



**GUIDELINES FOR APPLICATION FOR THE REGISTRAR OF
COMPANIES TO ACT AS THE REPRESENTATIVE OF
DISSOLVED COMPANY PURSUANT TO SECTION 556 OF THE
COMPANIES ACT 2016 IN MATTERS INVOLVING
IMMOVABLE PROPERTY**

This Guidelines is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

OBJECTIVES

1. This Guideline serves as a guidance to assist and facilitate applicants who wish to make an application for the Registrar of Companies ("Registrar") to act as the representative of dissolved company in certain events pursuant to Section 556 of the Companies Act 2016 ("CA 2016").

**THE POWER OF THE REGISTRAR TO ACT AS THE
REPRESENTATIVE OF A DISSOLVED COMPANY**

2. When a company is dissolved either by way of a winding up process or a striking off process, its legal existence comes to an end. Since a dissolved company lacks the capacity and is deemed to be incompetent to deal with any transaction or matter involving the dissolved company, there is a need to appoint a representative to act on behalf of the dissolved company to ensure completion of such dealing, transaction or matter.

3. Section 556 (1) of the CA 2016 confers the power onto the Registrar to represent the dissolved company in which the Registrar may do or cause to be done any purely administrative act which are not discretionary for the purpose of carrying out, completing or giving effect to any dealing, transaction or matter which the company if still existing would be legally or equitably bound.

4. In carrying out the representative functions, Section 556(2) of the CA 2016 allows the Registrar to either execute or sign any relevant instrument or document stating that he has done so in pursuance of this section, and the execution or signature shall have the same force, validity and effect as if the company if existing had duly executed such instrument or document.

CIRCUMSTANCES UNDER WHICH THE APPLICATIONS MAY BE MADE

5. The Registrar may allow applications to be made under Section 556 of the CA 2016 in the following instances:

- (i) where a company, prior to its dissolution, had entered into an agreement to sell its property to a purchaser. The purchaser has fully paid the purchase price according to the sale and purchase agreement but the instrument of transfer has yet to be executed by the company prior to its dissolution;
- (ii) where a company, prior to its dissolution, had entered into an agreement to sell its property and the purchaser has not fully paid up the purchase price according to the sale and purchase agreement. The

purchaser now wishes to complete the transaction and pay the balance of the purchase price although the company has been dissolved. In this circumstances, the balance of purchase price will have to be paid to the Registrar by virtue of Section 557 of the CA 2016 before the Registrar could execute the instrument of transfer.

- (iii) where a company is the chargee and the chargor has fully paid up its loan to the company before the dissolution and the company failed to execute any instrument of discharge; or
- (iv) any other circumstances which the Registrar may deem fit to exercise his power under Section 556 of the CA 2016.

APPLICATION PROCEDURES

6. An application to request the Registrar to invoke his power under Section 556 may be made through a statutory declaration deposed by the applicant by stating substantial reasons for the application. The application must also be substantiated with the following documents:

- (i) certified true copy of the applicant's NRIC;
- (ii) certified true copy of the Sale and Purchase Agreement with the layout plan/plan of the asset attached, Facilities Agreement, Property Purchase Agreement and Property Sale Agreement and any other related documents;

- (iii) the original proof or receipt showing that the purchase price has been fully paid;
- (iv) in a case where the purchase price has not been fully paid, the original proof or receipt showing the amount of money that had been partly paid to the dissolved company and that there is a balance of purchase price which is still outstanding;
- (v) certified true copy of the Facility Agreement/Loan Agreement, Power of Attorney (if any) and all related documents for purchasing the property from the dissolved company;
- (vi) certified true copy of an updated land search result from the relevant land office, Deed of Assignment, Loan Agreement Cum Assignment (LACA) and all related security documents for purchasing the property in which the land title has yet to be issued;
- (vii) certified true copy of the issue document of title (IDT) for property in which the land title has been issued and/or together with the certified true copy of a charge instrument (in the event that the charge over the said property have been charged or presented for registration at the appropriate registering authority in favour of the financier);
- (viii) certified true copy of the State Authority consent for the sale, transfer and/or charge of the said property

from the company to the purchaser (if necessary and stipulated in the title);

(ix) Letter of Indemnity addressed to the Registrar to the effect that the applicant undertakes to indemnify and shall at all times keep the Registrar safe and indemnified against and from all actions, suits, proceedings, loss, claims, demands, costs, expenses and penalties whatsoever which may arise against the Registrar in relation to the execution of the instrument of transfer for the property for and on behalf of the dissolved company and the applicant shall bear all costs and expenses incurred for the Registrar's consent to execute the said instrument of transfer.

(x) original instrument of transfer for the Registrar's approval and if he is satisfied with the application, for his execution. The Memorandum of Transfer (MOT) shall state the name and company number of the dissolved company and shall contain a statement to the effect that:

“The Registrar is executing the Memorandum of Transfer (MOT) in his capacity as a representative of the dissolved company pursuant to section 556 of the CA 2016.”

(xi) certified true copy of the latest quit rent and assessment bill to ensure that the asset belongs to the dissolved company;

(xii) latest corporate information in respect of the dissolved company from SSM; and

(xiii) any other document which the Registrar may require to be furnished.

