prescribed form, obtainable at all Land Offices, in duplicate. New applicants, especially if their requirements are for large acreages are well advised, before sending in any formal application, to seek an interview with the District Officer, or if that is impracticable, to enquire by letter as to the availability of land for the purpose required, at the same time informing him fully of their intentions for the development of the land and of the resources at their disposal.

The information in Appendix C as to the availability of land for agricultural purposes is given with the reservation that there is no guarantee that the areas mentioned will be still available.
New applications are constantly being approved, and it will be understood that a list which may be up to date at the time of writing may very quickly need revision. In some cases moreover the availability depends to some extent on the extraction of timber, or the provision of drainage or communications. The wisest course is to refer personally if possible to the District Officer concerned before applying for land.

The investigations of the District Officer on an application will include enquiry as to the *bona fides* of the applicant, and the availability of the land for the purpose required. He will have to satisfy himself that the land is not reserved or likely to be required for any public purpose, that it is not a Malay Reservation, or a Forest Reserve, not likely to be required for mining, that it has or can be provided with some form of access.

The power to approve applications for State Land lies with the Resident in each State, but applications for areas exceeding 640 acres will be referred to the Chief Secretary to Government. Where the applicant is already in possession of 640 acres or over, any subsequent single application by him for land exceeding 100 acres will also be referred to the Chief Secretary.

**APPROVAL OF APPLICATIONS.**

Approval of an application is conveyed to the applicant through the District Officer, who will at the same time call for the payment of premium, survey and other fees, and quit rent. The nature of the title under which the land is to be held, and the express conditions, if any, are conveyed at the same time.

**SURVEY AND OCCUPATION.**

On payment of fees, the District Officer will have the land surveyed by the Government Survey Department, and when this has been done will obtain from the Registrar of Titles the issue copy of the document of title and deliver it to the applicant.

Occupation of land in expectation of title may be allowed with the consent of the Resident if all fees have been paid and the boundaries marked out. In such cases however the approved applicant occupies at his own risk to the extent that he has no claim to a greater area than stated in the application, and that payment of rent for the area applied for does not entitle him to a title for the whole extent of that area.

**CULTIVATION CONDITIONS.**

The following is the section of the Land Code 1926, dealing with the obligation to cultivate country lands.
"36 (i) In the absence of an express condition to the contrary in the document of title to any land alienated under this Enactment there shall by virtue of this section be implied in such document of title the following conditions

(a) in the document of title for any country land of an area not exceeding ten acres the condition that the land be continuously cultivated in a proper manner after the methods of good husbandry to the extent of one-half of the total area thereof, and that if for three consecutive years such one-half shall not have been so cultivated the proprietor shall be taken and deemed to have made default in the observance of such condition.

(b) in the document of title for any country land of an area exceeding ten acres the following conditions

(1) that a bona fide commencement to cultivate the land shall be made within twelve months of the date of registration of the grant or lease of State land, and

(2) that the said land shall be cultivated in a proper manner and after the methods of good husbandry to the extent of one-quarter of the total area thereof at the expiry of five years from the date of registration of the grant or lease of State land, and to the extent of one-half of the total area thereof at the expiry of ten years from the date aforesaid, and

(3) that the said land shall thereafter be continuously cultivated in a proper manner and after the methods of good husbandry to the extent of one-half of the total area thereof, and that if for three consecutive years such one-half shall not have been so cultivated the proprietor shall be taken and deemed to have made default in the observance of such condition.

(ii) In the case of contiguous lots registered in the name of the same proprietor the area referred to in sub-section (i) shall be deemed to be the total area of such lots and the date so referred to shall be the date of the first grant, lease of State land or entry in the mukim register under which any of such lots is held.

Breach of the condition renders the land liable to forfeiture.

QUIT RENT.

A few words as to quit rent. This is payable in respect of any year on January 1st of that year, without notice or demand by the Collector. Any quit rent not paid by the 1st April becomes
automatically an “arrear,” and is recoverable, either by a notice of demand and attachment, or by a notice of attachment of the land. The former is a notice to pay the rent on demand, in default of which movable property on the land may be attached; the latter method is applied if for any reason the former has failed, or is not practicable.

SPECIAL TERMS FOR CERTAIN PRODUCTS.

The following are the special terms at present in force for the cultivation of African Oil Palm:

1. Premium.—$3/- an acre or such less sum as the Resident may approve.
2. Rent.—50 cents an acre for 6 years and $2/- an acre thereafter.
3. Export Duty.—2½ per cent. ad valorem or at such other rate as shall from time to time be notified in the Gazette.
4. Special conditions.—The land shall be used solely for the cultivation of African oil palm and such catch crops as are approved by the District Officer.
5. Cultivation clause (exceeding 640 acres).—One-quarter of the land shall be cultivated within five years and one-half of the land within ten years from the date of registration of the grant.
6. Labour clause (on areas exceeding 3,000 acres).—The proprietor shall on or before import not less than labourers from any place outside the limits of the Malay Peninsula (alternately from India, from China, from Java, from any place outside the limits of the Federated Malay States, as may be determined at the time of approval of application). Upon proof to the satisfaction of the Resident that the proprietor has fulfilled this condition there shall if the proprietor shall so require in writing be endorsed hereon and signed by the Resident a memorandum to the effect that this condition has been fulfilled and that no further liability attaches to the land in respect thereof.

No fixed terms have yet been decided upon for roselle, sisal or tea, but special terms would no doubt be granted to any cultivator of these crops on an extensive scale.

A rebate of annual quit rent is allowed, if claimed by the owner of any country land exceeding 10 acres planted with coconuts or any approved agricultural product other than para rubber, tapioca or gambier. The rebate is such as to reduce the rent (normally $4/- an acre on planted land) to $1/- an acre, if the crop is padi, or $2/- an acre if the crop is any other approved agricultural product.
CONCLUSION.

In conclusion, it may be as well to point out that the information given in this article relates only to the Federated States. A perusal of the figures in the Appendix C will give rise to the reflection that, except in certain districts of Pahang, the amount of virgin land immediately available for agricultural development on a large scale in the Federated States is becoming limited. There is still plenty of land to be had in Pahang, and also in the Unfederated Malay States, Johore, Trengganu, Kelantan, Kedah, Perlis and Brunei. Each of these States has its own land law, the main features of which are, as in the Federation, based upon the Torrens system of land tenure, though there will be found considerable divergencies in detail. Premia and rent will be found to be considerably lower, and, generally speaking, land more readily available, in the Unfederated States. Land administration in each of these States is organized under officers of the Malayan Civil Service, and anyone interested is recommended to apply, for Johore to the Commissioner of Lands and Mines, for Trengganu to the Commissioner of Lands and Mines, for Kelantan to the Superintendent of Lands, for Kedah to the Director of Lands, for Perlis to the British Adviser, for Brunei to the British Resident.
APPENDIX A.

LIST OF DISTRICTS IN THE FEDERATED MALAY STATES.

<table>
<thead>
<tr>
<th>State of Perak</th>
<th>Town</th>
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<tbody>
<tr>
<td>Batang Padang</td>
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<tr>
<td>Kinta</td>
<td>Batu Gajah</td>
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