Pekeliling Ketua Pengarah Tanah Dan Galian Persekutuan Bilangan 15/1985

Pemakaian Gelaran Jawatan "Pentadbir Tanah Daerah" Di Dalam Kanun Tanah Negara Dan Undang-undang Yang Lain

JABATAN KETUA PENGARAH TANAH DAN GALIAN PERSEKUTUAN
KEMENTERIAN SUMBER ASLI DAN ALAM SEKITAR
PUTRAJAYA

Maklumat Dokumen

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Alamat	Aras 4, Blok Menara, Wisma Sumber Asli, Presint 4, No. 25, Persiaran Perdana, Presint 4 Pusat Pentadbiran Kerajaan Persekutuan, 62574 Kuala Lumpur
Telefon	03-88712668
Faks	03-88810802
E-mel	skpp@kptg.gov.my
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Pekeliling Ketua Pengarah Tanah Dan Galian Persekutuan Bilangan 15/1985

Pemakaian Gelaran Jawatan "Pentadbir Tanah Daerah" Di Dalam Kanun Tanah Negara Dan Undang-undang Yang Lain

Pekeliling ini dikeluarkan untuk memberitahu Pentadbir-pentadbir Tanah Daerah mengenai pemakaian gelaran "Pentadbir Tanah Daerah" di dalam Kanun Tanah Negara dan lain-lain Undang-undang Tanah yang berkenaan.

2. Mengikut pindaan yang telah dibuat ke atas Kanun Tanah Negara melalui Akta A587/1984 gelaran "Pemungut Hasil Tanah" (*Collector of Land Revenue*) telah dipinda kepada "Pentadbir Tanah Daerah". Ini bermakna gelaran jawatan "Pemungut Hasil Tanah" tidak wujud lagi dalam Kanun Tanah Negara apabila dikuatkuasakan Akta tersebut pada 25 Mac 1985 dan tidak dipakai lagi mulai dari tarikh yang sama. Pindaan yang sama tidak dibuat ke atas Akta-akta lain seperti Akta Pengambilan Tanah 1960, Akta Tanah Kawasan Penempatan Berkelompok 1960, Akta Letrik 1949, Akta Pembahagian Pusaka Kecil 1955 dan beberapa Akta lain. Di dalam Akta-akta yang disebutkan ini maka kuasa tertentu yang diberikan masih atas nama "Pemungut Hasil Tanah". Perkara ini telah menimbulkan keraguan dan persoalan sama ada Pentadbir Tanah Daerah ada kuasa menjalankan urusan-urusan di bawah Akta-akta berkenaan itu.

3. Dalam hal ini melalui suratnya PN(ADV) 3309/1 Jilid 12 bertarikh 18 Jun 1985 yang disertakan bersama ini sebagai Lampiran 'A' maka Peguam Negara telah menasihatkan bahawa jawatan Pemungut Hasil Tanah telah diwujudkan oleh Kanun Tanah Negara dan semua perlantikan bagi jawatan tersebut adalah dibuat di bawah seksyen 12(1)(b) KTN. Dengan itu jawatan Pemungut Hasil Tanah tidak boleh wujud berasingan dari Kanun Tanah Negara. Oleh yang demikian, semua rujukan kepada jawatan Pemungut Hasil Tanah yang terdapat di dalam mana-mana undang-undang yang ada di sesebuah negeri di Semenanjung Malaysia mestilah bermaksud sebagai rujukan kepada pemegang jawatan itu yang dilantik di bawah KTN.

4. Semenjak 25 Mac 1985 apabila Akta (Pindaan) Kanun Tanah Negara 1984 (Act A587) mula berkuat kuasa pindaan yang dibuat di bawah seksyen 3(iv) dalam Akta itu telah meminda gelaran jawatan "Pemungut Hasil Tanah" kepada gelaran jawatan baru "Pentadbir Tanah Daerah". Dengan hal yang demikian, maka mulai dari tarikh itu juga jawatan "Pemungut Hasil Tanah" tidak wujud lagi dan digantikan dengan gelaran jawatan "Pentadbir Tanah Daerah". Oleh itu Peguam Negara menasihatkan iaitu:

> "(a) All appointments of Collectors of Land Revenue made under The National Land Code prior to 25th March, 1985 are to be deemed to be appointments of District Land Administrators;
>
> (b) All reference in any written law, whether a Federal or a State Law, to a Collector of Land Revenue in West Malaysia appointed under the National Land Code are to be read as references to a District Land Administrator appointed under the National Land Code; and
>
> (c) The said substitution of title of office is to be reflected in all grammatical variations and cognate expressions of references to a Collector of Land Revenue in West Malaysia in any written law."

