

THE APPROVED COMPANY SECRETARIES



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ISSUE 2/2022

**SSM BUSINESS REVIEW REPORT AS PART OF DIRECTORS'
REPORT – PART 2**

HOW CAN COMPANIES AMEND THEIR CONSTITUTION?

NO SDN BHD FOR SPECIALIST DOCTORS AT PRIVATE HOSPITALS

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FROM THE EDITOR'S DESK

Dr. Adissayam Xavier Suseimanikam, FIACS



Welcome to the 2nd issue of IACS newsletter for 2022. I hope all of you are doing well, staying safe and healthy during these challenging times.

I am glad to inform that the Minister had approved IACS' application to amend its Constitution on 22nd February 2022. With this approval, IACS can admit individuals who have retired as practising company secretaries or other Professional Bodies as an Associate Member and we hope to broaden our membership base with this initiative. We are also looking into other appropriate measures to increase our membership base.

For this year, IACS had successfully conducted a total of ten (10) Zoom webinars up to April 2022. We had tried to conduct physical seminars to reach out to our members, however, our effort was hampered by the massive flood and surged in Covid-19 cases in the 1st quarter of the year. Nevertheless, we will strive to organise more physical seminars in order to be physically in touch with our members and we do hope to receive support from our members.

Apart from the above, I am pleased to inform that IACS had increased the reward for our Member-Get-Member programme from RM50.00 to RM100.00. Members who introduce prospective members to IACS will be rewarded with up to RM100.00 IACS Training Discount Voucher. This is one of the ways the Institute extends more benefits and rewards to our loyal members.

As added benefit for our members, the publications titled "*Tax Appeals in Malaysia : Law and Procedure*" and "*Essential Company Law in Malaysia: Navigating the Companies Act 2016*" are still available for sale at a discounted price and for those interested to purchase these books, kindly contact our office at 03-40513787 to obtain the Order Form.

Our next annual general meeting (AGM) is tentatively scheduled on 18th June 2022 in Kuala Lumpur. I earnestly encourage all members to take part in this AGM as this is your platform to get updates on the latest secretarial practices as well as exercising your privilege to vote. The Council is also inviting nomination from members in the Northern, Southern, East Coast and Sarawak regions to serve in the Council of IACS. If you would like to nominate any member, please complete the nomination form which will be distributed together with the annual report.

Last but not least, I strongly encourage our members to submit any policy/technical issues relating to company secretarial practices from time to time by emailing to iacsc19@yahoo.com so that we can provide a reply or raise them at the appropriate SSM's forums/meetings.

We appreciate your invaluable and continuous support through these challenging times. I look forward to meeting you all at our forthcoming AGM and seminars. Please continue to follow SOP to protect yourselves, your families and the community.

Thank you.

We have included 'Practice Note No. 6/2019 (Revised 24th January 2022) in relation to "Procedures For Rectification Of Documents Lodged And Registered With The Companies Commission Of Malaysia" in this issue for your reference. This Practice Note serves to clarify the procedures in which documents that have been lodged and registered with the SSM may be rectified.



INSTITUTE OF APPROVED COMPANY SECRETARIES (387525-X)

Institute of Approved Company Secretaries (IACS) is a company limited by guarantee and not having a share capital. IACS was incorporated on 16 May 1996 with the Registrar of Companies (ROC).

IACS Council for 2021/2022:-

President : Dr. Adissayam Xavier Suseimanikam
Vice President : Mr. See Poh Lam
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Council Members : Mr. Santiran s/o Sankaran
Mr. V. M. Thiagarajan

Technical Advisory & Publication Board

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Contributions of Article

The Council would like to invite members to contribute articles and news, which may be of interest to company secretaries for publication. However, the Council reserves the right to edit articles for clarity purposes or it shall at its absolute discretion not publish any or all articles or news received from contributors. A fee will be paid for contributions approved by the Board.

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Registered / Main Office :-

Institute of Approved Company Secretaries
Suite C19, 1st Floor, Plaza Pekeliling,
No. 2, Jalan Tun Razak,
50400 Kuala Lumpur
Tel: 03-4051 3787 / 03-4051 0033 Fax: 03-4051 1133
E-mail: iacsc19@yahoo.com

IACS website: www.iacs.org.my

IACS Council Members can be contacted at:-

Kuala Lumpur

Dr. Adissayam Xavier Suseimanikam
Tel: 03-4043 2576 Email: adissconsultants@yahoo.com

Mr. Santiran s/o Sankaran
Tel: 03-7875 8880 Email: santiran@coopaid.com.my

Pn. Hajjah Nolida Binti Md Hashim
Tel: 03-2181 8728 Email: nolida@amkcorporate.com.my

Pn. Aminah Binti Hussin
Tel: 03-9200 2141 Email: akmage_consultant@yahoo.com

Sabah

Ms. Amy Chin Tet Fung
Tel: 088-431 468 Email: amyctf@gmail.com

Perak

Mr. V. M. Thiagarajan
Tel: 05-255 9704 Email: najarvmt@yahoo.com

Negeri Sembilan

Mr. See Poh Lam
Tel: 06-764 0291 Email: osbertsee@yahoo.com

Melaka

Ms. Ng Seok Kim
Tel: 06-2829397 Email: nsk.ls999@gmail.com

SSM BUSINESS REVIEW REPORT AS PART OF DIRECTORS' REPORT – PART 2

By
Dr. Cheah Foo Seong FCIS, FIPA, MBA, LL.M, LL.D

The article is a continuation of Part 1 published in Issue 1/2022 newsletter. This article will examine and clarify in more details of the specific areas of focus when writing up the Business Review Report, forming part of the contents of the Directors' Report accompanying the annual financial statements.

The SSM Guidelines explained and clarified the following areas to be written in the business review report.

WHAT IS ENVIRONMENTAL REPORTING?

Business review reporting on environment matters is a report by companies on their environmental performance using Key Performance Indicators (KPI). **Diagram 5** depicts the information relating to "environmental matters" according to the Environmental Key Performance Indicators: Reporting Guidelines in UK

Diagram 5: List of Key Environmental Matters

ENVIRONMENTAL IMPACTS BY THE COMPANY ON ENVIRONMENT AND VICE VERSA	<ul style="list-style-type: none"> • Impact of the company on the environment (e.g. greenhouse gas emissions) • Impact of the environment on the company (e.g. how the company is operating in a carbon constrained world)
COMPANY'S POLICIES	<ul style="list-style-type: none"> • How a company manages, or intend to manage those environmental impacts
COMPANY'S PERFORMANCE	<ul style="list-style-type: none"> • In managing their impacts, and against their policies

For example, in Australia environmental protection and enforcement are carried out by the various State's Environmental Protection Agency. In South Australia the leading environmental regulator, the EPA employs best practice regulatory principles and tools and robust processes to:

- support and enable the willing to comply or go beyond compliance
- tackle the important environmental issues with a proportionate, risk and evidence-based approach
- withstand challenge
- take decisive, timely and strong enforcement action when needed.

Much of this is achieved by providing advice and guidance, partnering with other organisations, education and regulation. However, in some circumstances, they will use their own enforcement powers.

The agency's aim is that the balanced and principled use of compliance and enforcement tools will ensure that their actions are consistent, fair and effective, and will provide assurance to the community that the EPA is working to fulfil its role of protecting the environment.

Environmental protection in Australia is a huge matter, and very broad in scope from rivers, waterways, forest and heritage lands, waste management, etc.

HOW IS THE ENVIRONMENT REGULATORY REPORTING IN MALAYSIA?

The Department of Environment (DOE) under the purview of the Ministry of Natural Resources & Environment (NRE) is the main authority for the prevention and control of environmental pollution under the Environmental Quality Act 1974 (EQA). There is no provision under EQA that requires companies to provide environmental disclosures in their annual reports. In the event of non-compliance, Section 37 of the EQA authorizes the Director General of DOE to request for environmental information from companies. This information will then be disclosed to the public in the Malaysia Environmental Quality Report.

GUIDANCE AND STEPS IN REPORTING THE COMPANY'S ENVIRONMENTAL IMPACT

This section covers the general guide and five (5) steps to be taken in order to report on the company's key environmental impacts.

