

# THE MALAY RESERVATION LAND



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# MALAY RESERVATION LAND (MRL)

- The “*red-ink grants*”
- Special category of land
- To control disposal
- It could only be owned or held by Malays
- It could only be transacted amongst Malays



# WHY IS IT IMPORTANT?



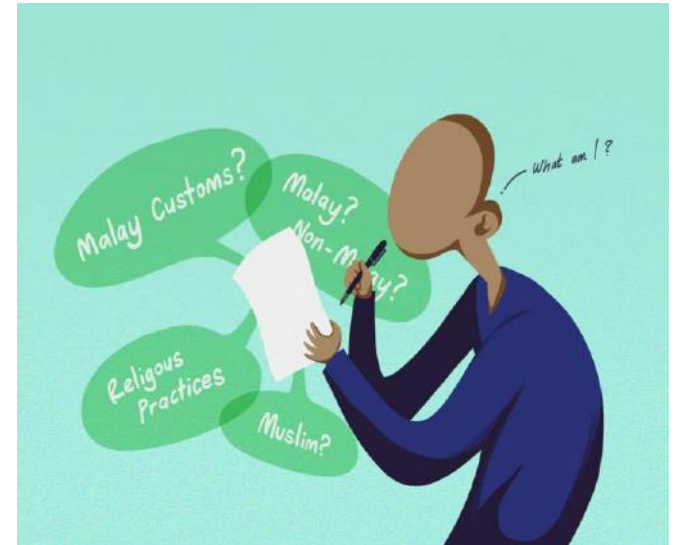
- Any attempt by non-Malays in dealing with MRL will be held **null** and **void**.



# WHAT CONSTITUTE A “MALAY”?

There are 4 characteristics  
(under Art 160 of FC):-

1. the person must be a **Muslim**
2. speaks **Bahasa Malaysia**
3. complies with the **Malay customs**
4. domiciled in **Malaysia** or **Singapore**



- For the purpose of MRL, the definition of “*Malay*” will depends on the State legislation.
- Most States have its own definition and interpretation of the term “*Malay*”.



- For example: In **Kedah** and **Perlis**, the term “*Malay*” includes descendants of Arabs.
- In **Kedah**, Ruler in Council was given a wide discretion to declare any person of any race or nationality as Malay. [S19 Kedah MRE].
- For **Kelantan**, the status of “*Malay*” does not even consider as the final determining factor.
- The law uses the term “*native of Kelantan*”, which has the effect of excluding the Malays from other states from owning MRL in Kelantan.

- The **National Land Code (“NLC”)** is a uniform law by Parliament for all 11 states in Peninsular Malaysia.
- There are total **6 Enactments** for the MRL.
- It should be remembered that NLC is a law for general application while Malay Reservation Enactment (“**MRE**”) is a specific law applicable only to the specific category of land.



- **One Enactment for 4 former Federated Malay States:-**

Federated Malay States	Malay Reservation Enactment
Perak	<b>Federated Malay States MRE 1933</b>
Selangor	
Negeri Sembilan	
Pahang	





- **5 state Enactments for the former Unfederated Malay States:-**

<b>Unfederated Malay States</b>	<b>Malay Reservation Enactment</b>
<b>Johor</b>	<b>The Johor MRE 1936</b>
<b>Perlis</b>	<b>The Perlis MRE 1953</b>
<b>Kedah</b>	<b>The MRE of Kedah 1931</b>
<b>Kelantan</b>	<b>The Kelantan MRE 1930</b>
<b>Terengganu</b>	<b>The MRE of Terengganu 1941</b>



No such enactment for Penang and Melaka.

- MRL is also protected by the **Federal Constitution** (Art 89, 90).
- It control and oversee the implementation of the MRE.



# REVOCAION & REPLACEMENT

- **Art 89(3) of FC** - If any MRL is revoked, the State Authority has to replace with another state land.
- There are 3 conditions that need to be complied for the replacement:-
  1. It has to be **similar in character**;
  2. An area not exceeding the area revoked; and
  3. It shall be done immediately.



- The phrase “***land of similar character***” is neither defined in the FC nor MRE.
- Some of the guidelines are:-
  1. Same **economic value**
  2. **Location**
  3. **Potential development**
  4. Same type of **soil**
  5. Same **category** of land use
- Without replacement, revocation is not valid.



- **The respective State MREs have provisions for revocation of MRL**

Federated Malay States	Power of Declaration
Perak	<p style="text-align: center;"><b>Chief Minister of the State</b></p> <p style="text-align: center;">+</p> <p style="text-align: center;"><b>Approval of the Ruler of the State in Council</b></p>
Selangor	
Negeri Sembilan	
Pahang	

Unfederated Malay States	Power of Declaration
Johor	<p style="text-align: center;"><b>State Director of Land and Mine</b></p> <p style="text-align: center;">+</p> <p style="text-align: center;"><b>Approval of the Ruler of the State in Council</b></p>
Perlis	<p style="text-align: center;"><b>Ruler of the State in Council</b></p>
Kedah	
Kelantan	
Terengganu	



# Tan Hong Chit v Lim Kin Wan

- Two ways non-Malays can acquire a MRL:
  1. Through the approval of the Ruler in Council
  2. The non-Malay has occupied the land prior to its declaration as MRL
- approved by James Foong J in Syarikat Macey Bhd. v Nightingale Allied Services



- If the MRL is registered in the name of non-Malay prior to the declaration as MRL, then the registered proprietor is free to deal with his land in any manner without complying to the provisions of the MRL.



# FORFEITURE

- Kedah was the 1<sup>st</sup> state to include the provision of forfeiture, followed by Perlis.
- Kedah  
Upon forfeiture, land shall vest with the **Sultan** absolutely.
- Perlis  
It shall vest absolutely with the **State**.
- ❖ It seems that Kedah's provision need to be revised as land is a State matter.
- ❖ Therefore, it should be revert to the State and not the Sultan.



## SECTION 5 NLC 1965

- The State Authority could forfeit or deprive a person from the said property if that person failed to comply with the restriction-in-interest or conditions.
- If a person ceases to be a Malay under the respective MRE, then he is disqualified to hold the MRL.
- (The same applies to companies)



# ACQUISITION

- Acquisition of MRL is not provided by any of the states MRE.
- It is very interesting to note that only the Perlis MRE has such a provision that allows the Ruler in Council to acquire the MRL for public purposes.



# LET'S DISCUSS

- Do you think there is sufficient legal protection for Malay interest with all the prohibitions to bar the non-Malays from claiming any interest in MRL?
- Many MRL has been undeveloped and lower in market value as compared to non-reservation land. How to overcome the barriers to develop MRL?



Thank you for listening. Any questions?



THE END !

