The Regulation of Directors' Remuneration: An Overview of the Malaysian Position

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Abstract

This article discusses the laws and legal principles that govern the subject of directors' remuneration in Malaysia. It examines the extent to which the Malaysian courts, companies legislation and shareholders of a company have control over directors' remuneration and access to information concerning such remuneration. Importantly, this article will highlight and discuss the significant changes brought about by the Companies Act 2016 on this subject. Chief among these are the introduction of new provisions allowing members of public companies to inspect service contracts of directors and a new mandatory provision that requires the remuneration of directors in public companies to be approved by the members in a general meeting of the company.

Keywords: Company law, Directors, Directors' remuneration

I. INTRODUCTION

This article is an attempt to examine the main legal principles that regulate the subject of directors' remuneration in Malaysia and the extent to which the Malaysian courts, companies legislation and shareholders of a company have control over such remuneration.

At the outset it would be pertinent to mention the origins of company law in Malaysia. A good part of Malaysia's statutory and judge-made law relating to companies has a strong link with English law. Malaysia's post-independence legislation on companies, the Companies Act 1965 (CA 1965) was based on the Uniform Companies Act 1961 of Australia, and both statutes shared a common legislative ancestry in that they are descendants of the Companies Act 1862 of England. It is significant to note that Malaysia's CA 1965 and its English and Australian counterparts were not Codes and that case law plays an important role in the company law of all three countries. A pertinent and remarkable feature of Malaysian law is the application of English case law in its legal system. Under section 3 of Malaysia's Civil Law Act 1956, English common law and equity as they stood on the cut-off dates specified in that Act apply in Malaysia so far as

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the local circumstances of the states of Malaysia and their respective inhabitants permit.[1] As a result of this strong bond with English law, English cases on company law decided before the cut-off dates continue to apply in Malaysia.[2] English cases decided after the cut-off dates are not binding but they are of persuasive authority. It is inevitable that in discussing company law in Malaysia, counsel, judges and academic writers should make constant reference to English company law and to the company law of other jurisdictions to which English company law has travelled.

A recent development that brings a significant change to the corporate landscape in Malaysia is the passing of the Companies Act 2016. This comes as the long-awaited Companies Bill 2015 received Royal Assent on 31 August 2016 and was gazetted on 15 September 2016 as the Companies Act 2016. The Companies Act 2016 (CA 2016) has come into force in Malaysia, starting with phase one which came into effect on 31 Janunary 2017. The Companies Commission of Malaysia has announced that with the enforcement of the first phase, the Companies Act 1965 is repealed.

II. DIRECTORS' FEES AND SALARIES DISTINGUISHED

One may begin this overview of directors' remuneration by referring to the traditional rule at common law (which also applies in Malaysia) that directors are not employees[3] though they render services to their companies. They are fiduciaries and in line with their fiduciary position, they are not entitled to any payment for their services unless payment is expressly provided for in the constitution of the company. Thus with regard to remuneration, a director is akin to a trustee under a trust who is not entitled to any remuneration for his or her services unless there is a provision in the relevant trust instrument stating that he shall be paid.[4] Nevertheless, large companies will have a number of non-executive or part-time directors who may have other occupations or hold similar directorships in other companies.[5] It is unreasonable to expect them to provide

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1 The cut-off dates are (a) 7 April 1956 for West Malaysia, (b) 12 December 1949 for Sarawak, and (c) 1 December 1951 for Sabah. For more details regarding the reception of English Law in Malaysia under the Civil Law Act 1956 see Wan Arfah Hamzah, *A First Look at the Malaysian Legal System*, Oxford Fajar, 2009, pp. 115 - 149; Sharifah Suhanah Syed Ahmad, *Malaysian Legal System*, 2nd ed., Butterworths Asia, 2007, pp. 177 – 196; and Wu Min Aun, *The Malaysian Legal System*, 2nd ed., Longman, 1999, pp. 89 – 144.

2 *PJTV Denson (M) Sdn Bhd* v *Roxy (Malaysia) Sdn Bhd* [1980] 2 MLJ 136 and *Ng Pak Cheong* v *Global Insurance Co Sdn Bhd* [1995] 1 MLJ 64 are two examples of cases where English law on the fiduciary duties of a director was applied.

3 See *Hutton* v *West Cork Railway Co* (1883) 23 Ch D 654; *Newtherapeutics Ltd* v *Katz* [1991] Ch 226. In *Hutton* Bowen LJ said (at pp. 671-2) "A director is not a servant. He is a person who is doing business for the company but not upon ordinary terms. It is not implied from the mere fact that he is a director that he is to have a right to be paid for it."

4 See *Guinness plc* v *Saunders* [1990] 2 AC 663 (HL) where the rule that equity forbids a trustee to make a profit out of his trust was applied with startling consequences to a director of a company.

5 In the last quarter of the twentieth century the importance of independent non-executive directors as free, unbiased and non- partisan voices and monitors on the board on management issues and the role they can and should play in achieving a high level of corporate governance in companies has been emphasised by a number of reports on corporate governance. See Cadbury Committee Report in 1992 and Hampel Committee Report in 1995 in the United Kingdom and in Malaysia the High Level Finance Committee on Corporate Governance in 1999. See also the *Malaysian Code on Corporate Governance* (Code) 2012 at http://www.sc.com.my/eng/html/cg/cg2012.pdf. Site accessed on 29 January 2017.

gratuitous service to their companies even though they are part-time directors who are not involved in the day to day management of their companies. It is therefore conventional for all directors to be paid a fee and given other allowances for their services and for the constitution of a company to contain some provision on how these are to be determined.

Directors' allowances, and other benefits (such as reimbursement of travelling expense given to all directors in their capacity as directors) must be distinguished from salaries and benefits afforded to some of them as executive directors under a contract of service. The general rule that a director is not an employee of his company was referred to above.[6] However when members of the board enter into contracts of service to occupy salaried positions as executive directors of a company they become its employees. Executive directors devote their full-time energies to their company and are usually paid competitive salaries and attractive benefits. The total amount paid as salaries and benefits to a company's executive directors may amount to a sizeable amount of a company's distributable funds. It is customary practice for the articles of association of a company to bestow upon the board of directors or a committee of the board the power to determine the salaries and benefits of the executive directors.

