

## CHECKLIST 7

### SECTION 45 COMPANIES ACT 2016 (CA 2016)

#### LODGEMENT OF APPLICATION FOR THE MINISTER'S / REGISTRAR'S APPROVAL

#### - PAYMENT OF SALARIES, FEES, FIXED ALLOWANCES & OTHER BENEFITS TO THE DIRECTOR OF A COMPANY LIMITED BY GUARANTEE (CLBG)

##### A. APPLICATION FEE

1. Payment of the required fee of either:
  - (a) **RM300** - Approval by Minister – only applicable to CLBGs with licensed conditions issued by the Minister pursuant to section 24(3) of the Companies Act 1965 (CA 1965) or CLBG which the Constitution provided that such an application must be approved by the Minister; or
  - (b) **RM100** - Approval by Registrar – applicable to all other CLBGs which do not fall under category 1(a) above.
2. Application must be accompanied with section 45 Form -  
***Application by CLBG for Minister's approval (existing CLBG - Appendix C); or***  
***Application by CLBG for Registrar's approval (Appendix B).***

Payment can be made to Suruhanjaya Syarikat Malaysia (**SSM**) by cash/ money order/bank draft/banker's cheque.

The CLBG is required to amend the constitution allowing the CLBG to make payment of salaries, fees, fixed allowances and other benefits to the Director of CLBG by inserting the clause below:

- A. The member of the Board appointed by the [Foundation/Institute/Chamber/etc] may be paid salaries, fees, fixed allowances & other benefits of not more than

RM..... per month but not excessively given which shall be approved by the members of the [Foundation/Institute/Chamber/etc] and Minister charged with the responsibility for companies / Registrar

B. The terms and conditions, which allow salaries, fees, fixed allowances and other benefits to be given and include salaries, fees, fixed allowances and other benefits that relate to prior years but provided for in the audited financial statements of those years, are-

- (a) the [Foundation/Institute/Chamber/etc] must be solvent immediately after the payment is made. The [Foundation/ Institute/ Chamber/etc] is regarded as solvent if it can satisfy the Registrar that it is able to pay its debts as and when the debts become due within twelve months immediately after the payment is made. [Based on the annual audited financial statements of the (Foundation/Institute/Chamber/etc)];
- (b) The members of the Board are satisfied, before entering the agreement, that it is in the interest of the [Foundation/Institute/Chamber/etc] for that person to provide those services for that amount; and
- (c) The maximum amount is reasonable in the circumstances and is set out in the written agreement and should not exceed the amount provided for in the Constitution.

C. Any change to the amount of the salaries, fees, fixed allowances and other benefits are subject to the approval by the members of the [Foundation/Institute/Chamber/etc] and the Minister charged with the responsibility for companies/Registrar.

The objective of the amendment is to avoid the confusion of using the terms when the CLBG make payment of salaries, fees, fixed allowances and other benefits to the Director of CLBG.

<b>B. DOCUMENTS TO BE ENCLOSED</b>
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3. Application letter  
Contents of the application letter:
  - The purpose and reasons for the relevant payment to the director.
  - Main activities of the CLBG.
4. A copy of the Certificate of Incorporation (Form 8)/Notice of Registration.
5. A copy of the CLBG's Constitution.
6. A copy of the licence under section 45(1) CA 2016/a copy of licence pursuant to section 24(1) CA 1965 (Form 15) and the licence conditions issued under section 24(3) of CA 1965, if applicable.
7. List of the directors/independent directors.
8. List of the full time staff, the position and the job scope of the staff.
9. Current benefits of each director.
10. The job scope, duties and expertise of each director.
11. Supporting documents for the payment of such salaries, fees, fixed allowances and other benefits to the director which include:
  - Letter of engagement stating the amount of the salary, fee, fixed allowances and other benefits;
  - A confirmation by the CLBG the proposed amount of the salaries, fees, fixed allowances and other benefits are reasonable and necessary in furtherance of the CLBG's objects;

- A confirmation that the members are satisfied that the payment to the director is for the purpose of achieving the objects of the CLBG.
12. An acceptance letter from each director agreeing to receive the salaries, fees, fixed allowances and other benefits in the CLBG.
  13. A consent letter from the government agencies/statutory body and others, if applicable.
  14. A copy of the resolution by members at a general meeting pertaining to the approval for such payment of salaries, fees, fixed allowances and other benefits to the director and confirming that such payment to the director is for the purpose of achieving the object of the CLBG.
  15. Audited Financial Statements of the CLBG for the latest three (3) years. CLBG incorporated for less than three (3) years are not eligible to apply for this application.
  16. Three (3) years of yearly estimated/forecasted income and expenditure of the CLBG after such salaries, fees, fixed allowances and other benefits have been paid.
  17. An approval letter from the Director General of the Inland Revenue Board of Malaysia to the CLBG relating to this application (for CLBG with tax exemption under subsection 44(6) of the Income Tax Act 1967).
  18. A copy of an approval letter from the Director General of the Inland Revenue Board of Malaysia to the CLBG for tax exemption under subsection 44(6) of the Income Tax Act 1967, if applicable.
  19. A statutory declaration that in making this application, the CLBG has complied with all requirement of the CLBG's current Constitution and all items (i-iv) in subclause 23(c) of the CLBG's Guidelines by company secretary or one of director/trustee.

### **C. LODGEMENT**

20. The documents are required to be lodged with the payable fees at the address below:

SURUHANJAYA SYARIKAT MALAYSIA  
LEVEL 17, MENARA SSM@SENTRAL  
NO. 7, JALAN STESEN SENTRAL 5  
KUALA LUMPUR SENTRAL  
50623 KUALA LUMPUR