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CHAPTER FOUR
Construction Regulation in Malaysia

4 Regulatory Overview

Malaysia has a parliamentary democracy with a constitutional monarchy. Malaysia has a three tiers of government: Federal, State and Local. The Federal and State governments are elected but the local government are appointed officials. There are numerous legislative and regulatory instruments imposed on business by all three types of government.

Figure 4.1: Overview of Federal and State Legislative Powers

![Diagram](https://commons.wikimedia.org/wiki/File:Malaysia_Federal_and_State_Legislative_Powers.png)

Malaysia’s building regulatory system stipulates the role of the local authority as the sole planning authority. There are 151 local authorities both in the Peninsular and East
Malaysia and by the adoption of the *Town and Country Planning Act 1976* (Act 172), 98 local authorities in the Peninsular Malaysia are planning authorities. Local authorities in the states of Sabah and Sarawak are governed by their Ordinances that mandate the state governments as the planning authority, hence, they do not fall under the purview of Ministry of Urban Wellbeing Housing and Local Government of Malaysia. For the purpose of streamlining and standardization, Federal Government proposes and draft policies, regulatory requirements, standards and guidelines to be adopted and gazetted by the state governments so as to be enforceable by the local authorities. Malaysia has an established building code namely the *Uniform Building By Laws 1984*, in short, UBBL 1984 which is enforced by the local authorities and applicable to all building types constructed in the local authorities’ areas.

The Federal Government administers all building regulations whilst local authorities enforce them through their internal technical departments namely planning, building and engineering. Review and revision of the regulations are the responsibility of the ministry and agencies that administer them. For example, Malaysia Standards are usually revised every 3 to 5 years while regulatory requirements under Public Works Department do not have a mandatory time period for review and revision.

Malaysia’s building regulatory system stipulates that lead agencies and local authorities conduct building inspections and issue permits and clearances to denote compliances to agencies’ requirements and the building code respectively.

**Building regulations**

Malaysia’s building regulations are based on the *Street, Drainage and Building Act 1974* (Act 133) and its subsidiary, the *Uniform Building By Laws 1984* (UBBL 1984). These legal instruments stipulate the procedures for building plans approval and other means of development and construction control. Other lead agencies prescribe their requirements through legislations under their control, take for example, the Fire Services Department prescribes requirements for fire-fighting services through Part VII and Part VIII of the UBBL 1984 and *Fire Services Act 1988*. Some Malaysian Standards are already made mandatory under specific legislation. To date UBBL 1984 has mandated 23 Malaysian Standards.
**Enforcement Procedures**

Local authorities adopt and enforce *Uniform Building By-Laws 1984*. Laws are formulated by the Federal Government and passed down to State Government to be gazetted. These laws will be sent to Local Authorities for adoption and enforcement.

One of the main functions of a local authority is development control in concurrence with its statutory role as a planning authority. These roles are governed by the relevant laws, by-laws and standards. Local authorities have jurisdiction over all buildings including buildings owned by the federal government and UBBL legal is applicable to all buildings in Peninsular Malaysia.

Local Government Department streamlines and formulates of model by-laws. The by-laws are not yet legally binding and cannot be enforced until the states adopt and gazette the by-laws.

*Figure 4.2: Legislative Enforcement Procedures*

Guidelines can be part of best practice (if well written) but they are not legally binding unless they are embodied into regulation. Guidelines that need to be adopted by the local authority produced by any agency must be presented and approved by the National Council for Local Government (MNKT) before adoption by the local authorities. Planning guidelines if adopted and gazetted will become the planning rules enforced by the local authority.
Compliance procedures
UBBL 1984 is a building code which provides the minimum requirements for the control and construction of street, drainage and building in local authorities’ areas. There are 9 parts to the building code which include preliminary, submission of plans for approval, space light and ventilation, temporary works, structural requirements, fire requirements, fire alarms, fire detection, fire extinguishment and firefighting access and miscellaneous. UBBL 1984 is gazetted by each state to be adopted and enforced by the local authorities in a state. For Kuala Lumpur, Labuan and Putrajaya the state authority is the Ministry of Federal Territory.