Step 1 - Determine the company's boundaries

The company can define which operations it wants to report. If the company is straight-forward, i.e. a simple company structure and owns 100% of the assets that it operates, the company would report on the impacts from everything that it owns and operates. However, a different approach is needed for a company with a more complex structure in which some entities may be part-owned, or owned but not operated and vice versa as described in **Table 6**.

Table 6: Description of a Company's Controlling Boundaries

Financial control boundary	The company reports on all sources of environmental impact over which it has financial control. The company has financial control over an operation if it has the ability to direct the financial and operating policies of the operation with a view to gaining economic benefits from its activities.
Operational control boundary	The company reports on all sources of environmental impact over which it has operational control. The company has operational control over an operation if the company or one of its subsidiaries has the full authority to introduce and implement its operating policies at the operation.
Equity share boundary	The equity share reflects the extent of the rights a company has to the risks and rewards from an operation based on its equity interest. Equity share will therefore be the same as the ownership percentage.

Step 2 - Determine the period for which the company should collect data

A company may want to align the 12-month period to its accounting period and therefore it should report data collected for the period corresponding with its financial year. This refers to the year-end-date, not the date of the publication of the directors' report. Detail explanation as per **Table 7**

Table 7: A sample for the company's first reporting year.

The company's usual financial year	The first reporting year
1 January to 31 December	1 January 2020 to 31 December 2020
1 April to 30 March	1 April 2020 to 30 March 2021

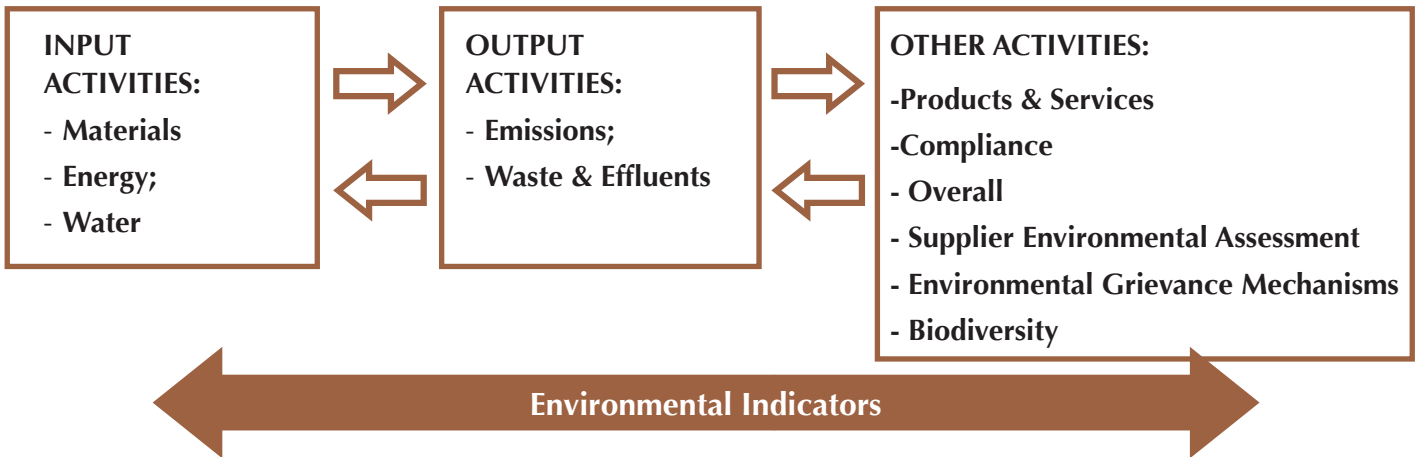
However, the company may also report data collected for a different 12 month's period to its financial year (with explanation in the directors' report). For example, company A historically reports emissions data on a calendar year basis whereas their financial year is April to March. In this example company A could either continue to report emissions on a calendar basis or switch to reporting emissions on a financial year. If the company report emissions for a different period to its financial year, the majority of its emission reporting year should still fall within the period in directors' report

Step 3 - Determine the key environmental impacts for the company

The environmental dimension of sustainability concerns a company's impacts on living and non-living natural systems, including land, air and water. To determine the key environmental impacts, the company must understand its input, output and other activities. Based from these activities, the company can then determine the environmental indicators which will drive the company's performance and the impacts to the environment. All this is explained in **Table 8 and Diagram 6**.

Activities	Category
Input	Elements or units used to make the products/ services.
Output	Elements or units produced when making the products/services.
Other	Other elements or units that needs to be considered in producing the products/services.

Diagram 6: List of Operational Activities Based from the Environmental Indicators from GRI

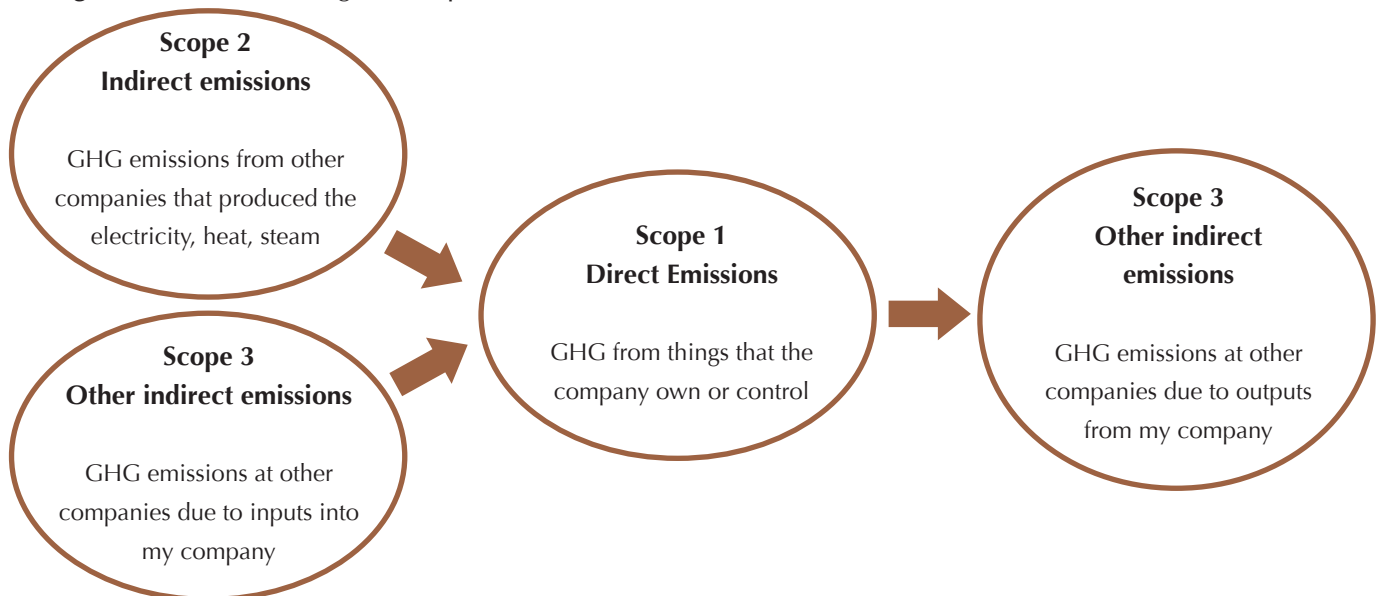


Not all of the Environmental Indicators will be relevant (material) to the company. The company should identify which are the most relevant and explain why they are relevant and how they are defined.

To do so, the company may refer to the National Environment Policy, Climate Change Policy and Environmental Quality Act 1974 as the basis of its environmental management.

Scope is a classification of the operational boundaries where GHG emissions occur. Scope classifies whether GHG emissions are created by the company itself, or are created by other related companies, for example, electricity suppliers or haulage companies. Further information to understand the Scopes in **Diagram 7**.

