



**Malaysian  
Aviation Commission**  
*Suruhanjaya Penerbangan Malaysia*

*Guidelines On*  
**FIT AND PROPER  
PERSON**

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**Published by**



**Malaysian  
Aviation Commission**  
*Suruhanjaya Penerbangan Malaysia*

Level 19, Menara 1 Sentrum,  
201, Jalan Tun Sambanthan,  
50470 Kuala Lumpur,  
Malaysia.

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Enquiries regarding the content of this publication should be addressed to:  
[enquiries@mavcom.my](mailto:enquiries@mavcom.my)

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# PART A: OVERVIEW

## 1. Background

### *Purpose and Policy Objective of the Guidelines*

1.1 These Guidelines set out the Commission's approach to the fit and proper assessment of key responsible persons in an aviation service company. These Guidelines are intended to assist licence and permit applicants and holders to assess whether key responsible persons in an aviation service company are fit and proper to provide effective and strategic leadership to its company.

1.2 The Commission requires that members of the board and the senior management of an aviation service company are competent and have the necessary qualities and qualifications suited to hold a position that can ensure that aviation service companies remain viable in the larger context of the aviation industry. These Guidelines shall apply to key responsible persons in an aviation service company applying for a licence or permit and to key responsible persons in aviation service companies that already have a licence or permit.

### *Legal Framework and Applicability of the Guidelines*

1.3 These Guidelines are issued by the Commission in the exercise of its power pursuant to section 98A(1) of the Malaysian Aviation Commission Act 2015 [Act 771] to provide explanation and guidance on the Commission's assessment of a fit and proper person.

1.4 These Guidelines shall apply to key responsible persons within a company providing aviation services where such company is an applicant of a licence or permit under sections 39 and 42 of the Act or a licence or permit holder under sections 35,

36, 37 or 38 of the Act. The Commission may also carry out the fit and proper person assessment on a licence or permit holder from time-to-time, at any point throughout the duration of a licence or permit.

1.5 Key responsible persons of an aviation service company are identified as the following:

- (a) board of directors;
- (b) senior management team;
- (c) any other person—
  - (i) who directly or indirectly holds 10% or more of shares of the applicant; or
  - (ii) who has the power to make or cause to be made, decisions in respect of the business or administration of the aviation service company and to give effect to such decisions or cause them to be given effect to; and
  - (iii) any other key person as may be determined by the Commission.

1.6 All key responsible persons identified in paragraph 1.5 above must assure the Commission that they comply with the fit and proper person criteria in Part B.

1.7 The factors which may be considered by the Commission in implementing these Guidelines are not exhaustive and the Commission reserves the right to take into account any other factor or impose any additional requirements in its fit and proper assessment. The fit and proper assessment shall be carried out on a case-by-case basis.

1.8 When a fit and proper person assessment is carried out by the Commission, the onus is on the key responsible persons in the aviation service company to prove that they are fit and proper according to the Commission's standards laid out in these Guidelines. Any aviation service company in doubt on how these Guidelines may be applicable to it may wish to seek independent legal advice.

1.9 For the avoidance of doubt, the fit and proper assessment carried out by the Commission is only in pursuance to the Act.

1.10 The Commission will assess the fitness and propriety of a person in the following areas:

- (a) Probity, reputation and integrity;
- (b) Competency and capability; and
- (c) Financial integrity.

1.11 Part B of these Guidelines details the factors that the Commission will consider in its fit and proper person assessment.

## PART B: FIT AND PROPER ASSESSMENT

### 2. The Assessment

#### *Probity, Reputation, and Integrity*

2.1 In determining whether a key responsible person is of good character, the Commission will look into a person's character and personal attributes such as—

- (a) integrity, honesty, diligence;
- (b) independence and fairness in decision-making; and
- (c) propensity or willingness to disregard the law.

2.2 These qualities are demonstrated over time and demand a disciplined and on-going commitment to high ethical standards. The Commission will also look into past behaviour as insight into a person's future conduct.

2.3 In the Commission's assessment of a person's probity, reputation and integrity, the Commission shall place emphasis on factors that are necessary and relevant to assess whether a person can hold a position of leadership in an aviation service provider, including *inter alia* whether a person:

- (a) has been convicted for any registrable offence under the Registration of Criminals and Undesirable Persons Act 1969 or such similar offences under any other jurisdiction;
- (b) in civil cases has admitted liability or been found liable by any Court for fraud or dishonesty under any jurisdiction;

- (c) has been imposed financial penalty or has had any enforcement action taken against him by a professional or financial regulatory authority in any jurisdiction;
- (d) has been refused the right to carry on any trade, business or profession for which a specific authorisation by any regulatory authority, professional body or government agency is required by law in any jurisdiction;
- (e) has been dismissed, asked to resign or has resigned from employment or from holding office as a director of a company because of fraud or dishonesty;
- (f) has objected or been unwilling to cooperate with regulatory authorities resulting in a failure or potential failure to comply with legal, regulatory and professional requirements or standards.

2.4 The above is not an exhaustive list. The Commission may take into consideration other factors in assessing a person's probity, reputation and integrity.

### *Competency and Capability*

2.5 A key responsible person in an aviation service provider is required to demonstrate that he is a competent person. A person must demonstrate that he has the appropriate competence and possesses capability with the relevant knowledge and experience.

2.6 The Commission will further assess a person's ability to understand the technical requirements of the business, the inherent risks and the management process to undertake and fulfil his obligations and responsibilities that are associated with his role and position, effectively.