Law administration and revision
Federal laws that have been adopted and gazetted by the state governments are enforceable by the local authorities. Such laws are applicable to all type of developments including Federal Government’s projects on federal or non-federal lands. In addition to the guidelines proposed and drafted by the Federal Government and the State Government, local authorities too can formulate and enforced their own guidelines.

Construction laws and other related legislation are revisited and updated as per requirement from the industry with no specific time period for review. However Malaysia Standards are normally revisited and reviewed every 5 years.

Code adoption and evolution
Malaysia’s building code, the Uniform Building By Laws 1984 (UBBL 1984) is a subsidiary law under the Street Drainage and Building Act 1974 (Act 133). Even though Act 133 is a federal law and gazetted by the Federal Government, UBBL 1984 is gazetted by each State Government. Amendments to Act 133 must be passed by the Parliament whereas amendments to the UBBL 1984 need only to be approved by the Minister in charge of local governments and later agreed by all State governments before being adopted and enforced by the local authorities. As an example, developments in Kuala Lumpur are being governed by UBBL 1984 gazetted by the Ministry of Federal territory which plays the role as a State Government in comparison to Majlis Bandaraya Shah Alam which enforces UBBL 1984 gazetted by the state of Selangor.
Malaysian Standards (MS)
The Department of Standards Malaysia (STANDARDS MALAYSIA) under the Ministry of Science, Technology and Innovation (MOSTI), is the National Standards and Accreditation Body. In performing its duties and functions, STANDARDS MALAYSIA is governed by Standards of Malaysia Act 1996 (Act 549). As the National Standards Body, STANDARDS MALAYSIA through the Industry Standards Committee (ISC) develops Malaysian Standards (MSs) in 24 sectors including for building, construction and civil engineering. The ISC consists of local industry experts, academics, government officials, and international experts. STANDARDS MALAYSIA recommends reviewing the MS every 5 years or earlier as necessary.

Types of buildings
UBBL 1984 is a uniform building code applicable to all developments and all building types in local authorities’ areas of jurisdiction.

4.1 Current legislative arrangement
The main Acts governing the construction industry are:

- The Federal Roads Act 1959;
- The Quantity Surveyors Act;
- The Registration of Engineers Act;
- The Architects Act;
- The Malaysian Highway Authority Act;
- The Construction Industry Development Board Act;
- The Federal Roads Act 1984 (private management);
- The Road Transport Act; and

4.1.1 Federal Roads Act 1959
An Act to provide for the declaration of federal roads, bridges, ferries and other means of communication. This Act shall apply throughout Malaysia. The Minister may after consultation with the Government of the State concerned, by order declare any road, bridge, ferry or other means of communication in any State to be Federal.
4.1.2 The Quantity Surveyors Act 1967

An Act to provide for the establishment of the Board of Quantity Surveyors, for the registration of Quantity Surveyors and approval to practise of firms or bodies corporate practising as consulting Quantity Surveyors, for the regulation of the practice of quantity surveying and for matters connected therewith.

4.1.3 The Registration of Engineers Act 1967

An Act to provide for the registration of engineers, and sole proprietorships, partnerships and bodies corporate providing professional engineering services and for purposes connected therewith.

4.1.4 The Architects Act 1967

An Act to provide for the registration of architects, sole proprietorships, partnerships and bodies corporate providing architectural consultancy services, and building draughtsmen and matters connected therewith.

4.1.5 The Malaysian Highway Authority Act 1980

An Act to establish the Highway Authority Malaysia to supervise and execute the design, construction, regulation, operation and maintenance of inter-urban highways, to impose and collect tolls, to enter into contracts and to provide for matters connected therewith.

4.1.6 The Construction Industry Development Board Act (Act 520) 1994

An Act to establish the Lembaga Pembangunan Industri Pembinaan Malaysia (Construction Industry Development Board) and to provide for its function relating to the construction industry and for matters connected therewith.