Diagram 7: Understanding the Scopes

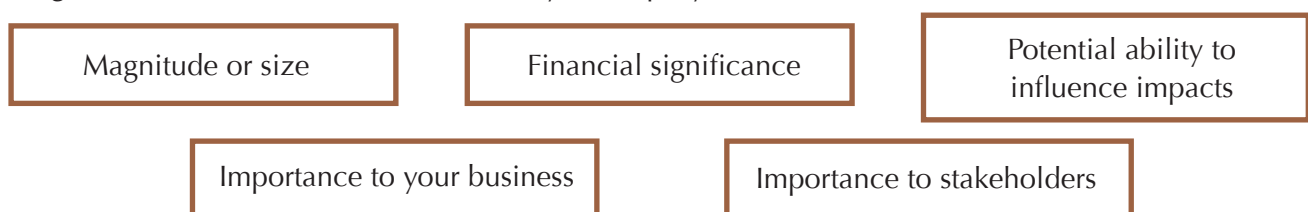


Step 4 - Measure

There are a number of ways to collect and manage data at a corporate level i.e. through direct entry of data; or a completed standard spreadsheet templates and emailed to a central point where data can be processed. It is recommended to use a standardised reporting format to ensure that data received from different business units and operations is comparable. Ideally, the environmental report should be streamlined with the company's existing reporting processes.

The company's efforts to collect the best quality data should be focused on the most important sources. **Diagram 8** depicts the assessment that a company can use to collect the data

Diagram 8: Assessments That Can Be Used By a Company



Environmental Management Systems (EMS)

One of the ways to measure good data management is by putting in place an Environmental Management System (EMS). It is the most widely used data management system as it helps all types and sizes of companies to meet their own environmental and sustainability targets. If a company has an accredited EMS, it should state the type and whether it covers the entire company or just part in its reporting.

The Department of Standards Malaysia (Standards Malaysia) is the National and Accreditation Body under the Ministry of Science, Technology and Innovation (MOSTI) which established the MS ISO 14001: 2015 (EMS) standard to accredit companies to a systematic approach in protecting the environment, preventing pollution (air, water, land, noise and nuisance), and improving their environmental performance. The benefits of having EMS in a company is listed in **Table 9**.

Table 9: List of Benefits from MS ISO 14001:2015 Certifications

Benefits	Descriptions on how it benefits
EMS helps companies to comply with legal requirements as specified in Environment Quality Act 1974 (Act 127) and the relevant regulations.	It provides companies with the benefit of fulfilling business and social responsibility on environmental management, and a recognised manner to achieve accredited EMS.
EMS complement Green Supply Chain Management (GSCM).	It improves and enhanced the capability to implement the relevant requirements in GSCM
EMS promote continual improvement.	Provides companies with the competitive edge to compete in the market place and for those who have succeeded, to become more successful and resilient
EMS look into the needs of the company's human resource.	Increases staff morale, competencies in environmental aspects and commitment.

With proper implementation of the system, the company will save more on:

- Product materials due to better product input processing, substitution, and recycling of by-products and waste;
- Energy consumption, costs for emissions, discharges, waste handling, transport and disposal;
- Relevant audits (customer, supplier etc.); and
- Environmental liabilities.

Complying with the standards will provide the company with the tributes for competitive edge and therefore increasing its profitability.

The company may also look into alternative approach of structured assessment from the Global Reporting Initiatives/UNEP (GRI) or from the World Business Council for Sustainable Development Corporate Ecosystem Valuations for its environmental performance.

Step 5 - Verification & Report

Although the Companies Act 2016 does not require the company to independently verify the collected data, it will be beneficial to both internal decision-making and for external stakeholders to do so. The information presented should be balance and transparent as it is essential to produce a credible report. Achievements can be celebrated but avoid glossing over negative environmental impacts or poor performance against target.

HUMAN RIGHTS IN BUSINESS

Principles of Respecting Human Rights in Business

SSM promotes the culture of respecting human rights as an integral part of the items listed under item 2 (d) of the Fifth Schedule of the Companies Act 2016 as its part of social responsibility that relates to employees and also environmental responsibility amongst the local business and corporate community. This means encouraging

them to have a clear commitment to respect human rights, to carry out human rights due diligence processes as promoted under the United Nations Guiding Principles (UNGP), and to contribute to remedy when their actions or decisions contribute to harm human rights. Companies are therefore encouraged to disclose their respective policies, commitments and initiatives on the nature of actions taken to prevent potential human rights impacts as part of their business review report.

Human rights are defined as rights inherent to all human beings, regardless of nationality, place of residence, sex, national or ethnic origin, colour, religion, language, or any other status. These rights are guaranteed under the law in the form of treaties, customary international law, general principles and other sources of international law.

However, the international human rights treaties generally do not impose direct legal obligations on business enterprises. The duty is on States to transpose the international human rights law into their domestic law and enforcement. The increasing demand for corporate accountability with respect to human rights led to the unanimous endorsement by all countries of the UN Guiding Principles of Business and Human Rights in 2011.

The following are the organisations or authorities interested in human rights reporting:

- Stock Exchanges
- Insurers
- Regulators
- NGOs
- Investors
- Public listed companies
- Government Agencies
- Consumers
- Employees and potential employees
- Business Customers and Clients
- International Financial Institutions

In 2010, the Human Rights Commission of Malaysia (SUHAKAM) began to formally conduct studies on the issue of business and human rights. It was noted that Government plays a significant role in educating business entities on the need to respect human rights. As a result of this, SUHAKAM recommended for the Government to formulate a National Action Plan (NAP) on Business and Human Rights. In March 2015, SUHAKAM launched the Strategic Framework on NAP on Business and Human Rights and the Strategic Framework was presented to the Government as a recommendation towards the setting of the policy direction in promoting Business and Human Rights for adoption by the Malaysian corporate and business community.

IMPLEMENTING HUMAN RIGHTS IN BUSINESS

Some instances where companies respect human rights through their daily activities are listed in **Table 10**.

Table 10: Implementing Human Rights and the Community

Workplace	Community
<ul style="list-style-type: none"> • provide safe working stations • non-discrimination of work practices against employees • non-employment of forced labour or child labour • provide basic needs of health, education, housing if possible • provide reasonable space for religious observance and practices of employees 	<ul style="list-style-type: none"> • prevent forcible displacement of communities • avoid damaging economic livelihoods of local communities • allow community to express views that affect the communities which they are part of • ensure that land titles are not disputed by local communities with usage rights and traditions • ensure water usage does not reduce communities' access to clean drinking water

As a regulator, SSM promotes the State's Duty to protect under Pillar 1- UNITED NATIONS GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS (UNGPs) and encourages all companies to conduct independent assessments of human rights risks and impacts associated with their operations and value chains.

Pillar I of UNGP describes that the duty to protect citizens from human rights abuses by corporations lies with the State. It requires the State to take appropriate measures to prevent, investigate, punish and redress human rights abuse by companies with effective policies, legislation, regulations and adjudication.

Reporting of Human Rights in Business

SSM encourages companies to use international non-financial reporting frameworks that include human rights criteria, such as the GRI Sustainability Reporting Framework and the UN Guiding Principles Reporting Framework, as guidance in preparing their business review report. To help companies to disclose human rights information of interest and value to their shareholders and other stakeholders, the UN Guiding Principles Reporting Framework was launched in February 2015, providing the first comprehensive guidance for companies to report on how they respect human rights.

The UNGP Reporting Framework was developed through a two-year process of global, multi-stakeholder consultations, with a particular focus in Southeast Asia, including in Malaysia. It has been recognized by the UN Working Group on Business and Human Rights as “an opportunity for convergence [in human rights reporting] around a tool that is based directly on the Guiding Principles”, and by the author of the UN Guiding Principles, Prof. John Ruggie as “an indispensable tool that companies have been waiting for” and “the logical next step for the Guiding Principles”.

The UNGP Reporting Framework consists of eight overarching questions and four information requirements. Further supporting questions help companies improve their human rights reporting over time

The UNGP Reporting Framework can be used by all types of companies and the questions are cross referenced with relevant indicators from the Global Reporting Initiative as well as various industry codes and other initiatives. Companies are asked to focus their reporting on their ‘salient’ human rights impacts: those human rights at risk of the most severe potential negative impacts through their activities and business relationships.

The reporting on human rights is highly recommended to be included in the business review report as part of the company’s reporting under item 2(d) Part II, Fifth Schedule of the Companies Act 2016.

INTERNATIONALLY RECOGNIZED HUMAN RIGHTS AND EXAMPLES OF HOW BUSINESS MIGHT IMPACT THEM

The following Table shows the relevant human rights that a business organisation may be impacted.

