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ACCREDITATION POLICY ON SOCIAL ENTERPRISES IN MALAYSIA: THE PAST, PRESENT, AND FUTURE

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ABSTRACT

Social entrepreneurship, a fast-developing sector in Malaysia, has the capacity to contribute to the social development and economic growth of the nation. Whilst social enterprises in Malaysia have made considerable impacts in terms of enhancing community welfare, driving sustainable development, and fostering inclusive growth, there are still challenges and obstacles that impede their continued development. This article argues that one of the obstacles to the advancement and growth of the social enterprise sector is the government policy on the accreditation of social enterprises in Malaysia. Since its introduction in 2017, the Malaysian government's policy on the accreditation of social enterprises has been revised four times. This article aims to conduct a critical evaluation of the accreditation policy relating to social enterprises by exploring its development and evolution, followed by highlighting its shortcomings and areas for improvement. This article employs a doctrinal legal study using the exploratory research design and interpretive qualitative content analysis to analyse policy documents related to the accreditation of social enterprises in Malaysia. After examining the effectiveness of the current accreditation policy for social enterprises in Malaysia, this study finds that it is hindered by frequent changes, subjective and ambiguous criteria, and a lack of legislative support, thus raising concerns about issues related to transparency, accountability, and unclear justifications for the introduction of various categories of social enterprises. These findings make a case for legislative intervention to provide greater clarity, certainty, transparency, and accountability on the crucial aspects of social enterprise governance.

Keywords: Accreditation of social enterprises, social business, Malaysian Social Enterprise Blueprint, social mission, SEMy 2030.

INTRODUCTION

Social entrepreneurship is a burgeoning trend across many nations, capturing the attention of governments worldwide. The social enterprise movement is often associated with closing the gaps in social and environmental concerns that are not adequately addressed by the public and private sectors in many countries. According to the Malaysian Social Entrepreneurship Blueprint 2030 (“SEMy 2030”), the rise of social enterprises in Malaysia resulted from the country’s urbanisation, resource constraints, and climate change (Ministry of Entrepreneurship and Cooperatives Development [KUSKOP], 2022a). Social enterprises are often lauded for their ability to address social and environmental issues (Md Ladin et al., 2017). However, while the Malaysian government has a policy in place to oversee the accreditation of social enterprises, the policy lacks legal backing. Moreover, the policy offers limited guidance and imposes minimal disclosure requirements on accredited social enterprises (Ahmad Nadzri et al., 2021).

Asian countries have limited research contributions on social enterprises, accounting for only 19% of the total number of 188 published articles (Gupta et al., 2020). There are indeed minimal research articles discussing social enterprises in Malaysia. Among the scholarly articles on social enterprises in Malaysia, quite a number of those published before 2020 focused on defining the concept of social enterprises (Abdul Kadir & Mhd Sarif, 2016; Md Ladin et al., 2017).

Earlier research on social enterprises in Malaysia often associated social enterprises with the non-profit sector (Zainon et al., 2014). However, subsequent developments¹ have led some scholars to view social enterprises as a form of hybrid organisations, not fitting neatly into the for-profit or non-profit sector (Abdul Kadir & Mhd Sarif, 2016; Rahim & Mohtar, 2015). Yet, due to a lack of regulation and legal recognition, social enterprises are still commonly perceived as traditional non-profit organisations (Mohd Adnan et al., 2021). The definition of the term “social enterprise” introduced in the first Malaysian Social Enterprise Blueprint (2015–2019) (“2015 Blueprint”) caused concerns about whether non-profit social enterprises were being left out and that social enterprises were limited to for-profit type of organisations. This led to concerns regarding the profit mission overshadowing the social mission (Farouk & Mok, 2019).

This study’s literature review reveals that Malaysia’s social enterprise accreditation policy has undergone dynamic changes. This evolution began with the establishment of the Malaysian Global Innovation and Creativity Centre (MaGIC) in 2014 (Rahim, 2020), leading to the launch of the 2015 Blueprint. In 2017, MaGIC introduced the Impact Driven Enterprise Accreditation (IDEA). Apart from the report published by the United Nations Economic and Social Commission for Asia and the Pacific (UNESCAP, 2019), no literature has referred to IDEA. In contrast, the Social Enterprise Accreditation Guidelines (“the SE.A Guidelines”), which were introduced later, have been referenced by several scholars in their respective studies (e.g., Abdul Kadir & Mhd Sarif, 2016; Ahmad Nadzri et al., 2021; Zakirai@Zakaria et al., 2021; Palil et al., 2021; Chan et al., 2021). However, these studies neither offer a comprehensive overview of the evolution of the accreditation policy in Malaysia nor conduct a

¹ These included several events seen as the catalysts that propelled the growth of social enterprises in Malaysia, such as the International Youth Social Business Summit in 2012, the Global Social Business Summit in 2013, and the conferment of the Social Enterprise Award to businesses in Malaysia by the Arthur Guinness Project in partnership with the British Council. These events, followed by the establishment of the Malaysian Global Innovation & Creative Centre (MaGIC) in 2014, expanded the course of social enterprises from traditional non-profit sectors to hybrid organisations.

thorough analysis of its implications. While the latest blueprint, SEMy 2030, has been referenced by Nordin et al. (2024), their study primarily focuses on the challenges encountered by social entrepreneurs. Overall, even though these studies have briefly addressed the accreditation policy, none have conducted an in-depth exploration of its evolution in Malaysia.