Malaysian companies legislation does not regulate the amount that may be fixed as directors' remuneration by the articles of association of companies or by the service contracts of directors. Ideally companies should pay its executive directors only affordable salaries from divisible profits and based on market forces. But such a situation is difficult to achieve and at the moment there is hardly any statutory, judicial or extra-legal rules that employ direct control over the level of payments made to CEOs and executive directors of companies. It will be seen that as a general rule, the court will not interfere with the amount fixed by the company as directors' remuneration. This matter is further discussed in part III below.

III. MAY THE COURTS INTERFERE WITH THE QUANTUM OF DIRECTORS' REMUNERATION?

Malaysian company's legislation does not contain any mandatory provision dealing with the mechanism for determining directors' remuneration or its quantum (whether in the form of fees paid to all directors or salaries to executive directors). Further, it is envisaged that Malaysian courts will adopt a general policy of non-interference over the quantum of directors' remuneration save in exceptional circumstances, as was demonstrated in the English case of *Re Halt Garage (1964) Ltd.*[7] It is submitted that such an approach is both practical and sensible as the task of deciding on the adequacy of directors remuneration should be a matter for the members of the company, either by them exercising that power in a general meeting of the company or by delegating it to the board of directors.

Re Halt Garage (1964) Ltd, whilst emphasising the general rule that the court will not question or evaluate the amount of directors' remuneration, also stressed that it may

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6 *Supra* n3.

7 [1982] 3 All ER 1016.

intervene where blatantly excessive or unwarranted amounts are paid as remuneration, because such payments may be *prima facie***,** an indication of fraud or evidence that the payments were in fact camouflaged gifts of the company's capital. In the instant case Mr and Mrs C were the sole shareholders and only directors of a company. They received directors' remuneration in accordance with the express provisions of the company's constitution. In 1967 Mrs C became seriously ill. From December 1967 she stopped taking active participation in the company's operations though she continued to be a director earning remuneration at a lower rate of payment. The company began to suffer losses from the year 1967-1968 and soon after it became insolvent. In March 1971 its winding up commenced. From January 1968 to March 1971 Mr C had received remuneration between £2500 per annum and £3500 per annum whilst Mrs C was paid between £1500 per annum and £500 per annum. During this period the drawings as remuneration were mainly out of capital[8] because the company was experiencing poor trading returns. The liquidator brought a claim for misfeasance and breach of trust under section 333(1)(b) of the Companies Act 1948 of England, alleging that the payments to Mr and Mrs C could not be properly sanctioned by a general meeting. He alleged that Mrs C had no right to receive remuneration from January 1968, that is, after she became ill and ceased to render active service. The liquidator also alleged that her husband had received remuneration which exceeded the market value of his services.

Oliver J held that the real question in that case was whether the sums paid were a true payment of remuneration under the company's articles. In the absence of evidence that the payments were patently excessive or unreasonable a court should not engage on a minute examination of the appropriateness of what shareholders had bona fide voted to be paid as directors' remuneration. His Lordship held that there was no such evidence in the case of the payments made to Mr C and that the liquidators' claim must fail. Oliver J remarked,[9]

> Shareholders are required to be honest but as counsel for the respondent suggests, there is no requirement that they must be wise and it is not for the courts to manage the company.

In the case of Mrs C, Oliver J held that her drawings as remuneration during the time she was absent from the business could not be considered as genuine awards of remuneration. The learned judge observed that a representative of the company's auditors had suggested a payment of £10 per week for Mrs C's presence on the board and that was the sum paid to Mrs C from May 1970. Referring to this weekly sum and the liquidator's claim the learned judge said,[10]

> I cannot regard the payments made to Mrs Charlesworth in excess of this weekly amount, however well-intentioned, as being anything more than disguised gifts out of capital. In my judgment even the sanction of the shareholders in general meeting,

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8 It was held that that the payments were made out of capital and did not, by itself, make them invalid.
9 *Ibid.* at p. 1039.
10 *Ibid.* at p. 1044.

> could not, simply by calling the payments remuneration, validate the acts of the directors making them, and to this extent the liquidators summons must succeed...

It is submitted that the decision in *Re Halt Garage (1964) Ltd* is based on sound practical reasoning and there is no reason why the courts in Malaysia should not apply it.[11] It would be unfair and burdensome to the courts if they are asked to determine the appropriateness of a director's remuneration fixed by the company in general meeting or by the board acting under its powers granted by the articles, save in cases where it is manifestly clear that the remuneration fixed is demonstrably excessive or perverse.

A. Quantum Meruit

At common law[12] where A had provided services to B under a contract but a precise amount had not been agreed upon as payment for the services, or, where A had rendered services to B under an unenforceable or a void agreement or an "ineffective"[13] arrangement which A had believed to be binding, the court may order the payment of a reasonable remuneration for his services.[14] The court in such a case is said to award a *quantum meruit* ("as much as he has earned"), a remedy in the realm of quasi-contract.

An issue pertinent to the subject of directors' remuneration is whether a director may claim for the services he had rendered to his company on a *quantum meruit* basis. In *Craven-Ellis* v *Canons Ltd*[15] the plaintiff and the other directors of a company were at the material times disqualified from acting as directors because they had failed to acquire their share qualification within the period prescribed under the articles. The disqualified directors purported to enter into an agreement with the plaintiff by which the plaintiff undertook to render services as the managing director of the company. The plaintiff rendered the services mentioned in the agreement until the company purported to terminate his engagement. He brought an action to recover from the company the remuneration set out in the purported agreement, and as an alternative, payment for his services on a *quantum meruit*. The Court of Appeal held that the disqualification of the directors made the purported agreement and its contents a nullity but the company was bound to pay the plaintiff on a *quantum meruit* basis because it had impliedly accepted his services.

However in *Re Richmond Gate Property Co Ltd*[16] Plowman J held that *quantum meruit* will not be ordered in favour of a director where the constitution of a company prescribed the manner by which the payment for his services is to be determined. In that

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11 The case is not binding under the Civil Law Act 1956 as it was decided in 1982, that is, after the cut-off dates in the Act. However it is of strong persuasive authority.

12 It may be noted that in Malaysia there are provisions in the Contracts Act 1950 that deal with quasi- contractual claims. See Andrew Phang Boon Leong, *Cheshire, Fifoot and Furmston, Law of Contract, Singapore and Malaysian Edition,* 1998, pp. 971-5.

13 See Andrew Phang Boon Leong, *Ibid* at p. 968.

14 *Ibid.* pp. 966-8 and pp. 971-5.

