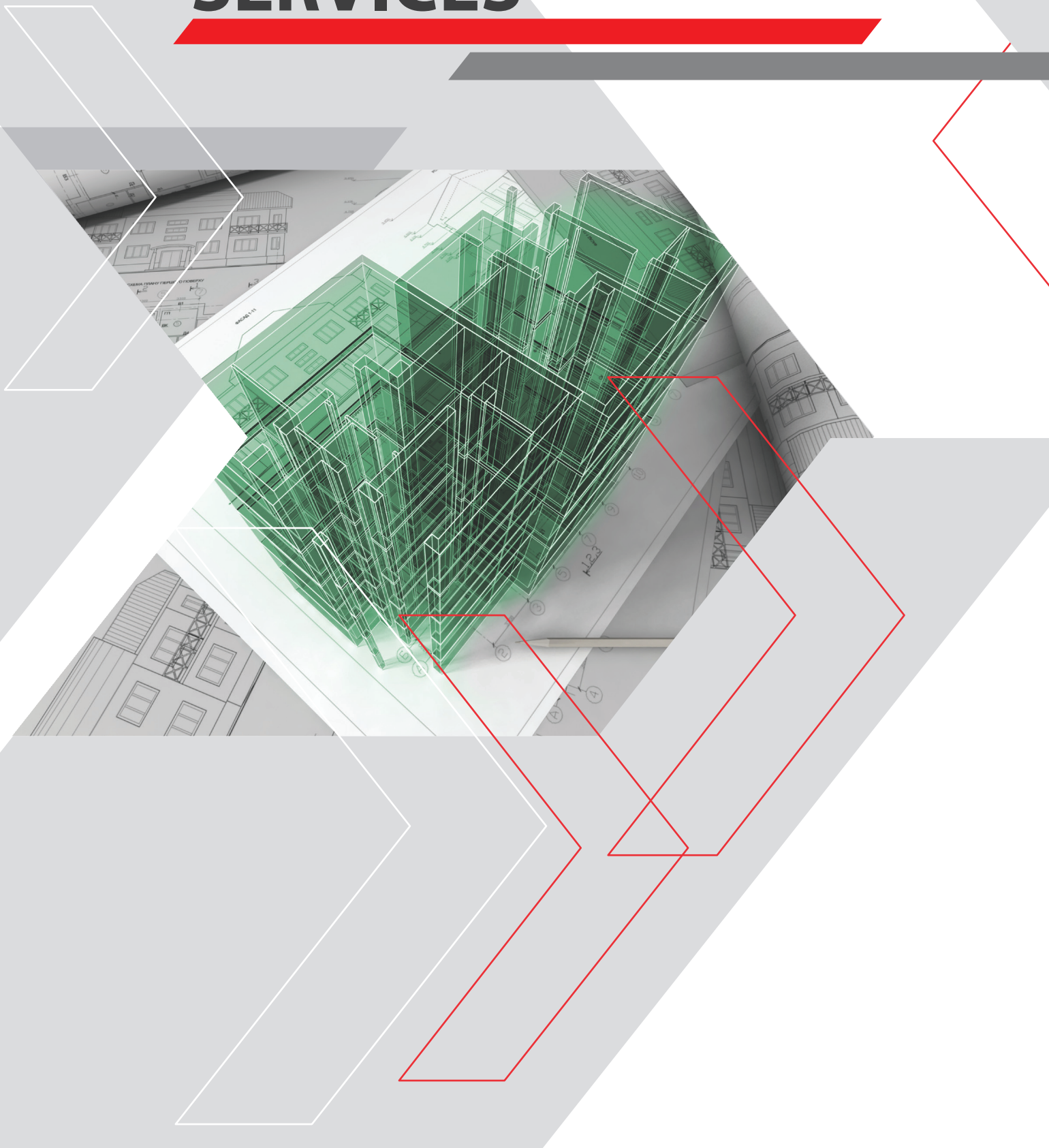


ARCHITECTURAL CONSULTANCY SERVICES





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
- Booklet 10:** Education and Industrial Training Services
- 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 Healthcare 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

MIDA is the Government's principal investment promotion and development agency under the Ministry of International Trade and Industry (MITI) to oversee and drive investments into the manufacturing and services sectors in Malaysia. Headquartered in Kuala Lumpur Sentral, MIDA has 12 regional and 21 overseas offices. MIDA continues to be the strategic partner to businesses in seizing the opportunities arising from the technology revolution of this era. For more information, please visit www.mida.gov.my and follow us on Twitter, Instagram, Facebook, LinkedIn, TikTok and YouTube channel.