RELEVANT HUMAN RIGHTS	BRIEF EXPLANATION OF THE RIGHTS	EXAMPLES OF HOW BUSINESS MIGHT BE INVOLVED WITH AN IMPACT ON THE RIGHTS
Right of self-determination	<ul style="list-style-type: none"> • A right of peoples, rather than individuals. • Peoples are entitled to determine their political status and place in the international community. • It includes the rights to pursue economic, social and cultural development, to dispose of a land’s natural resources and not to be deprived of the means of subsistence. • A particular right of indigenous peoples to self-determination has been specifically recognized by the international community. 	<ul style="list-style-type: none"> • Engaging in business activities on land that has traditional significance to the peoples that inhabit an area when that land was acquired by Government without due consultation with the local population. • Any activity that might have impacts on indigenous peoples’ lands, whether through acquisition, construction or operation, may give rise to impacts on their right to self-determination.
Right to life	<ul style="list-style-type: none"> • Right not to be deprived of life arbitrarily or unlawfully. • Right to have one’s life protected, for example, from physical attacks or health and safety risks. 	<ul style="list-style-type: none"> • The lethal use of force by security forces (State or private) to protect company resources, facilities or personnel. • Operations that pose life threatening safety risks to workers or neighbouring communities through, for example, exposure to toxic chemicals. • The manufacture and sale of products with lethal flaws and danger to life.

Right not to be subjected to torture, cruel, inhuman and/or degrading treatment or punishment	<ul style="list-style-type: none"> • An absolute right, which applies in all circumstances. • Torture has been held to involve a very high degree of pain or suffering that is intentionally inflicted for a specific purpose. • Cruel and/or inhuman treatment also entails severe suffering. • Degrading treatment has been held to involve extreme humiliation of the victim. 	<ul style="list-style-type: none"> • Conducting business in countries where State security or police forces protecting company assets do not respect this right. • Failure to foster a workplace that is free from severe forms of harassment that cause serious mental distress. • Manufacture and sale of equipment misused by third parties for torture or cruel treatment or for medical or scientific experimentation without their consent
Right not to be subjected to slavery, servitude or forced labour	<ul style="list-style-type: none"> • Rights to freedom from slavery and servitude are absolute rights. • Forced or compulsory labour is defined by the ILO as all work or service that is extracted under menace of any penalty and for which the person has not voluntarily offered themselves. • Providing payment does not mean that work is not forced labour if the other aspects of the definition are met 	<ul style="list-style-type: none"> • A company may be involved in the transportation of people or goods that facilitates the trafficking of individuals. • Forced labour can arise in any sector where an employer puts workers in a position of debt bondage through company loans or the payment of fees to secure a job and/or where the company withholds workers' identity documents. This is a particular risk in the case of migrant workers, a recognized vulnerable group
Rights to liberty and security of the person	<ul style="list-style-type: none"> • These rights involve the prohibition of unlawful or arbitrary detention. • 'Lawful' detention is understood to mean that it must be authorized by an appropriate government body, such as the courts, and be capable of being challenged by the detainee. • 'Arbitrary' detention is always prohibited. • Security of the person includes protection from physical attacks, threats of such attacks, or other severe forms of harassment, whether or not a person is detained. 	<ul style="list-style-type: none"> • Threatening staff with physical punishment or tolerating severe harassment of some employees, for example, of trade union members or members of a minority ethnic group. • A company whose supplier routinely allows sexual abuse of female workers to go unaddressed in their workplace.
Right of detained persons to humane treatment	<ul style="list-style-type: none"> • This right requires detention authorities to take special measures for the protection of detainees (such as separating juveniles from other detainees). 	<ul style="list-style-type: none"> • Companies involved in the construction, operation or maintenance of detention facilities (such as a prison or immigration detention facility) where detainees are mistreated.
Right not to be subjected to imprisonment for inability to fulfil a contract	<ul style="list-style-type: none"> • This right applies where a person is incapable of meeting a private contractual obligation. • It restricts the type of punishment that the State can impose. 	<ul style="list-style-type: none"> • Companies may be linked to such an impact where this right is not protected by the State, for example, where a small local supplier is genuinely unable to meet their contractual obligations and the company takes action against them.
Right to freedom of movement	<ul style="list-style-type: none"> • Individuals who are lawfully in a country have the right to move freely throughout it; to choose where to live and to leave. • Individuals also have the right not to be arbitrarily prevented from entering their own country. 	<ul style="list-style-type: none"> • Relocation of communities because of company's business operations where that is conducted in an arbitrary or unreasonable manner, without adequate notice, consultations (and, at least in the case of indigenous peoples, consent), or compensation. • Employers withholding workers' identification documents.
Right of aliens to due process when facing expulsion	<ul style="list-style-type: none"> • Aliens (meaning foreigners) who are legally present in a country are entitled to due process (meaning fair legal procedures) before being forced to leave. 	<ul style="list-style-type: none"> • Where companies rely on migrant workers (either directly or through a third-party agency), there may be a risk of their operations being linked to such an impact of unfair and unlawful due process and assessments.

Right to a fair trial	<ul style="list-style-type: none"> Required in both civil and criminal proceedings, this includes the right to a public hearing before an impartial tribunal. Additional protections are required in criminal proceedings. 	<ul style="list-style-type: none"> Where the management of a business tries to corrupt the judicial process by destroying relevant evidence or by seeking to bribe or otherwise influence judges or witnesses to take certain actions or make certain statements.
Right to be free from retroactive criminal law	<ul style="list-style-type: none"> The State is prohibited from imposing criminal penalties for an act that was not illegal when it was committed, or from imposing higher penalties than those that were in force at the time. 	<ul style="list-style-type: none"> Companies may be linked to such an impact, for example, where political dissidents protest about some aspect of a company's operations and the State creates new, punitive measures to prosecute them.
Right to recognition as a person before the law	<ul style="list-style-type: none"> All individuals are entitled to 'legal personality', or independent legal recognition. 	<ul style="list-style-type: none"> Companies may be linked to such an impact, for example, where they benefit from a State-led land acquisition process that pays compensation only to male heads of households because the property of married women is treated as belonging to their husbands under domestic law.
Right to privacy	<ul style="list-style-type: none"> Individuals have a right to be protected from arbitrary, unreasonable or unlawful interference with their privacy, family, home or correspondence and from attacks on their reputation. The State is allowed to authorize restrictions on privacy in line with international human rights standards, but 'arbitrary' restrictions are always prohibited. 	<ul style="list-style-type: none"> Failing to protect the confidentiality of personal data held about employees or contract workers, customers or other individuals. Requiring pregnancy testing as part of job applications. Providing information about individuals to State authorities, without that individual's permission, in response to requests that are illegal under national law and/or not in line with international human rights standards. Selling equipment or technology that can be used to track or monitor individuals' communications and movements to a State with a poor human rights record.
Rights to freedom of thought, conscience and religion	<ul style="list-style-type: none"> Individuals have a right to choose, practise and observe their chosen religion or belief, to be an atheist or not to follow any religion or belief. It includes the right to worship and to observe rituals, such as the wearing of particular clothing. 	<ul style="list-style-type: none"> A company's policy that prevents workers from wearing clothing or other symbols that express their faith, even though these do not interfere with legitimate safety or performance issues. A company that does not allow its workers to seek reasonable time off for their religious holidays.
Rights to freedom of opinion and expression	<ul style="list-style-type: none"> The right to hold opinions free from outside interference is an absolute right. Individuals have a right to seek, receive and impart ideas in whatever media or form. The State is allowed to authorize restrictions in line with international human rights standards 	<ul style="list-style-type: none"> Operating in a country where workers are routinely prevented by law from expressing their opinions in the public domain. Censoring online or other content at the demand of the State where those requests are illegal under national law and/or not in line with international human rights standards. Engaging in litigation against individual workers, community members or other stakeholders who have spoken critically about the company where there is an extreme imbalance in the parties' means to fund a legal case
Rights to freedom from war propaganda, and freedom from incitement to racial, religious or national hatred	<ul style="list-style-type: none"> These rights prohibit certain speech that is not protected by the right to freedom of expression. Individuals are prohibited from advocating racial, religious or national hatred that amounts to an incitement to discrimination, hostility or violence 	<ul style="list-style-type: none"> Companies that provide the platform or technology for individuals to express hatred against a particular religious group and to incite others to take certain action against them.

