



GUIDELINES ON COMPANY LIMITED BY GUARANTEE

These Guidelines are issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

A. INTRODUCTION

1. A company limited by guarantee (CLBG) is a public company incorporated with the principal liability of its members limited by the constitution to such amount as the members undertake to contribute to the assets of the company if the company is wound up.
2. Activities of a CLBG must be in line with the objects as specified in paragraph 5. A CLBG may only hold any land or property if it is issued with a license by the Ministry of Domestic Trade and Consumer Affairs (Minister).
3. There are two types of CLBG under the Companies Act 2016 (CA 2016):
 - (a) CLBG without the word "Berhad" or "Bhd"; and
 - (b) CLBG with the word "Berhad" or "Bhd".

B. INCORPORATION UNDER SECTION 45 CA 2016

4. A CLBG may be incorporated by lodging an application to the Registrar together with a constitution.

5. A CLBG can only be formed for the following objects:
 - (a) providing recreation or amusement;
 - (b) promoting commerce and industry;
 - (c) promoting art;
 - (d) promoting science;
 - (e) promoting religion;
 - (f) promoting charity;
 - (g) promoting pension or superannuation schemes; or
 - (h) promoting any other objects useful for the community or country, such as:
 - (i) environment;
 - (ii) health;
 - (iii) education;
 - (iv) research;
 - (v) social; or
 - (vi) sports.

6. For avoidance of doubt, no other company can be formed for the purposes specified under paragraph 5.

7. A foreign CLBG or any foreign company carrying out the objects under paragraph 5 must be incorporated as a new CLBG under the CA 2016. This is to ensure that all entities carrying out the objects under paragraph 5 are subjected to the same requirements and procedures which are set out under this Guidelines. This is also in view of the vulnerability faced by such sector relating to the potential risks on money laundering and terrorism financing activities.

8. If any Ministry, Government Agency or authority intends to incorporate a CLBG, an approval letter from the Ministry, Government Agency or the authority is required to be submitted together with the application to incorporate a CLBG.

9. It is advisable that the incorporation of a CLBG is carried out through a company secretary.

Requirement of promoter (founder member) or director

10. A promoter (founder member) or director of a CLBG must be a person who is fit and proper and is not disqualified under the CA 2016.

11. Without limiting to the following, for the purposes of determining whether a person is fit and proper, the Registrar may:

- (a) consider the experience, qualification and competency of the promoter (founder member) or director which would assist him in carrying out his duties as director of the CLBG;
- (b) consider the reputation, character and integrity of the promoter (founder member) or director;
- (c) conduct a security vetting on the potential promoter (founder member) or director, and a safety filter (security vetting) for the potential promoter (founder member) or director shall be conducted by the Royal Malaysian Police and/or other agencies.

Appointment of director

12. The Registrar may, if he is satisfied that a person is fit and proper and competent to perform the duties of a director under the CA 2016, approve the person as a director of a CLBG.

Requirement as to constitution

13. Unlike any other company, a CLBG is required to have a constitution with, among others, the following requirements:

- (a) the name of the company;
- (b) the objects of the company;
- (c) the capacity, rights, powers and privileges of the company;
- (d) the amount up to which the member undertakes to contribute to the assets of the company in the event of it being wound up;
- (e) the full names, addresses and occupations of the subscribers; and
- (f) a statement that the subscribers are desirous of being formed into a company in pursuance of the constitution.

14. A CLBG shall submit its constitution to the Registrar upon an application for incorporation. The CLBG may adopt the model constitution prepared by the Registrar. For the purposes of incorporation, the CLBG must adopt part A of the model constitution.

Amendment of constitution

15. Prior approval from the Registrar must be obtained to amend the constitution of a CLBG.

Segmental Reporting

16. The Registrar may require a CLBG to submit a segmental reporting together with its financial statements.

17. For the purposes of paragraph 16, if a CLBG gives to or receives from any organization any fund / donation / contribution, the CLBG is required:

- (a) to make appropriate disclosure on the funds / donations / contributions in the notes to the financial statements; and
- (b) to make appropriate disclosure on the operational expenses in the notes to the financial statements.

18. A CLBG must keep a list of the funds, donations or contribution at all time as follows:

- (a) List of fund, donation or contribution given to the respective party:
 - (i) the name of individual / company / associate / counterpart /etc.;
 - (ii) the correspondence address of the respective party;
 - (iii) the amount of fund, donation or contribution to each party. Please specify whether in Ringgit Malaysia or foreign currency;
 - (iv) the date of transaction; and
 - (v) the accounting records and supporting documents that is relevant to that particular transaction.

- (b) List of fund, donation or contribution received from the respective party:
- (i) the name of individual / company / associate / counterpart/ etc.;
 - (ii) the correspondence address of the respective party;
 - (iii) the amount of fund, donation or contribution by each party. Please specify whether in Ringgit Malaysia or foreign currency;
 - (iv) the date of transaction; and
 - (v) the accounting records and supporting documents that is relevant to that particular transaction.

19. A CLBG should keep bank statements as evidence in relation to the transactions of the fund, donations or contributions as specified in paragraph 18(a) and (b).