More recent articles have discussed social enterprises in Malaysia by investigating the growth of social enterprises from various perspectives, such as the role of business incubators and intermediaries (Baskaran et al., 2019; Ramly et al., 2022), governance (Ahmad Nadzri et al., 2021; Samsuddin & Md. Salleh, 2018), challenges faced by social enterprises (Chan et al., 2021; Mohd Adnan et al., 2021), taxation (Palil et al., 2021), and the social impact measurement (Palil et al., 2022). Despite the increasing interest in social entrepreneurship research, there is limited discussion and research concerning social enterprises in Malaysia from the perspectives of law and policy. In particular, very few studies have explored the effectiveness of the social enterprise accreditation policy in Malaysia.

The introduction of the accreditation policy without a supporting legal framework raises concerns about the absence of a specific legal regime to govern social enterprises (Abdul Kadir & Mhd Sarif, 2016). Several studies have highlighted the lack of legal recognition of social enterprises as one of the challenges faced by social enterprises in Malaysia (Baskaran et al., 2019; Md Ladin et al., 2017; Mohd Adnan et al., 2021). This lack of legal recognition poses significant challenges for social enterprises, including difficulties in raising capital, attracting talent, and engaging with government agencies (MaGIC, 2015). Even after the implementation of the accreditation policy, Palil et al. (2021) found that a lack of legal definition and recognition persists, resulting in insufficient tax incentives for social enterprises. Without legal recognition, government agencies and intermediaries such as financial institutions and organisations that provide financial and capacity-building support may not be amenable to providing relevant support to social enterprises (Baskaran et al., 2019; Mohd Adnan et al., 2021). Furthermore, the general public's limited understanding of the true nature of social enterprises makes it difficult for social enterprises to attract investment and recruit talent (Mohd Adnan et al., 2021). Additionally, the accreditation policy fails to ensure sufficient information disclosure related to governance, strategy, resource allocation, and social performance indicators, all of which are important in ensuring the accountability and transparency of social enterprises (Ahmad Nadzri et al., 2021). This lack of transparency poses challenges to stakeholders, including government agencies, investors, funders, employees, suppliers, customers, and patrons, as they struggle to obtain reliable information about social enterprises. Samsuddin and Md. Salleh (2018) emphasised the importance of a comprehensive legal framework in governing the social enterprise sector. Despite the introduction of the accreditation policy and the subsequent SEMy 2030 blueprint, Nordin et al. (2024) found that social enterprises still encounter difficulties, particularly in raising capital. Moreover, there is a scarcity of in-depth research on the accreditation policy related to social enterprises and its effectiveness in recognising and fostering the growth of the sector in Malaysia. Hence, this study intends to fill this gap by reviewing and evaluating the accreditation policy on social enterprises in Malaysia.

The objectives of this study are (1) to provide an overview of the social enterprise landscape in Malaysia by reviewing the evolution of the social enterprise accreditation policy, (2) to discuss the effectiveness of the current policy adopted by the Malaysian government in recognising and promoting social enterprises, and (3) and to recommend measures to address the shortcomings in the existing accreditation policy. This study argues that the Malaysian government's policy on social enterprise accreditation lacks certainty, clarity, transparency, and accountability. Such policy deficiencies may be addressed by introducing laws to recognise and regulate the social enterprise sector.

METHODOLOGY

This study adopts black-letter research and qualitative research methodologies. The rationale for using the doctrinal methodology is that the study intends to review and examine the policy development in relation to the social enterprise sector in Malaysia. This endeavour involves analysing government policy documents and, therefore, is descriptive in nature (Nuraisyah Chua, 2018). Hence, a doctrinal approach is suitable. Doctrinal legal research often utilises exploratory research designs (Pradeep, 2019). Given the relatively new accreditation policy of social enterprises in Malaysia and the scant literature available on the accreditation policy in detail, a knowledge gap is evident in this field of study. Therefore, exploratory research is appropriate for this under-researched topic.

Additionally, to explore the effectiveness of the accreditation policy, this study employs a qualitative methodology involving an interpretive approach via content analysis (Yanow, 2007). Qualitative content analysis differs from the doctrinal approach, as it involves examining the language and is often used by critical legal scholars to understand the meaning behind the text (Hutchinson & Duncan, 2012). Adopting an interpretive approach allows the researchers to uncover the meaning and the source meaning of the words contained in the policy documents (Yanow, 2007).

This study relies on and analyses primary resources such as blueprints, government policy documents, and guidelines, alongside secondary resources such as journal articles and newspaper reports gathered from the library and online resources.

