



COMPANIES ACT 2016: PRACTICE NOTE NO. 2/2018

**CIRCUMSTANCES AND PROCEDURES FOR RECTIFICATION
OF DOCUMENTS LODGED AND REGISTERED WITH THE
COMPANIES COMMISSION OF MALAYSIA**

This Practice Note is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

OBJECTIVE

1. This Practice Note serves to clarify the circumstances and procedures in which documents that have been lodged and registered with the Companies Commission of Malaysia (SSM) may be rectified.

BACKGROUND

2. The accuracy of information contained in documents submitted to the Registrar is important to ensure that public reliance on such information is not compromised. As such, any

person lodging documents with the Registrar must ensure that the information lodged is accurate and not misleading.

3. However there are instances where documents that are lodged with the Registrar contain errors which resulted from genuine inadvertence. In such cases, the Registrar, either on an application or on his own accord, is empowered to rectify such errors within the parameters of section 602 of the Companies Act 2016 (CA 2016).

CIRCUMSTANCES IN WHICH DOCUMENTS LODGED AND REGISTERED MAY BE RECTIFIED

4. Subsection 602(1) of the CA 2016 provides that a person may apply to the Registrar to rectify the register if an entry in the register:

- (a) contains any matter contrary to law;
- (b) contains any matter that, in a material particular, is false or misleading in the form or context in which the matter is included;
- (c) by reason of an omission or misdescription has not been duly completed; or
- (d) is incorrect or erroneous.

5. Further subsection 602(2) of the CA 2016 states that upon receipt of the application under subsection (1), in order for the Registrar to decide whether to approve or refuse the application, the Registrar may—

- (a) require the applicant to produce any document or furnish any information as the Registrar thinks necessary in order for the Registrar to rectify the entry; or
- (b) require the applicant to give notice of that application to such other person as the Registrar may specify, being a person who appears to the Registrar to be concerned or to have an interest in the business.

6. Notwithstanding paragraph 5, the Registrar may refuse any application for rectification if the error, mistake or omission does not arise in the ordinary course of the discharge of the duties of the Registrar or falls within the ambit of paragraph (a) or (b) of subsection 602(1) of the CA 2016.

7. The decision of the Registrar relating to an application is final. However, if the Registrar has refused an application, the aggrieved applicant may appeal to the Court. Subsequently, any order of rectification made by the Court shall be lodged with the Registrar and the Registrar shall rectify the register accordingly on receipt of the said order.

8. Notwithstanding paragraph 4, section 602(6) of the CA 2016 provides that the Registrar may, without an application being made under subsection (1), rectify the register if, in his view, an entry—

- (a) contains any matter contrary to law;

- (b) contains any matter that, in a material particular, is false or misleading in the form or context in which the matter is included;
- (c) by reason of an omission or misdescription has not been duly completed; or
- (d) is incorrect or erroneous.

PROCEDURES IN SUBMITTING RECTIFIED OR AMENDED DOCUMENTS

9. The procedures that shall be observed are as follows:
- (a) the amended document(s) should be lodged to correct the errors in the earlier lodged or registered document;
 - (b) the corrections made should be highlighted by underlining the corrected information on the amended document(s);
 - (c) the phrase **“This is filed by way of amendment to the Form ... dated ... which is erroneous”** should also be printed on the top right hand cover of the first page of the amended document(s) for easy identification;
 - (d) the amended document(s) should also be accompanied with a declaration by the person making the lodgment justifying the need for the amendment;

(e) notwithstanding paragraph 4, the Registrar has the discretion to refuse the application for rectification pursuant to section 602(3) of the CA 2016.

10. For the purposes of paragraph 9(d) above, the person making the lodgement includes—

- (a) director or promoter;
- (b) secretary;
- (c) receiver or receiver and manager;
- (d) nominee;
- (e) judicial manager;
- (f) liquidator; or
- (g) any other interested person who has been allowed to lodge document(s) under the Act.

11. If the applicant is not the same person making the earlier lodgement, any application to rectify an entry which falls under subsection 602(1) of the CA 2016 will not be allowed unless accompanied by a Court order.

FEE APPLICABLE

12. An application to amend or rectify lodged or registered document must be accompanied with an application fee of RM300 pursuant to Item 39 of the Companies Regulations 2017.

13. In addition, the filing of the amended document(s), as the case may be, shall also be accompanied with the relevant filing fee prescribed in the Companies Regulations 2017.

NON-APPLICATION TO RECTIFICATION RELATING TO CHARGES

14. Notwithstanding paragraphs 4 to 8, this Practice Note is not applicable to rectification in respect to any documents relating to charges which have been lodged with the Registrar. Any such rectification must strictly comply with the provisions under Subdivision 1 of Division 7 of Part III of the CA 2016.

15. This Practice Note serves to reiterate the importance of ensuring that companies lodge documents which contain adequate and accurate information.

REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
4 June 2018