

MALAYSIAN BIOFUEL INDUSTRY ACT 2007

MALAYSIAN BIOFUEL INDUSTRY (LICENSING) REGULATIONS 2008

ARRANGEMENT OF REGULATIONS

PART I

PRELIMINARY

Regulation

1. Citation and commencement
2. Interpretation

PART II

LICENSING

3. Application for licence
4. Issuance of licence
5. Conditions of licence
6. Duration of licence
7. Renewal of licence
8. Activity in specified premises
9. Change of information or particulars
10. Certified copy of licence
11. Maintenance and production of records, etc.
12. Licence deemed revoked

PART III

REVOCAION AND SUSPENSION OF LICENCE

13. Revocation or suspension of licence

PART IV

GENERAL

14. Fee for appeal
15. Licensing authority may establish committee

FIRST SCHEDULE

SECOND SCHEDULE

IN exercise of the powers conferred by section 15 of the **Malaysian Biofuel Industry Act 2007**[Act 666], the minister makes the following regulations:

1 November 2008

PART I

PRELIMINARY

1. Citation and commencement

- (1) These regulations may be cited as the **Malaysian Biofuel Industry (Licensing) Regulations 2008**.
- (2) These Regulations come into operation on 1 November 2008.

2. Interpretation

In these Regulations, unless the context otherwise requires:-

"licensed activity" means the activities set out under subsection 5(1) of the act for which licence is issued;

"specified premises" means the premises specified in the licence issued under the act;

"premises" means any place whether open or enclosed, movable or immovable, whether on land or sea and includes any house, factory, shop, conveyance, store, room, estate, smallholding, cubicle or shed, where the licensed activity is carried out.

PART II

LICENSING

3. Application for licence

- (1) An application for a licence under section 7 of the act shall be made in writing to the licensing authority in the application form determined by the licensing authority.

(2) The applicant shall furnish the following information and document together with the application form:

- (a) the legal entity of the applicant, if the applicant is a body corporate;
- (b) the right to use a premises for the specified activity;
- (c) the proof of the financial position of the applicant; and
- (d) any other information and document to support the application.

(3) The licensing authority may, after receiving a complete application for a licence, require the applicant or his representative who is authorised in writing by the applicant to appear on his behalf to appear before the licensing authority to be interviewed.

(4) The licensing authority may refuse to record, proceed with or hear the application and may require that the application be amended or completed and resubmitted or that a fresh application be submitted if:-

- (a) the application form is not duly completed by reason of any omission or misdescription;
- (b) the application form contains any error or alteration; or
- (c) the application does not comply with any requirement determined by the licensing authority.

4. Issuance of licence

(1) The licensing authority may, after giving due consideration to an application for a licence under regulation 3, approve or refuse the application.

(2) The applicant shall be informed of the approval or refusal in writing or through the electronic means, as the case may be.

(3) Any approval of a licence shall be subject to the fee as set out in the First Schedule which shall be paid within the time specified in the letter of approval of the licence.

5. Conditions of licence

(1) The licence issued shall be subject to the relevant conditions set out in the Second Schedule.

(2) The licensing authority may, at anytime, alter, add, cancel or amend the conditions imposed on the licence by amending the Second Schedule.

(3) A licensee who fails to comply with the relevant conditions imposed on a licence commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

6. Duration of licence

A licence issued or renewed under these Regulations shall be valid for a period of three years unless:-

- (a) otherwise specified in the licence; or

(b) revoked or suspended under section 12 of the act.

7. Renewal of licence

(1) A licence may be renewed upon an application being made in the form determined by the licensing authority and upon payment of the fee as prescribed in the First Schedule.

(2) A licensee who intends to renew a licence shall, within a period of not less than one month but not earlier than three months before the date of the expiry of the licence, apply for the renewal.

(3) A licensee who applies for a renewal after the expiry of the period specified in subregulation (2) shall pay a late fee of one percent of the fee prescribed for the licence or ten ringgit, whichever is greater, for every day of the delay including the date of the expiry of the licence.

(4) If an application for renewal is made after the expiry of the licence, the licensing authority may refuse to renew the licence or may renew the licence subject to an imposition of a late fee not exceeding five hundred percent of the licence fee or five thousand ringgit, whichever is greater.

(5) If an application is made by post, the date on the postmark on the envelope shall be deemed to be the date on which the application was made and if the licensing authority is unable to ascertain the date on the postmark, the application shall be deemed to have been made three days before the date on which the application was received by the licensing authority.

(6) If an application for renewal of licence is made electronically, the date on the time stamp attached to the application shall be deemed to be the date on which the application was made and if there is no time stamp or the licensing authority is unable to ascertain the date on the time stamp, the application shall be deemed to have been made on the date the application was received by the licensing authority.