FINDINGS AND DISCUSSIONS

The History Begins with MaGIC

Co-operative societies are regarded as the predecessor of the social enterprise sector in Malaysia (KUSKOP, 2022a). Nevertheless, the term “social enterprise” was not widely discussed until the late 1990s upon the establishment of microfinance institutions such as Amanah Ikhtiar Malaysia (AIM) and Yayasan Usaha Maju (YUM) (Ahmad Nadzri et al., 2021; Mohd Adnan et al., 2018). According to Think City (2019), the landscape of the social enterprise sector in Malaysia further expanded in the 2000s with the establishment of entities such as EPIC (a registered society under the Societies Act 1966 which manages the project to build homes for underprivileged communities in West Malaysia such as Orang Asli) and SOLS 24/7 (a company limited by guarantee that provides free education and personal development training to the B40 population).

Between 2012 and 2013, Malaysia hosted several international events that significantly impacted the social enterprise sector. Notably, the Global Social Business Summit, an annual event organised by the Nobel Peace Prize Laureate, Professor Muhammad Yunes, played a pivotal role in the development of the social enterprise sector in Malaysia. This event led to the establishment of MaGIC in 2014 (Md Ladin et al., 2017; Rahim, 2020). Initially, MaGIC was established as an agency under the Ministry of Finance (MoF) before it was transferred to the Ministry of Entrepreneur Development (MED) in 2018 and then the Ministry of Science, Technology and Innovation (MOSTI) in 2020. MaGIC’s mission was towards “building high economy and social impact via nurturing and navigating local Startup and Social Enterprise into successful and sustainable business...” (MaGIC, n.d.-b). MaGIC published the three-year 2015 Blueprint the year after its inception, establishing three strategic thrusts to promote the development of the social enterprise sector in Malaysia (MaGIC, 2015).

IDEA (2017–2019)

MaGIC launched IDEA, the first-ever accreditation policy for social enterprises in Malaysia, in September 2017 (Hashini, 2017). In this accreditation policy, an Impact Driven Enterprise was defined as “an organisation (either for-profit or non-profit) that proactively creates positive social or environmental impact in a way that is financially sustainable” (MaGIC, n.d.-c). There were two categories of IDEA-accredited enterprises, namely, Basic IDEA members and Accredited IDEA members. The key distinction between an Accredited IDEA member and a Basic IDEA member was their endorsement status by the executive selection committee. While a Basic IDEA member was not endorsed by the executive selection committee, an Accredited IDEA member was endorsed by the executive selection committee following the submission of additional documentation for audit purposes (MaGIC, n.d.-c). The elevated status as an Accredited IDEA member not only brought recognition but also provided the opportunity to request proposals or quotations from an Impact Partner, a company engaging in social procurement (MaGIC, n.d.-a). IDEA was replaced by the SE.A Guidelines in less than 2 years (MaGIC, n.d.-c). During the period when IDEA was in place, it was hardly discussed in mainstream media or examined in scholarly articles.

SE.A Guidelines (2019–2022)

The SE.A Guidelines were issued by the MED via MaGIC in April 2019 (Digital News Asia, 2019). The SE.A Guidelines defined a social enterprise as a “business entity that is registered under any written law in Malaysia that proactively creates social or environmental impact in a way that is financially sustainable” (MED, 2019). The SE.A Guidelines established three types of accreditation for social enterprises, known as Basic SE, SE.A, and SE.A Plus. No specific requirements were imposed for the Basic SE status. As for the SE.A status, it was available to any entity registered as a Basic SE that satisfied three criteria, namely, (1) proactively creating social or environmental impacts, (2) contributing significant resources to the social or environmental mission, and (3) financially sustainable.

The first criterion on proactively creating a social or environmental impact was measured based on the self-declaration made by the social enterprise either on its website or in its company’s constitution (MED, 2019). The social or environmental goal did not have to be the main priority of the social enterprise. The SE.A Guidelines empowered social enterprises to primarily pursue profit with the condition that the social or environmental mission was also pursued.

According to the MED (2019), the second criterion of contributing significant resources to the social or environmental mission was measured quantitatively, in which the social enterprise was required to fulfil at least one of the following conditions:

- a) 51% of the workforce was from target beneficiary groups;
- b) 35% of the business cost was channelled towards providing income, training, or subsidised goods or services to target beneficiary groups;
- c) 35% of the production of raw materials or resources was spent on achieving the environmental mission; and/or
- d) 51% of the profit was distributed towards solving the social mission.

The last criterion required the social enterprise to be financially sustainable. It was measured based on whether or not more than 50% of the total revenue was generated through its business activities rather than by relying on grants. In this regard, “revenue” was based on the definition provided in the Malaysian Financial Reporting Standard 9 issued by the Malaysian Accounting Standards Board and as reported in the social enterprise’s latest financial statements.