5. Seterusnya Peguam Negara juga menasihatkan bahawa mengikut peruntukan-peruntukan seksyen 8(2) dan seksyen 12 Interpretation and General Clauses Ordinance 1948

serta seksyen 35(1)(a) dan (b) Interpretation Act 1967 maka sebarang rujukan kepada jawatan Pemungut Hasil Tanah (yang telah dilantik di bawah Kanun Tanah Negara) yang terdapat di dalam mana-mana Undang-undang yang ada selepas berkuatkuasanya Akta 587 pada 25 Mac 1985 hendaklah dimaksudkan sebagai rujukan kepada perlantikan dan pemegang jawatan Pentadbir Tanah Daerah di bawah peruntukan-peruntukan yang berkenaan dalam Kanun Tanah Negara mengikut pindaan dalam Akta itu yang pada masa ini berkuat kuasa. Berikutan dengan ini maka:–

> "Any power, function or duty conferred by the law in which such definition of reference appears upon a Collector or Collector of Land Revenue can, on and after 25th March 1985, be exercised, performed or discharged by the District Land Administrator under his title of office as "District Land Administrator"; it cannot be exercised, performed or discharged under the title of "Collector of Land Revenue" as that title has ceased to exist with effect from 25th March 1985. It is, therefore, not necessary to amend the definitions of the word "Collector" or the references to "Collector of Land Revenue" in such laws, so as to substitute the words "District Land Administrator" for the word "Collector of Land Revenue"."

6. Dengan pengedaran Pekeliling ini maka adalah dinyatakan iaitu mulai dari tarikh berkuatkuasanya Akta A587 pada 25 Mac 1985 semua urusan pentadbiran dan pengurusan tanah di bawah Kanun Tanah Negara dan semua undang-undang lain yang berkaitan hendaklah dibuat atas nama jawatan "Pentadbir Tanah Daerah" dan tidak lagi atas nama jawatan "Pemungut Hasil Tanah".

7. Di dalam borang-borang lama yang telah dicetak sebelum berkuat kuasa Akta A587 dan masih ada dalam simpanan dan dipakai maka semua perkataan "Pemungut" atau Pemungut Hasil Tanah" yang terdapat di dalamnya dan semua gelaran jawatan "Pemungut Hasil Tanah" hendaklah dibatalkan dan digantikan dengan perkataan dan gelaran jawatan "Pentadbir Tanah Daerah".

DATUK HJ ZAINAL ABIDIN BIN HJ NORDIN,
Ketua Pengarah Tanah dan Galian Persekutuan

No. Fail : KKTKW 101/799-3
Tarikh : 14hb Disember, 1985

LAMPIRAN 'A'

SALINAN

JABATAN PEGUAM NEGARA,
TINGKAT 11-15, 18-21,
BANGUNAN BANK RAKYAT,
JALAN TANGSI,
KUALA LUMPUR
Telefon : 2923077

Rujukan Tuan: KKTKW. 1048/5-6
Rujukan Kami: PN(ADV)3309/1
Jld. 12
Tarikh: 18hb Jun 1985

Ketua Pengarah Tanah
dan Galian Persekutuan,
Kementerian Kemajuan Tanah
dan Kemajuan Wilayah,
(Bahagian Pentadbiran dan
Perundangan Tanah),
Tingkat 14, Wisma Keramat,
Jalan Gurney,
KUALA LUMPUR

(U.P. Y.B. Datuk Haji Zainal Abidin bin Haji Nordin).

Y.B. Datuk,

PEMAKAIAN GELARAN PENTADBIR TANAH DAERAH DI DALAM KANUN TANAH NEGARA DAN UNDANG-UNDANG TANAH YANG LAIN

Saya merujuk kepada surat Datuk Bil. KKTKW. 1048/5-6 bertarikh 21hb. Mei, 1985 berkenaan perkara yang tersebut di atas dan pandangan Jabatan ini adalah seperti berikut:

2. The word "Collector" is defined in various written laws, both Federal and State laws, and the definitions in most cases cover the holders of various titles of office. For example—

(a) under the Small Estates (Distribution) Act, 1955 the word "Collector" is defined to mean, in relation to Sarawak, District Officers and Sarawak Administrative Officers, and, in relation to Sabah and the States of West Malaysia, Collectors of Land Revenue; and

(b) under the Land (Group Settlement Areas) Act, 1960 and the Land Acquisition Act, 1960, the word "Collector" is defined to mean not only Collectors of Land Revenue but also District Officers and other officers appointed under the State land law. It will, therefore, be observed that the word "Collector" used in these laws is merely a convenient expression to cover not only Collectors of Land Revenue appointed in the States in West Malaysia under the National Land Code but also other categories of officers and holders of other titles of office. These definitions do not in themselves create the office of "Collector", but merely use that term to cover various titles of office created under other laws, the holders of which are appointed under those other laws.