(7) No licence shall, in any circumstances, be renewed after the expiry of one year from the date of the expiry of the licence.

(8) Regulations 4 and 5, shall apply *mutatis mutandis* to an application for renewal of licence.

8. Activity in specified premises

(1) A licensee shall not carry out or conduct any of the licensed activities in any other premises other than the specified premises.

(2) A licensee who fails to comply with subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding two years or to both.

9. Change of information or particulars

(1) A licensee shall inform the licenced authority in writing of any change in the information or particulars submitted to the licensing authority under regulation 3 within fourteen days from the date of the change.

(2) When a change of information or particulars is required to be made pursuant to subregulation (1), the licensee shall surrender the licence to the licensing authority to amend the information or particulars of the licence subject to the payment of fees as prescribed in the First Schedule.

(3) A licensee who fails to comply with subregulation (1) commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

10. Certified copy of licence

(1) If the original licence is lost or destroyed, the licensee shall lodge a report to the licensee authority.

(2) A licensee whose licence is lost or destroyed may make an application for a certified copy of a licence in writing to the licensing authority which shall be accompanied with any information as required by the licensing authority and the fee prescribed for the certified copy as specified in the First Schedule.

(3) If the licensing authority is satisfied that the loss or destruction of a licence was not the result of fraud, the licensing authority may issue the certified copy of the licence in the same form as the original but with the word "DUPLICATE" endorsed on the licence.

(4) The licence issued under subregulation (3) shall have the same effect as the original licence.

11. Maintenance and production of records, etc

(1) The licensee shall keep, maintain and produce, as the case may be, daily records and monthly summary of production, sales, purchase, stock, import, export, services rendered, books of account and any supporting document in respect of his licensed activity in the national language or English language and in the format determined by the licensing authority.

(2) The licensee shall deliver, produce or make copies of, the daily records and monthly summary of production, sales, purchase, stock, import, export, services rendered, books of account and supporting document, on demand by the licensing authority or enforcement officer.

(3) The licensee shall keep and maintain records and statements of monthly summary, books of account and supporting documents required to be maintained and kept under this regulation for not less than three years from the date of the last entry.

(4) A licensee who fails to comply with this regulation commits an offence and shall, on conviction, be liable to a fine not exceeding two hundred and fifty thousand ringgit or to imprisonment for a term not exceeding three years or to both.

12. Licence deemed revoked

Licence issued under these Regulations is deemed to be revoked if the licensee:-

(a) is mentally incapacitated;

(b) has been adjudged a bankrupt;

(c) dies;

(d) in the case a company, is wound up; or

(e) in the case of a partnership, a co-operative, society, trade union, statutory body, as the case may be, is dissolved.

PART III

REVOCATION AND SUSPENSION OF LICENCE

13. Revocation or suspension of licence

(1) Before a licence is revoked or suspended under section 12 of the act, the licensing authority shall inform the licensee in writing, the provision for which the licensee has contravened and the details of the circumstances of contravention and require the licensee to make a representation in writing, within twenty days, as to why his licence should not be revoked or suspended.

(2) If after considering the representation the licensing authority is not satisfied or is of the opinion that the licensee has failed to show reasonable cause why his licence should not be revoked or suspended, the licensing authority may revoke or suspend the licence as it deems fit.

(3) The licensing authority shall inform the licensee within sixty days from the date of receipt of the representation of its decision in writing.

PART IV

GENERAL

14. Fee for appeal

The fee for the appeal made under section 13 of the act shall be as prescribed in the First Schedule.

15. Licensing authority may establish committees

(1) The licensing authority may establish such committees as it thinks necessary to assist it in the performance of its functions or duties under the act or these Regulations.

(2) The licensing authority may appoint any person as it deems fit to be a member of any committee established under subregulation (1).

(3) A committee established under this regulation may elect any of its members to be chairman and may regulate its own procedure and, in the exercise of its powers under this subregulation, such committee shall be subject to and act in accordance with any direction given to the committee by the licensing authority.

(4) Meetings of a committee established under this regulation shall be held at such times and places as the chairman of the committee may, subject to subregulation (3), determine.

(5) A committee may invite any person, for the purpose of advising it on any matter under discussion, to attend any meeting of the committee but the person so invited shall not be entitled to vote at any such meeting.