4.1.7 The Federal Roads Act 1984 (private management)

An Act to provide for a person to demand, collect and retain tolls in respect of a Federal road, bridge or ferry, and for matters connected therewith.
4.1.8 The Road Transport Act 1987
An Act to make provision for the regulation of motor vehicles and of traffic on roads and other matters with respect to roads and vehicles thereon; to make provision for the protection of third parties against risks arising out of the use of motor vehicles; to make provision for the coordination and control of means of and facilities for transport; to make provision for the coordination and control of means of and facilities for construction and adaptation of motor vehicles; and to make provision for connected purposes.

4.1.9 The Town Planners Act 1995 (Act 538)
An Act to provide for the registration of Town Planners and for purposes connected therewith.

4.2 The Regulatory Agencies and Related Associations
4.2.1 The Ministry of Works Malaysia
Ministry of Works (MOW) was formed in 1956 and was originally named the Ministry of Works, Post and Telecom. In 1957, the Ministry was reorganized and renamed as the Ministry of Works and Transportation.

The rapid progress made in the country’s development and socio economy during the 1970s had resulted in the increase of the Ministry’s functions and roles. With the addition of the new roles, the Ministry was renamed once more as the Ministry of Works and Public Amenities in 1978. However, in line with the specialization of responsibilities, the Government decided to rename the Ministry as the Ministry of Works Malaysia in the 1980s. The name stays until this day.

Functions of the Ministry of Works
The functions of the Ministry of Works are:
- To plan the development of the Federal road networks nationwide;
- To coordinate and monitor the implementation of the Federal road projects and other projects under the supervision of MOW;
To regulate the privatised maintenance work of Federal roads and;
- The development of Bumiputera entrepreneurs in the construction sector;
- To monitor the construction, operation, toll handling and maintenance of the tolled express-ways;
- To plan and coordinate human resource and financial (administration and development) of MOW and Public Works Department (PWD);
- To monitor departments and agencies under its purview;
- To monitor the implementation of the development projects of the Client Ministries carried out by PWD;
- To give advice and support services to CIDB in the development of the country’s construction industry and skilled workforce; and
- To give advice and support services to PSDC, MHA (Ministry of Home Affairs), BEM (Board of Engineers Malaysia), BAM (Board of Architects Malaysia) and BQSM (Board of Quantity Surveyors Malaysia) in the development of the professional services programs for the domestic and international market.

**Ministry of Works Core Services**

Ministry of Works core services can be categorised into three components:
- The implementation of infrastructural development projects especially Federal Roads;
- The privatised maintenance of Federal roads and Federal Common Users Buildings, and
- The participation of Bumiputera entrepreneurs in the construction industry

**4.2.2 Construction Industry Development Board of Malaysia**

The Construction Industry Development Board (CIDB) is a body corporate established under the Act 520 – *Construction Industry Development Board Act 1994*, revised 2011. It is a statutory body under the Ministry of Works, Malaysia and is tasked with promoting the construction services sector, as well as take on the role of coordinating and monitoring the overall progress of the implementation process of the CIMP (Construction Industry Master Plan). It began operation in 1995. Its main income is from levy on construction contracts worth more than RM500,000.00 (around RM90 million annually- source CIDB).
CIDB’s mission is to develop Malaysian construction industry while its vision is to be a distinguished organization in developing a world class construction industry.

**CIDB’s Functions**

CIDB’s functions under subsection 4(1) Act 520 is illustrated in Figure 4.3.

*Figure 4.3: Functions of CIDB*

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**i. Development and Facilitative**

- Promote and stimulate research
- Promote, stimulate and assist in the export construction related services
- Promote Quality Assurance
- Initiate and maintain the construction industry information systems
- Promote, review and coordinate training programmes
- Encourage standardisation and improvement of construction techniques and materials

**ii. Advisory**
- Advice and make recommendations to Federal and State Governments
- Promote and stimulate the development of construction industry
- Provide consultancy and advisory services

iii. **Regulatory**
- Accredit and Register contractors
- Accredit and Certify construction workers and site supervisors

All construction companies must be registered with the CIDB and they regulate and register contractors from 7 grades (G1 – G7).