15 [1936] 2 KB 403 (CA).

16 [1965] 1 WLR 335.

case, article 9 of the company's articles of association provided that W, a subscriber to the memorandum, shall be one of the two managing directors of the company. In addition, article 108 provided that a managing director was entitled to receive such remuneration as "the directors may determine". W served as the managing director of the company but his remuneration was never determined by the board. He served for about seven months before the company was wound up. Plowman J held that W was not entitled to a *quantum meruit*. His Lordship said[17]

> The effect of art. 9 of the articles, coupled with art. 108...,coupled with the fact that the applicant was a member of the company, in my judgment is that a contract exists between himself and the company for payment to him of remuneration as managing director, and that remuneration depends on art.108...,and is to be such amount "as the directors may determine"; in other words the managing director is at the mercy of the board, he gets what they determine to pay him, and, if they do not determine to pay him anything, he does not get anything. That is his contract with the company, and those are the terms on which he accepts office. Since there is an express contract with the company in regard to the payment of remuneration, it seems to me that any question of *quantum meruit* is automatically excluded.

Plowman J. distinguished *Craven-Ellis* v *Canons Ltd* saying that in that case "there was no contract and the only contract that could have been prayed in aid was held to be void". Two observations may be made on the decision in *Re Richmond Gate Property Co Ltd.* First of this relates to the learned judge's finding that the provisions relating to a director's remuneration in the articles was a contract. This finding goes against the traditional English rule that the articles do not bind the company to its members except where it confers rights on its members qua members. Secondly, even if there was a contract it is unfair to assume that the managing director took office on the implied understanding that if the board did not determine his remuneration he would not be able to claim on a *quantum meruit*.[18]

In *Guinness plc* v *Saunders*[19] a director, Mr Ward, was paid special remuneration of £5.2 million which was determined by a committee of the board. The director alleged that the payment was made by virtue of an oral agreement between him and the committee by which the committee had agreed to pay him for his services in respect of the take-over by Guinness or another company. The payment was based on the value of the takeover, if the take-over was a success. The House of Lords held that the payment was unauthorised because on a proper construction of the articles of the company such a payment could only be determined by the board and not by a committee of the board. One of the issues before the House of Lords was whether the director was entitled to a

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17 *Ibid.* at p. 337.

18 Plowman J's decision has been criticised for a number of reasons by Paul L. Davies, *Gower and Davies' Principles of Modern Company Law*, 8th ed., Sweet & Maxwell Asia, 2008 at p. 382.

19 [1990] 2 AC 663 (HL).

payment on a *quantum meruit* basis. Both Lord Templeman and Lord Goff in the House of Lords were against the payment of a *quantum meruit* to Mr Ward.

Lord Templeman held that Mr Ward was not entitled to claim by way of *quantum meruit* for the services that he had rendered because "… the law will not imply a contract between Guinness and Mr Ward for remuneration on a *quantum meruit* basis awarded by the court when the articles of association of Guinness stipulate that special remuneration for a director can only be awarded by the board"[20]. At a later part of his judgment his Lordship distinguished *Craven-Ellis* v *Canons Ltd* saying that in *Craven-Ellis*'s case the plaintiff was not a director at the time he was appointed managing director, that is, he was appointed after he had failed to acquire his qualification shares within the stipulated period. Further in *Craven-Ellis* there was no conflict between his claim for remuneration and the rule in equity which forbids a director from making a profit from his fiduciary position.

Lord Goff in his judgment referred to the age-old principle that a trustee is not entitled to any payment for their services unless expressly permitted by the trust deed and its derivative that director of a company is not entitled to any remuneration unless authorised by the articles. His Lordship said,[21]

> Plainly, it would be inconsistent with this long-established principle to award remuneration in such circumstances as of right on the basis of a *quantum meruit* claim.

It may be concluded that after *Guinness* directors may find that it is seldom possible to obtain an award on a *quantum meruit* basis from the court. This is in line with the general rule that the courts would not usurp the function of the board or the company in general meeting in determining directors' remuneration where articles do confer that function on those organs. Nevertheless the impact of this aspect of *Guinness* on Malaysian courts remains to be seen.

B. Equitable Allowance

In *Phipps* v *Boardman*[22] the House of Lords recognised an exception to the fundamental rule that a trustee is not entitled to any remuneration for the services rendered by him to the trust except as provided in the trust instrument. It was held that in an exceptional case the court may award an equitable allowance to a trustee where the trustee had rendered service which had brought benefit to the trust. However, the exception will not be applied where its effect is to encourage a trustee to put himself in a position where his personal interests conflicts with his duties as a trustee. In *Guinness plc* v *Saunders,*[23] the facts of which were stated above, the House of Lords refused to award an equitable allowance to Mr Ward. Lord Templeman in his judgment doubted if a court of equity would invoke its

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20 *Ibid.* at p. 692.
21 *Ibid.* at p. 700.
22 [1964] 2 All ER 187.
23 *Supra* n19.

power to grant remuneration to a director when the articles of his company vested that power on the company's board of directors. In addition both Lords Templeman and Goff laid emphasis on the fact that the nature of the agreement that Mr Ward had made with Guinness put him in a position where his personal interests conflicted with his fiduciary duties. In refusing to award an equitable allowance to Mr. Ward, Lord Goff said[24].

> I proceed, of course, on the basis that Mr Ward acted throughout in complete good faith. But the simple fact remains that, by agreeing to provide his services in return for a substantial fee the size of which was dependent on the amount of a successful bid by Guinness, Mr. Ward was most plainly putting himself in a position in which his interests were in stark conflict with his duty as a director.

Lord Templeman's judgment in *Guinness* indicates that one of the reasons why the House of Lords was reluctant to grant an equitable allowance to Mr Ward was because there was a specific provision in the company's articles giving the power to determine directors' remuneration to a specific organ. Thus it would appear that *Guinness* has made it difficult for directors to obtain an equitable allowance similar to that recognised in *Phipps* v *Boardman,* as it is customary for the articles or company legislation to assign the function of fixing directors' remuneration to either the board or the general meeting.

This aspect of *Guinness* on the granting of an equitable allowance will certainly have a strong bearing in Malaysia because of the link between Malaysian law and English equity. However, as there is no Malaysian authority on the subject, the approach Malaysian courts would take on the subject cannot be stated with certainty.