For a Basic SE to be accredited as an SE.A, the application for the upgrade was subject to approval by the SE.A committee.² An SE.A that was approved by the MoF under section 44(11C) of the Income Tax Act 1967 was known as SE.A Plus and could provide tax deduction receipts to donors. Section 44 (11C) of the Income Tax Act provides that:

There shall be deducted from the aggregate income of a relevant person for the relevant year reduced by any deduction for that year in accordance with subsection (1) an amount equal to any gift of money or cost of contribution in kind made by the relevant person in the basis period for that year for any project of national interest approved by the Minister: provided that the amount to be deducted pursuant to this subsection shall not exceed the difference between the amount of ten per cent of the aggregate income of that person in the relevant year and the total amount that has been deducted pursuant to the proviso to subsections (6), (11B) and (11D) for that relevant year.

A notable event was the transfer of MaGIC from the Ministry of Entrepreneur Development and Cooperatives (MEDAC, the ministry that replaced MED) to MOSTI in July 2020 (Qishin Tariq, 2020). After this transfer, the task to administer the accreditation of social enterprises under the SE.A Guidelines was reverted to the MEDAC (Qishin Tariq, 2020). Since then, the MEDAC (currently known as the MECD, or, more commonly known as KUSKOP) had not delegated the task of administering social enterprise accreditation to any agency until the launch of the new blueprint in 2022.

SEMy 2030 (2022–Current)

The new blueprint, SEmy 2030, was issued by KUSKOP and officiated in April 2022 (Prime Minister’s Office of Malaysia, 2022). As of April 2024, SEmy 2030 is the latest policy document applicable to social enterprises in Malaysia. It outlines five enablers, five core strategies, 20 strategies, and 45 initiatives of KUSKOP for the next 10 years under two tranches, with the first tranche ending in 2025 and the second tranche ending in 2030 (KUSKOP, 2022a). Given that SEmy 2030 covers the strategies and initiatives up to 2030, it will most likely be the official policy document governing social enterprises for the next few years until 2030.

Under SEmy 2030, a social enterprise is defined as “a registered entity under a written law in Malaysia, purpose-driven and has a financially viable business model that addresses social and/or environmental challenges, aiming to achieve positive impacts to its beneficiaries and to the economy” (KUSKOP, 2022a). Considering these wordings, social enterprises in Malaysia are regarded as dual-mission organisations aimed at not only addressing social/environmental issues but also generating profits.

² The SE.A Guidelines do not include information such as the composition of the committee and the number of committee members.

Section 4.8 of SEMy 2030 provides a non-exhaustive list of the purposes of social enterprise and the target groups or beneficiaries. According to the list, the purposes of social enterprises include social inclusion, healthcare for all, education for all, cultural and heritage preservation, social equality, access to water and sanitation, protection of victims of violence, environmental preservation, affordable housing, climate action, and food sufficiency (KUSKOP, 2022a). Meanwhile, the non-exhaustive list of target groups or beneficiaries includes children, the elderly, persons with disabilities, the homeless and beggars, victims of natural disasters, domestic violence victims, offenders under community services orders, victims of human trafficking, disadvantaged youth, vulnerable groups, indigenous peoples, vulnerable families, single mothers and single fathers, persons with addictions, ex-convicts, undocumented persons, and poor and hardcore poor individuals (KUSKOP, 2022a).

From Three Categories to Two Categories under INSKEN's Online Portal (2022–2023)

Not long after the launch of SEMy 2030, KUSKOP stopped accepting applications for the accreditation of social enterprises. In this regard, a notice was displayed on its website, stating that “MEDAC was reviewing the social enterprises accreditation for improvement until further notice” (KUSKOP, 2022b). Between April 2022 and the end of 2022, the accreditation of social enterprises in Malaysia fell into a vacuum state. The situation was only restored at the end of 2022, when Institut Keusahawanan Negara Berhad (INSKEN), a government agency under KUSKOP, introduced a new webpage accepting applications for accreditation as social enterprises. The three-category accreditation previously adopted was replaced by a two-category accreditation known as SE.ASAS and SE.AC (Abu Talib, 2023)³. Even though no official public announcement was made, it was apparent that the application for the accreditation of social enterprises had been taken over by the INSKEN from KUSKOP. At the same time, the SE.A Guidelines were no longer accessible online. Even though no official announcement about the status of the SE.A Guidelines was made, one can assume that the SE.A Guidelines had been replaced by the new criteria and the two categories of accreditation were announced on INSKEN's website.

The two categories of accreditation known as SE.ASAS and SE.AC lasted for only approximately a year from the end of 2022 until the end of 2023. An analysis of the similarities between Basic SE and SE.A (under the SE.A Guidelines) and SE.ASAS and SE.AC (provided in the portal) indicates that SE.ASAS and SE.AC was designed to supersede Basic SE and SE.A, respectively. However, it was unclear as to what would happen to the social enterprises accredited with SE.A Plus after the revision from the three-category accreditation under the SE.A Guidelines to the two-category accreditation between 2022 and 2023.

