

(NCR) LAND

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MALAYSIAN SUSTAINABLE PALM OIL

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PREFACE

The Malaysian Sustainable Palm Oil (MSPO) Certification is a critical pathway for enhancing sustainability and recognising the rights of Native Customary Rights (NCR) landholders in Sarawak.

This guidance document outlines the requirements, procedures, and available support for NCR landholders in their journey toward achieving MSPO certification specifically for new oil palm planting. It serves as a reference for understanding land classifications, legal frameworks, and compliance with environmental standards while promoting sustainable agricultural practices.

By adopting MSPO certification, NCR landholders actively contribute to sustainable development, preserving natural resources and supporting their communities' cultural and economic wellbeing.

INTRODUCTION

1.1. PURPOSE OF THE GUIDANCE

The purpose of this guidance is to ensure that Native Customary Rights (NCR) land in Sarawak region meets the requirements for new oil palm planting under the MS 2530:2022 Malaysian Sustainable Palm Oil (MSPO) 2022 certification standards. This includes procedural framework land status classification and defining the distinctions of NCR land from natural forest or other forest categories, supporting its eligibility for sustainable agricultural development, in oil palm cultivation. Additionally, MS 2530:2022 stipulates that there shall be no conversion of natural forest, protected areas, and High Conservation Value (HCV) areas after 31 December 2019. This guidance aims to clarify the procedural framework to support NCR landholders in achieving compliance with MS 2530:2022 standards for new plantings while promoting sustainable land use practices.

1.2. SCOPE AND APPLICABILITY

This guidance is applicable to all NCR landholders in Sarawak, including both independent smallholders and organised smallholders involved in oil palm cultivation and specifically new oil palm planting.

- a) S2530-2-1.2022 MSPO Part 2-1 General Principles for Independent Smallholders (less than 40.46 hectares)
- b) MS2530-2-2.2022 MSPO Part 2-2 General Principles for Organised Smallholders (less than 40.46 hectares)

This guidance aligns with Sarawak Land Code (Chapter 81) (1958 EDITION) and MS 2530:2022 requirements.

2. DEFINITIONS OF NCR LAND

2.1. DEFINITION OF NATIVE

According to the LAWS OF SARAWAK Chapter 61 INTERPRETATION ORDINANCE, 2005 "native" means a citizen of Malaysia of any race which is now considered to be indigenous to Sarawak as set out in the Schedule" (Section 3).

2.2. OVERVIEW OF NATIVE CUSTOMARY RIGHTS (NCR) LAND

NCR land is land occupied and used by indigenous communities according to traditional customs in Sarawak, among others for agriculture, farming, and other customary uses. It is recognised and protected by Sarawak Land Code, enabling these lands to support economic activities. This recognition ensures that NCR land remains beneficial to indigenous communities for both subsistence and economic purposes.

2.3. LEGAL FRAMEWORK:

LAW OF SARAWAK LAND CODE (CHAPTER 81) (1958 EDITION)

Specific sections related for this document:

PARTI

SHORT TITLE, INTERPRETATION AND ADMINISTRATION

a) Section 2 – Interpretation

PART II

LAND CLASSIFICATION AND DIVISION

- b) Section 5 Native Customary rights
- c) Section 6 Native Communal Reserves.
- d) Section 10 Occupation of different classes of land

2.4. INTERPRETATION AND EXPLANATION OF KEY SECTIONS

2.4.1. The document can direct reference to the Sarawak Land Code (Chapter 81) (1958 EDITION) without additional interpretation and explanation of "Native Customary Land" to prevent any deviation from legislative intent.

2.5 CONCLUSION OF NCR DEFINITION

2.5.1. The definition of NCR land based on the Sarawak Land Code (Chapter 81) (1958 EDITION) is not only a legal necessity but also a vital tool for protecting indigenous land rights. This guidance document can help NCR landholders to navigate the complexities of land ownership and certification and ultimately support their long-term economic and cultural sustainability.

3. PROCESS FOR NCR LANDOWNERS TO OBTAIN MSPO

3.1 PROCESS FOR INDEPENDENT SMALLHOLDERS (ASSISTED BY MPOB AND/OR OTHER MSPO CERTIFICATION GROUP MANAGER)



3.1.1 PRELIMINARY ASSESSMENT

3.1.1.1 IDENTIFY LAND OWNERSHIP

A smallholder without legitimate land title shall follow Temporary Land Verification Measures as per in section 5.1 before proceeding with land development to meet the criteria for MSPO certification, focusing on land use or the NCR status.

3.1.1.2 ENGAGE WITH MPOB OR OTHER MSPO CERTIFICATION GROUP **MANAGERS**

- A smallholder should reach out to the nearest MPOB office to register under the Sustainable Palm Oil Cluster (SPOC) program.
- Once registered, an MPOB Officer will assist with the next steps in the certification process.
- Alternatively, a smallholder may register with other MSPO certification group managers to facilitate MSPO certification.