For the latest updates, please visit MIDA's website at www.mida.gov.my.

ARCHITECTURAL CONSULTANCY SERVICES

BOOKLET
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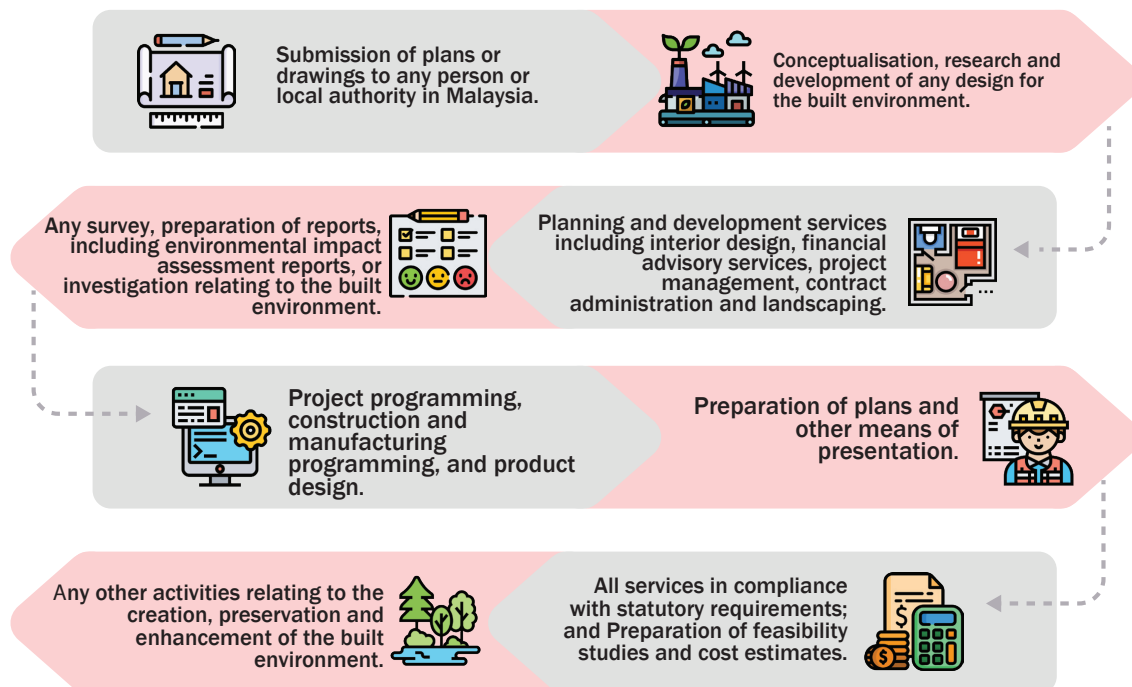
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ARCHITECTURAL CONSULTANCY SERVICES

Architectural consultancy services fall under the ambit of the Architects Act 1967, and include consulting which concerns building design and drafting, and often supervision of construction, town and city planning, and landscape architecture.

Malaysia's architectural scene marries modern and traditional designs together into a harmonious whole, taking into account sustainability and eco-friendliness.

1. UNDERSTANDING THE SUB-SECTOR



2. SETTING UP YOUR BUSINESS

2.1 Registration with the Companies Commission of Malaysia (SSM)

The setting up of architectural consultancy services requires the intended professional to register with SSM under the Registration of Businesses Act, 1956 or incorporate a company under the Companies Act 2016. 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, 2016 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.

2.2 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 2016, 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 fulfill the following criteria:

- Citizen or permanent resident of Malaysia;
- A Graduate Architect;
- Obtained the practical experience prescribed by the Board;
- Passed the Part III Professional Examination; and
- Is a Corporate Member of the Malaysian Institute of Architects (PAM).