INSKEN's New Portal (2024)

In January 2024, INSKEN revamped its online portal and published new information on the accreditation of social enterprises in Malaysia (Wartawan Nabalunews, 2024). A significant change was made, thereby reverting the categories of social enterprises to three categories known as Aspiring SE, SE.B, and SE.Ac (KUSKOP, 2024b).

³ Details of the two categories of social enterprises, SE.ASAS and SE.AC, are no longer accessible on INSKEN's website after the changes made in January 2024. However, evidence of their existence is traceable to the Centre for Entrepreneur Development and Research (CEDAR) (n.d.).

Out of the three categories, SE.Ac is deemed as the “highest” stage of accreditation with the most stringent requirements compared to SE.B and Aspiring SE. Aspiring SE, which has the most lenient requirements, is deemed the “lowest” stage of social enterprises. Applications need not be made progressively from one category to another. Instead, social enterprises may apply for any category, either Aspiring SE, SE.B, or SE.Ac, directly (KUSKOP, 2024b).

Applicants for Aspiring SE, SE.B, and SE.Ac need to fulfil six, nine, and ten criteria, respectively. To be recognised as Aspiring SE, SE.B, or SE.Ac, a social enterprise must fulfil two mandatory requirements. These two mandatory requirements are (1) the social enterprise must be driven by a social mission that aims to address social and/or environmental issues, and (2) the social enterprise must have a clear target group (KUSKOP, 2024b).

Further, only applicants for SE.B or SE.Ac are required to be “an organisation that fulfils the description of a social enterprise enforced in Malaysia and registered under a written law in Malaysia” (KUSKOP, 2024b). These two criteria are not imposed on applicants for Aspiring SE. Further, applicants for SE.B or SE.Ac must have been in operation for at least 6 months or 2 years, respectively, before the application date. The period of operation prior to the application date is not applicable for Aspiring SE (KUSKOP, 2024b).

Applicants for all three categories are required to generate specific percentages of revenue from business activities ($\geq 10\%$ for Aspiring SE, $\geq 25\%$ for SE.B, and $\geq 51\%$ for SE.Ac). Further, specific percentages of profits must be channelled to social/environmental missions ($\geq 10\%$ for Aspiring SE, $\geq 30\%$ for SE.B, and $\geq 51\%$ for SE.Ac). Applicants for Aspiring SE and SE.B can also fulfil the social/environmental mission requirement by allocating the same percentages of their operational costs to the mission.

For applicants which are co-operative societies, specific percentages of their members must be individuals from the target groups identified in Section 4.8 of SEMy 2030 ($\geq 25\%$ for Aspiring SE, $\geq 51\%$ for SE.B, and $\geq 75\%$ for SE.Ac), or the co-operative societies shall assist the communities of the target groups.

The validity periods of the accreditation are 1 year, 3 years, and up to 5 years for Aspiring SE, SE.B, and SE.Ac, respectively, from the date of approval. There is an additional condition for SE.B and SE.Ac, whereby the accreditation period is subject to the organisation’s registration status with the relevant authorities such as the Companies Commission of Malaysia (CCM), the Malaysia Co-operative Societies Commission (SKM), and the Registrar of Societies Malaysia (ROS).

The last criterion is only applicable to the SE.Ac category, in which the organisation is required to prepare a clear report on social/environmental impact measurements. Table 1 presents a summary of the accreditation criteria for all three categories of accreditation.

Table 1

Summary of Accreditation Criteria for the Three Categories of Social Enterprises

Criteria	Aspiring SE	SE.B	SE.Ac
• Must be driven by a social mission to address social and/or environmental issues.	√	√	√
• Must have a clear target group.	√	√	√
• Fulfills the description of a social enterprise enforced in Malaysia.	N/A	√	√
• Registered the business/society/organisation under a written law in Malaysia.	N/A	√	√
• Duration of operation.	N/A	6 months	2 years
• Percentage of revenue generated from business activities.	≥10%	≥25%	≥51%
• Percentage of profit channeled to achieve the social/environmental mission. ^ or operation costs	≥10%^	≥30%^	≥51%
• Percentage of members of the co-operative society who are individuals from the target groups OR the co-operative society shall assist the community of the target groups.	≥25%	≥51%	≥75%
• Required to prepare an impact report.	N/A	N/A	√
• Validity period of accreditation from the approval date. * <i>Subject to the organisations' registration status</i>	1 year	3 years*	5 years*

Source. KUSKOP and organised by the authors for comparison purposes.

A review of the number of accredited social enterprises as of June 2024 shows that most of them are accredited as SE.B out of a total number of 243 social enterprises listed in the directory of social enterprises, 206 are accredited as SE.B (excluding 17 social enterprises which are also listed as SE.Ac and one which is also listed as Aspiring SE), 20 are accredited as Aspiring SE, and 17 are accredited as SE.Ac. Table 2 presents an analysis of the number of accredited social enterprises listed in the directory of social enterprises on the new online portal as of June 2024, categorised by accreditation category and type of organisation (KUSKOP, 2024a).