IV. PROVISIONS IN MALAYSIAN COMPANIES LEGISLATION REGARDING DIRECTORS' REMUNERATION

This article now turns its spotlight on the statutory provisions in Malaysia relating to directors' remuneration. As mentioned earlier in this article, Malaysia stands at the threshold of a new era in the regulation of its companies and its corporate framework. This comes with the passing of a new legislation on companies, namely the Companies Act 2016 (CA 2016). The CA 2016 will be implemented over several stages, starting with phase one which came into effect on 31 January 2017. With the implementation of the first phase, the CA 1965 is now repealed. In this article, mainly for purposes of discussion and for comparison of the old and the new, the provisions relating to remuneration of directors under both the CA 1965 and CA 2016 will be examined.

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[24] *Ibid.* at pp. 701, 702.

A. Companies Act 1965

(i) The Regulation of Directors' Remuneration under CA 1965

It is important to note that the CA 1965 did not contain a specific provision on directors' remuneration and left this subject to be regulated by the articles of association of a company.[25] In this context reference may be made to article 70 of Table A of the Fourth Schedule of the Act, the model set of articles of association provided by the Act and which, under the CA 1965, may be adopted in whole or part[26] by Malaysian companies. Article 70 provides that "the remuneration of directors shall from time to time be determined by the company in general meeting". It also empowered the company to pay all travelling, hotel and other expenses properly incurred in attending and returning from meetings or in relation to the business of the company. Article 70 must be read together with article 91. Article 91 permitted the board to appoint one or more of its members to the office of managing director and determine the duration and the terms of the appointment. Significantly article 92 empowered the board to determine the remuneration of the appointee. Thus where Table A applied the salary and allowances paid to a managing director, unlike the general remuneration paid to that person in the form of directors' fees, need not be approved by members in a general meeting.

It may be noted that under the CA 1965 a company was not bound to adopt the provisions of Table A referred to above and its articles may contain one or more provisions that indicate that directors' fees as well as the remuneration of the chief executive officer and its executive officers are to be determined by a body other than the general meeting, such as the board of directors or a remuneration committee of the board in large public companies.[27] Under the CA 1965, provisions in the articles could not be amended except by way of a special resolution. Members of a large company unhappy with provisions

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[25] In rare cases hardship to directors could arise because of the absence of specific provisions regarding directors' remuneration in the CA 1965. One such rare case will be where a company's articles did not contain any provision on the subject. In such a case a Malaysian court is likely to follow the traditional English rule that as directors are fiduciaries they are not entitled to any remuneration unless the articles so provide. Secondly, where the articles contain a procedure or mode by which directors' remuneration is to be determined that procedure or mode must be carried out or implemented by the company before directors may claim any remuneration. Thus where articles require a director's remuneration to be approved by members, a director may not be able to claim any remuneration if no meeting had been held by the company to determine his or her remuneration (see *Re Richmond Gate Property Co Ltd* [1936] 2 KB 403 and *Guinness plc* v *Saunders* [1990] 2 AC 403 (CA) discussed in part III A. of this article) or if a meeting had been held to determine the remuneration but no resolution determining the remuneration had been passed. It was seen in part III A. of this article that the courts will not order payment on a *quantum meruit* basis where there is express provision in the articles as to the mode by which directors' remuneration is to be determined.

[26] By virtue of section 30(2) of Malaysia's CA 1965, Table A applied automatically to a company limited by shares if the company has no registered articles. Secondly, section 30(2) also stated that where a company limited by shares has registered articles "then so far as the articles do not exclude or modify the regulations in Table A those regulations shall so far as applicable be the articles of the company in the same manner and to the same extent as if they were contained in registered articles".

[27] See *Guinness plc* v *Saunders* [1990] 2 AC 663 (HL) where the articles of a large public company expressly permitted the board to "fix the annual remuneration" of the company subject to the limits stated therein.

in the articles may have often found they are powerless to amend them because of their inability to garner the three-quarter majority vote required to pass a special resolution.

(ii) Members approval of directors' fees and executive directors' service contracts

Another issue which is allied to the regulation of directors' remuneration is whether directors' fees and executive directors' service contracts should be approved by members of a company. The CA 1965 did not contain any mandatory provision that requires directors' remuneration to be approved by the members in a general meeting of the company. By this omission, the Act impliedly allowed the articles of a company to empower the board or a committee of the board to determine directors' fees and other allowances. Further, in relation to directors' contracts of service or services, there was no requirement in the CA 1965 that disclosure to members is necessary of its terms, or that members' approval is mandatory before a service contract is offered to a director. In addition, the CA 1965 did not control the terms or the duration of directors' service contracts or put any limit on the salaries or the benefits that directors may be offered in their service contracts.

It was noted above that under CA 1965, where Table A applied, articles 91-93 empowered the board to appoint one or more of its members as managing director and to determine the remuneration of the appointee. Plainly, it would be permissible for a company's articles to go further and prescribe wider terms and confer broader powers on the board regarding the appointment, salaries and benefits of executive directors. A negative effect of this is that it would allow an indulgent board to offer to a director, or for a go-getting director to obtain by negotiation, a long-term service with an attractive salary and generous compensation when he retires or loses his office. Further, where the task of setting the terms of an executive director's service contract was assigned to the board the total impartiality of the board in determining the terms cannot always be obtained or assured and the possibility that they may favour a colleague cannot be completely ruled out.[28] In recent years the need for good corporate governance and the necessity for compliance with best practices regarding directors' remuneration have led many large companies to establish special remuneration committees composed entirely of independent directors. This is a helpful move to minimise conflicts of interests. Even in such a case, there is a risk that in relation to this matter, independent directors may not take a truly independent view because they are also members of the board and the service contract before them is that of another member of the board.

B. Companies Act 2016

(i) The Regulation of Directors' Remuneration under CA 2016

As a prelude to examining the position under the new CA 2016, it would be pertinent to first discuss certain recommendations made by the Malaysian Corporate Law Reform

[28] See Gower and Davies, *supra* n18, at p. 382.

