



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, Cooperatives and Consumerism (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 purposes specified under paragraph 5.

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

Requirement of founder or director

8. A founder or director of a CLBG must 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 on 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/or other agencies.

Appointment of director

10. 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.

Requirement as to constitution

11. Unlike any other company, a company limited by guarantee 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.

12. 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.

Amendment of constitution

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

Segmental Reporting

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

General prohibitions

15. A CLBG must ensure that none of its members or directors uses the company or its financial resources to conduct any form of political or unlawful activities. In conducting its activities, it must ensure that it does not depart from the objects for which it was established for.

Other general requirements

16. Unless prior approval has been obtained from the Registrar, a CLBG:

- (a) is prohibited to appoint new directors;
- (b) is prohibited from paying any fees, salaries, fixed allowances or any benefits to its directors;
- (c) must use the profits and other income for the purposes stated in the objects of the company;
- (d) is prohibited to solicit any contribution or donation or make any money collection from the public;
- (e) is prohibited from incorporating or holding any subsidiary (save for CLBG with the word Berhad incorporated prior to 31 January 2017 where its existing Constitution does not contain similar restriction); and
- (f) is required to comply at all times with all the provisions set forth in the constitution, other than the conditions mentioned above.

C. 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.

18. Subject to paragraph 21, the Minister may impose terms and conditions as he thinks fit in approving the application.

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

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

20. A CLBG which had been incorporated for a period of three (3) years may also apply to omit the word "Berhad" or "Bhd".

21. 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. The CLBG is required to get all of the cash which has been pledged by potential contributors within six (6) months after it is established.

22. 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.

23. The CLBG must provide an information with 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.

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

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

25. 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.

26. 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 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, acquiring, charging, mortgaging, selling, leasing or disposing the land or property as he thinks fit.

F. SUBMISSION OF APPLICATIONS TO SSM

28. For ease of reference, a checklist of items to be submitted when making any applications pursuant to this Guidelines is attached in Checklists 1 to 7. An application may be rejected for failure to meet the requirements in Checklists 1 to 7.

29. Where necessary, the Registrar and the Inland Revenue Board may be in liaison when processing any application.

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

Object clause which falls outside the scope of Guidelines

30. For the avoidance 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.

31. 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.

**REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
31 January 2017**

**Checklists 1 to 7
Examples 1 to 5
Sample of CLBG Constitution**