

Transitioning Into Companies Act 2017 (Act 777)

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Presentation Flow



SSM'S KEY FUNCTIONS

DUE ADMINISTRATION OF PRESCRIBED LAWS



1. COMPANIES COMMISSION OF MALAYSIA ACT 2001

An Act to establish the Companies Commission of Malaysia, to provide for its functions and powers and for matters connected therewith.

2. COMPANIES ACT 2016

An Act to provide for the registration, administration and dissolution of companies and corporations.

3. INTEREST SCHEMES ACT 2016

An Act to provide for the registration, administration and dissolution of schemes relating to interests and related matters.

4. LIMITED LIABILITY PARTNERSHIPS ACT 2012

An Act to provide for the registration, administration and dissolution of limited liability partnerships.

5. REGISTRATION OF BUSINESSES ACT 1956

An Act to provide for the registration of businesses.

6. TRUST COMPANIES ACT 1949

An Act to provide for registration and regulation of trust companies in Malaysia.

7. KOOTU FUNDS (PROHIBITION) ACT 1971

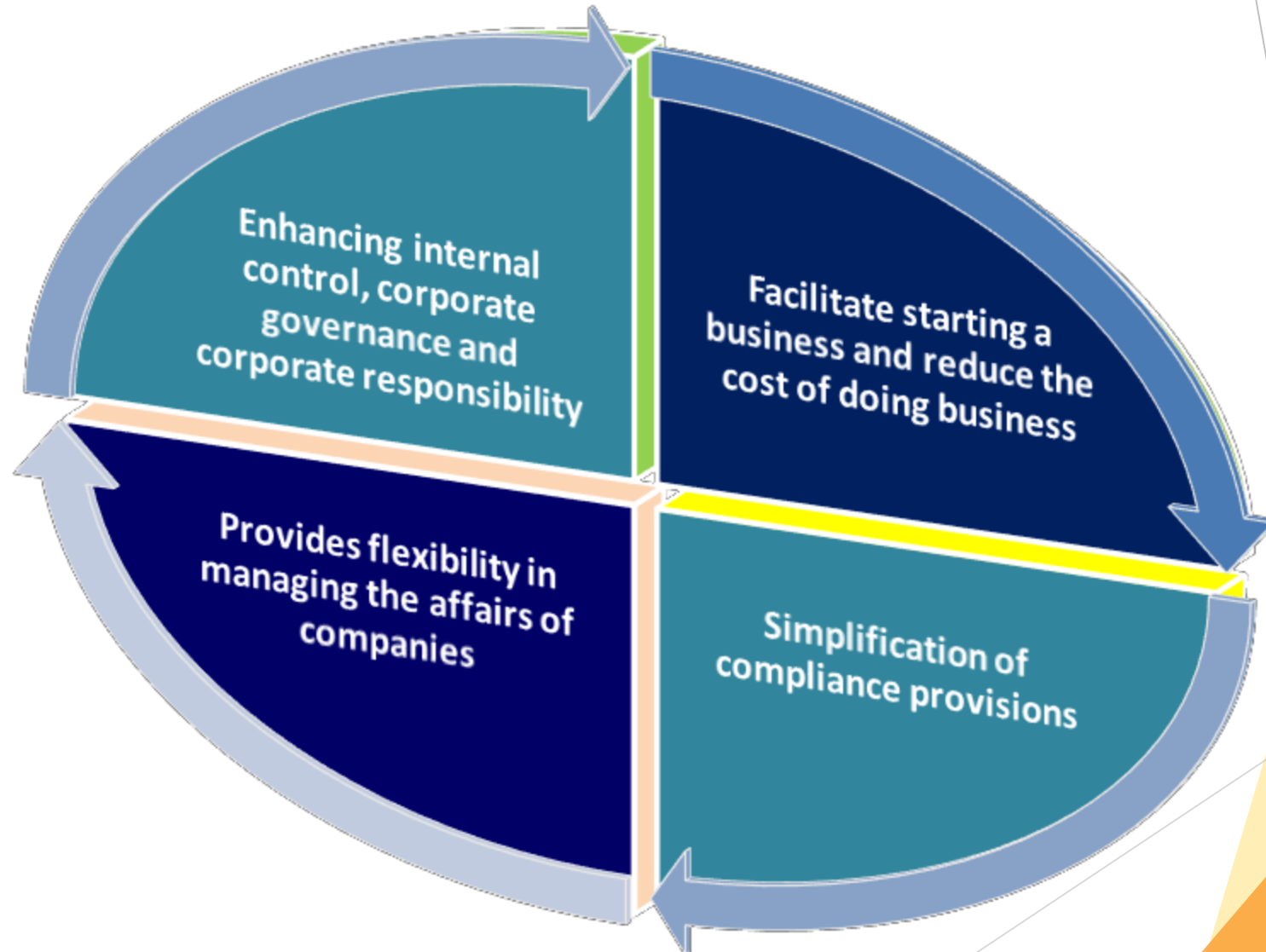
An Act to prohibit the registration or licensing of businesses and the registration of companies which promote or are designed to promote kootu funds.

