

STATE OF SABAH

INTERPRETATION (DEFINITION OF NATIVE) ORDINANCE (Sabah Cap. 64)

LIST OF AMENDMENTS

<i>Ordinance/ Enactment No</i>	<i>Sections amended</i>	<i>Effective date of amendment</i>
20/1958	2 (1) (b), (c), (d), (3), 3 (1) (b), (c), (d)	23-12-1958
G.N.S. 87/1965	2 (1) (a), (b), (c), (d), 3 (1) (d)	16-9-1963
10/1983	3 (2), (3)	1-1-1984

To define the expression “native” in a more precise manner and to make certain consequential provisions thereon.

[10th December, 1952.]

Short title.

1. This Ordinance may be cited as the Interpretation (Definition of Native) Ordinance.

Interpretation.

2. (1) Wherever the word “native”, used as a substantive, occurs in any written law in force at the commencement of this Ordinance, other than the Ordinances set out in the Schedule to this Ordinance, or in any written law coming into force after the commencement

of this Ordinance, unless expressly otherwise enacted therein, it shall mean either –

- (a) any person both of whose parents are or were members of a people indigenous to Sabah; or
- (b) any person ordinarily resident in Sabah and being and living as a member of a native community, one at least of whose parents or ancestors is or was a native within the meaning of paragraph (a) hereof; or
- (c) any person who is ordinarily resident in Sabah, is a member of the Suluk, Kagayan, Simonol, Sibutu or Ubian people or of a people indigenous to the State of Sarawak or the State of Brunei, has lived as and been a member of a native community for a continuous period of three years preceding the date of his claim to be a native, has borne a good character throughout that period and whose stay in Sabah is not limited under any of the provisions of the Immigration Act, 1959/63 [Act 155.]:

Provided that if one of such person's parents is or was a member of any such people and either lives or if deceased is buried or reputed to be buried in Sabah, then the qualifying period shall be reduced to two years; or

- (d) any person who is ordinarily resident in Sabah, is a member of a people indigenous to the Republic of Indonesia or the Sulu group of islands in the Philippine Archipelago or the States of Malaya or the Republic of Singapore, has lived as and been a member of a native community for a continuous period of five years immediately preceding the date of his claim to be a native, has borne a good character throughout that period and whose stay in Sabah is not limited under any of the provisions of the Immigration Act, 1959/63 [Act 155.].

(2) In the definition of “native” set out in subsection (1) hereof-

- (a) “ancestor” means progenitor in the direct line other than a parent;
- (b) “native community” means any group or body of persons the majority of whom are natives within the meaning of paragraph (a) of subsection (1)

and who live under the jurisdiction of a Local Authority established under the provisions of the Rural Government Ordinance* [Cap. 132.] or of a Native Chief or Headman appointed under the provisions of that Ordinance;

(c) "parent" includes any person recognised as a parent under native law or custom.

(3) No claim by any person to be a native by virtue of the provisions of paragraphs (b), (c) and (d) of subsection (1) shall be recognised as valid unless supported by an appropriate declaration made by a Native Court under section 3.

Powers of Native Courts.

†3. (1) Any person claiming to be a native may apply to a Native Court established under the Native Courts Enactment, 1992‡ [En. No. 3/1992.] and having jurisdiction in the area in which such person resides to declare –

- (a) that such person is recognised by native law and custom as the parent or child, as the case may be, of any other person; or
- (b) that such person is a member of a native community, has so lived during any stated period, and while so living has borne a good character; or
- (c) that such person is a member of a people named in paragraphs (c) or (d) of subsection (1) of section 2; or
- (d) that a parent of such person is or was a member of a people named in paragraph (c) of subsection (1) of section 2 and living, or if deceased is buried or reputed to be buried, in Sabah.

(2) Subject to the provision of subsection (3) of this section, any Native Court

* Title has been changed to Rural Administration Ordinance by section 109(2)(b) of Ordinance No. 11 of 1961.

† See G.N.S. 154 of 1958.

‡ "Native Courts Enactment, 1992" substituted for "Native Courts Ordinance" by virtue of Enactment No. 3 of 1992.

referred to in subsection (1) to whom an application is properly made under such subsection shall have exclusive jurisdiction to entertain and determine any such application and to make such declaration as the case requires.

(3) Any declaration of any Native Court made in the exercise of the jurisdiction conferred upon it by subsection (2) shall be subject to review and scrutiny by, and appeal to the District Officer or a Board of officers appointed by the Yang di-Pertua Negeri for the purpose.

(4) The final decision on any application made under subsection (1) shall be conclusive evidence for all purposes in respect of the matter or matters to which it relates.

SCHEDULE

(Section 2)

The Banishment Ordinance (Cap. 10)*.

The Christian Marriage Ordinance (Cap. 24)†.

The Labour Ordinance (Cap. 67).

* Cap. 10 was repealed by F.L.N. 41 of 1965.

† Cap. 24 was repealed by Act 164.