

A BILL

i n t i t u l e d

An Act to amend the Subordinate Courts Act 1948.

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ENACTED by the Parliament of Malaysia as follows:

Short title and commencement

1. (1) This Act may be cited as the Subordinate Courts (Amendment) Act 2010.

(2) This Act comes into operation on a date to be appointed by the Minister by notification in the *Gazette*.

General amendment

2. The Subordinate Courts Act 1948 [Act 92], which is referred to as the “principal Act” in this Act, is amended by deleting the words “or *Penghulu’s* Court” wherever they appear.

Amendment of section 2

3. Subsection 2(1) of the principal Act is amended—

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

‘ “Registrar” means the Registrar, Deputy Registrar, Senior Assistant Registrar or Assistant Registrar of the Subordinate Courts;’; and

(b) by deleting the definition of “*Penghulu*”.

Amendment of section 3

4. Subsection 3(2) of the principal Act is amended—
- (a) in paragraph (b), by substituting for the semicolon a full stop; and
 - (b) by deleting paragraph (c).

Amendment of section 5

5. Subsection 5(1) of the principal Act is amended—
- (a) in paragraph (b)—
 - (i) in the English language text, by substituting for the word “is” appearing before the word “issued” the word “if”; and
 - (ii) by inserting after the semicolon the word “and”;
 - (b) in paragraph (c), by substituting for the word “; and” a comma; and
 - (c) by deleting paragraph (d).

New section 5A

6. The principal Act is amended by inserting after section 5 the following section:

“Registrar

5A. (1) The Registrar, Deputy Registrar and the Senior Assistant Registrar shall be appointed by the Yang di-Pertuan Agong on the recommendation of the Chief Justice.

(2) The Assistant Registrar of the Subordinate Courts shall be appointed in accordance with section 106.”.

Amendment of section 65

7. Section 65 of the principal Act is amended—
- (a) in subsection (1)—
 - (i) in paragraph (a), by deleting the word “and” appearing at the end of the paragraph;

- (ii) in paragraph (b), by substituting for the words “two hundred and fifty thousand ringgit.” the words “one million ringgit; and”; and
- (iii) by inserting after paragraph (b) the following paragraph:

“(c) without prejudice to the generality of paragraph (b), jurisdiction to try all actions and suits of a civil nature for the specific performance or rescission of contracts or for cancellation or rectification of instruments, within the jurisdiction of the Sessions Court.”; and

- (b) by inserting after subsection (4) the following subsection:

“(5) A Sessions Court may, in respect of any action or suit within the jurisdiction of the Sessions Court, in any proceedings before it—

- (a) grant an injunction; and
- (b) make a declaration,

whether or not any other relief, redress or remedy is or could be claimed.”.

Amendment of section 69

8. Section 69 of the principal Act is amended—

- (a) by deleting paragraphs (b), (c) and (d); and
- (b) in paragraph (g), by inserting after the word “in” the words “making a declaration under paragraph 65(5)(b) and”.

Amendment of section 73

9. Paragraph 73(b) of the principal Act is amended by substituting for the words “two hundred and fifty thousand” the words “one million”.

Deletion of section 86

10. The principal Act is amended by deleting section 86.

Amendment of section 90

11. Section 90 of the principal Act is amended by substituting for the words “twenty five” the words “one hundred”.

Deletion of section 91

12. The principal Act is amended by deleting section 91.

Amendment of section 92

13. Section 92 of the principal Act is amended by substituting for the word “three” the word “ten”.

Amendment of section 93

14. Subsection 93(1) of the principal Act is amended in the proviso by substituting for the words ‘ “twenty five” ’ and the words ‘ “two hundred and fifty thousand” ’ the words ‘ “one hundred” ’ and the words ‘ “one million” ’, respectively.

