

MALAYSIA: INVESTMENT IN THE SERVICES SECTOR

ARCHITECTURAL CONSULTANCY SERVICES





Introduction

This booklet is one of a series of 20 booklets prepared by MIDA for the purpose of providing investors with relevant information on establishing projects in the identified services sub-sectors in Malaysia. The complete list of booklets is as follows:

- Booklet 1:** General Policies, Facilities and Guidelines
- Booklet 2:** Regional Operations
- Booklet 3:** Research and Development (R&D) Services
- Booklet 4:** Logistics Services
- Booklet 5:** Specialised Technical Support Services
- Booklet 6:** Information and Communication Technology Services
- Booklet 7:** Environmental Management Services
- Booklet 8:** Distributive Trade Services
- Booklet 9:** Tourism and Travel Related Services
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- Booklet 11:** Legal Services
- Booklet 12:** Accounting, Auditing and Taxation Services
- Booklet 13:** Architectural Consultancy Services
- Booklet 14:** Surveying Consultancy Services
- Booklet 15:** Medical and Health Care Services
- Booklet 16:** Engineering and Energy Consultancy Services
- Booklet 17:** Management Consultancy Services
- Booklet 18:** Market Research Services
- Booklet 19:** Advertising Services
- Booklet 20:** Quick Reference

The Ministry of International Trade & Industry (MITI) spearheads the development of industrial activities to further enhance Malaysia's economic growth. As an agency under MITI, the Malaysian Investment Development Authority (MIDA) is in charge of the promotion and coordination of industrial development in the country.

MIDA is the first point of contact for investors who intend to set up projects in manufacturing and services sector in Malaysia. With its headquarters in Malaysia's capital city of Kuala Lumpur, MIDA has established a global network of 20 overseas offices covering North America, Europe and the Asia Pacific to assist investors interested in establishing manufacturing projects and services activities in Malaysia. Within Malaysia, MIDA has 12 branch offices in the various states to facilitate investors in the implementation and operation of their projects.

If you wish to explore investment opportunities in Malaysia, please contact MIDA for more information as well as assistance in your decision-making (please see the last page of contact details of MIDA's headquarters and state and overseas offices).

ARCHITECTURAL CONSULTANCY SERVICES

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ARCHITECTURAL CONSULTANCY SERVICES

Architectural consultancy services (classified under code 74211 of the Malaysia Standard Industrial Classification) include consulting which concerns building design and drafting and often supervision of construction, town and city planning and landscape architecture.

A more detailed description is given under the Architects Act, 1967. 'Architectural consultancy services' refer to the provision of architectural consultancy advice and services pertaining to all or any of the following:

- submission of plans or drawings to any person or local authority in Malaysia;
- conceptualisation, research and development of any design for the built environment;
- any survey, preparation of reports, including environmental impact assessment reports, or investigation relating to the built environment;
- project programming, construction and manufacturing programming, and product design;
- planning and development services including interior design, financial advisory services, project management, contract administration and landscaping;
- preparation of feasibility studies and cost estimates;
- preparation of plans and other means of presentation;
- all services in compliance with statutory requirements; and
- any other activities relating to the creation, preservation and enhancement of the built environment.

1. LICENSING AND REGISTRATION

1.1 Registration with Companies Commission of Malaysia

The setting up of architectural consultancy services requires the intended professional to register with the Companies Commissions of Malaysia (CCM) under the Registration of Businesses Act, 1956 or incorporate a company under the Companies Act, 1965. A foreign company cannot carry on business in Malaysia unless it incorporates a local company, or registers a branch in Malaysia.

A 'Foreign Company' is defined under the Companies Act, 1965 as:

- a company, corporation, society, association or other body incorporated outside Malaysia, or
- an unincorporated society, association, or other body which under the law of its place of origin may sue or be sued, or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose and which does not have its head office or principal place of business in Malaysia.

1.2 Registration as an Architectural Consultancy Practice with the Board of Architects Malaysia

Under the Architects Act, 1967 'architectural consultancy practice' can be a sole proprietorship, partnership or body corporate incorporated under the Companies Act, 1965 providing architectural consultancy services and is registered with the Board of Architects Malaysia under section 7A or 7B. The Board of Architects is the body that regulates the practice of architectural consultancy in Malaysia.

Only Professional Architects are allowed to provide architectural consultancy services in Malaysia. Any candidate who applies for registration as a Professional Architect must fulfil the following criteria:

- (i) Citizen or permanent resident of Malaysia
- (ii) A Graduate Architect
- (iii) Obtained the practical experience prescribed by the Board
- (iv) Passed the Part III Professional Examination and
- (v) Corporate Member of the Malaysian Institute of Architects (PAM)

The certificate of registration for Professional Architect expires on 31 December of each year and is renewable before 31 January of the following year.

The requirements for setting up an architectural consultancy practice in Malaysia are as follows:

Type of Establishment	Requirements
Sole Proprietorship	<ul style="list-style-type: none">• Being the sole principal of the firm, Professional Architects shall preferably use their individual names in full e.g. Arkitek Ahmad Bakar Lim Ah Kow Architect• Professional Architects may also be allowed to use part of their names: e.g. Arkitek A. Bakar AK Lim Architect
Partnership	<ul style="list-style-type: none">• All partners must be Professional Architects

Type of Establishment	Requirements
Architectural Body Corporate	<ul style="list-style-type: none"> • The Board of Directors consists of Professional Architects • A minimum paid-up capital of RM50,000 • The shares shall be held by members of the Board of Directors solely or with any other persons who are Professional Architects.
Multi-Disciplinary Body Corporate	<ul style="list-style-type: none"> • The Board of Directors consists of Professional Architects, Professional Engineers and/or registered Quantity Surveyors. • The shares shall be held by those mentioned above and any of the following persons and/or bodies corporate where: <ul style="list-style-type: none"> i. The Professional Architects, Professional Engineers, registered Quantity Surveyors, bodies corporate providing architectural consultancy services, bodies corporate providing professional engineering services and/or bodies corporate practising as consulting Quantity Surveyors hold a minimum combined share of 70% of the overall equity of that body corporate, of which the Professional Architects and/or bodies corporate providing architectural consultancy services hold a minimum share of 10%; and ii. Any other persons including persons belonging to a profession allied to architecture, engineering or quantity surveying, being a profession approved in writing by the board regulating the profession of architecture, engineering or quantity surveying, respectively, and hold a maximum share of 30% of the overall equity of the body corporate. • A minimum paid-up capital of RM150,000

The certificate of registration for Architectural Consultancy Practice expires on 31 December of each year and is renewable before 31 January of the following year.

1.3 Entitlement as an Architectural Consultancy Practice with the Board of Architects Malaysia

Architectural consultancy practice (ACP) and a body corporate registered with the Board of Architect Malaysia stipulated under Section 7A and 7B of the Architects Act (Act117), only an Architect or a foreign architect who is residing in Malaysia for not less than 180 days in one calendar year shall be entitled to submit plans or drawings to any person or authority in Malaysia.

Nothing contained in any other written law shall prevent any Architect, foreign architect or architectural consultancy practice from:-

- (i) Making valuations of buildings and structures, and of plants, machinery and equipment related to the buildings or structures connected with his or its professional practice;
- (ii) Preparing and submitting applications for planning approvals, conversions, subdivisions and amalgamation layout drawings;
- (iii) Carrying out planning studies, environmental impact studies relating to land use; and
- (iv) Preparing planning reports for any person or authority in Malaysia.

Other requirements are:

The names of the companies should not be pretentious or ostentatious or of such nature that may negatively affect the dignity of the profession or place it in a position of possible ridicule.

The names of the companies shall preferably comprise the actual names of the partners or the acronyms of their initials.

Please refer to Board of Architects Malaysia website at www.lam.gov.my for latest information and updates.

1.4 Registration with Ministry of Finance (MOF)

Any consulting firm wishing to tender for Government contracts shall register with MOF using the codes specified by MOF.

Conditions that must be fulfilled for registration with MOF:

- (i) Firm with accumulated/paid-up capital as follows:
 - Sole proprietorship - minimum of RM50,000
 - Partnership - minimum of RM50,000
 - Sdn. Bhd. - minimum of RM50,000
- (ii) The firm needs to have a legitimate office address, either leased or own property.
- (iii) The business premise is not allowed to use the address of on-line office, P.O.Box, mailing box office services and other premises where the traceability and capacity of the firm is difficult to be determined.
- (iv) The firm must have at least three (3) staffs under permanent employment and contribute to the Employees Provident Fund (EPF) with the following composition:
 - (a) one (1) professional staff with academic qualification of at least a degree in related field;
 - (b) one (1) semi-professional with academic qualification of at least a diploma in related field; and
 - (c) one (1) clerk.
- (v) The owner of the firm must be appointed as a full-time Director, and can be appointed as the professional staff or the management, but is not allowed to be appointed as a worker in the firm.
- (vi) The owner of the firm must have the necessary professional qualification in the field of expertise applied for in accordance with the provision of the laws and regulations and is required to submit relevant CV/work experience.
- (vii) The professional staff and the semi-professional staff are required to submit their first degree or diploma together with their relevant CV/work experience.
- (viii) All equity/share-holders must have at least five (5) years of working experience in the field of expertise applied for after obtaining their first degree.

- (ix) The field of expertise submitted for registration with MOF must be consistent with the practising licence issued by the respective Professional Boards.
- (x) The consulting firm needs to have an active current account.
- (xi) For professions whose ethics of service are governed by the Professional Boards, the equity/share-holders shall be registered with their respective Professional Boards. The field of expertise to be registered with MOF will be the expertise approved by the Professional Boards.
- (xii) For professions whose ethics of service are yet to be governed by the Professional Boards, the field of expertise to be registered with MOF will be based on the academic qualification and the working experiences of the owner.
- (xiii) The consulting firm is required to submit its registration certificate with the Professional Board as compliance with the provisions of the Act of the Professional Board for purposes of carrying out consultancy services.

Application must be made only through www.eperolehan.gov.my

Please refer to the above website for policy of registration, registration code and other relevant information.

1.5 Licence/Registration with PETRONAS

1.5.1 Licence

- (i) Issuance of PETRONAS License is based on the Petroleum Development Act and Petroleum Regulations 1974. Based on this Act, an entity that wishes to provide goods/services to the upstream sector in the oil and gas industry in Malaysia must have a valid license issued by PETRONAS.
- (ii) A license is required for any entity that wishes to supply goods/services for the upstream sector in the oil and gas industry in Malaysia (which involves exploration, development and production of oil and gas)

1.5.2 Registration

- (i) PETRONAS has made a policy that requires an entity to register with PETRONAS before participating in Tender and activities in the downstream sector in order to monitor the development activities in this sector.

General Requirements for Application of PETRONAS Licence/Registration

- (i) The company must be registered with CCM as a Private Limited Company (Sendirian Berhad) or Limited Company (Berhad) Or Be registered with the Registrar of Business as a Land Surveyor, Quantity Surveyor, Architect or other related professional bodies.
- (ii) The company must have a paid-up capital in the form of ordinary shares of not less than RM100,000 (for Licence) and RM10,000 (for Registration).
- (iii) The company must have a stable financial status i.e. shareholder's fund must be positive.
- (iv) The company must meet Bumiputera participation requirement at the level of equity, Board of Directors, management and employment based on the Standardised Work and Equipment Categories (SWEC) applied, i.e. either 30%, 51% or 100%.

Note:

- a. *Minimum percentage of Bumiputera participation varies and depends on the scope and mode of operation. The minimum percentage of Bumiputera participation for a particular SWEC can be found in the SWEC list in the PETRONAS website and it may change from time to time subject to the review by PETRONAS.*
 - b. *For company applying for renewal of licence/registration for SWEC that requires a minimum of 51% Bumiputera content and which has a Berhad Company as a shareholder, if the company does not fulfil the Bumiputera requirement stipulated in (iv), the company will be given flexibility as long as the shares of the Berhad Company is held at least 35% by Bumiputera and Bumiputera participation at the levels of Board of Director, Management and employment are not less than 51%.*
 - c. *If the SWEC applied for requires 100% Bumiputera participation, the 100% requirement is only for equity, while the minimum Bumiputera requirement for the other levels are as follows:*
 - *Minimum 75% Bumiputera participation for Board of Director;*
 - *Minimum 75% Bumiputera participation for Management; and*
 - *Minimum 51% Bumiputera participation for company's employment.*
- (v) The company must be registered with the relevant statutory bodies, professional bodies or Government departments as stipulated in the SWEC appendix.
- (vi) In the case of an agent, the appointment letter as an exclusive agent must be issued directly from the foreign manufacturer/principal and addressed to the local agent. Appointment as agent must at least cover the oil and gas industry in Malaysia. An appointment from stockist, representatives from distributor and manufacturer or local principal is not accepted.