Right to freedom of assembly	<ul style="list-style-type: none"> • Individuals have the right to peacefully assemble for a specific purpose or where there is a public discussion, to put forward ideas or to engage in a demonstration, including marches. • The State is allowed to authorize restrictions in line with international human rights standards. 	<ul style="list-style-type: none"> • Situations where public or private security services protecting company assets forcibly prevent or breakup peaceful demonstrations by the local community against a company's operations.
Right to freedom of association	<ul style="list-style-type: none"> • Protects the right to form or join all types of association, including political, religious, sporting/recreational, and non-governmental and trade union associations. (See also the right to form and join trade unions below.) • The State is allowed to authorize restrictions in line with international human rights standards 	<ul style="list-style-type: none"> • A company operates in an area where the State seeks to undermine a local political party that opposes the company's activities by bringing false accusations against its leaders. • (See also the examples below under the right to form and join trade unions.)
Rights of protection of the family and the right to marry	<ul style="list-style-type: none"> • The concept of a family varies. This includes the rights to enter freely into marriage and to start a family. 	<ul style="list-style-type: none"> • Company policy discriminates against women on the basis of their marital or reproductive status. • (See also the examples below under the right to a family life).
Rights of protection for the child	<ul style="list-style-type: none"> • A child has the right to be registered, given a name and to acquire a nationality. • Children must be protected from sexual and economic exploitation, including child labour. • ILO standards prohibit hazardous work for all persons under 18 years. They also prohibit labour for those under 15 yrs old, with limited exceptions for developing States. 	<ul style="list-style-type: none"> • Business activities that involve hazardous work (such as cutting sugar cane or mining) performed by persons under the age of 18 yrs. • Where child labour is discovered, a company can negatively impact other rights (such as the rights to an adequate standard of living, or security of the person) if they fail to take account of the best interests of the child in determining the appropriate response. For example, simply dismissing the child (or cutting the contract with the relevant supplier) may result in the child having to find alternative, more dangerous forms of work (such as prostitution).
Right to participate in public life	<ul style="list-style-type: none"> • Citizens have the right to take part in the conduct of public affairs, including the rights to vote and be elected in free and fair elections, and the right of equal access to positions within the public service. 	<ul style="list-style-type: none"> • Failing to give time off to workers for the purpose of voting. • Bribery of political figures or other improper uses of company influence may distort the electoral process or otherwise impede free and fair elections.
Right to equality before the law, equal protection of the law, and rights of non-discrimination	<ul style="list-style-type: none"> • Individuals have a right not to be discriminated against, directly or indirectly, on various grounds, including race, ethnicity, sex, language, religion, political or other opinion, national or social origin, property, and birth or other status (such as sexual orientation or health status, for example, having HIV/AIDS). • This right applies to the enjoyment of all other rights. • The State is allowed to make distinctions where they are in line with international human rights standards. • ILO standards provide further guidance on the content of the right. 	<ul style="list-style-type: none"> • Indirectly discriminating in the recruitment, remuneration or promotion of workers, for example, by offering a training programme that enhances an individual's chance of promotion at a time that is reserved for religious observance by a particular group. • A company offers compensation to men and women in a situation where its operations or products have had negative impacts on their health in a way that discriminates against women (such as by failing to recognize the particular harm to their reproductive health).

Rights of minorities	<ul style="list-style-type: none"> Members of ethnic, religious or linguistic minorities are entitled to enjoy their own culture, practice their religion and speak their language. 	<ul style="list-style-type: none"> Failing to make reasonable adjustments for workers who wear a traditional form of headgear where that does not pose a legitimate safety or performance issue. Using land in a manner that undermines the traditional way of life of a minority group, for example, by preventing them from ceremonial activities.
Right to work	<ul style="list-style-type: none"> Individuals are entitled to the opportunity to make a living by work which they freely choose or accept. The work must be 'decent work', meaning that it respects their human rights. The right includes the prohibition of arbitrary dismissal and the rights to just and favourable conditions of work and to form and join trade unions, discussed below. 	<ul style="list-style-type: none"> Arbitrarily or unfairly dismissing a worker, even if permissible under local law. Hindering or failing to provide reasonable career advancement aspirations for workers. (See also the examples under the rights to just and favourable conditions of work and to form and join trade unions.)
Right to enjoy just and favourable conditions of work	<ul style="list-style-type: none"> Individuals have the right to fair remuneration and equal remuneration for work of equal value. Remuneration must enable them, and their families, to have a decent living. The right includes safe and healthy conditions of work, equality of opportunity for promotion, and a right to rest, leisure and holidays. ILO standards provide further guidance on the content of the right. 	<ul style="list-style-type: none"> Failing to address a pattern of accidents highlighting inadequate workplace health and safety. A company's purchasing practices repeatedly allow changes to the terms of product orders without any changes to price or delivery time, creating pressure on its suppliers, who then demand excessive overtime from their workers. Using cleaning staff that are employed by a third-party company and are paid extremely low wages with no or very limited entitlements to sick pay or leave.
Right to form and join trade unions and the right to strike	<ul style="list-style-type: none"> Individuals have the right to form or join trade unions of their choice. Trade unions must be permitted to function freely, subject only to limitations that are in line with international human rights standards. Workers have the right to strike, in conformity with reasonable legal requirements. ILO standards provide guidance on the content of the right, for example, that workers have the right to bargain collectively with their employers and that these workers should not be discriminated against because of trade union membership 	<ul style="list-style-type: none"> Creating barriers to the formation of trade unions among employees or contract workers. Refusing or failing to recognize legitimate workers' associations with which the company can enter into dialogue in countries that prohibit trade unions.
Right to social security, including social insurance	<ul style="list-style-type: none"> This right obliges the State to create and maintain a system of social security that provides adequate benefits for a range of issues (such as injury or unemployment). 	<ul style="list-style-type: none"> Denying workers their contractually agreed employment injury benefits. Offering a private social security scheme that has discriminatory eligibility criteria.
Right to a family life	<ul style="list-style-type: none"> Protection should be given to families during their establishment, and whilst the parents are responsible for the care and education of dependent children. The right includes special protections for working mothers. The right also includes special protections for children. 	<ul style="list-style-type: none"> Company practices hinder the ability of workers to adopt a healthy work– life balance that enables them to adequately support their families (such as requiring workers to live on site in dormitories for extended periods of time without providing adequate periods of leave to enable them to spend time with their families). (See also the examples in relation to the rights of protection for the child above.)

Right to an adequate standard of living	<ul style="list-style-type: none"> • This right includes access to adequate housing, food, clothing, and water and sanitation. • Individuals have a right to live somewhere in security, dignity and peace and that fulfils certain criteria (such as availability of utilities and accessibility). • Food should be available and accessible to individuals, in sufficient quality and quantity, to meet their nutritional needs, free from harmful substances and acceptable to their culture. • The right to water and sanitation was recognized as a distinct right in 2010. Individuals are entitled to sufficient, safe, acceptable, physically accessible and affordable water for personal and domestic use and to sanitation services that fulfil certain criteria (such as being safe, physically accessible, and providing privacy and dignity). 	<ul style="list-style-type: none"> • Poor-quality housing or dormitories provided to workers. • Failing to provide adequate sanitation facilities for workers in a company owned factory. • The expansion of a company's operations significantly reduces the amount of arable land in an area, affecting local community members' access to food. • Business activities pollute or threaten existing water resources in a way that significantly interferes with local communities' ability to access clean drinking water. In such situations, there may be particular negative impacts on women and girls, who are responsible for water collection in many communities.
Right to health	<ul style="list-style-type: none"> • Individuals have a right to the highest attainable standard of physical and mental health. • This includes the right to have control over one's health and body, and freedom from interference. 	<ul style="list-style-type: none"> • Pollution from business operations can create negative impacts on the health of workers and/or surrounding communities. • The sale of products that are hazardous to the health of end users or customers. • Failure to implement appropriate health and safety standards leads to long-term negative impacts on workers' health
Right to education	<ul style="list-style-type: none"> • All children have the right to free and compulsory primary education. • The right also includes equal access to education and equal enjoyment of educational facilities, among other aspects. 	<ul style="list-style-type: none"> • The presence of child labour in a business or in its supply chain, where those children are unable to attend school. • Limiting access to, or damaging, educational facilities through construction, infrastructure or other projects.
Rights to take part in cultural life, to benefit from scientific progress, and protection of the material and moral rights of authors and inventors	<ul style="list-style-type: none"> • Individuals have a right to take part in the cultural life of society and enjoy the benefits of scientific progress, especially disadvantaged groups. • This includes protection of an individual author's moral and material interests resulting from any scientific, literary or artistic production. • This protection extends to the rights of indigenous peoples to preserve, protect and develop indigenous and traditional knowledge systems and cultural expressions 	<ul style="list-style-type: none"> • Activities involving resource extraction or new construction (such as laying a pipeline or installing infrastructure networks) could impact this right by separating groups from areas of cultural importance and knowledge, or by damaging their cultural heritage.