Committee[29] (the CLRC) on this subject. In August 2006, the CLRC issued a Consultative Document 5 bearing the title "Clarifying and Reformulating the Directors' Role and Duties" (CD 5). CD 5 posed the question whether companies legislation in Malaysia should incorporate a provision that required directors' remuneration to be approved by members at a general meeting of the company. CD 5 contained the CLRC's own recommendation that members' approval of directors' remuneration should be mandatory so as to ensure transparency and accountability. CD 5 also contained another recommendation, namely, "to define the term 'remuneration' in relation to a director to include fees, any sum paid by way of expenses allowances in so far as those sums are charged to income tax in Malaysia, any contribution paid in respect of a director under any pension scheme and any benefit received by him otherwise in cash in respect of his services as a director".[30] This definition seems to indicate that the CLRC's recommendations were in relation to directors' fees and other benefits provided by a company for all directors and were not meant to cover salaries payable under a contract of service. The majority of the individuals and organisations that responded[31] to the CLRC's CD 5 supported its proposals. In its Final Report issued in 2008 the CLRC recommended that a statutory provision be enacted to require the remuneration of directors to be specifically approved by members in general meeting but restricted the recommendation to public companies.[32]

This recommendation of the CLRC is now enacted in the new Companies Act 2016 (CA 2016). Section 230(1) of CA 2016 provides that the fees of directors and any benefits payable to the directors, including any compensation for loss of employment, shall be approved by members at a general meeting. Section 230(1) applies to directors of public companies and listed companies and its subsidiaries.

Two significant matters may be noted from section 230(1). First, unlike the position under the CA 1965, the CA 2016 now contains a mandatory provision that requires the remuneration of directors in public companies to be approved by the members in a general meeting of the company. Secondly, it follows that with the enactment of this provision, a public company's constitution can no longer give its board the power to fix the "remuneration" of its directors. The remuneration of directors of public companies must now be approved by members in a general meeting.

An important question which arises from section 230 is whether this provision removes the board's power to determine both directors' fees *and* the salaries of managing /executive directors and gives that power to members in a general meeting. The answer to this would depend on how the term "remuneration" is defined in the legislation which

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29 The Corporate Law Reform Committee was established in 2003 by the Malaysian Government to review Malaysia's corporate laws. The Committee's Final Report bearing the title *Review of the Companies Act 1965-Final Report* was issued in 2008 (see http://www.ssm.com.my/en/docs/CRLC Final Report). Site accessed on 29 January 2017.

30 Paras 1.28-1.40 at pp. 30-36.

31 CLRC, *Responses and Comments Received on Consultative Document "Clarifying and Reformulating the Directors Role and Duties" https://www.ssm.com.my/en/clrc/consultation-document/cd5* Site accessed on 29 January 2017.

32 See Final Report, recommendation 2.29 at p. 104.

enacts the provision. Does the term "remuneration" include both fees/benefits payable to directors *and* salaries under directors' service contracts? It is unfortunate that in this regard, the CA 2016 does not contain a definition of the term "remuneration". It was earlier seen that the Final Report of the CLRC seemed to propose a restrictive definition for the term "remuneration" that does not include salaries of directors under service contracts or contracts for services. If this restrictive definition of "remuneration" is adopted, section 230(1) will not give any direct control to members of public companies over salaries stipulated in directors' service contracts or contracts for services. The section will only give members of public companies direct control over directors' fees and other benefits paid to directors. It will then remain permissible for the public company's constitution to prescribe that the terms of directors' service contracts and salaries/benefits to be paid under such contracts shall be decided by a company's board of directors or a committee of the board.

On this issue, this article supports the restrictive approach because it may not be a practical move to give total control to members in general meeting over the salaries and benefits of executive directors. Indeed, doing so may even be detrimental to the company. Members may not fully understand the market forces that regulate the type of remuneration package that must be provided by companies to attract and retain able and talented individuals. If shareholder approval is required it is possible for an uninformed and rebellious majority to frustrate a board's proposals to hire executive directors of ability by voting against a remuneration package, even though the proposal is based on market forces and is not overly generous.

Moving on, this discussion would not be complete without an examination of the position relating to private companies. Section 230(2) of the CA 2016 makes provision for remuneration of directors of private companies. Section 230(2) states that in the case of private companies, the *board* may, subject to the constitution, approve the fees of the directors and benefits payable to them including any compensation for loss of employment. Further, section 230(3) stipulates that an approval by the board made under section 230(2) shall be recorded in the minutes of the directors' meeting and the board shall notify the shareholders of the approval of the fees within fourteen days from the date of the approval.

Thus for private companies, the board of directors retains the power, subject to company's constitution, to fix the remuneration of its directors. Members of private companies do not have any direct control over directors' fees and other benefits paid to directors. However, the board is issued with a mandate to record the approval of the fees in minutes of the meeting and to notify the shareholders of such approvals. Further and significantly, section 230(4) creates a mechanism for members of private companies who consider that the payment of the fees under subsection (3) is "not fair to the company". Pursuant to subsection (4), members holding at least 10% of the total voting rights and who consider the payment to be unfair to the company may, within 30 days after they have knowledge of the payments, require the company to pass a resolution to approve the payment. The resolution may be a written resolution or by way of general meeting. Unless an approval by a resolution is obtained, the payment shall be a debt due by the director to the company.

It is indeed praiseworthy that the CA 2016 makes specific provision for this subject to cater for private companies. The requirement of the recording of board approvals on directors' fees in minutes and notification to shareholders of such approvals is commendable. It ensures greater transparency and accountability on the part of the board. The creation of a mechanism in section 230(4) for members unhappy with the payment of the fees is also laudable as it ensures a check and balance for boards which are overly indulgent in fixing the remuneration schemes for directors.

In the final analysis, this article submits that the new provisions in the CA 2016 discussed above are steps taken in the right direction. Without doubt, the provisions provide greater clarity on the subject of the regulation of directors' remuneration and are a tremendous improvement from the position under the CA 1965 where the subject was left to be regulated by the company's articles.

V. INSPECTION OF DIRECTORS' SERVICE CONTRACTS BY MEMBERS

Another matter of concern in recent times has been with service contracts which provide directors with substantial or generous sums as salaries, lucrative compensation packages which operate in the event of removal, loss of office or retirement, and entrenching clauses which make lawful dismissal a protracted and expensive exercise.[33] One of the consequences of this is that the company and its members may find that they cannot rid themselves of an inept director without paying a substantial sum as compensation or as damages for breach of contract. Admittedly, the services of skilled and able executive directors cannot be acquired without providing them with the benefits they deserve but there should be some restraint on over indulgence on the part of the board when it deals with a director's remuneration package.