**4.2.3 Other Related Regulatory Agencies and Associations**

Other related regulatory agencies and associations are:
- The Board of Architects;
- The Board of Engineers Malaysia (BEM);
- The Board of Quantity Surveyors Malaysia (LJBM);
- The Institution of Engineers Malaysia (IEM);
- The Malaysian Institute of Architects (PAM);
- The Institution of Surveyors Malaysia (ISM);
- The Master Builders Association Malaysia (MBAM); and
- The Association of Consulting Engineers Malaysia (ACEM).

**Other regulations**

The construction industry is also bound by other Acts at the Federal, State and Local Government levels as per Table 4.1.
Meanwhile, the housing industry in Malaysia which is regarded as one of the major industries contributing to the economic and social development of the country, is regulated by stringent rules and regulations in the form of; the *Housing Development*
(Control and Licensing) Act, 1966 ("HDA"), the Street, Drainage and Building Act 1976 ("SDBA") and the Town and Country Planning Act 1974. On the other hand as far as construction of houses under the category of low-cost is concerned, it is subjected to the standard guidelines i.e. Construction Industry Standard ("CIS 1") and Construction Industry Standard 2 ("CIS 2"). The imposition of regulations, guidelines and standards is to ensure that all categories of houses, inclusive of houses for the lower income group will be constructed according to the acceptable standard. The Ministry of Housing and Local Government ("MHLG") and the Construction Industry Development Board ("CIDB") which are expected to carry out the task of ensuring that houses constructed by developers are free from defects.

4.3 Value Chains and the Impact of Regulations

A value chain table illustrating the main regulations of the federal and local government corresponding to the key stages of the construction is shown in Table 4.1. These value chains indicate the key regulatory requirements at each stage of the activity. The construction value chain commences with the regulatory compliance surrounding the development plan then to the building plan/permit, the construction phase and the completion stage.

Regulations on occupational health & safety (OHS), registration of contractors and import levies are included in the value chain because they are a potential source of burden to business.

There are also certain regulations, such as those relating to employment and foreign labour that are being considered in other reviews. Where appropriate, MPC has ascertained whether this review can complement these other reviews. For example, other reviews may focus on high level strategy and policy, rather than practical improvements in response to specific concerns, which is the focus of this review.

Machinery Act 1967, Local Government Act 1976, CIDB Act 1993, Uniform Building By Law, DOSH and many others (Refer to Table 4.1)

Meanwhile, some of the Acts and Regulations that regulate the manufacturers and suppliers are Factories and Machinery Act 1991, Factories and Machinery Regulation, Custom Act, CIDB Act 1993, etc.

Related to the value chain is the Real Estate services in which the Real Estate Profession comes under the purview of the Ministry of Finance and is regulated by The Board of Valuers, Appraisers & Estate Agents, Malaysia and governed by the Valuers, Appraisers & Estate Agents Act 1981, the Rules 1986 and The Standards.

Figure 4.4: Construction Business Life Cycle

<table>
<thead>
<tr>
<th>BUSINESS LIFE CYCLE</th>
<th>Initiative</th>
<th>Development Order</th>
<th>Building Plan</th>
<th>Construction</th>
<th>Completion</th>
</tr>
</thead>
<tbody>
<tr>
<td>REGULATORY REGIME</td>
<td>Planning</td>
<td>Design</td>
<td>Design</td>
<td>Construct</td>
<td>Handover</td>
</tr>
<tr>
<td>Approval: land</td>
<td>Approval to develop</td>
<td>Approval to construct</td>
<td>Licenses to operate &amp; Enforcement</td>
<td>Certificate of Compliance &amp; Completion</td>
<td></td>
</tr>
<tr>
<td>conversion, zoning</td>
<td></td>
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</tbody>
</table>

Source: MPC

The study has focused on the construction and completion phase of the total construction value chain. The construction activities involved many businesses from main contractor to sub-contractors, employment agencies, materials and machineries/equipment suppliers and manufacturers, the importers, and many others. All these businesses are highly regulated under various Acts. The regulatory regime of the construction business takes place throughout the lifecycle of the construction project,
from the initiation stage to the Development Order to the Building Plan throughout actual construction and ending with the completion of a project as shown in Figure 4.4.