



Transfer, Conveyance or Disposal of Estate Land

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Section 214A(1) of the **National Land Code (Revised 2020) (Act 828) ("NLC")** — No estate land can be transferred, conveyed or disposed of in any manner whatsoever unless approval for such transfer, conveyance or disposal is first obtained from the Estate Land Board ("**ELB**").

Failing which, such person shall be guilty of an offence and shall on conviction be liable to imprisonment for a term of not more than five (5) years or to a fine of not less than one hundred thousand ringgit and not more than one million ringgit, or to both. (**Section 214A(10A)(a)**)

In the Federal Court decision of ***Gula Perak Bhd v Datuk Lim Sue Beng & other appeals* [2019] 1 CLJ Federal Court 153**, it was held that **section 214A(1)** does not prohibit the making of a conditional agreement which has an express term providing that the intended sale of the estate land is subject to the parties obtaining the approval of the ELB.

Definition of "Estate Land"

Section 214A(11)

Estate land is defined as:

- (1) agricultural land;
- (2) held under one or more than one title;
- (3) the area or the aggregate area of which is not less than 40 hectares; and
- (4) the alienated lands constituting such area are contiguous.

Section 214A(12)

Alienated lands held under final title or qualified title or a combination thereof shall be taken to be contiguous notwithstanding that they are separated from each other only by such land as is used, required or reserved for roads, railways or waterways.

What is "Agricultural Land"?

- a) a) The land title is subject to the express condition "Pertanian"; or
- b) If the land title is subject to the express condition "Tiada", reference is made to **section 53** of NLC.

Under **section 53(2)** of NLC, land under the express condition "Tiada" is subject to an implied condition that it shall be used for **agricultural purpose** if the land is held under **Land Office title** (but take note of the proviso thereof).

Section 53(3) of NLC contains a proviso that although land under **Registry title** shall be used neither for agricultural nor industrial purposes, the proviso states that this condition:

- "(i) shall not prevent the continued use of any part of the land for any agricultural or industrial purpose for which it was lawfully used immediately before the commencement of this Act; and"

Therefore, if the land has been used all along for agricultural purpose, the proviso allows the land held under Registry title to continue being used for agricultural purpose notwithstanding the implied condition in it that it shall be used for neither agricultural nor industrial purpose.

Practicality in Different States

The definition of "agricultural land" in NLC is wide and may vary across States.

In some States, Registry title subject to the express condition "Tiada" is not within the definition of agricultural land, while some States adopted the broader definition based on the proviso of **section 53(3)**.

It is advised that a prior check / verification with the ELB is done prior to making the application for the requisite approval of the ELB ("**ELB Application**").

Procedure for ELB Application

Section 214A(4)

The proprietor(s) / transferor(s) of any estate land shall, together with the intended transferee(s) shall jointly submit an application to the Secretary of the ELB in **Form 14D**.

Documents required for ELB Application

- 1) **Form 14D** application form
- 2) letter of consent / letter of no objection from existing chargee bank (if applicable)
- 3) official land search and plan tracing
- 4) copy of title
- 5) copy of quit rent receipt
- 6) copy of assessment receipt
- 7) for corporation, copy of SSM search of the transferor and transferee
- 8) for corporation, Directors' Resolution, Constitution and relevant corporate secretarial documents
- 9) for individual, copy of NRIC
- 10) application fees (varies according to State)

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