Conclusion

One can appreciate the vast scope that relates to human rights of people. The UNGP Reporting Framework can be used by all types of companies and the questions are cross referenced with relevant indicators from the Global Reporting Initiative as well as various industry codes and other initiatives. Companies are asked to focus their reporting on their 'salient' human rights impacts: those human rights at risk of the most severe potential negative impacts through their activities and business relationships.

The reporting on human rights is highly recommended to be included in the business review report as part of the company's reporting under item 2(d) Part II, Fifth Schedule of the Companies Act 2016.

It is an encouragement for large companies having international connections to include this report as a transparent and responsible company to attract foreign institutional investors who may value this, and thus pay a premium to the share price.

HOW CAN COMPANIES AMEND THEIR CONSTITUTION?

By Sean Tan Yang Wei (*Senior Associate*) &
Jesselyn Tham (Associate)
Messrs. Thomas Philip

The Company's Constitution is the core corporate governance document that binds the company and its members. The Constitution refers to the Memorandum and Articles of Association which govern the internal management and affairs of a company such as the appointment of directors, conduct of meetings, and transfer of shares. A company may include any matter as it wishes to, so long as it does not contravene the provisions of the Companies Act 2016 ("**CA 2016**").

At this point, it is worth noting that if you are the owner of a small business, the CA 2016 no longer requires all companies to adopt its own Constitution, except for companies limited by guarantee. These companies would adopt the provisions of the CA 2016 by default, namely the proceedings of the Board in the Third Schedule of CA 2016 (passing of board resolutions) and Sections 290 to 296 CA 2016 (the passing of shareholders' resolution) as basis for its corporate governance.

However, if your company does have a Constitution, then it is important that you are aware of its provisions and their implications on the running of the company. Every company is unique and there is no "one size fits all" structure of internal governance. The Constitution is not a shareholder's agreement and does not deal with the rights and interests of the shareholders between one another. Instead, the Constitution serves as a contract between the company and its members and any departure from the Constitution is deemed ultra vires the company and cannot be validated by assent of the members at a general meeting or by taking judgment against the company.

As such, there will be instances where amendments will need to be made to the Constitution of a company in order to reflect the intentions of the company and its shareholders.

Amending the Constitution

It is within a company's statutory power to amend its Constitution and the company cannot deprive itself of such power either by agreement or by provision contained in the articles. The company may alter or amend its Constitution by way of:

- a. A special resolution (**Section 36 of the CA 2016**); or
- b. A Court order (**Section 37 of the CA 2016**).

The requirement for a special resolution, i.e., a resolution passed by 75% of the valid votes cast (usually at a general meeting), is aimed at preventing alterations to the Constitution to the detriment or without reference to the minority shareholders of a company. Once such a special resolution has been passed, the amendments to the Constitution would take effect from the date of the resolution or at a later date as specified in the resolution.

In certain cases, a company may wish to alter the Constitution by replacing the same with a wholly new Constitution. To do so, the company is required to amend, abolish, or alter its constitution by way of three separate resolutions for each step of the exercise

instead of passing a single resolution for all three steps.

Of course, amendments to the Constitution are subject to the provisions of the CA 2016. For instance, Section 194 of the CA 2016 provides that shareholders cannot be forced to acquire additional shares by way of an amendment to the Constitution and that the rights attached to different classes of shares may only be altered with the consent of a certain proportion of its shareholders. Such limitations to amendments are usually in place to protect the rights of minority shareholders although the law also takes into consideration the competing interests of the majority and the company when determining the validity of amendments.

Alteration of Company's Constitution By Way of Court Order

If the approval of shareholders cannot be obtained, Section 37 of the CA 2016 confers discretion on the Court to make orders to alter and amend the Constitution of a company if the Court is satisfied that it is not practicable to obtain the passing of a special resolution.

The Court may, on the application of a director or member of a company, if it is satisfied that it is not practicable to alter or amend the constitution of the company using the procedures set out in this Act or in the constitution itself, make an order to alter and amend the constitution of a company on such terms and conditions as it thinks fit.

The keyword here is "*practicable*". Examples of impracticability in this context include situations where there is persistent absence of a quorum at the meeting or where it is impracticable to call for a meeting of the company in any manner whatsoever or even to conduct the meeting in the manner prescribed by the articles of association of a company.

It is emphasized that the word "*impracticable*" is not equivalent to "*impossible*". The Court of Appeal set out a clear guideline on proving impracticability. One will need to adduce the evidence of attempts or efforts to call and hold a meeting and such attempts or efforts have been futile. It is also necessary to show that the reason for the futility in calling or holding a meeting is attributed to some circumstances that make it almost impossible to hold the meeting, including but not limited to a deadlock situation, an intentional un-cooperative attitude of directors, a persistent effort to derail the meeting or deliberate non-attendance at meeting after a proper and valid notice had been issued so as to force the meeting to be called off for want of quorum.

In the High Court decision of *Chew Meu Jong v Lysaght (Malaysia) Sdn Bhd [2018] 1 LNS 1132; [2018] MLJU 1087*, the Court was asked to determine whether an application under Section 37 of the CA 2016 should be allowed on the ground that it would be impracticable to amend the Constitution by the passing of a special resolution by the shareholders.

In this case, the Constitution of the company required a quorum of 2 Class A shareholders and 1 Class B

shareholder for a shareholders' meeting to be held. However, one of the Class A shareholders sold its shares to another shareholder of the same class, leaving only 1 Class A shareholder in the company. As a result, the Class B and C shareholders raised an objection based on the interpretation of Constitution and argued that the rules set out in the Constitution had not been properly complied with. In the ensuing dispute, the Class B shareholder and director refused to attend any further board meetings called, which resulted in quorum failure for subsequent meetings.

Due to this quagmire, the Plaintiff, as a representative of the sole Class A shareholder, applied under Section 37 of the Companies Act 2016 for a Court order to amend the Constitution and the Court was asked to consider whether the desired meeting of the company could be conducted in a practical manner.

The Court held that it would not be practicable to amend the Constitution following the usual procedure by way of special resolution as it would be impossible to secure the quorum needed for the shareholder's

meeting. The company would never be able to satisfy the requisite quorum for a shareholders' meeting of 2 Class A shareholders, as the share sale between the Class A shareholders had resulted in there being only 1 Class A shareholder. In granting the order for amendment, the Court was also satisfied that the application would not cause any prejudice to other shareholders as it merely provided clarity to the Constitution of the company.

Amending a Constitution by way of Court order is undoubtedly a rather controversial exercise which has rarely been adopted as it bypasses the shareholders in the amendment process. Courts are also generally reluctant to interfere with the internal management of a company. However, the decision of Chew Meu Jong shows that the court will not be hesitant in granting an order for amendments to the constitution for the benefit of the company as a whole.

This article was originally published on Thomas Philip website www.thomasphilip.com.my on 24th February 2022 and reproduced with permission of the writers.

NO SDN BHD FOR SPECIALIST DOCTORS AT PRIVATE HOSPITALS

By Choong Hui Yan
B.Acc(Hons)(Malaya), ACCA(UK), Licensed Secretary

On the 16 March 2022, the Inland Revenue Board of Malaysia (IRB) has issued a guideline for specialist doctors who attached to private hospitals in relation to the tax treatment for medical consultancy incomes earned ("the Guideline"). The Guideline further emphasizes and affirms the IRB's position in 2016 where the incomes from private hospitals must be reported under personal income tax of the specialist doctors instead of private company ("Sdn Bhd").