Licence/Registration for Foreign Companies

Foreign companies may also participate in tenders and works in the upstream sector of the oil and gas industry in Malaysia, by

- (a) appointing a local company as an exclusive agent representing them. The appointed agent must apply for the PETRONAS licence and must comply with the general requirements for PETRONAS licence; or
- (b) forming a new joint-venture (JV) company with a local company. The JV company may submit its licence application to PETRONAS and must comply with the general requirements for PETRONAS licence.

Applicants are advised to refer to the PETRONAS website at www.petronas.com.my to access the SWEC list, the minimum technical requirements for the related SWEC and the mode of operations offered for each scope.

All types of applications for PETRONAS licence/registration must be made through online systems known as 'Supplier Relationship Management' (SRM), 'Registration of Supplier (ROS)' or 'Supplier Self Service (SUS)'.

1.6 Business Licence

Companies intending to set up an office are required to obtain a business premise/ signboard licence from the respective local authorities, depending on the nature of the business activity.

There are 179 local authorities in Malaysia which are responsible for approving business premise and signboard licences. The requirements for obtaining a business premise/signboard licence may vary according to the conditions requirements set by each local authority.

Applicants are advised to contact the relevant local authority (based on the location of the business premises) regarding the specific rules and regulations pertaining to business premise/ signboard registration. The fees may vary according to each of the local authorities.

Contact details for local authorities are available in the Quick Reference Booklet in this series.

2. EQUITY POLICY

To increase local participation in business, the Government encourages joint-ventures between Malaysian and foreign investors.

Companies intending to provide architectural services to PETRONAS must comply with the stipulated Bumiputera equity requirements [refer to 1.4].

The Government had announced on 7 October 2011 that architectural services would be one of the 17 services sub-sectors that would be liberalised. Please refer to MITI website www.miti.gov.my for information on liberalisation.

2.1 Multi-Disciplinary Practice

Under Architects Act, 1967, 7B subsection (2), 'the body corporate that applies for registration under subsection (1) Architects Act, 1967 must be incorporated under the Companies Act, 1965 and fulfil the following criteria:

- (a) has a Board of Directors comprising Professional Architects, Professional Engineers and/or registered Quantity Surveyors;
- (b) has shares held by the persons mentioned in paragraph (a) and any of the following persons and/or bodies corporate where:
 - (i) the Professional Architects, Professional Engineers, registered Quantity Surveyors, bodies corporate providing architectural consultancy services, bodies corporate providing professional engineering services and/or bodies corporate practising as consulting Quantity Surveyors hold a minimum combined share of 70% of the overall equity of that body corporate, of which the Professional Architects and/or bodies corporate providing architectural consultancy services hold a minimum share of 10%; and
 - (ii) any other persons, including persons belonging to a profession allied to architecture, engineering or quantity surveying, being a professional approved in writing by the board regulating the professions of architecture, engineering or quantity surveying, respectively, hold a maximum share of 30%, of the overall equity of the body corporate; and
- (c) has a minimum paid-up capital which shall be an amount to be determined by the Minister.

Please refer to Board of Architects Malaysia website at www.lam.gov.my for latest information and updates.

3. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS) ASEAN FRAMEWORK AGREEMENT ON SERVICES (AFAS) AND FREE TRADE AGREEMENTS (FTAS)

The updates and information of Schedule of Specific Commitments of GATS, AFAS and FTAs is available in MITI's website at www.miti.gov.my

4. SPECIFIC IMMIGRATION PROCEDURES

4.1 Registration of Foreign Architect

- (a) Under Section 10A(1) of the Architects Act, 1967 any foreign architect who is a consultant to a project wholly financed by a foreign Government or implemented under a bilateral arrangement between Governments, may be temporarily registered by the Board.
- (b) A foreign architect may be considered for temporary registration if he satisfies the Board that:
 - (i) he possesses the necessary qualification which is recognised for the practice of architecture as an architect in the country where he normally practises; and
 - (ii) he possesses the necessary expertise and his physical presence is required in Malaysia for not less than 180 days in one calendar year or he is a resident representative of the foreign component of a joint-venture.
- (c) The Board may approve a temporary registration for a period not exceeding one calendar year and may renew such temporary registration as it deems fit.

4.2 Employment of Expatriates under Architectural Consultancy Practice (ACP)

Expatriates who wish to work in Malaysia need to obtain a letter of support from the Board of Architects Malaysia before submitting their application for Employment Passes to the Immigration Department.

