



**SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA**

COMPANIES ACT 1965: SSM'S PRACTICE NOTE NO. 5/2009

RE: THE FILING OF OBJECTIONS PURSUANT TO A CLAIM OF AMOUNT DUE AND OWING AGAINST A COMPANY UNDERGOING A STRIKING-OFF PROCESS

1. This Practice Note serves to inform on the requirements in relation to the filing of objections on the pretext that a company undergoing a striking-off process still owes a specific sum of monies to a person (Claimant).

Power of Registrar to Strike-Off the Name of a Company

2. Section 308 (1) of the Companies Act 1965 (CA 1965) vests the discretionary power onto the Registrar to strike-off the name of a company where he has reasonable cause to believe that:

- (a) a company is not carrying on business; or
- (b) a company is not in operation.

Objection to Striking-Off Pursuant to a Claim of Amount Due and Owing Against a Company undergoing a Striking-Off Process

3. Where a Claimant wishes to object the striking-off process carried out by the Registrar under section 308 of CA 1965 on the basis that the company undergoing such process owes a specific amount of monies to such person, the Registrar will only entertain such application upon the production of proof that an action to recover such sum has been initiated in a Court of law.

Procedures for the filing of an Objection to a Striking-Off Process

4. In carrying out his discretion under section 308 of CA 1965, the Registrar may suspend any striking-off process initiated upon the filing of an objection by a Claimant in accordance with the procedures set forth below:

- (i) A Claimant may file an objection to the striking-off process against a company before the expiration of three (3) months from the date of the notice issued under section 308(2) of CA 1965;
- (ii) The objection to the striking-off shall be in writing and addressed to:

Director,
Registration Services Division
Companies Commission of Malaysia

Level 14 Putra Place
100 Jalan Putra,
50622 Kuala Lumpur.

The objection may be submitted personally or by post.

- (iii) A copy of the cause paper(s) duly filed in a Court of law (foreign or local) must be attached together with the letter of objection filed with the Registrar; and
- (iv) Payment of a processing fee of RM120.00 (Ringgit Malaysia One Hundred and Twenty only) to the Registrar.

5. Upon due filing of the objection to the striking-off, the Registrar may suspend the process of striking-off for a period of one (1) year. Where the striking-off process is suspended, the Registrar will issue a letter notifying the company of the suspension and a copy of such letter will also be sent to the Claimant. The date of the suspension shall be for one (1) year from the date of the notification letter issued by the Registrar.

6. Where the cause of the objection has been resolved prior to the lapse of the said one (1) year period, either upon adjudication by the Court or mutual settlement between the parties, the Claimant or the company shall notify the Registrar accordingly, upon which the Registrar may resume the striking-off process.

7. Where upon the lapse of one (1) year and the cause of the objection has not been fully resolved, either by way of Court adjudication or mutual settlement between the parties, the Registrar may reject and/or discontinue the striking-off process. The Registrar however reserves his right to re-initiate the striking-off process under section 308 of CA 1965 upon its own initiative or upon a fresh application being filed by the directors and/or shareholders of the company.

REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
21 July 2009