In the year 2016, IRB has created a shake-out in the medical industry where most specialist doctors who attached to private hospital are not allowed to report the medical consultancy incomes earned under Sdn Bhd. This direction applies retrospectively with effect years of assessment (YAs) 2013. Most specialist doctors in 2016 are compelled to submit amended tax returns for YAs 2013, 2014 and 2015 to reports the medical consultancy incomes earned under personal income tax instead of Sdn Bhd. The additional tax assessment, coupled with the incorrect return penalty [s 113(2)], arising from lower corporate tax rate of Sdn Bhd compared to personal tax rate has caused a serious, drastic pay-out by most specialist doctors in 2016. Thereafter, the use of Sdn Bhd to deal with private hospitals for medical consultancy incomes received ceased to be used.

The leading cause of the issue is associated with the fundamental contractual terms in each consultancy contracts with private hospitals. The risks and rewards of each consultancy contracts across the industry hold the specialist doctors personally liable for negligence, carelessness or any other lawsuits arising from their practice and so the medical consultancy incomes (reward) are to be earned by the specialist doctors on personal capacity, but not the Sdn Bhd. Sdn Bhd by its nature provides limited liability benefits to the owners or company directors, and thus the medical consultancy contracts would not hold the Sdn Bhd liable for medical negligence, carelessness or lawsuits, but the specialist doctors themselves.

Besides, human life is priceless and doctors are of noble profession, assisting to preserve life of all. The private hospitals would never deal with Sdn Bhd without the specialist doctors hold accountable for their practice. Hence, IRB holds firmly that the income earned is for personal capacity.

Important Notes from the Guideline

The Guideline provides further clarification that all types of incomes earned at private hospital, such as consultancy fees, procedural fees, surgery fees, and any other medication services, have to be reported under personal income tax. It is deemed as a business source, chargeable under paragraph 4(a) of the Income Tax Act 1967 ("the Act") and to be reported under tax return of B Form.

Even if the specialist doctors run own clinics at private hospitals using Sdn Bhd, the incomes earned from the private hospitals are to reported under personal income tax, B Form. The same applies to clinic Sdn Bhd formed by few doctors attaching to private hospitals.

Exceptional is given to specialist doctors having Sdn Bhd at private hospitals selling medical tools and equipment, pharmacy and services other than specialist doctor activities, such incomes earned from these exceptional business activities are incomes of the Sdn Bhd and reported under corporate tax rate via tax return C Form.

Do Specialist Doctors at Private Hospitals Need to Register Sole Proprietorships?

Specialist doctors attached to private hospitals do not need to register with the Companies Commission of Malaysia (CCM) to carrying on the medical consultancy practice and earn the fees. They can practice under their annual practicing certificate (APC) from Malaysian Medical Council (MMC) and report the income earned under personal income tax via tax return B Form.

However, if the specialist doctors do carry out business activities of selling medical tools and equipment, pharmacy and services other than specialist doctor activities, registration with CCM is needed. It can be either sole proprietorship or Sdn Bhd, or even Limited Liability Partnership (LLP).

Doctors not Attached to Private Hospitals

Specialist doctors operating own clinics, having no contractual relationship with private hospitals, are allowed to operate with Sdn Bhd and have the incomes earned to be reported under corporate tax rate via tax return C Form.

Key Differences for Taxed under Personal Capacity vs Company Capacity

The use of Sdn Bhd is well known for its tax saving benefit, as tax rate capped at 24% for Sdn Bhd. At chargeable income of RM500,000, the tax payable for individual is RM108,450 while Sdn Bhd only amounting to RM85,000. It is indeed an efficient option by most medical practitioners being one of the high income groups. Other differences would be as followed:-

	Personal	Sdn Bhd
Tax rate	0% - 30%	17% - 24%
Tax returns	B Form	C Form
Basis period	calendar year (Jan – Dec)	financial year fixed by the board of directors (non-Dec)

Tax due date	30 June	7 months from financial year end
Tax instalment	CP500, bi-monthly payment	CP204, monthly
Accounts	unaudited	audited or unaudited

No More Sdn Bhd

Specialist doctors attaching to private hospitals would have no turning point to enjoy the benefits from Sdn Bhd on tax saving, but need to optimize business expenses to achieve certain level of tax saving. Further, the focus on tax planning for specialist doctors with different roles and businesses may shift to the tax reporting for other sources of income, i.e. training fees, employment, dividends and other business incomes, in order to enjoy tax efficiency. These are feasible with experienced tax agents or specialists.

Role of Company Secretaries

Company secretaries, being the first contacted professional that handles company incorporation, must well aware of the above directions from IRB in order to provide value-added services to customers and avoid wrongly company incorporation for specialist doctors attaching to private hospitals.

Besides, there may still be specialist doctors owning Sdn Bhd for receiving incomes from private hospitals who need assistance from company secretaries to wind up the Sdn Bhd or apply for strike off.



SURUHANJAYA SYARIKAT MALAYSIA
COMPANIES COMMISSION OF MALAYSIA

PN 6/2019
1 NOVEMBER 2019
REVISED 31 DECEMBER 2020
REVISED 24 JANUARY 2022

COMPANIES ACT 2016: PRACTICE NOTE NO. 6/2019 (REVISED)

PROCEDURES FOR RECTIFICATION OF DOCUMENTS LODGED AND REGISTERED WITH THE COMPANIES COMMISSION OF MALAYSIA

This Practice Note is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

OBJECTIVE

1. This Practice Note serves to clarify the procedures in which documents that have been lodged and registered with the Companies Commission of Malaysia (SSM) may be rectified.

BACKGROUND

2. The accuracy of information contained in documents submitted to the Registrar is important to ensure that public reliance on such information is not compromised. As such, any person lodging documents with the Registrar must ensure that the information lodged is accurate and not misleading.
3. Where documents that are lodged with the Registrar contain errors, a rectification procedure pursuant to section 602 may be considered to ensure that the errors are rectified accordingly.

RECTIFICATION OF DOCUMENTS LODGED AND REGISTERED

4. Upon an application, subsection 602(1) empowers the Registrar to rectify the register kept by him, if an entry in the register:
 - (a) contains any matter contrary to law;
 - (b) contains any matter that, in a material particular, is false or misleading in the form or context in which the matter is included;
 - (c) by reason of an omission or misdescription has not been duly completed; or
 - (d) is incorrect or erroneous.
5. Subsection 602(2) of the CA 2016 further states that in order for the Registrar to decide whether to approve or refuse the application, the Registrar may require the applicant to produce any document or furnish any information as the Registrar thinks necessary in order for the Registrar to rectify the entry.

6. An application made pursuant to subsection 602(1) of the CA 2016 must be supported with evidence to proof that an entry to the register needs to be rectified within the parameters allowed under the subsection.
7. However, if the Registrar thinks the document produced is not satisfactory to support the application, the Registrar may request any further document(s) or to furnish any information as the Registrar thinks necessary in order to rectify the entry.
8. In addition to the requirement of furnishing evidence to support an application, the Registrar may also require the applicant to give notice of that application to such other person as the Registrar may specify, being a person who appears to the Registrar to be concerned or to have an interest in the business.
9. Notwithstanding paragraph 4, the Registrar may refuse any application for rectification if:
 - (a) the error, mistake or omission does not arise in the ordinary course of the discharge of the duties of the Registrar;
 - (b) the lodgment date of the document containing the error, mistake or omission is more than seven (7) years;
 - (c) a winding order has been granted by the Court against the company.
10. If the Registrar refuses an application for rectification, the Registrar will notify the applicant of the decision in writing together with the grounds of refusal.
11. The decision of the Registrar relating to an application is final. However, if the Registrar has refused an application, the aggrieved applicant may appeal to the Court. The Court may, upon evidence adduced before it, make an order for the Registrar to rectify or amend the register in the manner specified in such order.

A Court order obtained resulting an appeal against the decision of the Registrar will not require further application under subsection 602(1) of the CA 2016. An order of rectification made by the Court shall be lodged with the Registrar within the time frame prescribed by the Court or fourteen (14) days from the order if no time frame is prescribed by the Court.

