



Suite 39.1.6, First Floor,
 39, Jalan Kenari 17C,
 Bandar Puchong Jaya,
 47100 Puchong, Selangor,
 Malaysia
 Tel: 603-807 63063
 Fax: 603-807 31232
 www.arris-group.com

The Companies Commission of Malaysia (SSM) has announced that the Companies Act 2016 (CA2016) will be implemented on staggered basis with the first phase to be effective from 31 January 2017. With the enforcement of the first phase of the CA2016, the Companies Act 1965 (CA1965) is repealed. The main features of the CA2016 are:

Incorporation	<ul style="list-style-type: none">) Introduction of single member/director company.) Incorporation through electronic filing system MyCoID.) Simplified incorporation procedures using super form.) Notice of registration shall be issued by SSM by email.) Application at SSM office for hardcopy certificate of incorporation.
Constitution (Memorandum and Articles of Association)	<ul style="list-style-type: none">) Mandatory to have a Constitution for company limited by guarantee.) Optional to adopt a Constitution for private company.) Optional to have object clauses after incorporation.) The new law confers companies with unlimited capacity.) If no Constitution adopted then the rights, powers, duties and obligations of the company, director and member shall follow all provisions set out in the CA2016.
Director & Member	<ul style="list-style-type: none">) Introduction of single member/director company.) Minimum director – one for private company and two for public company.) Abolish maximum age for directorship.) Enhancing the rules on disqualification of director.) Retirement of director will follow Constitution or contract of service since no longer have AGM (except for public company).) Company may provide in its Constitution of members’ rights to question, discuss, comment and make recommendation on the management of the company at meeting of members.
Company Secretary	<ul style="list-style-type: none">) Appointment of company secretary can be within 30 days after incorporation.) Mandatory registration with SSM for practicing certificate.

Share Capital	<ul style="list-style-type: none">) Abolition of authorised share capital concept.) Abolition of par value or nominal value concept.) Shares are issued at a price determined by the company.) Lodgment to SSM for any changes to register of members such as shares transfer.) Optional to have share certificates.) Register of Members shall be evidence of shares title.
Annual Return & Annual General Meeting	<ul style="list-style-type: none">) Annual Return submission to SSM is within 30 days from anniversary of incorporation date. For example: If incorporation date was on 8 August 2008; and anniversary of incorporation date ie annual return date shall be on 8 August yearly.) Mandatory to have AGM for public company.) Abolition of AGM for private company.) Decisions by members can be made through written resolutions including matters relating to adoption of audited accounts, payment of director fee, retirement of director, reappointment of auditors, etc.
Financial Statements (Audited Accounts)	<ul style="list-style-type: none">) Decoupling of submission of Annual Return and Financial Statements ie separate submission due date.) Financial Statements submission to SSM is still within 6 months from financial year end.) Introduction of business review report ie directors' report to include policies on internal control & corporate responsibilities.) Audit exemption for certain categories of private companies but still required to submit unaudited financial information to SSM.
Solvency Test & Solvency Statements	<ul style="list-style-type: none">) Introduction of solvency test for payment of dividends.) Company can recover from shareholders for any dividend erroneously distributed.) Introduction of solvency statements for corporate exercise involving: <ul style="list-style-type: none"> ➤ Reduction of share capital ➤ Financial assistance ➤ Share buy backs
Corporate Rescue Mechanism	<ul style="list-style-type: none">) Introduction of rescue and rehabilitation mechanisms ie debt restructuring scheme for companies facing financial difficulties: <ul style="list-style-type: none"> ➤ Judicial management scheme ➤ Corporate voluntary arrangement

<p>Strike Off & Winding Up</p>	<ul style="list-style-type: none">) Strike off – period to reinstate a company/to maintain company’s records is shortened to 7 years instead of 15 years.) Strike off – any person can file an objection to SSM instead of going through Court application.) Winding up – increased threshold to inability to pay debts from RM500 to RM10000.) Winding up – clawback provision for preserving company’s assets.
<p>Transitional Issues</p>	<ul style="list-style-type: none">) Companies which were incorporated before the CA2016 came into effect ie before 31 January 2017 (“Existing Co”), its existing Memorandum & Articles of Association (“M&A”) will continue be in force and if there are any inconsistencies between the M&A and CA2016, the provisions of CA2016 shall prevail.) Existing Co should review its existing M&A and formulate policies to regulate its internal affairs by adopting to new rules and regulations of CA2016.) Existing Co should take into consideration issues that may affect its business dealing with external parties such as government agencies, financial institutions and etc when formulating its policies to synchronize with CA2016 (including but not limited to the following matters): <ul style="list-style-type: none"> ➤ Optional to alter/maintain/revoke its Constitution. ➤ Optional to maintain/revoke its common seal. ➤ Optional to maintain/revoke issuance of share certificate. ➤ Effect of object clauses – restricted to carry out business activities set out in the Constitution only. ➤ Effect of constitution that has the “outdated” regulations of Table A in the Fourth Schedule of CA1965. ➤ Fixing minimum number of director as one or two. ➤ Fixing number of quorum of meetings as one or more. ➤ Requirement for passing written resolutions whether to be signed by all or by majority to be a valid resolution. ➤ Procedures for execution of documents if with or without adoption of common seal.) Provisions of Companies Act 1965 (CA1965) shall apply to companies which are undergoing strike off or winding up before the commencement of CA2016.) All statutory forms such as Form 24, Form 49 and etc issued under the format and provisions of CA1965 will continue to be effective and valid after the commencement of CA2016.

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