8. SUBSIDIARY LEGISLATIONS UNDER THE ABOVE ACTS

Overview Of
Companies
Act 2016



IMPACTS OF THE NEW COMPANIES ACT 2016



TABLING OF THE BILL



attention

Gazetted on 15 September 2016

Companies Act 2016 [Act 777]

Enforced on 31 January 2017

Passed at Dewan Rakyat
on 4 April 2016

Passed at Dewan Negara
on 28 April 2016

CONTENTS OF THE NEW COMPANIES ACT 2016

Parts	Divisions
PART I: PRELIMINARY	Preliminary
PART II: FORMATION AND ADMINISTRATI ON OF COMPANIES	1. Types of Companies
	2. Incorporation and its effects
	3. Restriction on subsidiary being member of its holding company
	4. Name of Company
	5. Constitution of Company
	6. Conversion of Company Status
	7. Provisions Applicable to Certain Types of Companies
	8. Registered Office and Registers
	9. Execution of Documents
	10. Annual Returns

CONTENTS OF THE NEW COMPANIES ACT 2016

Parts	Divisions
PART III: MANAGEMENT OF COMPANY	1. Share And Capital Maintenance
	2. Members, Directors And Officers of Companies
	3. Accounts And Audit
	4. Indemnity And Insurance For Officers And Auditors
	5. Meetings
	6. Charges, Arrangement And Reconstructions And Receivership
	7. Corporate Rescue Mechanism

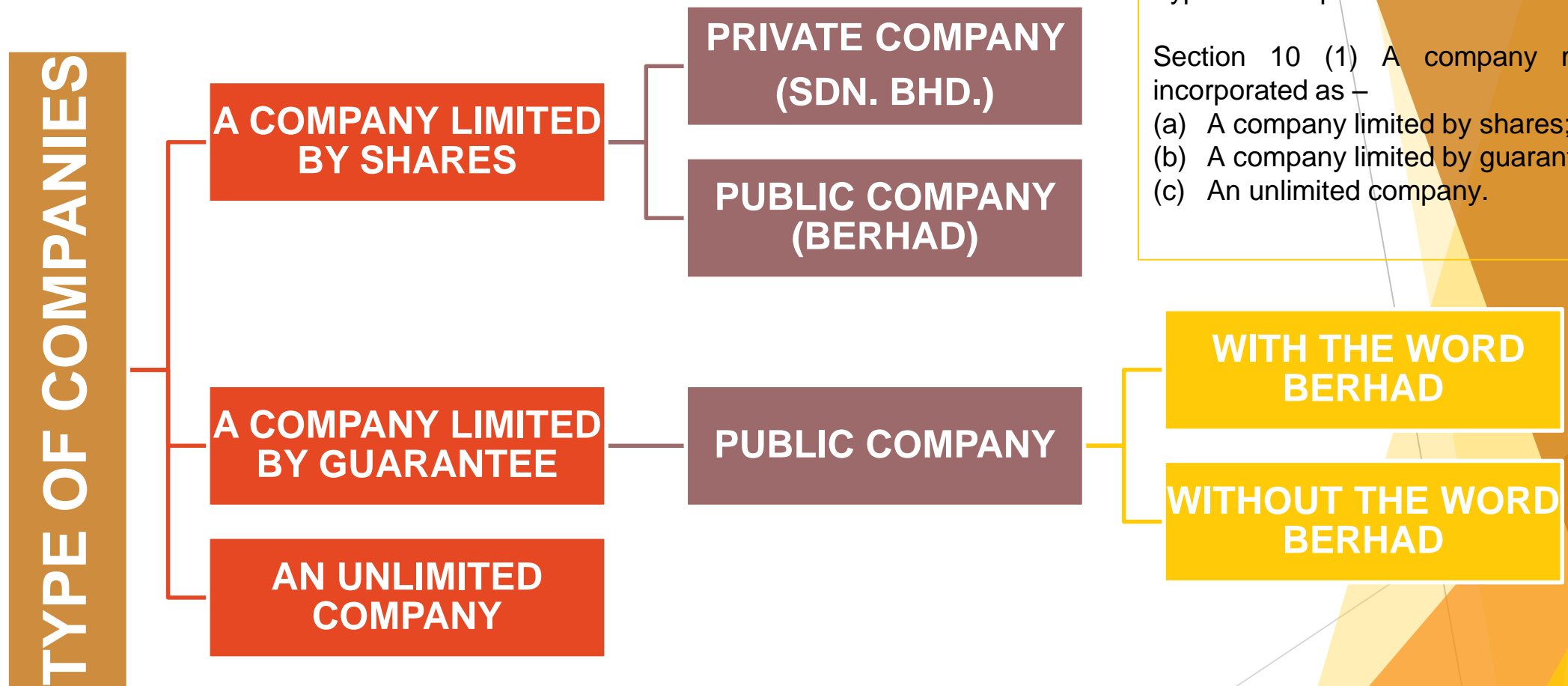
CONTENTS OF THE NEW COMPANIES ACT 2016

Parts	Divisions
PART IV: CESSATION OF COMPANIES	1. Voluntary And Compulsory Winding Up
	2. Provisions Applicable to Every Winding up
	3. Winding Up of Unregistered Companies
	4. Striking Off And Management Of Assets Of Dissolved Companies
PART V: MISCELLANEOUS	1. Foreign Companies
	2. Enforcement And Sanctions
	3. General Provisions
	4. Saving and Transitional

Starting A Biz



TYPES OF COMPANIES



Types of companies :

Section 10 (1) A company may be incorporated as –

- (a) A company limited by shares;
- (b) A company limited by guarantee; or
- (c) An unlimited company.