3.1.2 DOCUMENTATION PREPARATION

3.1.2.1 COLLECT REQUIRED DOCUMENTS

An MPOB TUNAS Officer or other MSPO certification group manager representatives will assist in document preparation and collect all required documentation, including proof of NCR land status (e.g. confirmation letter from Sarawak Land and Survey Department) and ownership of the land (e.g. Borang Pengesahan Ketua Kaum/Masyarakat verified by Sarawak responsible authorities), environmental impact assessments (if applicable), and any records of sustainable agriculture practices.

3.1.2.2 ENSURE COMPLIANCE

MPOB or other MSPO certification group manager to ensure that the smallholder complies with applicable legal and environmental requirements, including those related to High Conservation Value (HCV) areas and other MSPO criteria.

3.1.3 DOCUMENTATION PROCESS

3.1.3.1 MSPO CERTIFICATION

Once requirements are met, proceed with the formal MSPO certification process, including audits and assessments by certified bodies.

3.2 PROCESS FOR ORGANISED SMALLHOLDERS MANAGED BY **GOVERNMENT AGENCIES**



3.2.1 PRELIMINARY ASSESSMENT

3.2.1.1 IDENTIFY LAND ELIGIBILITY AND LAND OWNERSHIP

- The managing agency shall assess the land status meets the criteria for MSPO certification, focusing on land use, legal/NCR status, and environmental considerations.
- The managing agency shall obtain and document a formal agreement between the smallholders and the managing agency, clearly outlining the rights and responsibilities related to land use and management.

3.2.1.2 INTERNAL EVALUATION

The managing agency will conduct an internal evaluation to determine the readiness of the organised smallholder for MSPO certification, ensuring that the group is compliant with the preliminary requirements.

3.2.2 DOCUMENTATION PREPARATION

3.2.2.1 COLLECT REQUIRED DOCUMENTS

The managing agency shall gather all required documentation, including confirmation of NCR land status (e.g., stipulated agencies form, environmental impact assessments (if applicable), and records of sustainable agriculture practices.

3.2.2.2 COMPLIANCE REVIEW

Ensure that the organised smallholder complies with all legal and environmental requirements, including those related to High Conservation Value (HCV) areas and other MSPO criteria.

3.2.3 DOCUMENTATION PROCESS

3.2.3.1 MSPO CERTIFICATION

Follow the MSPO certification process, ensuring adherence to the required environmental and social standards.

4. IMPLEMENTATION OF HIGH CONSERVATION VALUE (HCV) ASSESSMENTS

- 4.1. INDEPENDENT SMALLHOLDERS
 - 4.1.1 Refer to MSPO HCV Assessment Guidelines.
- 4.2. ORGANISED SMALLHOLDERS
 - 4.2.1 Refer to MSPO HCV Assessment Guidelines.
- 4.3 COMPLIANCE WITH OTHER MSPO REQUIREMENTS
 - 4.3.1 Environmental Impact: Implement measures to protect the environment as per MSPO standards. Based on NREB procedure (only applies for organised smallholders).
 - 4.3.2 Social Impact: Follow the MSPO Social Impact Assessment (SIA) Guidelines.
 - 4.3.3 Good Agricultural Practices (GAP): Adhere to relevant GAP to maintain soil health, manage waste, and ensure sustainable production.

5. LEGALITY OF LAND AND TEMPORARY MEASURES

5.1. TEMPORARY LAND VERIFICATION MEASURES

In cases where the formal registration process of NCR land is incomplete, temporary verification measures may be used to establish land legality. This includes obtaining verification from:

- a) local leaders or community representatives and,
- b) responsible authorities.

Verification by the responsible authorities will be the minimum acceptable condition for the MSPO certification.

5.1.1 PROCEDURE FOR "BORANG PENGESAHAN LOCAL LEADER/COMMUNITY"

- Step 1: Obtain the verification form "Borang Pengesahan" from the responsible authorities.
- Step 2: Complete the form with details of the land and its usage.
- Step 3: Obtain verification from the Local Leader or Tuai Rumah or community representative.
- Step 4: Submit the form to the responsible authorities for verification.

5.2. PROCEDURE FOR LAND VERIFICATION FROM AUTHORITIES RESPONSIBLE FOR NCR LAND DEVELOPMENT OF SARAWAK REGION.

- Step 1: Follow the specific procedures laid out by Responsible Authorities for official NCR land verification, including document submission and regulatory compliance.
- Step 2: Proceed with the MSPO certification upon successful verification and approval from the responsible authorities.

6. CONCLUSION

This guidance document emphasises that NCR land is predominantly used for agriculture, farming, and other customary uses, recognised under the Sarawak Land Code and is integral to the livelihoods of indigenous communities. By clearly defining NCR land as an agricultural land, this guidance document provides NCR landowners with the necessary tools to navigate the MSPO certification process, ensuring compliance with both legal and environmental standards.

The agricultural use of NCR land is critical for sustainable development, particularly in the context of oil palm cultivation. By following the steps outlined for certification, landholders can validate their land as agricultural land, ensuring its productive use while adhering to sustainable practices while meeting various national and international requirements.

Ultimately, this guidance document ensures that NCR landholders can achieve sustainable palm oil production and conforming with all necessary standards to promote long-term agricultural productivity and environmental stewardship.

Disclaimer: The purpose and use of this guidance document are meant exclusively for MSPO Certification compliance only.

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