The certificate of registration for Professional Architects expires on 31 December of each year, and must be renewed 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.
Architectural Body Corporate	<ul style="list-style-type: none"> The Board of Directors consists of Professional Architects. Minimum paid-up capital of RM50,000. The shares shall be held solely by members of the Board of Directors 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 per cent 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 per cent; 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 per cent of the overall equity of the body corporate. A minimum paid-up capital of RM150,000.

The certificate of registration for Architectural Consultancy Practices expires on 31 December of each year, and must be renewed before 31 January of the following year.

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

For an Architectural Consultancy Practice (ACP) and a body corporate registered with the Board of Architects Malaysia stipulated under Section 7A and 7B of the Architects Act (Act 117), 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 and 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 the Board of Architects Malaysia website at www.lam.gov.my for latest information and updates.

2.4 Registration with Ministry of Finance (MOF)

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

Conditions that must be fulfilled for registration with MOF:

- 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.
- The firm needs to have a legitimate office address, whether leased or its own property.

- The business premise is not allowed to use the address of an online office, P.O. Box, mailing box office services, or other premises where the traceability and capacity of the firm is difficult to be determined.
- The firm must have at least three staff members under permanent employment and contributing to the Employees Provident Fund (EPF), with the following composition:
 - One (1) professional with at least one (1) degree in a related field;
 - One (1) semi-professional with at least a diploma in a related field; and
 - One (1) clerk.
- The owner of the firm must be appointed as a full-time Director, and can be appointed as part of the professional staff or the management, but is not allowed to be appointed as a worker in the firm.
- 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 relevant laws and regulations, and is required to submit his relevant CV/work experience.
- The professional staff and the semi-professional staff are required to submit their first degrees or diplomas together with their relevant CVs/work experience.
- All equity/shareholders must have at least five (5) years of working experience in the field of expertise applied for after obtaining their first degree.
- The field of expertise submitted for registration with MOF must be consistent with the practising licence issued by the respective Professional Boards.
- The consulting firm needs to have an active current account.
- For professions whose ethics of service are governed by the Professional Boards, the equity/shareholders 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.
- 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.
- 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 through www.eperolehan.gov.my

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

2.5 Licence/Registration with PETRONAS

2.5.1 Licence

The issuance of the PETRONAS Licence 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 (O&G) industry in Malaysia must have a valid licence. The upstream sector includes but is not limited to O&G exploration, development, and production.

Issuance of the Licence is subject to the licence fee having been paid as stipulated in the Petroleum Regulations 1974.

2.5.2 Registration

PETRONAS's policy requires an entity to register with PETRONAS before participating in any tender for supply of goods/services to the downstream sector for the PETRONAS Group of Companies.

No registration fee is charged.

2.5.3 Purpose of valid licence/registration

A company with a valid licence is allowed to supply goods/services to both upstream and downstream sector of the O&G industry in Malaysia.

A company with a valid registration is allowed to supply goods/services to the downstream sector of the O&G industry, serving Petronas subsidiaries only.

2.5.4 General Requirements of the PETRONAS Licence/Registration

Applicants must comply with all general requirements below:

- Locally incorporated
 - Registered with SSM as either "Sdn. Bhd." (private limited) or "Berhad" (public limited) company.
The minimum paid-up capital is RM100,000 (for Licence) or RM10,000 (for Registration).
Paid-up capital is in the form of ordinary shares.
- OR
- Registered with the relevant professional bodies, i.e. Board of Land Surveyor for 'Land Surveyor', Board of Valuers, Appraisers and Estate Agents Malaysia for 'Valuer', Board of Architects Malaysia for 'Architectural firm', or other relevant professional bodies.
The minimum capital or total value of contribution is RM100,000 (for Licence) or RM10,000 (for Registration)
- Positive Net Worth

2.5.5 Standardised Work & Equipment Category (SWEC)

Company must comply with respective SWEC requirements below:-

- Meet the minimum Bumiputera requirement at four levels, for the applied SWEC:
 - o Equity
 - o Board of Directors
 - o Management
 - o Employees

The minimum Bumiputera requirement at each level ranges from 100 per cent, 51 per cent, and 30 per cent. There are also SWECs with no requirement on Bumiputera participation.

