

## **8.0 Burdens in Leaving or Closing Down Professional Practice**

### **8.1 Controls on Professional Administration**

The regulation and administration of professional practice by the professional boards are made with the authority provided under an Act of Parliament. Through the professional Acts, the relevant boards regulate the practice of its professional members and makes rules and regulations to be adhered by its members. Amendments to the Acts must be formalised by a gazette in Parliament. Rules and regulations made by the Boards can be gazetted under the minister and do not required to be tabled in parliament, though they must be formalised through Minister's approval.

### **8.2 Completion / Termination of Practice**

Upon retirement or termination of professional practice, the practitioner may opt to terminate his/her practice licence with consent from the respective professional boards. Termination of practice licence may be by voluntary termination by the professional or by regulatory enforcement by the professional boards. Professional boards may exercise their power to cancel the professional registration through provisions of the Acts.

Voluntarily termination can be achieved by the Professional informing to the relevant professional board his/her intent to retire, cancel registration or close the practice. Supporting documents such as evidence for completion of all works under supervision, and discharge from responsibility from the ongoing works (Letter of Release) are required to be presented together with the application. Voluntarily cancellation of registration may also be chosen by the Professional by not renewing the annual subscription.

Even after the application to terminate professional registration has been accepted, architects and engineers remain individually responsible for the completed works that they have previously certified, carrying professional liability personally for life. This contrasts with the Company Act 1965 which allows limited liability.

### 8.3 Liberalisation of Professional Services

In a move to spur economic growth and attract foreign direct investment (FDI), the Government has taken measures to ensure an efficient and competitive business environment via its Competition, Standards and Liberalisation (CSL) Strategic Reform Initiatives (SRI). The Ministry of International Trade and Industry (MITI) is entrusted to lead all efforts pertaining to the liberalisation exercise. Covering the services and financial services sector, the liberalisation exercise was undertaken in stages. The initial stage commencing in 2009 saw nine sub-sectors being liberalised and a further 18 sub-sectors were liberalised in 2011, allowing up to 100% foreign equity participation in phases. The 18 sub-sectors include the Architectural, Engineering and Quantity Surveying services.

In 2012, BAM, BEM and BQSM submitted proposals to amend the present Acts to allow liberalisation by opening some shares in local firms to be held by foreign investors. The proposed amendments to the Acts were debated and passed in Parliament in November 2014. Although the Town Planners and Land Surveyors are not included under the 18 sub-sectors, with liberalisation of the Architectural, Engineering and Quantity Surveying services, the former may also be indirectly affected.

Globally, the Organization for Economic and Cooperation Development foresees a substantial increase in foreign investment if foreign equity restrictions are removed. Malaysia's foreign investments in the services sector increased from RM12.2 billion in 2012 to RM19 billion in 2013<sup>25</sup>. Based on the figures in 2013, RM 19 billion (24.4%) of total foreign investment of RM 59.5 billion came from the service sector investment. However, at the end of 2013, Malaysia's share of FDI is still below par compared to other ASEAN countries.

Therefore, to encourage the growth of professional services, any Act and regulation imposed over the business of professional services needs to be in line with and in support of the liberalisation move.

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<sup>25</sup> MIDA Press release, *Malaysia Investment Performance 2013, 28 Feb 2014*, Kuala Lumpur, Malaysia Investment Development Authority.