Application of Rule of Construction

3. The office of Collector of Land Revenue in a State in West Malaysia is created by the National Land Code and all appointments to it are made under section 12(1)(b) of that Code. As such, the office of Collector of Land Revenue has no existence independently of the National Land Code. Therefore, any reference in any written law to a Collector of Land Revenue in a State in West Malaysia must necessarily be construed as a reference to a holder of that office appointed under the National Land Code.

4. However, since 25.3.85 when the National Land Code (Amendment) Act 1984 (Act A587) came into force the amendment made by section 3(iv) of that Act to the National Land Code has substituted the new title of office "District Land Administrator" for the previous title of office "Collector of Land Revenue". Consequential substitution was also made under sections 3(i) and 3(iii) of that Act of the expressions "Assistant Collector of Land Revenue" and "Collector". Therefore, as the office of Collector of Land Revenue in West Malaysia has ceases to exist under the National Land Code with effect from 25.3.85, and been substituted by the new office of District Land Administrators, it must necessarily be construed that—

(a) all appointments of Collectors of Land Revenue made under the National Land Code prior to 25.3.85 are to be deemed to be appointments of District Land Administrators;

(b) all references in any written Law, whether a Federal or a State law, to a Collector of Land Revenue in West Malaysia appointed under the National Land Code are to be read as references to a District Land Administrator appointed under the National Land Code; and (c) the said substitution of title of office is to be reflected in all grammatical variations and cognate expression of references to a Collector of Land Revenue in West Malaysia in any written law.

5. If the above constructions are not given it would mean that on 25.3.85—

(a) the office of Collector of land Revenue having been obliterated from the National Land Code, and there being no person appointed to and holding the office of District Land Administrator, the administration of the National Land Code would be practically brought to a halt;

(b) the administration of other laws which require to be administered by a Collector of Land Revenue would become incapable of administration till these laws are amended to replace the references in them to a Collector of Land Revenue by references to a District Land Administrator; and

(c) provisions of law containing necessary grammatical variations of the word "Collector of Land Revenue" or "Collector", such as the variation from "Collector" to "Collector's" in the expression "Collector's right of way", would be rendered futile and ineffective.

Any construction which produces the above results would lead to absurdity and grave public inconvenience. The construction of a law must be a reasonable construction which is within the scope of the clear intention of the law and not a literal construction which leads to absurdity and public inconvenience.

6. In the present case, the constructions set out in sub-paragraphs (a), (b) and (c) of paragraph 4 above would be in accord with what is known in interpretation law as the golden rule of construction which has been stated by Lindley L.J. in the case of the Duke of Buccleuch (1889, 15 P.D. 86, 96) as follows:

> "You are not so to construe the Act of Parliament as to reduce it to rank absurdity. You are not to attribute to general language used by the legislature in this case, any more than in any other case, a meaning which would not carry out its object, but produce consequences which, to the ordinary intelligence, are absurd. You must give it such a meaning as will carry out its objects".

As an example of the application of this rule I may mention the case of Miller v. Salomons (1852, 7 EX. 475, 553) which dealt with a provision in the Treason Act 1766 which provided a form of oath which contained the name of King George III. The Court considered the argument that after the death of King George III the form of oath no longer applied and there was no obligation to administer the oath. However, the Court held that—

> "..... this argument cannot prevail. It is clear that the legislature meant the oath to be taken always thereafter, and as it could not be taken in those words during the reign of a sovereign not of the name of George, it follows that the name of George is merely used by way of designating the existing sovereign and the oath must be altered from time to time in the name of the sovereign. This is an instance in which the language of the legislature must be modified in order to avoid absurdity and inconsistency with its manifest intentions".