FIRST SCHEDULE

(Regulations 4, 7, 9, 10 and 14)

FEEES

No.	Regulation	Matter	Fees
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1.	Regulations 4 and 7	Fee for issuance and renewal of licence under section 5 of the Malaysian Biofuel Industry Act 2007	(Per activity) (RM)
		(a) commence to construct any biofuel plant or biofuel blending plant	100
		(b) produce any biofuel	100
		(c) blend any biofuel with any other fuel or biofuel	100
		(d) export any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel	100
		(e) import any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel	100
		(f) transport any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel connected with upstream activities	100
		(g) store any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel connected with upstream activities	100
		(h) survey any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel	100
		(i) test any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel	100
2.	Regulation 9	Change of information or particulars	100
3.	Regulation 10	Certified copy of licence	100
4.	Regulation 14	Appeal	500

SECOND SCHEDULE

(REGULATION 5)

CONDITIONS FOR ALL LICENCEES

1. The licensee shall abide by the provisions of the **Malaysian Biofuel Industry Act 2007***[Act 666]*, the subsidiary legislations made under the act and the guidelines or direction issued by the licensing authority.
2. The licensee shall maintain and update a true and accurate daily records and books of account in relation to the activity stated in the licence.
3. The licensee in respect of the production, blend, export and import activities shall submit to the licensing authority not later than the seventh day of the following month a true, complete and accurate monthly statement in relation to the activity stated in the licence.
4. The licensee shall submit to the licensing authority within the time specified a true, complete and accurate:
 - (a) periodic statement; and
 - (b) information and document,
in relation to the activity stated in the licence.
5. The licensee shall abide by the conditions imposed on the licence by the licensing authority.

CONDITIONS IMPOSED ON LICENCE ISSUED UNDER PARAGRAPH 5(1)(a) OF THE ACT

ACTIVITY: COMMENCE TO CONSTRUCT ANY BIOFUEL PLANT OR BIOFUEL BLENDING PLANT

1. The licensee shall commence construction of biofuel plant or biofuel blending plant within one year from the date of the issuance of licence or within the time period specified by the licensing authority.
2. The licensee shall ensure that the construction of the biofuel plant or biofuel blending plant proceeded according to the agreed Schedule and based on the plan submitted.
3. The licensee shall apply in writing for the relevant licence activities in relation to the operation of the biofuel plant or biofuel blending plant three months before the commencement of operation.
4. The licensee shall ensure that storage tanks in relations to the operations of the biofuel plant or biofuel blending plant is calibrated and certified by the agencies specified by the licensing authority.

CONDITIONS IMPOSED ON THE LICENCE ISSUED UNDER PARAGRAPH 5(1)(b) OF THE ACT

ACTIVITY: PRODUCE ANY BIOFUEL

1. The licensee shall not produce biofuel exceeding the capacity stated in the licence.
2. The licensee shall establish a laboratory which is equipped with the relevant equipments and instruments to test the quality parameters of biofuel as determined by the licensing authority and the laboratory shall be manned by qualified and trained personnel to ensure the quality assurance purposes is achieved.

CONDITIONS IMPOSED ON THE LICENCE ISSUED UNDER PARAGRAPH 5(1)(c) OF THE ACT

ACTIVITY: BLEND ANY BIOFUEL WITH ANY FUEL OR BIOFUEL

1. The licensee shall not blend biofuel with any other fuel as specified by the written laws currently in force.
2. The licensee shall establish a laboratory or use accredited laboratory, equipped with the relevant equipments and instruments to test the quality parameters of biofuel and product of blending as determined by the licensing authority and such laboratory shall be manned by qualified and trained personnel.

CONDITIONS IMPOSED ON THE LICENCE ISSUED UNDER PARAGRAPH 5(1)(d) OF THE ACT

ACTIVITY: EXPORT ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER FUEL OR BIOFUEL BLENDED WITH ANY OTHER BIOFUEL

1. The licensee shall submit to the licensing authority, by electronic means or other means, a copy of the Customs Declaration Form No. 2 authenticated by the customs authority or any other document as determined by the licensing authority for any export of biofuel or biofuel blended with any other fuel

or biofuel blended with any other biofuel and such form or document shall be received by the licensing authority not later than the seventh day from the date of export.

2. The licensee shall ensure that the surveyor appointed to survey any biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel possesses a valid licence for the activity.

3. The licensee shall only export any biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel from the type and quality as determined by the licensing authority.

**CONDITIONS IMPOSED ON THE LICENSEE FOR LICENCE ISSUED UNDER
PARAGRAPH 5(1)(e) OF THE ACT**

**ACTIVITY: IMPORT ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER FUEL OR
BIOFUEL BLENDED WITH ANY OTHER BIOFUEL**

1. The licensee shall submit to the licensing authority by electronic means or any other means, a copy of the Customs Declaration Form No. 1 or 9 (as the case maybe) authenticated by the customs authority or any other document as determined by the licensing authority for any import of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel and such form or document shall be received by the licensing authority not later than the seventh day from the date of import.

2. The licensee shall ensure that the biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel is of good merchantable quality.