Table 2

Number of Accredited Social Enterprises in Malaysia under KUSKOP as of June 2024

	Aspiring SE	SE.B	SE.Ac [^]	Total
Businesses (Sole proprietorship or partnership)	10	32	3	45
Limited liability partnership	1	4	1	6
Private company limited by shares	3	63	11	77
Company limited by guarantee	-	-	1	1
Registered society	1*	6	-	7
Co-operative society	5	101	1	107
Total	20	206	17	243

Notes. *also listed under SE.B in the directory but excluded from the total number of SE.Bs

[^] all SE.Acs are also listed as SE.Bs in the directory but excluded from the total number of SE.Bs

Source. KUSKOP. Analysed and presented by the authors in this format for comparison purposes.

Among the 243 accredited social enterprises, 107 are incorporated as co-operative societies, 77 as private companies limited by shares, 45 are registered under businesses⁴ (including both sole proprietorships and partnerships), 7 are registered societies, 6 are incorporated as limited liability partnerships, and one is established as a company limited by guarantee. In terms of the legal form of the social enterprises, most of the SE.Acs are private companies limited by shares (11 out of 17) and none of the SE.Acs is a registered society. The majority of SE.Bs are co-operative societies (101 out of 206) and private companies limited by shares (63 out of 206). The numbers of companies limited by guarantee, limited liability partnerships, and registered societies are relatively low across the three categories of social enterprises, with only 1, 6, and 7, respectively.

Most of the SE.ASASs and SE.ACs (the previous two categories of accreditation between the years 2022 and 2023) are accredited as SE.Bs effective from January 2024. In this regard, out of the 48 SE.ACs in 2022, only 15 are currently accredited as SE.Acs. Many social enterprises that were previously accredited as SE.ACs have been “downgraded” to SE.Bs instead of recognised as SE.Acs under the current system of three-category accreditation. This scenario may be due to the fact that there is no clear advantage of being accredited as an SE.Ac. Additionally, to be accredited as an SE.Ac, a social enterprise must meet more stringent requirements, such as preparing an impact report and paying a higher processing fee in the application for accreditation. The number of Aspiring SEs remains small at present, possibly because it is a new stage which was only introduced in January 2024.

⁴ Unlike legal forms such as limited liability partnerships, private companies limited by shares, companies limited by guarantee, co-operative societies, and registered societies that use specific words in their names, such as LLP/PLT, *Sdn. Bhd.*, *Bhd.*, *Koperasi*, or *Pertubuhan* for easy identification, there are no specific provisions regulating the name of a sole proprietorship and partnership, making it difficult to tell them apart based on their names. To determine whether a business is a sole proprietorship or a partnership, a search needs to be done with the relevant authorities. In Sabah and Sarawak, businesses register with the local authorities instead of the CCM. However, conducting a manual search with the relevant authorities without the registration number and other information can be costly and time consuming. Considering the cost and difficulty, businesses, including sole proprietorships and partnerships, are reported collectively as businesses.

Shortcomings of the Current Accreditation Policy for Social Enterprises in Malaysia

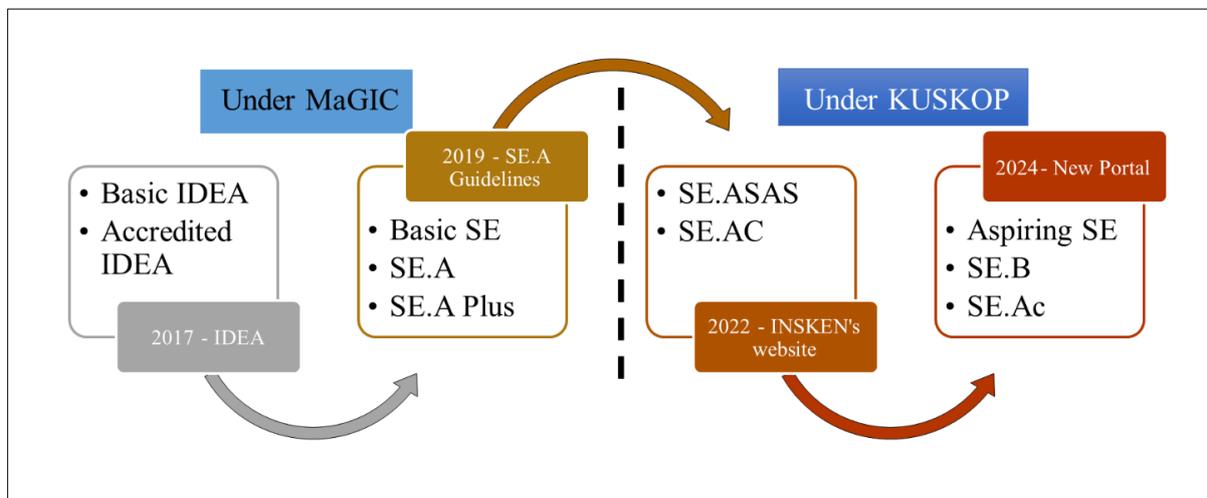
After examining SEMy 2030 and the new social enterprise portal, the study finds that the current accreditation policy has shortcomings and deficiencies that need to be addressed. These shortcomings and deficiencies are discussed below.

Frequent Changes in the Accreditation Policy

One of the major challenges faced by social enterprises is in relation to the constant changes made to the accreditation policy. As discussed earlier, the accreditation policy started with IDEA in 2017 before it was replaced by the three-category accreditation under the SE.A Guidelines in 2019, the two-category accreditation in 2022, and finally, another three-category accreditation was provided in the new social enterprise portal in 2024. **Error! Reference source not found.** summarises the changes made to the accreditation policy of social enterprises over the years.

Figure 1

Evolution of Social Enterprises Accreditation Policy in Malaysia



The study observed that whilst the change from IDEA to the SE.A Guidelines in 2019 was clearly announced by MaGIC on their website, subsequent changes in 2022 (to replace the SE.A Guidelines) and 2024 (to replace the two-category accreditation) were not officially announced to the public. Instead, information on the new accreditation policies was updated on other web pages without a clear public announcement.

The absence of a statute to support the accreditation policy for social enterprises might have led to the frequent policy changes, resulting in a sense of uncertainty. This lack of clarity not only confuses social enterprises but also poses challenges to stakeholders such as funders and donors. The need for improvement is evident. For example, the criteria set by a funder, SME Bank, for its Skim Juara Lestari still make references to the two categories introduced in 2022 (CEDAR, n.d.). Also, the Malaysia Co-Investment Fund (MyCIF) rolled out by the Securities Commission still follows the previous three-category accreditation under the SE.A Guidelines (Securities Commission [SC], n.d.).

Furthermore, the frequent changes made to the accreditation policy have resulted in unfairness to social enterprises, especially when new or different criteria are imposed on the distinct categories of social enterprises. For instance, under the SE.A Guidelines, Basic SEs were not required to contribute to social or environmental missions at a specific percentage and SE.As only needed to fulfil only one out of four criteria, including 35% of the business cost should be channelled towards providing income, training, or subsidised goods or services to target beneficiaries, or 51% of the profit should be allocated to the social mission. Subsequently, under the two-category accreditation in force between 2022 and 2023, SE.ASASs must generate at least 30% of the total revenue from business activities but were not required to channel a specific percentage of profit to social missions. Further, SE.ACs must generate at least 50% of the total revenue from business activities and channel at least 25% of the profit to social and/or environmental missions. In contrast, at present, all three categories of social enterprises are required to generate specific percentages of revenue from business activities ($\geq 10\%$ for Aspiring SE, $\geq 25\%$ for SE.B, and $\geq 51\%$ for SE.Ac) and to channel specific percentages of profits to achieving social/environmental missions ($\geq 10\%$ for Aspiring SE, $\geq 30\%$ for SE.B, and $\geq 51\%$ for SE.Ac).

Furthermore, no clarification is provided as to what happens to the status of the social enterprises that were recognised under the previous accreditation policies. Do the new criteria imposed affect the social enterprises that were recognised earlier? The position on this issue is unclear, and no answers are forthcoming in the present accreditation policy. The substantial decrease of approximately 41.3% in the number of accredited social enterprises from 414 Basic SEs, including 48 SE.As in December 2021 (KUSKOP, 2022a) to only 243, consisting of 20 Aspiring SEs, 206 SE.Bs, and 17 SE.Acs in April 2024 is alarming. Hence, this study argues that the constant changes in the accreditation policy have a negative impact on the growth of the social enterprise sector in Malaysia.

Subjective and Vague Criteria

There is a lack of explanation or clarification on the criteria for accreditation, such as motivated by a social mission to address social/environmental issues, has a clear target beneficiary, generates a specific percentage of revenue from business activities, and channels a specific percentage of profit to achieve social/environmental mission. These criteria are difficult to measure. For instance, the term “revenue” under the current policy is neither defined nor explained. In contrast, the previous SE.A Guidelines defined “revenue” as the amount reported in the social enterprise’s latest financial statements, prepared in accordance with the Malaysian Financial Reporting Standard 9 of the Malaysian Accounting Standards Board.

Despite the non-exhaustive list of target beneficiaries defined in SEMy 2030, a social enterprise which pursues an environmental mission may find it difficult to fulfil the criterion “to have a clear target beneficiary.” As far as environmental issues are concerned, the benefits may not be for a specific group of target beneficiaries but for the general public. In this situation, social enterprises may not be able to prove that they have achieved the requirement of having a clear target beneficiary. In the guidance kit on the impact assessment for social enterprises issued by KUSKOP via its new portal (KUSKOP, n.d.), the following questions are asked under the section for environmental mission:

- 1) Who benefited from your social enterprise’s environmental mission? (item 3.2(a))
- 2) How many target groups/beneficiaries have benefited? (item 3.2(b))

Item 3.2(b) is followed by the remark “Please ignore this question if there is no social mission.” Hence, it could be inferred that a social enterprise pursuing only an environmental mission and no social mission is not required to have a clear target beneficiary. However, the lack of explanation of the accreditation criteria may lead to confusion. The situation becomes even more complex when the glossaries in the guidance kit define “impact measurement” as an “indicator to measure the impact of your target group/beneficiaries following the implementation of your social enterprise’s initiatives” and “target groups/beneficiaries” as “defined in SEMy 2030” (KUSKOP, n.d.). Based on the definitions of “impact measurement” and “target groups/beneficiaries” as well as item 3.2(b), measuring the impact of a social enterprise driven solely by an environmental mission would be challenging.