This raises the question whether directors' service contracts should be scrutinised and approved by members in a general meeting before the contracts are offered to them. It was argued above that the new provisions in the CA 2016 may not give members any direct control over the salaries and benefits of executive directors. This article has submitted that the salaries and perks of executive directors should remain the domain of the board or a competent committee of the board. A company will naturally be anxious to recruit able and experienced men and women as its executive directors, the salaries of whom are decided by market forces. The board or a remuneration committee of the board is better placed to understand the appropriate remuneration that must be offered to attract such persons. Members may not be equipped with the knowledge, experience or the information which is required to evaluate the appropriateness of the salaries and benefits that must be offered to attract the attention of talented individuals. A requirement that the salaries of executive directors must be approved by shareholders may have negative effects. The company may not be able to act with speed and efficiency. Further, the lucrative salaries

[33] For instance the service contract may be a fixed term agreement with a "rolling" fixed-term. The fixed term would be drafted to state that the duration of the contract is renewed from day to day. The duration of the contract always remains a period which has not commenced its run.

and attractive benefits that must necessarily be offered by companies in competitive times to obtain the services of individuals of high calibre may alarm some shareholders, who may control sufficient votes to defeat the board's proposals in a general meeting.

As compensation for this freedom the board must promote transparency and accountability regarding the service contracts and the salaries and benefits of its executive directors. It must ensure that adequate information on these matters are given or made available to members. One way to ensure that adequate information is available to members regarding the companies' remuneration schemes is to allow the inspection of directors' service contracts and their salaries and benefits. Further, there must also be a clear forum or avenue, additional to the general meeting, where members who are dissatisfied with the company's remuneration schemes and policies may express their views. These matters are now dealt with in this part of article. We begin by first examining the position under the CA 1965, then the position in other jurisdictions and finally, the CA 2016.

A. Companies Act 1965

It was seen that under the CA 1965, Malaysian companies enjoyed considerable freedom in respect of directors' service contracts as the CA 1965 neither regulated the terms of directors' service contracts nor required such contracts to be approved by members. As mentioned above, one way the damaging consequences of this omission may be lessened is to ensure that adequate information is available to members regarding the terms of such contracts, as an example, by allowing inspection of such contracts. As stated earlier one of the benefits of allowing inspection is that it results in greater transparency as to how shareholder funds are utilised. Further, the awareness of the board that they may be questioned and made accountable for the salaries, benefits and the terms of the contracts may make them exercise greater care and vigilance when they are involved in settling service contracts. Allowing inspection of service contracts would also benefit members of a public company who intend to exercise the right to remove a director from office. Inspection would allow members to determine whether there is any compensation to be paid to the director if he or she is to be removed and the extent of the compensation. The CA 1965 contained no statutory requirement that directors' service contracts must be deposited with a company's registered office or elsewhere for inspection by members. Neither was there any provision which enabled members, even if they formed a substantial majority, to compel their company to disclose the contents of the service contracts of the directors of the company.

B. Some Examples from Other Jurisdictions

It may be pertinent, at this juncture, to examine how some other jurisdictions have dealt with the subject of inspection of directors' service contracts.

In the United Kingdom under section 228 of the UK Companies Act 2006, a company must keep available for inspection a copy of every director's service contract with the company or with a subsidiary of the company. If the contract is not in writing, a written memorandum setting out the terms of the contract must be kept and made available for

inspection. They must be retained by the company for at least one year from the date of termination or expiry of the contract and must be made available for inspection during that period. They must be kept available for inspection at the company's registered office or a place specified in regulations made under section 1136 of the Act. The company must give notice to the Registrar of the place at which the copies and memoranda are kept for inspection and of any change in that place unless they have at all times been kept at the company's registered office. The aforesaid requirements apply to a variation of a director's service contract as they apply to the original contract. By virtue of section 229 every member has a right to inspect and to request a copy of every agreement or memorandum kept under section 228. Inspection of the document is without charge but a fee as prescribed may be imposed if a copy is requested. Failure to comply with the requirements of section 228 and section 229 is a criminal offence.

A helpful provision in the UK which enables members of a quoted company to obtain information about directors' service contracts is section 420(1) of the Companies Act 2006 (UK). The section imposes a duty on the directors of a quoted company to prepare a Directors' Remuneration Report for each financial year of the company. Breach of this duty is a criminal offence. Among the matters the Report is required to disclose is the company's policy on the duration of service contracts, notice periods and termination benefits. In addition, the salaries and bonuses which were paid to directors and other specified payments or benefits in cash or kind received by directors during the financial year must be disclosed. The Report must be approved by the board of directors and signed on behalf of the board by a director or the secretary of the company. Further, by virtue of section 439, a quoted company must, prior to the general meeting in which the companies annual accounts are to be laid, give to the members of the company entitled to be sent notice of that meeting, notice of the intention to move at that meeting, an ordinary resolution approving the directors' remuneration report for the relevant financial year. The existing directors must ensure that the resolution is put to the vote of the meeting. It is to be noted that the vote is only advisory and section 439(5) provides expressly that no entitlement of a person to remuneration is to be made conditional on the resolution being passed under section 439(4). Nevertheless, the Report allows members to obtain valuable information on the remuneration paid to directors. Significantly, the advisory vote provides an avenue for unhappy members to display their dissatisfaction. Needless to say, a negative vote may prompt a board to re-examine its remuneration strategy for its directors.

The Australian position is set out in section 202B of the Corporations Act 2001 (Cth) which states that a company must disclose the remuneration paid to each of its directors or its subsidiary or by an entity controlled by the company if it is directed to disclose that information by members entitled to at least 5% of the votes at its general meeting or by at least 100 members who are entitled to vote at its general meeting. The company's duty of disclosure extends to all remuneration paid to the director, regardless of whether the payment is made in relation to that person's capacity as a director or in another capacity. The company must comply with the members' direction as soon as practicable by taking three steps. First, it must prepare a statement of the remuneration mentioned above for the last financial year before the direction was given. Secondly, it

must have the statement audited; and finally, it must send a copy of the audited statement to each person entitled to receive notice of its general meetings.

In Singapore, section 164A of the Companies Act (Cap 50) (Singapore) provides a procedure by which a member may obtain information about the remuneration of the directors of its company. Under the section, if a notice is sent by or on behalf of at least 10% of the total number of members[34]or a member or members with at least 5% of the total number of issued shares of the company[35]requiring the emoluments and other benefits received by the directors of the company or of a subsidiary to be disclosed, the company is under a duty within 14 days[36]to prepare or cause to be prepared and cause to be audited a statement showing the total amount of emoluments and other benefits paid to or received by each of the directors of the company and each director of a subsidiary, *including any amount paid by way of salary* for the financial year immediately preceding the service of the notice. When the statement referred to above has been audited, the company is required within 14 days to send a copy of the statement to all persons entitled to notice of the general meetings of the company. In addition the company must lay the statement before the next general meeting of the company held after the statement is audited. Every director who is in default of the above provision commits a criminal offence.