Notes:

- *Flexibility is given for public-listed companies, or private limited companies at least 51 per cent owned by a public-listed company, to hold a minimum of 35 per cent Bumiputera equity when applying for SWECs that have a minimum 51 per cent Bumiputera requirement. However, the Bumiputera requirement at the Board of Directors, Management, and Employees levels must follow the respective SWEC requirements.*
 - *In the case where the applicant is a public-listed company, and is also at least 51 per cent owned by a public-listed company, the total Bumiputera equity of the applicant must be a minimum of 17.85 per cent on order to be eligible to apply for SWECs with minimum 30 per cent and 51 per cent Bumiputera requirements.*
- *For SWECs that require 100 per cent Bumiputera participation, the 100 per cent requirement only refers to "Equity", while the minimum Bumiputera requirements for the other levels are as follows:*
 - *Equity* - *100 per cent Bumiputera*
 - *Board of Directors* - *Minimum 75 per cent Bumiputera participation*
 - *Management* - *Minimum 75 per cent Bumiputera participation*
 - *Employee* - *Minimum 51 per cent Bumiputera participation*
- *Meet other SWEC requirements including Minimum Technical Requirement (MTR) and certification by external bodies as specified in the respective SWEC.*

2.5.6 Applications Involving Foreign Companies

Foreign companies may also participate in tenders in the Malaysian Oil & Gas industry by taking one (1) of the following steps:

- Appointing a local company as an agent to serve as their local representative and service provider. The appointed agent must apply for the PETRONAS licence/registration by complying with the general guidelines for PETRONAS Licensing/Registration; OR
- Forming a Joint-Venture (JV) company with a local company/individual. The JV company must apply for the PETRONAS licence/registration by complying with the general guidelines for PETRONAS Licensing/Registration; OR
- Forming a local branch. The branch must apply for the PETRONAS licence/registration by complying with the general guidelines for PETRONAS Licensing/Registration.

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 the PETRONAS licence/registration are accessible ONLINE through the PETRONAS Licence Management System (PLMS) at the PETRONAS website.

2.6 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 155 local authorities in Malaysia responsible for approving business premise and signboard licences. The requirements for obtaining a business premise/signboard licence may vary from one local authority to another.

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.

3. EQUITY POLICY

The Government encourages joint-ventures between Malaysians and foreign investors to increase local participation in business.

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

4. EMPLOYING EXPATRIATE PROFESSIONALS

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)

ACPs in Malaysia may employ expatriates by submitting their applications for Employment Passes to the Immigration Department.

However, they must first apply for approval to employ expatriates from the Expatriate Committee of the Immigration Department prior to submitting the Employment Pass applications.

In addition, the expatriate is required to obtain a letter of support from the Board of Architects Malaysia prior to submitting his application.

Spouses and children of expatriates can apply for Dependant Passes once the expatriates have been issued with the Employment Pass. The Dependant Passes may be applied for either together with the application for the Employment Pass or after the Employment Pass has been approved. Spouses and children of expatriates who enter the country on visit (temporary employment or professional) passes will be issued visit (social) passes.

Under AFAS, for the supply of services through mode 4 (the movement of natural persons), two specialists/experts per country are allowed; with registration being subject to qualification of registration and domestic regulations. The foreign specialists/experts will have to sit for the qualifying examination to determine their 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)

The 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 Parliament and 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 Designers, 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; and
- (vii) Representing the architectural profession in any matter at local and international levels.

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 four nominated Past Presidents, up to three nominated non-corporate members, and four 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.

7. GENERAL AGREEMENT ON TRADE IN SERVICES (GATS), ASEAN FRAMEWORK AGREEMENT ON SERVICES (AFAS) AND FREE TRADE AGREEMENTS (FTAs)

Updates and information regarding the Schedule of Specific Commitments of GATS, AFAS, and FTAs are available from MITI's website at www.miti.gov.my.



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