All Sessions Courts Judges,
All Magistrates,
All Registrars of Subordinate Courts'
Sabah and Sarawak.

Practice Direction NO: 4 of 1987

FIRST CLASS MAGISTRATES' COURTS

SABAH AND SARAWAK

1. Pursuant to the Subordinate Courts (Amendment) Act 1987, the Hon'ble The Chief Justice hereby directs the following changes to take effect from 1 September, 1987 -

2. Objective

2.1 The objective of this Practice Direction is to facilitate the transfer of civil cases from the Sessions Court to the Magistrates' Courts and thereafter the transfer of such cases to other Magistrates' Courts for disposal by the Magistrate within whose local limits of jurisdiction the cause of action arose.

2.2. Secondly, it is to facilitate the establishment of Second Class Magistrates' Courts -

(a) To try civil actions where the amount claimed does not exceed $3,000; and

(b) To try criminal offences for which the maximum term of imprisonment does not exceed 12 months imprisonment or which are punishable with fine only.

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2.3. These are measures for reducing the back-log of cases in the Courts and bringing justice to the people.

2.4. This transfer exercise is intended to commence on 1.9.87 and be completed by 31.12.87.

3. Civil Jurisdiction

3.1. Subject to the provisions of section 69 of the Subordinate Courts Act, the civil jurisdiction of First Class Magistrates' Courts has been increased -

(a) To try all actions and suits of a civil nature where the amount in dispute or value of the subject-matter does not exceed $25,000;

(b) To hear and determine any action or suit for the recovery of immovable property where -

(i) the money claimed does not exceed $24,000; or

(ii) the rent payable in respect of the premises does not exceed the sum of $24,000 per annum or $2,000 per mensem.

(c) To issue writs or warrants of distress for rent where the amount of rent to be distrained does not exceed $24,000;

(d) To grant relief by way of interpleader and to order the sale of any property subject to interpleader proceedings when the person seeking relief is under liability for any debt, money, or other movable property of which the amount of value does not exceed $25,000 and for or in respect of which he has been or expects to be sued by two or more parties making adverse claims thereto.

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3.2. With effect from 1.9.87 all civil actions or suits within the aforesaid jurisdictions shall be filed and heard in the First Class Magistrates' Court.

3.3. All such new cases shall be registered in the said Magistrates' Court new registers.

4. Transfer of cases from Sessions Court

4.1. On 1.9.87 all civil cases filed in the Sessions Court before 1.9.87, except part-heard cases, shall be deemed to have been transferred to the First Class Magistrates Court of the same place together with all registers and cause books pertaining thereto.

4.2. The case numbers of cases transferred from the Sessions Court shall be retained.

5. Transfer of Cases to Another First Class Magistrates' Court

5.1. Either party may, in respect of cases transferred from the Sessions Court apply orally in open Court when the case comes up on the return date or for mention, to transfer the case to another First Class Magistrates' Court.

5.2. Either party may, by letter with notice to the other party, apply to transfer the case to another First Class Magistrates' Court. If the other party consents in writing the case may be transferred without a hearing.

5.3. The Magistrate shall of his own motion on the return or mention date transfer any case to another Magistrates' Court within whose local limits of jurisdiction the cause of action arose. Where necessary, cases may be called up earlier, with notice to the parties, with a view to transfer cases under this paragraph.

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5.4. No costs will be ordered for such transfers.

5.5. All applications for transfers under this paragraph shall be completed by 31.12.87.

5.6. The original Sessions Court Case Number shall be retained for such cases and particulars thereof recorded in a Transferred Cases Register.

6. Second Class Magistrates' Courts

6.1. Civil Cases

(a) With effect from 1.9.87, all civil actions or suits to recover a debt or liquidated demand in money not exceeding $3,000 shall be filed and heard as a Second Class Magistrates' Court case under Order 54 of the Subordinate Courts Rules.

(b) All such cases shall be registered in the Second Class Magistrates' Court registers.

(c) All civil actions registered in the First Class Magistrates' Court before 1.9.87 shall remain in that Court and be disposed of thereat, including cases where the amount claimed is less than $3,000. The procedure applicable to such cases at time of filing shall continue to be followed.

6.2. Criminal Cases

(a) With effect 1.9.87 criminal cases in the Magistrates' Courts shall be divided between cases falling under the First Class Magistrates' jurisdiction and Second Class Magistrates' jurisdiction.

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(b) For administrative purposes, separate registers shall be maintained for First Class and Second Class Magistrates' cases.

(c) With effect 1.9.87, New Registers shall be opened for Second Class Magistrates' Courts cases.

6.3. Trial of Cases

(a) First class magistrates shall hear all cases, civil and criminal, within the jurisdiction of Second Class Magistrates' Courts.

(b) Cases registered in Magistrates' Courts prior to 1.9.87 and now triable by Second Class Magistrates shall be heard by Magistrates of the First Class without any formal transfer of such cases.

7. Monthly Returns

7.1. Separate Monthly Returns shall be prepared in respect of civil cases showing -

(a) New and Pending cases;

(b) Cases transferred from the Sessions Court.

8. Senior Magistrates

8.1. With effect from 1.9.87 First Class Magistrates in the Senior Timescale shall be known as Senior Magistrates.

8.2. Senior Magistrates will either exclusively or substantially be assigned to try civil cases.

(AGNES WONG KIEW LING)
REGISTRAR, HIGH COURT, KUCHING.

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c.c.
1. Hon'ble Lord President, Supreme Court Malaysia.
2. Hon'ble The Chief Justice Malaya.
3. Hon'ble The Chief Justice Borneo.
4. Hon'ble Attorney General, Malaysia.
5. All Hon'ble Judges of the High Court in Borneo.
6. Hon'ble Attorney General, Sabah.
7. Hon'ble Attorney General, Sarawak.
8. The State Secretary, Sabah.
9. The State Secretary, Sarawak.
10. The Chief Registrar, Supreme Court, Kuala Lumpur.
11. The Registrar, High Court Malaya.
12. All Sessions Court Judges, East Malaysia.
13. All Magistrates, Magistrates' Court East Malaysia
14. Senior Federal Counsel, Sabah.
15. Senior Federal Counsel, Sarawak.
16. All Practising Advocates, Sabah & Sarawak.
17. Commissioner of Police, Sarawak.
18. Commissioner of Police, Sabah.
19. Managing Editor of Malayan Law Journal.
20. Managing Editor of Current Law Journal