



GUIDELINES ON COMPANY LIMITED BY GUARANTEE

These guidelines are issued pursuant to s 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 principle liability of its members is 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. A CLBG incorporated should not be involved in any activity which benefits the company or its members and must not take or hold any land without a license issued by the Ministry of Trade Cooperatives and Consumerism, Malaysia (Minister).
3. There are two types CLBG under the Companies Act 2016 (CA 2016):
 - (a) CLBG without the word "Limited" or "Ltd"; and
 - (b) CLBG with the word "Limited" or "Ltd".

B. INCORPORATION UNDER SECTION 45 CA 2016

4. A CLBG may be incorporated by submitting an application to the Registrar together with a constitution.
5. For incorporation purposes, 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;
 - (vi) sports; and
 - (vii) any other categories which the Minister thinks fit.

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

7. An approval letter is required to be submitted together with the application to incorporate a CLBG if a CLBG is incorporated under any Ministry, Government Agency or authorities.

Requirement of founder or director

8. A founder or director shall be a person who is fit and proper and is not disqualified under the CA 2016.

9. For the purposes of determining whether a person is fit and proper, the Registrar may:

- (a) consider the experience, qualification and competency of the founder 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 founder or director;
- (c) conduct a security vetting the potential founder or director, and a safety filter (security vetting) for the potential founder or director shall be conducted by the Royal Malaysian Police and other agencies.

10. The founder or director shall complete a biodata profile together with:
- (a) an undertaking as to whether an application was made to establish a body or association under the Societies Act 1966;
 - (b) a letter of appointment as stated in the constitution; and
 - (c) a copy of the identity card/passport certified by the company secretary.

Appointment of director

11. The Registrar may, if he is satisfied that the applicant is fit and proper and competent to perform the duties of a director under this Act, approve the applicant as a director of a CLBG.

Fixed salary and allowance of directors

12. A CLBG shall be authorized to give a fixed salary and allowance to the directors which must be set out in the constitution.

Requirement as to constitution

13. Unlike any other company at the point of incorporation and subject to section 45(1) CA 2016, a company limited by guarantee shall be required to have a constitution with the following requirements:

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

Amendment of constitution

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

Segmental Reporting

15. A CLBG shall submit a segmental reporting together with its annual return.

Other general requirements

16. Unless prior approval has been obtained from the Registrar, a CLBG:
- (i) is prohibited to appoint new directors;
 - (ii) must ensure that no member or its directors uses the company or its financial resources to conduct any form of political activity or political or unlawful;
 - (iii) must use the profits and other income for the purposes stated in the objects of the company;
 - (iv) is prohibited to solicit any contribution or donation or make any money collection from the public;
 - (v) is prohibited from owning land and dispose of property;
 - (vi) is prohibited to establish subsidiaries or subsidiary and were not allowed to hold shares in other companies in excess of 49%;
 - (vii) is required to get all of the cash has been pledged by potential contributors within six (6) months after the it is established; and
 - (viii) is required to comply at all times with all the provisions set forth in the constitution, other than the conditions mentioned above.

LICENCE To OMIT THE WORD "BERHAD" OR "BHD"

17. A CLBG may apply to the Minister for a licence to omit the word "*Berhad*" or the abbreviation "*Bhd*" from its name. However, any CLBG intending to use the words "*Yayasan*" or "*Foundation*" must omit the word "*Berhad*" or "*Bhd*" from its name.

Application to omit the word "Berhad" or the abbreviation "Bhd"

18. A CLBG is required to submit the following information and supporting document(s):

- (i) the objective and justification for omitting the word "*Berhad*" or "*Bhd*";
- (ii) the comments on the financial position at least for the last three (3) years and the latest financial statements for the period of three (3) years, audited and presented at the annual general meeting, if applicable;
- (iii) the biodata of the members of the board of directors;
- (iv) the list of the members of the company and information as in the Register of Members;
- (v) activities that have been implemented within three (3) years, if applicable;
- (vi) a copy of the constitution made available;
- (vii) the draft constitution on the amendments to omit the word "*Berhad*" or "*Bhd*"; and
- (ix) the resolution of members on the omission of the word "*Berhad*" or "*Bhd*" and the approval for the related amendments of the constitution.

19. The Minister may impose terms and conditions as he thinks fit in approving the application including the amount of fund to be raised by the CLBG.

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

C. OMITTING THE WORD "BERHAD" OR "BHD" AT THE END OF THE EXISTING CLBG UNDER SECTION 45(3) CA 2016

21. The application to omit the word "*Berhad*" or "*Bhd*" is for a CLBG which had been incorporated for a period of three (3) years.

22. The basis to support the approval of omitting the word "*Berhad*" or "*Bhd*" is that the CLBG must have a fund amounting to RM1 million cash.

23. A CLBG with the word "*Berhad*" or "*Bhd*" could omit the said word subject to the approval of the Minister and the terms and conditions of licence as provided in paragraph 21.

24. A licence under section 45(3) or (4) CA 2016 and the terms and conditions of licence under the Regulation made is issued once the application obtains the approval of the Minister.

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

Application to hold, dispose or charge land or property

25. A CLBG shall not hold, dispose or charge of the land or property unless a licence has been obtained from the Minister.

26. A CLBG shall hold, dispose or charge of the land or property subject to the approval of the Minister and the terms and conditions of licence as provided in paragraph 27.

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

27. The Minister may impose special terms and conditions relating to the holding, disposing or charging of the land or property as he thinks fit.

Companies Commission of Malaysia

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