

ADMINISTRATION AND DISTRIBUTION OF  
TESTATE AND INTESTATE ESTATES IN  
PENINSULAR MALAYSIA

BY

YUSOF BIN ALI

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
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Signature of Author

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Certified by

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(Supervisor)

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ABSTRACT

Estates can be divided into two types namely testate and intestate. Testate refers to a person who died leaving a will and intestate means dying without a will. The law governing wills in this country is the Wills Ordinance, 1959. The duty of administering a deceased person's estate devolves on his personal representative who is called his "executor" if he has made a will or his "administrator" if he dies intestate.

There are three types of estates administered, namely, estate of summary administration, small estate and ordinary estate. An estate of summary administration is one consisting wholly of movable property the value of which does not exceed \$50,000 and where no petition for letters of administration is pending. The Official Administrator of the Public Trustee Department is empowered to administer such an estate whether the deceased person has left a valid will or not.

The distribution of a small estate is subject to the Small Estates (Distribution) Act, 1955. A small estate means an estate of a person who died intestate consisting wholly or partly of immovable property the total value of which does not exceed \$50,000. An application for the distribution can be made to the Collector of Land Revenue.

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## INTRODUCTION

When a person dies without leaving a will his estate is known as an intestate estate<sup>1</sup> and can either be administered by private individuals (normally one of his beneficiaries) or the Official Administrator in accordance with the Probate and Administration Act, 1959<sup>2</sup>. If a deceased person leaves a will his estate is known as testate estate and will be administered by the executor or executors named in the will<sup>3</sup>. An executor can be a private individual, a corporation or the Public Trustee<sup>4</sup>.

### I. Testate.

#### Will.

##### (a) Non-Muslim.

A deceased person who leaves a valid will is called the testator and the law relating to wills is the Wills Ordinance, 1959<sup>5</sup>. Any adult of sound mind can draw up a will<sup>6</sup>. The will must be in writing and duly executed in the presence of two or more witnesses<sup>7</sup>. If the testator wishes to alter parts of the will he may do so and draw up a codicil which must be executed in the same way as the will. The codicil (document attesting a will) then becomes part of the will.