C. Companies Act 2016

Before examining the position under the CA 2016, it may be of interest to consider recommendations of the CLRC pertaining to this issue. The CLRC in its CO5 had recommended that Malaysia enact a provision which will give members of a company statutory right to inspect service contracts of directors. Interestingly, this proposal was opposed by the majority of the individuals who submitted responses to the Consultative Document.[37] The main reason given for the objection to allow inspection was that contracts of service were confidential and private documents that may contain information, which when made available for inspection, may injure the company. In its Final Report the CLRC reported that there were also views that a right of inspection given to members in general may lead to abuse as it would enable any shareholder to exercise that right.[38] The Committee also noted that some of the respondents had suggested that the right to inspect be limited to members who hold 5% of the shares of the company. The upshot of the views of the respondents was the Committee's recommendation that members should be given the right to inspect directors' service contracts only "if requested by (a) members with not less than 5% shareholding or (b) at least 100 members who are entitled to vote at a general meeting".[39]

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34 Excluding the company itself, if it is registered as a member.

35 Excluding treasury shares.

36 Or such longer period as the Registrar may allow.

37 CLRC, *Responses and Comments Received on Consultative Document "Clarifying and Reformulating the Directors Role and Duties", https://www.ssm.com.my/en/clrc/consultation-document/cd5.* Site accessed on 29 January 2017.

38 Final Report Chapter 2, para 7.16.

39 Recommendation 2.29 in Chapter 2, p. 104.

In this regard, the relevant provisions now enacted in the new CA 2016 are subsections 231, 232 and 233. The starting point is section 231, which gives a definition to the term "service contract" of a director.[40] Section 232(1) then states that a public company shall keep and maintain a copy of every director's service contract with the company available for inspection. All copies are to be kept available for inspection at the registered office of the company.[41] The copies are to be available for inspection for at least one year from the termination or expiry of the contract.[42] Notice must be given to the Registrar of the place at which the copies are available for inspection and if there is any change of the place.[43] Contravention of these provisions is an offence and the company and/or officers shall on conviction be liable to a fine not exceeding RM1million.[44]

Next, section 233 is a key section as it states a qualification requirement for members who intend to exercise the right to inspect a service contract. It also prescribes how the right of inspection is to be exercised and the company's duties when a request for inspection is made. The section states as follows –

> 233(1) Every copy of the contract required to be kept under section 232 shall be made available for inspection by –
>
> (a) in the case of a public company having share capital, by members holding at least five percentum of the total paid up capital; or
>
> (b) in the case of a public company not having share capital, by at least ten percentum of members.
>
> (2) Subject to subsection (1), the members so entitled to inspect on request and on payment of such fee as may be prescribed shall be entitled to be provided with a copy of any such contract.
>
> (3) The copy shall be provided within seven days from the date the request is received by the company.
>
> (4) Every officer who refuses a request for inspection under subsection (1) or contravenes subsection (2) commits an offence and shall on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit.
>
> (5) In the case of any such refusal or default, the Court may, by order, compel an immediate inspection or, as the case may be, direct that the copy required be sent to the person requiring it.

This article submits that these new sections are certainly a welcome development in the Malaysian corporate law. They provide an enhanced measure of transparency and

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40 Section 231(1) states, "For purposes of this Division, a director's "service contract" in relation to a public company means a contract under which – (a) a director of the company undertakes personally to perform services, as a director or otherwise for the public company or for a subsidiary of the public company; or (b) services that a director of the public company undertakes personally to perform as director or otherwise are made available by a third party to the public company, or to a subsidiary of the public company".

41 Section 232(2) CA 2016.

42 Section 232(3) CA 2016.

43 Section 232(4) CA 2016

44 Section 232(5) CA 2016

accountability on the part of the board as to how shareholder funds are utilised. The sections call a number of matters for comment. First, the sections are restricted to public companies only. Secondly and commendably, the provision is succinct in spelling out how the right to inspection is to be exercised and also in stating the nature and extent of the company's duties when a valid request is made. Notably, section 233 allows only those members of a company who qualify to make a request to inspect the actual contract of service, to examine its terms and its benefits.

However, a somewhat dismal feature of the provisions may be noted. It is, admittedly, difficult to strike a balance between the competing interests of the members and the company, but the qualification imposed in the section may not be completely fair to minority members particularly in large public companies. This is because they may seldom satisfy the 5% threshold or garner enough support from other members to attain the requirement of 10% of members.

D. Disclosure in the Company's Annual Reports

A final and pertinent matter to be examined is the extent to which Malaysian companies are required to make disclosure of directors' remuneration in the company's yearly reports. In this regard, Malaysia's Code of Corporate Governance 2012 (MCCG 2012) prescribes that a company's annual report should contain details of the remuneration of each director. However it is to be noted that the Code does not define the term "remuneration" and whether it includes remuneration and/or salaries paid under directors' service contracts. Also, it must be pointed out that observances of the MCCG 2012 by companies are voluntary. Listed companies are however required to report on their compliance with the MCCG 2012 in their annual reports. In addition to the above, public listed companies are required by the Bursa Malaysia Listing Requirements to disclose the remuneration of its directors by giving the aggregate remuneration of directors with categorisation of relevant components such as directors' fees, salaries, percentages, bonuses, and benefits in kind.[45] This disclosure must distinguish between executive and non-executive directors. Notably however, there is no requirement for the disclosure to be on a named basis.

Turning now to the statutory requirements under CA 2016, companies must disclose details of directors' remuneration in a director's report which forms part of the company's yearly financial statements under section 248. The relevant provision in the CA 2016 is section 252 which prescribes that directors of a company must prepare a directors' report that satisfies the requirement of the Act. Section 252 read with section 248 of the CA 2016 requires a copy of the directors' report to be sent to every member of the company (under section 257) and in the case of a public company, to be sent to every member of the company and laid before the company's annual general meeting. In relation to directors' remuneration, this directors' report is required by the Fifth Schedule to show "the fees and other benefits distinguished separately paid to or receivable by [directors]

[45] See Appendix 9C, Bursa Malaysia Listing Requirements, pursuant to para 9.25 and 9.41.

from the company or its subsidiary companies as remuneration for their services …"[46] It is submitted that the use of the words "and other benefits" in the Fifth Schedule is misleading. They appear to refer to benefits other than the fees paid to non-executive directors only. The words do not appear to include the remuneration of executive directors as the salaries and benefits paid to executive directors are given to them in their capacity as employees under a contract of service. Also it is to be noted that the directors' reports need only show aggregate amounts and there is no requirement for the disclosure to be on a named basis.