PROCEDURES OF INCORPORATION

There are two ways to incorporate a company via online:

Direct
Incorporation

- Company limited by shares
- Name not content any control word, offensive and gazette
- The applicant needs to complete the application for company's name and incorporation and its fee is RM1,010.60 (Fee of Incorporation RM1000.00 + Information to agencies RM10.00 + GST 0.60)

Incorporation
from
reserved
name

- Company limited by shares
- Application of name is approved
- The applicant must obtain the approval company' name with fee RM50 per each name and complete application for incorporation with fee RM1,010.60 (Fee of Incorporation RM1000.00 + Information to agencies RM10.00 + GST 0.60)

MODERNISING ENTRANCE INTO CORPORATE SECTOR

New

- Incorporation process through a **superform** by **promoter(s)/shareholder(s)**
- Constitution (used to be M&A) and appointment of secretary at point incorporation is optional.

Form 6,
a copy of M&A,
Form 48A

No more multiple forms for Incorporation process. Under new regime it will be transaction base.

A company can be incorporated by a **single member** and that single member can also be the sole director

Public company must have at least two directors

**SINGLE MEMBER
COMPANY**

Notice of Registration vs Certificate of Incorporation

- **Section: 19 - Notice of registration is conclusive evidence.**
- **Section:17 - Purchase of certificate is optional.**

Entrenchment of separate legal entity and unlimited capacity concepts which is not confined to object Sections as currently used in other leading jurisdictions.

Effect of incorporation – company is a body corporate with legal personality separate from its members and have the full capacity to undertake any business activities.

- **Section: 21(1): unlimited capacity**
- **Section: 14(2): A company shall not be formed for any unlawful purpose**

- **Constitution (M&A and AA) is optional.**
- **A company may adopt constitution after incorporation.**

However, company limited by guarantee (CLBG) is still required to have constitution at the point of incorporation.

**Ease of doing business –
increase business efficiency.**

Common seals

- **Optional- Section: 61**
- **If a company decides to have a common seal, the provisions of the law must be observed – Section: 61(2)**

Execution of documents

- by affixing common seal as provided in the constitution – Section: 66(1)(a);
or
- by at least 2 persons authorized by the Board - Section: 66(2)(a)
- “Authorised officer”- 66(5)

**In cases of single director, by that director and must be witnessed –
Section: 66(2)(b)**

Share certificate

- Register of members becomes prima facie evidence as to the title of the shares.
- Share certificate will only be issued upon application

Additional requirement relating to register of members:

- To notify Registrar of any changes of information relating to a shareholder within **14 days** after the information is recorded in the register of members.
- Power to require disclosure of beneficial interest in its voting shares is extended to all companies. Registrar, stock exchange or Securities Commission may invoke its power to request company to disclose information on beneficial ownership.

FUNDAMENTALS OF A COMPANY

New

Single member /single director company

Single member can also be the sole director

Public company must have at least two directors.

Simplified incorporation process

Superform – No more multiple forms

M&A optional

Secretary at point incorporation is optional

Notice of registration is conclusive evidence

Effect of incorporation

Company is a body corporate with legal personality separate from its members

Has full capacity to undertake any business activities.

Evidence of membership

Entry of names of members in the register of members

Share certificate is optional

Execution of documents

Company seal becomes optional

Document may be executed by authorised officers

Other requirements

Appointment of secretary within 30 days after incorporation

Managing a Company



DIRECTOR

DIRECTOR (S 196)

PRIVATE COMPANY

PUBLIC COMPANY

S. 196 (1) (a)

AT LEAST 1
DIRECTOR

S. 196 (2)

NATURAL
PERSON

S. 196 (2)

MINIMUM
AGED 18

S. 196 (4) (a)

RESIDENCY
ADDRESS AT
MALAYSIA

S.196 (1)(b)

MINIMUM
OF 2
DIRECTOR

S. 196 (2)

NATURAL
PERSON

S. 196 (2)

MINIMUM
AGED 18

S. 196 (4) (a)

RESIDENCY
ADDRESS AT
MALAYSIA

REQUIREMENTS TO BE DIRECTORS

Retained
with
modification

- Natural person
- Minimum age of 18 years, no maximum age
- Minimum 1 director for private company and 2 directors for public company
- Minimum director(s) must ordinarily residing in Malaysia
- Consent is required before appointment