**CONDITIONS IMPOSED ON THE LICENCE ISSUED UNDER PARAGRAPH 5(1)(f) OF
THE ACT**

**ACTIVITY: TRANSPORT ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER
FUEL OR BIOFUEL BLENDED WITH ANY OTHER BIOFUEL CONNECTED WITH
UPSTREAM ACTIVITIES**

1. The licensee shall ensure the safe transportation of the biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel for safeguarding persons or property from danger in connection with such transportation.

2. The licensee shall take all necessary measures to ensure that any person employed by him in connection with the conveyance of the biofuel, biofuel blended with any other fuel or biofuel blended with any other biofuel in such vehicles complied with the requirements of any other written law affecting the activity of the transportation.

**CONDITIONS IMPOSED ON THE LICENCE ISSUED ORDER PARAGRAPH 5(1)(g) OF
THE ACT**

**ACTIVITY: STORE ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER FUEL OR
BIOFUEL BLENDED WITH ANY OTHER BIOFUEL CONNECTED WITH UPSTREAM
ACTIVITIES**

1. The licensee shall ensure that the bulk storage facilities including fittings, equipments and handling machineries are properly maintained and safe for use according to the relevant safety standards.

2. The licensee shall use measuring apparatus, which has been calibrated according to the relevant written law pertaining to weight and measures.

3. The licensee shall have in possession the layout plan of all the storage tanks and its ancillary pipelines, valves and pumps and shall produce such layout plans for reference in inspection or survey by authorised officer or licenced surveyors.

4. The licensee shall ensure that all bulk storage tanks and facilities including ancillary pipelines, valves, pumps are marked clearly and is easily visible for easy identification.

CONDITIONS IMPOSED ON THE LICENCE ISSUED PARAGRAPH 5(1)(h) OF THE ACT

ACTIVITY: SURVEY ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER FUEL OR BIOFUEL BLENDED WITH ANY OTHER BIOFUEL

1. The licensee shall ensure that the storage tank to be used for storing biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel is clean, suitable for use and free from previous cargoes, water and any other substances whether toxic or non-toxic.

2. The licensee shall ensure that the sample of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel taken in the course of surveying is kept in new clean container, tightly closed, sealed and labelled immediately after sample is taken.

3. A copy of each survey report of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel to be kept by the licensee and produced when requested by the licensing authority.

4. The licensee shall keep all survey reports, records and documents of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel not less than three years from the date of survey.

5. The licensee shall ensure that all the details of survey on biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel are recorded in book, documents or in electronic medium and kept in the specified premises.

6. The licensee shall keep all samples of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel taken in the course of survey for a period of not less than three months from the date of survey.

7. The licensee shall abide by the surveying practice and procedure in set out by the licensing authority.

8. The licensee shall use measuring apparatus which has been calibrated according to the relevant written law pertaining to weight and measures.

9. The licensee shall report to the licensing authority every objection or dispute notified to any interested parties or in relation to the survey of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel, within 24 hours from the time of notification and a copy of the notification shall be submitted within three days from the date of notification.

10. The licensee shall ensure that all survey reports of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel issued are true, accurate and complete.

11. The licensee shall ensure that all surveying work including the signing of documents of survey of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel are:-

- (a) carried out by the surveyors registered with the licensing authority;
- (b) carried out by the surveyors on behalf of licensee; and
- (c) carried out by the surveyors employed by the licensee.

12. The licensee shall possess the tools, apparatus, equipments, contraptions and machines necessary for carrying out the sampling and survey and such tools, apparatus, equipments, contraptions and machines shall be calibrated by the agencies determined by licensing authority.

**CONDITIONS IMPOSED ON LICENCE ISSUED UNDER PARAGRAPH 5(1)(i) OF THE
ACT**

**ACTIVITY: TEST ANY BIOFUEL, BIOFUEL BLENDED WITH ANY OTHER FUEL OR
BIOFUEL BLENDED WITH ANY OTHER BIOFUEL**

1. The licensee shall ensure that biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel samples received for testing are contained in tightly closed container, labeled and sealed.
2. The licensee shall submit to the licensing authority a true, complete and accurate copy of the analysis report of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel to not later than the seventh day from the date of testing.
3. The licensee shall record details of testing of biofuel or biofuel blended with any other fuel or biofuel blended with any other biofuel in books, bound documents or in the electronic form and such records shall be kept in the specified premises for not less than three years.
4. The licensee shall have at least one qualified chemist and must be a member of Institut Kimia Malaysia (IKM).
5. The licensee shall abide by the testing methods for each test parameters as determined licensing authority.
6. The licensee shall possess the tools, apparatus, equipments, contraptions and machines necessary for carrying out each test method and such tools, apparatus, equipments, contraptions and machines shall be calibrated by agencies determined by licensing authority.
7. The licensee shall conform to all laboratory safety requirements as determined by the licensing authority.