Before applying for Employment Pass, the ACP must apply for approval of the related post from the Expatriate Committee of the Immigration Department.

Upon approval of the expatriate posts, ACP shall forward their applications for Employment Passes to the Immigration Department for endorsement. The spouse and children of the expatriate can apply for Dependant Passes once the expatriate has been issued with the Employment Pass. The Dependant Pass may be applied together with the application, for the Employment Pass or after the Employment Pass is approved. The spouse and children of the expatriate who enter the country on a visit (temporary employment or professional) will be issued a visit (social) pass.

4.3 Expatriate Posts Specific to Architectural Consultancy Services

According to AFAS, under the movement of natural persons (mode 4), two (2) specialists/ experts per country are allowed and registration is subject to qualification of registration and domestic regulations. The foreign specialists/experts will have to sit for the qualifying examination to determine the competence and ability to supply the service for the purpose of registration with the professional bodies. The examination is conducted in English.

Further to that, under the ASEAN Mutual Recognition Arrangement (MRA) on Architectural Services, any ASEAN architect who qualifies as stipulated in the MRA is eligible to practice in collaboration with local architects in Malaysia.

5. BOARD OF ARCHITECTS MALAYSIA (BAM)

Board of Architects Malaysia (hereinafter referred to as “the Board”) was established with the purposes of Architects Ordinance 1951 (Federation of Malaya Ordinance 48 of 1951).

This Ordinance was then enacted and gazetted by the Parliament cited as Architects Act 1967 (Act 117).

The Board is a statutory authority responsible for the enforcement of the Architects Act 1967. The functions of the Board are provided under the Section 4(1) of the aforesaid Act which includes the following:

- i. Registration of Architects, Graduate Architects, Interior Designer and Building Draughtsmen;
- ii. Registration of architectural consultancy practices;
- iii. Regulation of their conduct and ethics;
- iv. Conducting examinations for admission to the profession;
- v. Accreditation of architectural programmes;
- vi. Development and Promotion of the profession;
- vii. Representing the architectural profession in any matter at local and international levels.

5.1 Architects Act 1967 & Architects Rules 1996 (Amendment 2015)

The new Amendment of Architects Act 1967 incorporated with Government’s initiative towards Liberalisation of Architects Services including the deletion of requirement on citizenship for Architects Registration stipulated under Section 10(3) of the Act.

6. MALAYSIAN INSTITUTE OF ARCHITECTS (PAM)

Malaysian Institute of Architects or Pertubuhan Arkitek Malaysia (PAM) is the national professional institute representing architects in Malaysia.

PAM was founded in 1920 as the Institute of Architects Malaya. In 1948, the name and consequently the Constitution were changed to the Federation of Malaya Society of Architects (FMSA) which was allied to the Royal Institute of British Architects (RIBA). Another change in name to reflect national sovereignty, and registration under the current name, came about when PAM was registered with the Registrar of Societies on 20 January 1967.

The Institute is managed by an elected Council consisting of a President, Deputy President, Vice President, Honorary Secretary, Honorary Treasurer and 13 Council Members. Also in Council are the Immediate Past President, up to 4 nominated Past Presidents, up to 3 nominated non-Corporate member and 4 elected representatives from the Chapters.

6.1 Mission Statement

To promote the advancement of architecture and the architectural profession for the betterment of society”.

The Institute provides a framework for its members to operate effectively: to do, to run and to get the business of architecture within the Code of Conduct and Scale of Fees.

6.2 Objectives

The primary objective of the institute is for the “the advancement and elevation of the architecture and the various arts and science connected therewith”.

- To promote and enlarge knowledge, study and practice of architecture.
- To provide a central organisation for architecture.
- To assist and advise Governments, local authorities, or other private or public bodies.
- To promote friendly interaction and discourse amongst Architects.
- To obtain and disseminate among the Members, information on matters affecting the profession, and
- To preserve and to maintain the integrity and status of the profession.

Further information on Malaysian Institute of Architects can be obtained from www.pam.org.my



Malaysian Investment Development Authority

MIDA Sentral, No.5, Jalan Stesen Sentral 5, Kuala Lumpur Sentral, 50470 Kuala Lumpur, Malaysia

Tel: (603) 2267 3633 Fax: (603) 2274 7970 Website: www.mida.gov.my

E-mail: investmalaysia@mida.gov.my

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