2.7 In assessing the competency of a person, the Commission shall consider all relevant factors, including, but not limited to—

- (a) whether the person has demonstrated, through qualifications, training, skills, practical experience and commitment to effectively undertake the responsibilities of the position;
- (b) whether the person has a sound knowledge of the business;
- (c) whether the person has satisfactory past performance or expertise in the nature of the business being conducted.

### *Financial Integrity*

2.8 In assessing a person's financial integrity, the Commission will determine whether a person is able to demonstrate his solvency and the prudent control over his own financial affairs which serves as an indication of a person's capacity to the safety and soundness of the business and protection of the interests of other stakeholders.

2.9 In determining a person's financial integrity, the Commission shall have regard to all relevant factors, including but not limited to:

- (a) whether there are any indicators that a person will not be able to meet any debts as they fall due;
- (b) whether relevant solvency requirements are met;
- (c) whether the person has been subject to any judgment debt that remains outstanding in any jurisdiction; and
- (d) whether the person has made arrangements with creditors, filed for bankruptcy or been adjudicated a bankrupt or had assets sequestered in any jurisdiction.

2.10 However, a person's limited financial means will not necessarily affect the person's ability to satisfy the financial integrity criteria.

### **3. Decision**

3.1 Upon completion of the fit and proper person assessment, the Commission may factor the results of the assessment in evaluating the licence or permit application to determine whether an aviation service provider is eligible to be granted a licence or permit. The result of a fit and proper person assessment is part of the Commission's internal procedure and shall be disclosed to the applicant, if the result of the assessment is unfavourable. Such information shall not be provided to any other party.

## 4. Glossary

- |    |                                |  |
|----|--------------------------------|--|
| 1. | Act                            | Malaysian Aviation Commission Act 2015 [Act 771].  |
| 2. | Aviation service               | As defined in section 2 of the Act   |
| 3. | Aviation service company       | A company providing aviation services  |
| 4. | Commission                     | Malaysian Aviation Commission  |
| 5. | Guidelines                     | Guidelines on Fit and Proper Person  |
| 6. | Licence holder / permit holder | A licence or permit holder is a holder of a licence or permit that has been granted pursuant to section 39(6) of the Act   |
| 7. | Senior management              | Senior management consists of a core group of individuals who are primarily responsible for the day-to-day management and decision-making in an aviation service company. Senior management is responsible for establishing a management structure that promotes accountability and overseeing line managers and other employees in carrying out their functions in specific areas and activities consistent with the policies and procedures set by the board of directors. |

## PART C: Declaration and Consent Forms

### (Attachment D & E)

#### Attachment D – Fit and Proper Person (Declaration Form)

I, .....

NRIC / Passport no.: .....

Address: .....

.....

.....

do hereby solemnly affirm and declare the following—

No.	Criteria	YES
<b>Probity, Personal Integrity and Reputation</b>		
1.	I have not been convicted for any registrable offence under the Registration of Criminals and Undesirable Persons Act 1969 or such similar offences under any other jurisdiction	
2.	In civil cases, I have not admitted liability or been found liable by any court for fraud or dishonesty under any jurisdiction	
3.	To my knowledge, no financial penalty has been imposed upon me or any enforcement action taken against me by a professional or financial regulatory authority in any jurisdiction	
4.	I have not been refused the right to carry on any trade, business or profession for which a specific authorisation by any regulatory authority, professional body or government agency is required by law in any jurisdiction	

No.	Criteria	YES
5.	I have not been dismissed, asked to resign or have resigned from employment or from holding office as a director of a company because of negligence, incompetence, fraud or mismanagement	
6.	I have not objected or been unwilling to cooperate with regulatory authorities resulting in a failure or potential failure to comply with legal, regulatory and professional requirements or standards	
7.	I have not been sanctioned by any regulatory authorities, professional bodies or enforcement agencies nor have I been the subject of any pending investigations or past investigations or enforcement proceedings	

### Financial Integrity

8.	I have met relevant solvency requirements imposed upon me	
9.	To my knowledge, I have not been subject to judgment debt that remains outstanding in any jurisdiction	
10.	I have not made arrangements with creditors, filed for bankruptcy or been adjudicated a bankrupt or had assets sequestered in any jurisdiction	

\* Where you have not ticked 'YES', please explain and/or provide the relevant documents

### Explanation for items not ticked 'YES'

No.	Explanation

Documents submitted	
Curriculum vitae / profile (mandatory)	

I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declaration Act 1960 [Act 783].

.....

(Signature of the key responsible person making the declaration)

Name:

Date:

Subscribed and solemnly declared by the abovenamed

.....

at .....

in the State of .....

this ....., 20.....

Before me,

.....

(Commissioner for Oaths)

**Attachment E – Credit and Background Report Authorisation and Consent Form**

I hereby consent and authorize the Malaysian Aviation Commission ("**Commission**") to obtain any credit information from any registered Credit Reporting Agencies pursuant to the Credit Reporting Agencies Act 2010 [*Act 710*], Personal Data Protection Act 2010 [*Act 709*] and the Central Bank of Malaysia Act 2009 [*Act 701*]. I hereby agree that the Commission may also obtain the information at any point, throughout the duration of a licence or permit, granted by the Commission.

.....

(Signature of the key responsible person making the authorisation)

Name:

NRIC / Passport no:

Date: