

Significant Changes to the Small Estates (Distribution) Act 1955

Small Estates (Distribution) Act 1955 [Act 98]	Small Estates (Distribution) (Amendment) Act 2022 [Act 1643]
<p>Last revised in 1972, with effect from 1 Nov 1972</p>	<p>Date of operation yet to be appointed by the Minister of Energy and Natural Resources</p>
 <p>Section 3(2) Definition of “small estate”:</p> <ul style="list-style-type: none"> • wholly or partly of immovable property • total value not exceeding RM2.5 million 	<p>Section 3(2) Definition of “small estate”:</p> <ul style="list-style-type: none"> • ANY property = immovable or movable • situated in ANY State • total value not exceeding RM5 million
<p>Sections 4(2) confer powers on:</p> <ul style="list-style-type: none"> • Director General of Lands and Mines • Director of Lands and Mines • Land Administrator (“LA”) 	<p>Sections 2A to 2C confer powers on:</p> <ul style="list-style-type: none"> • President of Estate Distribution • Deputy President of Estate Distribution • Estate Distribution Officer (“EDO”)
<p>Section 4(2) Petition to be lodged in the district in which the immovable property is situated in.</p>	 <p>Section 4(2) Petition to be lodged in any State where ANY property (movable or immovable) is situated in.</p>
 <p>Sections 8(1) and 18(1) If no application has been made to obtain grants of probate or letters of administration, or for distribution of an estate within 6 months of date of death, the penghulu or a Settlement Officer of the district or a Public Trustee shall (upon direction of the LA) lodge the petition for the distribution of the estate.</p>	<p>Sections 8(1) and 18(1) If no application has been made to obtain grants of probate or letters of administration, or for distribution of an estate within 6 months of the date of death, the Public Trustee or the Majlis Agama Islam may report to the EDO and EDO may request the Public Trustee or the Majlis Agama Islam to lodge the petition for the distribution of the estate subject to consent obtained from the beneficiary, creditor or purchaser.</p>
<p>No provision</p>	<p>New provision</p>
<p>No provision</p>	 <p>Section 8B Pending any distribution order, the petitioner can apply for a summary distribution in the following circumstances:</p> <ul style="list-style-type: none"> • where total value of property is less than RM600,000 • where application is filed for removing a trustee who is a minor <p>New provision</p> <p>Section 8C EDO can grant letters of administration for limited purposes to a petitioner or any beneficiary (without the power to distribute the estate) who will then be subject to the control and direction of the EDO.</p>
 <p>Section 9(1) LA to serve the notice of petition on all persons named in the petition as beneficiaries of or claimants to the estate or any interest thereof who appear to the LA to be interested in the distribution of the estate</p> <p>Section 9(2) Land Administrator to cause a copy of the notice of the petition to be published.</p>	<p>Section 9(1) EDO to serve only on the petitioner a copy of notice of petition, who is then required to serve a copy of such notice on all persons who are named and addressed in the petition as beneficiaries of or claimants to the estate or any interest thereof.</p> <p>Section 9(2) is removed = Notice of petition not required to be published.</p>

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Section 10

LA may appoint any suitable and proper person to be the guardian of any beneficiary of or claimant to the estate or any interest thereof who is a minor or a person of unsound mind.

No provision



Section 13(2)

LA is to direct the share of any infant beneficiary in any immovable property to be registered in the name of a suitable person as the trustee and to enter a caveat to protect the interest of such infant beneficiary.

Section 15

LA may order that the land comprised in a deceased's estate be sold in certain circumstances, such as to prevent excessive sub-division or the holding of small lots by numerous persons in complicated fractions.



Section 16(1)

LA is responsible to arrange for the registration of distribution order that relates to the land.

No provision



Section 29

Time frame for a person aggrieved to file an appeal to the High Court is the period for an appeal from a Sessions Court.

The First Schedule sets out the factors to be considered by the LA in making an order for distribution of any immovable property.

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Section 10

EDO may appoint any suitable and proper person to be:

- A guardian of any beneficiary of or claimant to the estate or any interest thereof who is a minor or a person of unsound mind; or
- The next friend of a "patient" to assist the "patient" in any matter relating to the proceedings for the distribution of the estate. A "patient" is defined as a person who is a sole beneficiary, suffering from a serious illness or injury, or who is bedridden, and unable to attend proceedings.

New provision

New procedures for hearings:

- EDO has power to restrict public access to the hearing if it has been satisfied that it is expedient in the interest of public safety, public security or propriety, or for other sufficient reason to do so (Section 11(2A));
- where a beneficiary named in the petition is unable to attend the hearing, the EDO may direct the petitioner to submit a letter of consent from the beneficiary. However, the EDO may, if he thinks fit, proceed with the hearing in the absence of a letter of consent (Sections 12(11) and 12(12)).



Section 13(2)

EDO is to direct the share in any immovable property of a beneficiary:

- who is a minor; or
- who is of unsound mind;

to be registered in the name of a suitable person as the trustee and the LA or the Registrar of Titles to enter a caveat to protect the interest of such beneficiary.

Sections 15(4A) and (4B)

New provisions authorise the EDO to order the sale of the land or any part of it based on the consent of the beneficiaries holding two-thirds majority shares on the land or any part of it.

Section 16(1)

Petitioner is responsible to arrange for the registration of distribution order that relates to the land.

New provision

Sections 16A(1) and (2)

EDO may amend a clerical error in any order made and to make other amendments in accordance with the regulations to be made by the Minister.



Section 29

Time frame for a person aggrieved to file an appeal to the High Court is 30 days from the date of the order, decision or act is made or done.

A new First Schedule, as a replacement, which will also add new factors (ie factors in relation to the distribution of any movable property) to be considered by the EDO in making a distribution order.