7. For any application under paragraph 5(iii), the applicant is not required to furnish information in paragraph 6(x). However, the applicant is required to furnish additional information as follows:

(i) original copy of the discharge of charge form for property with title or Receipt and Reassignment (R&R) for property without title for the Registrar's approval and if satisfied, for execution. The discharge instrument or the R&R shall state the name and company number of the dissolved company and shall contain a statement to the effect that:

“the Registrar is executing the discharge instrument or the R&R in his capacity as a representative of the dissolved company pursuant to section 556 of the CA 2016;” and

(ii) any other documents which the Registrar may require to be furnished.

8. The statutory declaration together with the supporting documents under paragraphs 6 and 7 and the application fee of RM500 pursuant to Item 24 of the Schedule (Regulation 4) of the Companies Regulations 2017 shall be submitted for processing to:

The Director

Registration Services Division (Asset Management Unit)
Suruhanjaya Syarikat Malaysia
Level 19, Menara SSM@Sentral
No. 7, Jalan Stesen Sentral 5, KL Sentral
50623 Kuala Lumpur.

9. Once the Registrar has approved the application, the applicant is required to pay to the Registrar the sum of RM500 for every act done by the Registrar (e.g. the act of executing the MOT or discharge of form or any other relevant forms) in carrying out his function as a representative of the dissolved company pursuant to Item 25, Schedule of Fee of the Companies Regulations 2017.

REGISTRAR OF COMPANIES
COMPANIES COMMISSION OF MALAYSIA
31 January 2017



GUIDELINES IN RESPECT OF APPLICATION TO PURCHASE IMMOVABLE PROPERTY OF DISSOLVED COMPANIES PURSUANT TO SECTION 558(2) OF THE COMPANIES ACT 2016

This Guidelines is issued pursuant to section 20C of the Companies Commission of Malaysia Act 2001.

OBJECTIVES

1. This Guideline serves as a guidance to assist and facilitate applicants who wish to make application to purchase immovable property of dissolved companies such as land, house or building (Property) pursuant to Section 558(2) of the Companies Act 2016 (CA 2016).

BACKGROUND

2. The basic rule that the prospective purchaser should know is that the property must be owned by a dissolved company. The search result of the relevant Land Office must show that the property is registered under the name of the dissolved company.

3. Before disposing the property to the prospective purchaser, the Registrar must ensure that the property is vested in the Registrar and the vesting has to be first registered at the relevant

Land Office before the property can be disposed through any mode of disposal.

THE RELEVANT LAWS

4. The power of the Registrar to sell or dispose of deal with any property or interest which is vested in him by virtue of Section 558 of the CA 2016.

5. When a company is dissolved, the company or any person is not allowed to manage, deal, dispose or cause to be made any transfer or any transaction relating to any property or interest owned by the dissolved company and the transactions if carried out, will be considered as null and void under the law.

APPLICATION PROCEDURES

6. Application can be made by any interested person or person who has interest in the property.

7. Applicants may submit the application to the Registrar together with an application fee of RM500.00 pursuant to Item 24, Schedule of Fee of the Companies Regulations 2017 via a covering letter to :

The Director

Registration Services Division (Asset Management Unit)

Suruhanjaya Syarikat Malaysia

Level 19, Menara SSM@Sentral

No. 7, Jalan Stesen Sentral 5, KL Sentral

50623 Kuala Lumpur.

8. The application must also be substantiated with the following documents:

- (a) certified true copy of the Issue Document of Title (IDT) for property in which the land title has been issued from the respective Land Office;
- (b) certified true copy of the latest quit rent and assessment bill to ensure that the property belongs to the dissolved company;
- (c) current status of the property, whether there is any restriction in interests, encumbrances or is rented or occupied by any person;
- (d) latest Valuation Report from the Department of Valuation and Property Services Malaysia for the said properties;
- (e) if the property has undischarged Charges, please submit certified true copy of the Charge Instrument (Form 16A) or any related documents;
- (f) letter from the Bank/Chargee on the outstanding balance of the loan of the dissolved company (if the property is subject to an undischarged Charge);
- (g) two (2) copies of a complete Memorandum of Transfer (Form 14A) duly signed by the purchaser;
- (h) a statutory declaration made by the applicant and attested by a commissioner for oath declaring that:

- (i) a recent land search on the title has been made at the relevant Land Office;
- (ii) the date when the dissolved companies took ownership of the property;
- (iii) that a land search has been conducted on the said property to reflect that there is no restriction in interest, encumbrance or proceeding taken on the property;
- (iv) if there is a restriction in interest or encumbrance or proceeding taken on the property, please produce a detail information regarding the existence of legal interest and equity, registered or not registered on the property;
- (v) confirmation that the property is owned by the dissolved company and not held as trustee;
- (vi) the Sales and Purchase Agreement of the said property by the Registrar only relates to the sale of the property or interest in the property as stipulated in Section 557(1) of the CA 2016;
- (vii) that the Registrar will not be involved in any issue relating to the property and will not indemnify the applicant against any matter subsequent to the disposal of the property;

(viii) that the Registrar will not bear any cost and fee relating to the disposal of the property; and

(ix) any other matter as the Registrar deems fit and appropriate.

9. If the property is disposed by way of a private treaty, the Registrar has the right to determine whether the applicant is entitled to the purchase of the property or to any other suitable applicants.

10. The Registrar also has the right to not to dispose the said property to the applicant by way of private treaty if there is other suitable method whether by way of public auction or tender to dispose of the property.

REGISTRAR OF COMPANIES

COMPANIES COMMISSION OF MALAYSIA

31 January 2017