20. At any time during a year, the Registrar may issue a notice and require a CLBG to submit the Financial Information Form (*Borang Maklumat Kewangan – BMK*) to SSM.

General requirements

21. A CLBG must ensure that its financial resources are utilised solely for the purposes of carrying its objects. In conducting its activities, it must ensure that it does not depart from the objects for which it was established for.

22. A CLBG is required to comply at all times with all the provisions set forth in its constitution.

General prohibitions

23. Except with prior approval from the Registrar, a CLBG is prohibited:

- (a) from appointing new directors;
- (b) from paying any fees, salaries and fixed allowances to its directors;
- (c) from paying any fees, salaries and fixed allowances that relate to prior financial years of the company to its directors unless—
 - (i) the CLBG has been incorporated for at least three years;
 - (ii) the fees, salaries and fixed allowances payable must have been provided for in those financial years and do not relate to the initial three financial years from incorporation date;
 - (iii) the total amount payable shall not exceed 30% of the total assets of the company before payment is made; and
 - (iv) the CLBG will be solvent immediately after the payment is made.

For the purpose of this subparagraph, the CLBG is regarded as solvent if it is able to pay its debts as and when the debts become due within twelve months immediately after the payment is made.

- (d) from soliciting any contribution or donation or make any money collection from the public;
- (e) from incorporating or holding any subsidiary (save for CLBG with the word "Berhad" or "Bhd" incorporated prior to 31 January 2017 where its existing Constitution does not contain

similar restrictions or for CLBG without the word “Berhad” or “Bhd” where the terms and conditions of its licence does not impose such restriction); and

- (f) from amending the Constitution.

C. LICENCE TO OMIT THE WORD “BERHAD” OR “BHD” UNDER SECTION 45(3) OF THE CA 2016

New Incorporation

24. A CLBG may apply to the Minister for a licence to omit the word “*Berhad*” or the abbreviation “*Bhd*” from its name.

25. Any CLBG which has its licence revoked, shall add the word “Berhad” or “Bhd” to its name.

26. For the purpose of omitting the word “Berhad” or “Bhd”, a CLBG is required to obtain an initial fund of RM1 million. This fund is to ensure that the CLBG is able to carry out its objectives as soon as it is incorporated. The RM1 million fund is expected to be able to sustain the operations for the first two (2) years of the CLBG without the threat of it being wound up at its early stage of formation.

27. The CLBG is required to obtain the contribution in cash which has been pledged by potential contributors within six (6) months after its incorporation. Any exemption to the RM1 million requirement is prohibited as the applicant has the option to incorporate a CLBG with the word “Berhad” or “Bhd” without the need to comply with the requirement.

Existing CLBG

28. A CLBG which had been incorporated for a period of at least two (2) years may apply to omit the word “Berhad” or “Bhd” provided there is a cash of RM1 million shown in the bank account of the latest financial statements.

29. The CLBG referred to in paragraph 28 must provide an information with comments on the financial position at least for the last two (2) years and the latest financial statements for the period of two (2) years, audited and presented at the annual general meeting.

Terms and Conditions for licence issued under section 45(3)

30. The Minister may impose terms and conditions as he thinks fit in approving an application under section 45(3).

31. If a CLBG fails to comply with any of such terms and conditions, the license may be revoked.

E. LICENCE TO HOLD, DISPOSE OR CHARGE LAND OR PROPERTY UNDER SECTION 45(4) CA 2016

Application to hold, dispose or charge land or property

32. A CLBG shall not hold, acquire, charge, mortgage, sell, lease or dispose, a land or property unless a licence has been obtained from the Minister.

33. A CLBG shall hold, acquire, charge, mortgage, sell, lease or dispose, the land or property subject to the approval of the Minister and the terms and conditions of licence as provided in paragraph 34.

Terms and Conditions of licence to hold, dispose or charge land or property

34. The Minister may impose special terms and conditions relating to the holding, acquiring, charging, mortgaging, selling, leasing or disposing the land or property as he thinks fit.

F. SUBMISSION OF APPLICATIONS TO SSM

35. Checklists (1) to (8) form part of the application documents to be submitted when lodging an application pursuant to this Guidelines. An application may be rejected for failure to meet the requirements in Checklists 1 to 8, whichever is applicable.

G. CLBG INCORPORATED PRIOR TO THE COMMENCEMENT OF THE COMPANIES ACT 2016

Object clause which falls outside the scope of Guidelines

36. For avoidance of doubt, in the event that any CLBG incorporated pursuant to corresponding previous written law have objects that fall outside the list provided for in paragraph 5, such CLBG shall be deemed to have been properly incorporated under the Companies Act 2016.

37. Any licences issued by the Minister pursuant to corresponding provisions under the Companies Act 1965 are still valid until otherwise revoked. Similarly, CLBG which are issued with the licences are bound by the terms and conditions attached with those licences.

H. EFFECTIVE DATE OF THESE GUIDELINES

38. These Guidelines take effect on 27 September 2021 and the Guidelines on Company Limited by Guarantee issued on 8 January 2019 is revoked.

REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
27 September 2021

Checklists 1 to 8

Examples 1 to 5

Sample of CLBG Constitution