

**1. When is the enforcement date of section 241 of the CA 2016?****Answer:**

Section 241 of the CA 2016 comes into force on 15 March 2019.

**2. What is the principle of section 241?****Answer:**

Section 241 of the CA 2016 requires any person who is qualified to act as a secretary **and** who desires to act as a secretary to register with the Registrar before he can act as a secretary.

The Registrar will issue a practising certificate under section 241 upon satisfaction on the qualification and requirements specified under the CA 2016, the Companies (Practising Certificate for Secretaries) Regulations 2019 and the Guidelines Relating to Practising Certificate for Secretaries.

**3. Who is required to register pursuant to section 241 of the CA2016?****Answer:**

All qualified person under section 235 of CA 2016 who wish to act as a secretary irrespective of their professional background.

**4. Who is qualified to apply for practising certificate?****Answer:**

The following person is qualified to apply for practising certificate:

- (a) A natural person aged 18 years of age and above;
- (b) A citizen or permanent resident of Malaysia;
- (c) A person licensed by the Commission under section 20G of the Companies Commission of Malaysia Act 2001 (CCMA 2001) , or a member of a body as set out in the Fourth Schedule of the CA 2016, as follows:
  - (i) Malaysian Institute of Chartered Secretaries and Administrators (MAICSA);

- (ii) Malaysian Institute of Accountants (MIA);
- (iii) Malaysian Bar (BC);
- (iv) Malaysian Association of Company Secretaries (MACS);
- (v) Malaysian Institute of Certified Public Accountants (MICPA);
- (vi) Sabah Law Association (SLA); or
- (vii) Advocates Association of Sarawak (AAS).

(d) He is not disqualified under section 238 of the CA 2016; and

(e) He does not have any pending legal action against him under any provision of the lawsspecified in the First Schedule of the CCMA 2001.

## **5. How to lodge the application?**

### **Answer:**

The application must be lodged through the electronic filing system which can be accessedvia SSM portal [www.ssm.com.my](http://www.ssm.com.my) or at <https://esecretary.ssm.com.my>

The applicant must fill in all particulars and attach the required documents.

## **6. Should the applicant present at the SSM’s office for activation as a registered user of e-secretary?**

### **Answer:**

No. Online registration is sufficient.

## **7. What are the fees imposed?**

### **Answer:**

The fees are:

- (a) Application fee for practising certificate : RM 100.00
- (b) Renewal fee for practising certificate:

One year	RM 100.00
Two years	RM 200.00
Three years	RM 300.00

**8. What will happen if a secretary is a member of more than one approved body?**

**Answer:**

He should only designate one approved body for the purpose of application for a practising certificate.

**9. Can a person who has been appointed as a secretary of a company prior to the enforcement of section 241 of the CA 2016 continue to act as a secretary?**

**Answer:**

Yes, he may continue to act as a secretary to the company but is still required to register with the Registrar within 12 months from the enforcement date.

**10. What will happen if a person who is not a citizen or permanent resident of Malaysia but has been appointed as a secretary prior to 31 January 2017?**

**Answer:**

He may apply for practising certificate subject to the following conditions:

- (a) he shall only act as a secretary to the companies of which he was appointed before 31 January 2017;
- (b) he shall not accept any new appointment as a secretary; and he has complied with the requirements under paragraph 4(a), (b) and (d) in the Guidelines Relating To Practising Certificate For Secretaries Under Section 241 Of The Companies Act 2016.

**11. How long is the validity period of the practicing certificate?**

**Answer:**

The first practising certificate shall be valid for a period of one year from the date of issuance.

The renewal of the practising certificate shall be valid for a period of not more than three years.

**12. When can I apply for renewal of practising certificate?**

**Answer:**

The application for renewal of the practising certificate shall be made not less than thirty (30) days before the expiry date.

**13. What is the time frame for existing company secretary to apply for a practising certificate?**

**Answer:**

An existing company secretary who is being named as secretary for companies has 12 months period i.e. until 14 March 2020 to apply for practising certificate.

To avoid any delay SSM encourages secretary to make an early application.

**14. What happen to a secretary who has resigned and yet to be appointed as a secretary in any company?**

**Answer:**

The secretary is required to apply for a practising certificate before being named as a secretary.

**15. What will happen to a person who already qualified to act as secretary before the enforcement of section 241 of the CA2016 but have never been appointed as a secretary?**

**Answer:**

The secretary is required to apply for a practising certificate before being named as a secretary.

**16. When executing any document in his capacity as a secretary or when lodging any document or in correspondences with the Registrar, which number should be used to describe the secretary's ID? Is it his LS/ prescribed bodies (PB) membership number OR his practising certificate number?**

**Answer:**

During the transition period of twelve months, a secretary may state his LS number/prescribed bodies (PB) membership number OR the practising certificate number when executing any document in his capacity as a secretary or when lodging

any document or in correspondences with the Registrar.

After the transition period, a secretary must state the practising certificate number when executing any document in his capacity as a secretary or when lodging any document or in correspondences with the Registrar.

**17. Is it mandatory for a qualified person who act as a secretary to register with SSM under section 241 of the Companies Act 2016 before he can act as a secretary after the Act come into operation on 31 January 2017?**

**Answer:**

No. For the time being, the qualified person does not require to register as a company secretary with SSM since Companies Act 2016 comes into operation on 31 January 2016 except for section 241 and Division 8 of Part III of the Act.

**18. What is the procedure for the company secretary to resign if the company director cannot be contacted? *(updated on 13 March 2023)***

**Answer:**

Subject to the constitution of the company or the terms of appointment of the company secretary, if the director of the company cannot be contacted at his last known residential address, the company secretary may resign through section 237(2). The company secretary must inform the Registrar of his intention to resign by including supporting documents such as a copy of his resignation notice and the returned registered letter. Please refer to Practice Note 4/2018.

**19. Is a copy of the email notification accepted as a supporting document? *(updated on 13 March 2023)***

**Answer:**

A copy of the email can be used as an additional supporting document if the company secretary can prove that the email was their usual medium of communication.

**20. If there is proof of receipt of a copy of the notice of resignation served by the company secretary to the director via registered letter, can the company secretary still resign through section 237(2)?**

**Answer:**

The company secretary cannot resign through section 237(2) because the directors are still contactable

**21. If the company secretary resigns through lodgement of section 237(3)(a), is the company secretary's name still in the SSM records? *(updated on 13 March 2023)***

**Answer:**

Yes, the company secretary's name is still displayed on the company's corporate profile until his resignation is updated by the company under section 58.