Deletion of Part VIII

15. The principal Act is amended by deleting Part VIII.

Deletion of section 100

16. The principal Act is amended by deleting section 100.

New section 101A

17. The principal Act is amended by inserting after section 101 the following section:

“Power of Sessions Court Judge to hear matters in chambers

101A. Subject to the limitations contained in this Act, a Sessions Court Judge shall have the power to hear any matter or proceedings in chambers.”.

Saving and transitional

18. All pending proceedings and cases which had been registered at the Sessions Court and High Court before the coming into operation of this Act shall not be affected by this Act and shall continue as if this Act had not been enacted.

EXPLANATORY STATEMENT

This Bill seeks to amend the Subordinate Courts Act 1948 (“Act 92”).

2. *Clause 1* contains the short title and the power of the Minister to appoint the commencement date of the proposed Act.
3. *Clause 3* seeks to amend section 2 of Act 92 to introduce a new definition of “Registrar” consequential to the provision on the appointment of Registrar, Deputy Registrar, Senior Assistant Registrar and Assistant Registrar of the Subordinate Courts under section 5A in *clause 6*.
4. *Clause 6* seeks to provide for the appointment of Registrar, Deputy Registrar, Senior Assistant Registrar and Assistant Registrar of the Subordinate Courts under the proposed Act in line with the increase of the civil jurisdiction of the Sessions Court.
5. *Clause 7* seeks to amend section 65 of Act 92 to increase the civil jurisdiction of the Sessions Court to try all actions and suits of a civil nature where the amount in dispute or the value of the subject matter does not exceed one million ringgit. In addition to that, with the proposed amendment, the Sessions Courts shall have the jurisdiction to try all actions and suits of a civil nature, subject to its jurisdiction, for the specific performance or rescission of contracts or for the cancellation or rectification of instruments. Further, the proposed subsection (5) will empower the Sessions Court to grant an injunction and make a declaration, whether or not any other relief, redress or remedy is or could be claimed.
6. *Clause 11* seeks to amend section 90 of Act 92 to increase the civil jurisdiction of a First Class Magistrate in line with the increase of the civil jurisdiction of the Sessions Court. This is to enable the First Class Magistrate to try all actions and suits of a civil nature where the amount in dispute or the value of the subject matter does not exceed one hundred thousand ringgit.

7. *Clause 13* seeks to amend section 92 of Act 92 to increase the jurisdiction of a Second Class Magistrate in line with the increase of the jurisdiction of the First Class Magistrate. This is to enable the Second Class Magistrate to try all actions and suits of a civil nature where the plaintiff seeks to recover a debt or liquidated demand in money payable by the defendant not exceeding ten thousand ringgit.

8. *Clause 14* seeks to amend section 93 of Act 92 which is consequential to the increase of the civil jurisdiction of the Sessions Court and the Magistrates' Court.

9. *Clause 16* seeks to delete section 100 of Act 92 as preliminary enquiries into cases triable by the High Court are no longer being held by a Sessions Court or Magistrates' Court. The provisions relating to this procedure in the Criminal Procedure Code [Act 593] has already been deleted.

10. *Clause 17* seeks to introduce a new section 101A into Act 92 on the power of a Sessions Court Judge to hear any matter or proceedings in chambers. This is in line with the increase of the civil jurisdiction of the Sessions Court.

11. *Clause 18* seeks to provide for a saving and transitional provision. This *clause* provides that all pending proceedings and cases which had been registered at the Sessions Court and High Court before the coming into operation of this Act shall not be affected by this Act and shall continue as if this Act had not been enacted.

12. This Bill, via *clause 15*, also seeks to delete Part VIII of Act 92 in line with the move to abolish the *Penghulu's* Courts. The amendments in *clauses 2, 4, 5, 10* and *12* are consequential amendments following the deletion of Part VIII.

13. The proposed amendment of sections 69 and 73 of Act 92 in *clauses 8* and *9* respectively are consequential amendments occasioned by the move to increase the civil jurisdiction of the Sessions Court.

14. Other amendments not specifically referred to in this Statement are minor or consequential in nature.

FINANCIAL IMPLICATIONS

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

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