It is submitted that the statutory requirements regarding disclosure in the directors' reports do not ensure that members will have sufficient knowledge of the remuneration paid to directors. Few members may know the directors' report contains some limited information on directors' remuneration. Secondly although "fees and other benefits" must be shown separately, it is only necessary to show aggregate amounts and there is no requirement that the payments to each director must be identified by name or designation. Thirdly, whilst it is commendable that the CA 2016 has made it mandatory for companies to prepare a directors' report and to send this to all members under section 257, there is no requirement that it must be approved by the members.[47] There is also no requirement of an advisory vote by members similar to that required in the case of the director's remuneration report under section 439(4) of the Companies Act 2006 (UK). Greater transparency and responsibility will be achieved if shareholders are given more information regarding directors' remuneration. In this context a model worth considering is the directors' remuneration report under the Companies Act 2006 (UK).

VI. CONCLUDING REMARKS

The shareholders of a company provide the capital for its commercial enterprise but in most cases they have to rely on the company's board of directors to manage its activities and to make the company's enterprise a successful venture. The board is the pulse of a company and the success of a company's business enterprise depends on the ability and the calibre of the individuals who manage its operations, particularly its chief executive officer and its executive directors. It is axiomatic that a company's remuneration scheme for directors will have a direct bearing on its capability to obtain the services of experienced and skilled individuals for its board.

In the past, Malaysia's CA 1965 left the subject of directors' remuneration to be regulated by the articles of association of a company. Whilst this delegation was a pragmatic move, a possibly undesirable consequence was the fact that articles may be drafted to give too much freedom to the board in determining their own remuneration. It was seen that it was possible for articles to provide that directors' fees as well as the salaries of executive directors shall be determined by the board or committee of the board. This, as pointed out by a leading work on company law, raises the risk of "mutual back scratching"[48] - directors may bestow some favour on a compatriot in the expectation

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46 See s. 253(1)(c) of CA 2016 and the Fifth Schedule, para 2.

47 See the observation of the Corporate Law Reform Committee in CD No 5, para 1.33.

48 Gower and Davies, *supra* n18, at p. 382.

they will receive a similar treatment when it comes to their own remuneration. Neither is total impartiality or objectivity achieved by leaving the subject to a remuneration committee made up entirely of independent directors as the fact remains that they are dealing with the salaries of their colleagues on the board. It was also seen that whilst the courts have been vigilant to ensure that directors do not abuse their fiduciary duties, they have stopped short of questioning the quantum of directors' remuneration save in exceptional circumstances.

For the future, the CA 2016 contains a provision that will require the remuneration of directors of public companies to be specifically approved by members in a general meeting. It was argued in this article that this does not include remuneration under an executive director's service contract. This article supports this position because as was argued earlier, it may not be a practical move to give control to members in general meeting over the salaries of executive directors. This is because members of a company may not fully understand the market forces that regulate the type of salary and remuneration packages that companies must provide to attract and retain competent and skilled individuals.

Whilst this article does not support any move to give total control over directors' remuneration to the members of a company, it wishes to stress, however, that it is imperative to impose a duty on the board to provide members with adequate information about the terms of director's service contracts. Also, members should be provided with an avenue to express their dissatisfaction over the salaries and benefits paid to executive directors under such contracts. In this respect, the CA 2016 has taken great strides forward by enacting statutory provisions that members of public companies are bestowed with a right to inspect the service contracts of their company if requested by members holding not less than 5% of the company's shares or by at least 10% of the company's members who are entitled to vote at a general meeting. This article has submitted that whilst these qualifications are no doubt aimed at shutting out frivolous and vexatious requests, but at the same time they may prove to be an obstacle to a small group of minority shareholders in a large company who are genuinely pursuing information regarding the terms of their directors' contracts. In this context, it may be useful if public companies in Malaysia are required by statute to table at each annual general meeting a director's remuneration report similar to the UK model discussed in Part V of this article.

The Companies Act 2016: Key Changes and Challenges

Lee Shih*

I. INTRODUCTION

The Companies Act 2016 (2016 Act) has been brought into force in stages starting from 31 January 2017.[1] To date all the provisions of the 2016 Act have come into force except for section 241 contained in Division 8 Part III of the 2016 Act on the registration of company secretaries and the corporate rescue mechanisms. The 2016 Act is a culmination of more than 10 years of Malaysia's corporate law reform process. While there have been piecemeal amendments to the old Companies Act 1965 (1965 Act), the 2016 Act represents a fresh start and a modernisation of Malaysia's corporate law framework.

Before delving into the key changes contained in the 2016 Act, it is useful to look back at the corporate law reform process which led to the enactment of the 2016 Act.

II. CORPORATE LAW REFORM PROCESS

In December 2003, the Companies Commission of Malaysia (CCM) established the Corporate Law Reform Committee (CLRC) to undertake a review of existing corporate laws and to propose amendments to the 1965 Act in order to align it with international standards of good corporate governance.[2]

In 2004, the CLRC issued 12 Consultation Documents to receive feedback from all stakeholders. From this consultation process, the CLRC released its Final Report in 2008 consisting of 188 recommendations, addressed to the Minister of Domestic Trade and Consumer Affairs.[3]

In July 2013, CCM issued its Consultation Document on the proposed Companies Bill.[4] This consultation document explained the underlying 19 policy statements and the proposed Companies Bill. The proposed provisions to be included in the Companies Bill were based on the CLRC's Final Report and recommendations made by the Accounting

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1 P.U.(B) 50/2017.

2 See https://www.ssm.com.my/en/clrc/history . Site accessed on 20 April 2017.

3 See http://www.maicsa.org.my/download/technical/technical_clr_final_report.pdf . Site accessed on 20 April 2017.

4 See https://www.ssm.com.my/sites/default/files/announcement/PC%20Companies%20Bill.pdf. Site accessed on 20 April 2017.