PROCEDURES IN SUBMITTING AN APPLICATION TO RECTIFY DOCUMENTS

12. All application to rectify the Register must be made to the Registrar. The application form (please refer to Form Section 602 of the CA 2016 in Schedule B) must be accompanied by supporting documents which must be certified by the company secretary/agent. The following are some of the examples of supporting documents (non-exhaustive):
 - (a) copy of identification card;
 - (b) copy of appointment letter;
 - (c) copy of utility bills;
 - (d) copy of company secretary's license or practicing certificate;
 - (e) copy of relevant register books;
 - (f) copy of stamped share transfer form;
 - (g) copy of relevant contractual agreement;
 - (h) copy of extract of company's minutes of meetings;
 - (i) copy of resolution;

- (j) any other relevant documents; or
- (k) copy of relevant court order.

13. In addition, the following procedures must also be observed:
 - (a) the amended document(s) should be lodged to correct the errors in the earlier lodged or registered document;
 - (b) the corrections made should be highlighted by underlining the corrected information on the amended document(s);
 - (c) the phrase "This is filed by way of amendment to the Form ... dated ... which is erroneous" should also be printed on the top right hand cover of the first page of the amended document(s) for easy identification;
 - (d) the amended document(s) should also be accompanied with a declaration by the applicant justifying the need for the rectification;
14. For the purposes of paragraph 13(d) above, the applicant includes—
 - (a) director or promoter;
 - (b) secretary;
 - (c) receiver or receiver and manager;
 - (d) nominee;
 - (e) judicial manager;
 - (f) liquidator; or
 - (g) any other interested person who has been allowed to lodge document(s) under the Act.

FEE APPLICABLE

15. An application to rectify any lodged document must be accompanied with an application fee of RM300 pursuant to Item 39 of the Companies Regulations 2017.
- 15A. In addition, the filing of the amended document(s), as the case may be, shall also be accompanied with the relevant filing fee prescribed in the Companies Regulations 2017.

NON-APPLICATION TO RECTIFICATION RELATING TO CHARGES

16. Notwithstanding paragraphs 4 to 11, this Practice Note is not applicable to rectification in respect to any documents relating to charges which have been lodged with the Registrar. Any such rectification must strictly comply with the provisions under Subdivision 1 of Division 7 of Part III of the CA 2016.
17. This Practice Note serves to reiterate the importance of ensuring that companies lodge documents which contain adequate and accurate information.

EFFECT OF THIS PRACTICE DIRECTIVE

18. This Practice Note superseded the Practice Note 2/2018 issued on 4 June 2018 (Revised 7 October 2019) and Practice Note 6/2019 issued on 1 November 2019 (Revised 31 December 2020).

We would like to welcome the following new members to IACS :-

IACS No.	Ordinary Members	State
M 2628	Nurizzatul Ilya Binti Md Isa	Melaka

IACS No.	Associate Members	State
A 2629	Irene Ling Le Min	Sarawak

IACS No.	Associate Members	State
G 2627	Lee Bee Soon	Selangor

IACS No.	Student Members	State
S 2626	Ng Chooi Yee	Kuala Lumpur

In the meantime, we take this opportunity to thank you for the support given to the Institute. We look forward to your active participation in all activities of IACS for the development of the company secretarial profession.

BOOKS FOR SALE

Title of Book	List Price (RM) Self-collect (KL Office)	IACS Members Price (RM)		
		Self-collect (KL Office)	With Shipping (West Malaysia)	With Shipping (East Malaysia)
1. Tax Appeals in Malaysia : Law and Procedure <i>(Delivered in DUO)</i>	300.00	240.00	255.00	280.00
2. Essential Company Law in Malaysia: Navigating the Companies Act 2016, Second Edition <i>(Delivered in DUO)</i>	220.00	175.00	190.00	195.00

If interested to purchase, kindly call IACS office at 03-40513787 / 40510033 or email to iacstraining@yahoo.com to get a copy of the order form.

ANNOUNCEMENT

Notification of Change of Telephone and Fax Numbers

We would like to inform our members that IACS had changed its telephone and fax numbers with immediate effect.

Our new telephone and fax numbers are as follows:-

Telephone : 03-4051 3787 / 4051 0033

Fax : 03-4051 1133

Thank you.

How to become a member of Institute of Approved Company Secretaries?



1) IACS

INSTITUTE OF APPROVED COMPANY SECRETARIES (IACS) was incorporated on 16 May, 1996 with the Registry of Companies [now known as the Companies Commission of Malaysia] under the Companies Act, 1965. IACS is a company limited by guarantee and not having a share capital.

2) OBJECTIVES OF IACS

The objects for which IACS is established are:-

- a) To co-ordinate and co-operate with all the regulating authorities in enhancing the professionalism of company secretaries.
- b) To provide an avenue for company secretaries to get together to improve and advance their interest and professional status and to provide a vehicle for regulating the conduct and professional ethics of company secretaries.
- c) To conduct seminars, conferences and meetings for the presentation of papers and delivery of lectures, and for the acquisition and dissemination by other means of information connected with the profession of company secretaryship and other related corporate practice.
- d) To form a library for the use of members and to collect, collate and publish information of service and/or interest to members of the profession and to establish and maintain libraries and collection of documents, papers, research materials and other effects.
- e) To submit either independently or jointly with other representations, etc; to the relevant authorities pertaining to any legislation either enacted or otherwise for the purpose of promoting the position of members or the professional conduct of company secretaries.
- f) To afford opportunities for social contact amongst members.
- g) To print and publish newsletters, periodicals, books or otherwise that are desirable for the benefits of members and the public with the approval of the authority concerned.

3) MANAGEMENT OF IACS

The Management of IACS is vested in the Council (the Board of Directors). The powers of the Council are governed by the provisions of the Constitution of IACS and the Companies Act 2016.

4) CATEGORIES OF MEMBERSHIP AND THEIR DISTINGUISHING LETTERS

The composition of membership of the Institute shall be classified as follows:-

- (a) Fellow Member – FIACS
- (b) Ordinary Member – MIACS
- (c) Honorary Member – HIACS
- (d) Associate Member – AIACS
- (e) Graduate Member – GIACS
- (f) Student Member

5) GUIDELINES FOR MEMBERSHIP APPLICATION

- (a) Membership of IACS is by application on the prescribed form.
- (b) The subscribers to the Constitution and such other persons as shall be admitted to membership in accordance with the provisions hereinafter contained shall, subject as provided by these present, be Members of the Institute.
- (c) All applications shall be accompanied by the following:-
 - Certified copy of valid Company Secretary Licence issued by CCM under section 20G of the Companies Commission of Malaysia Act 2001 by any other Company Secretary (applicable to Ordinary & Fellow members).
 - Copies of other certificates of qualifications or membership in relevant associations / bodies (if available)
 - Two driving licence-size photographs.
 - The registration fee and annual subscription shall be such sums as the Council may from time to time prescribe.
- (d) The respective registration fee and annual subscription for the time being are as follows:

CATEGORY OF MEMBERSHIP	REGISTRATION FEE	ANNUAL SUBSCRIPTION
FELLOW	RM 150.00	RM 250.00
ORDINARY	RM 150.00	RM 200.00
ASSOCIATE	RM 100.00	RM 150.00
GRADUATE	RM 100.00	RM 150.00
STUDENT	RM 50.00	RM 50.00

** Members applying for upgrading to Fellow/Ordinary Members are required to pay a sum of RM170.00 being registration fee (RM150.00) and nominal upgrading fee (RM20.00).*

6) PRIVILEGES AND RULES OF MEMBERSHIP

- (a) A Member is entitled to use the distinguishing letters as indicated in para 4 after his/her name.
- (b) Members shall be entitled to:-
 - Receive notices and circulars of IACS pertaining to latest news relating to Secretarial Practices from CCM and other regulatory bodies.
 - Attend IACS' general meetings.
 - Vote at IACS' general meetings (applicable to Ordinary & Fellow Members)
 - Receive a Certificate and I.D. of Membership.
 - Participate in seminars, schemes and privileged to enjoy reduced fee and other benefits.
- (c) All Members shall adhere to the provisions of the Constitution, the Code of Ethics and regulations in force and any amendments or changes thereof by the Institute.