Again, in the case of Adler v. George (1964, 2.B.7, D.C.) it was held that the phrase "in the vicinity of any prohibited place" in section 3 of the Official Secrets Act. 1920 must mean "in or in the vicinity of the place", because if this construction was not given it would mean that a person committing an offence in the prohibited placed could not be punished whereas a person committing an offence in the vicinity of the prohibited place could be punished, and this would be an absurdity.

Application of sections 8(2) and 12 of the Interpretation and General Clauses Ordinance, 1948 and section 35(1)(a) and (2) of the Interpretation Act, 1967.

7. Furthermore, any reference in a written law to a provision of land law applicable in West Malaysia and providing for the appointment of a Collector of Land Revenue in a State in West Malaysia has to be construed as a reference to that provision as it stands in the land law which is for the time being in force in West Malaysia. This is so by virtue of the provisions of sections 8(2) and 12 of the Interpretation and General Clauses Ordinance, 1948 and section 35(1)(a) and (2) of the Interpretation Act 1967, according as to whether the said Ordinance or the said Act is applicable to the law in which the reference to such provision appears.

The said sections 8(2) and 12 of the said Ordinance provide as follows:

> "8. (2) Any reference in an Act of Parliament, Ordinance of Enactment, or in any subsidiary legislation, to any other written law shall, unless the contrary intention appears, be construed as a reference to that other law as for the time being in force."

"Reference to re-enacted provisions.	12. Where any written law repeals and re-enacts, with or without modification, any provision of a former written law, references in any other written to the provision so repealed shall, unless the contrary intention appears, be construed as references to the provision so re-enacted".

The said section 35(1)(a) and (2) of the said Act provides as follows :

"References to writtenlaws.

35. A reference to a particular written laws—

(a) is a reference to that law as amended or extended from time to time; and

(b) .....

(2) Where any written law or any provision of a written law is repealed and re-enacted (with or without modification), references in any other written law to the law or provision so repealed shall be construed as references to the reenacted law or provision."

In the light of the above quoted provisions of our interpretation statutes, any reference in any written law to a Collector of Land Revenue appointed under the National Land Code would, after the coming into force of Act A587 on 25.3.85, have to be construed as a reference to the appointment of the holder of the corresponding office of District Land Administrator under the relevant provisions of the National Land Code as amended by that Act and for the appointment of a Collector of Land Revenue have been repealed and substituted by provisions providing for the appointment of a District Land Administrator.

Conclusion

8. In view of the position under the law relating both to the rules of construction and to the provisions of our interpretation statutes as set out in the foregoing paragraphs -

(a) where the definition of the word "Collector" in any law includes or means a Collector of Land Revenue in a State in West Malaysia appointed under the land law applicable in West Malaysia; or

(b) where any law refers in any other manner to a Collector of Land Revenue appointed under the land law applicable in West Malaysia;

any power, function or duty conferred by the law in which such definition or reference appears upon a Collector or Collector of Land Revenue can, on and after 25.3.85, be exercised, performed or discharged by the District Land Administrator under his title of office as District Land Administrator; it cannot be exercised performed or discharged under the title of "Collector of Land Revenue" as that title has ceased to exist with effect from 25.3.85.

9. It is therefore, not necessary to amend the definitions of the word "Collector" or the references to "Collector of Land Revenue" in such laws, so as to substitute the words "District Land Administrator" for the words "Collector of Land Revenue". The appropriate modifications to any such law in this regard will be made by the Commissioner of Law Revision when he brings out a reprint or a revised version of such law.

10. Neither it is appropriate to provide for the interpretation of the word "Collector", as suggested in your letter, in a general interpretation statute such as the Interpretation and General Clauses Ordinance 1948, or, for that matter, the Interpretation Act 1967, because such a statute contains provisions of a permanent character and is not intended or used to provide for merely transitional matters, as in the present case. Neither would it be appropriate to provide in such general interpretation statute for the meaning or usage of a title of office the appointment to which is made under a specific law such as the National Land Code, and the usage of which and the powers relating to which, are provided for not only under the National Land Code but under various other laws.

11. However, if it is desired to enact express transitional provisions relating to the matters of construction explained in this letter, express provisions on the lines set out in sub-paragraphs (a), (b) and (c) of paragraph 4 of this letter could be enacted with retrospective effect from 25.3.85 and incorporated in any Bill which may be drafted in the near future for other amendments to the National Land Code.

"BERKHIDMAT UNTUK NEGARA"

Saya yang menurut perintah,

SHIV CHARAN SINGH,
b.p. Peguam Negara,
Malaysia.