Thus, the requirement to have a specific target group/beneficiary under the accreditation criteria and the definition of the term “impact measurement” in the guidance kit on impact measurement may cause issues for a specific type of environmental mission-driven social enterprises whose activities are not limited to a particular locality, such as manufacturers of eco-friendly products, since they do not have a specific target group/beneficiary, resulting in an inability to measure their impact.

The study also observed that the list of target groups/beneficiaries provided in the current policy is unclear and requires clarification. Without any explanation demarcating the terms used in classifying the target groups/beneficiaries, the list could be open to different interpretations. For instance, poor and hardcore poor groups are included in the list. However, the definition of “poor and hardcore poor groups” is not provided. Without a clear definition, different social enterprises may apply different definitions in determining their target beneficiaries, and stakeholders may also have different expectations. If “poor” refers to the poverty line income of households, then a household income of RM2,589 or below based on the poverty line income defined in 2022 would apply (Ministry of Economy, 2023). However, if “poor” refers to the B40 group, then the measurement would be based on a household income of not more than RM5,249 based on Malaysia’s Household Income Survey Report 2022 (Department of Statistics Malaysia, 2023).

The term “vulnerable group” (“*golongan rentan*”) is another category in the list of target groups or beneficiaries which requires explanation. The United Nations Electronic Government Development Index Survey (UNEG-DI) states that the vulnerable groups include women, the elderly, persons with disabilities, the poor, youth, refugees, and immigrants (Jabatan Digital Negara, n.d.). However, this broad definition may lead to issues regarding the effectiveness of the implementation of the policy. Hence, further clarification on the categories of the target groups or beneficiaries should be provided to avoid subjectivity and ambiguity.

Moreover, the lack of explanation on how to measure the percentage of social enterprises’ profits channelled to achieve social/environmental missions makes it subjective and unclear. This subjectivity in the accreditation of social enterprises may undermine the transparency and accountability of Malaysia’s social enterprise accreditation policy.

Lack of Transparency and Accountability in the Accreditation Criteria

The lack of transparency and accountability in the current accreditation policy can be examined from several perspectives. Firstly, despite the recent launch of a new portal for social enterprise accreditation, the information provided on this platform is limited to the name of the social enterprise, its location, the level of accreditation, and whether it is Aspiring SE, SE.B, or SE.Ac; the dates of accreditation and expiry, and the industry cluster. No information is provided on the new portal regarding the social and/or

environmental mission that the social enterprise addresses and the target beneficiaries of the social enterprise. Although some social enterprises have published a clear statement regarding their social and/or environmental missions on their websites, there are some social enterprises that do not have an online presence or provide information on their websites that does not differentiate them from a conventional business entity. Generally, the voluntary disclosure on websites in relation to organisational governance and social performance indicators is low (Ahmad Nadzri et al., 2021). The lack of an avenue for the public to verify the social/environmental mission of an accredited social enterprise raises questions regarding the transparency and accountability of accredited social enterprises.

Secondly, the criterion imposed on SE.Acs to submit a clear social and/or environmental impact assessment report needs clarification. The criterion does not specify how often the SE.Acs need to submit the report. The SE.Acs are also not required to make the impact assessment report publicly available. This study suggests using this reporting mechanism as a measure to monitor the SE.Acs' compliance with the accreditation criteria. Further, the lack of consequences for non-compliance with the social impact requirement may lead to greenwashing⁵ or socialwashing⁶ (Stecker, 2016). To maintain public confidence in the social enterprise accreditation policy, INSKEN should require all accredited social enterprises, instead of only SE.Acs, to prepare the social impact assessment report. The report should be submitted periodically, such as annually or biannually, and should be made publicly available via the regulator's official portal and accessible by the public at a nominal fee. This arrangement will boost transparency without imposing an excessive burden on social enterprises, thus enhancing the accountability and reliability of the accreditation status of social enterprises.

No Clear Advantages among the Three Categories of Social Enterprises

Given that there are distinct criteria for the different categories of social enterprises, it is natural for the social enterprises to expect different treatments for different categories, particularly in terms of access to support from the government. However, there is a lack of clarity on the implications of the different categories for social enterprises. This scenario is a cause of concern, as without distinct implications, it would be redundant to grant the different categories of accreditation.

The tax benefit available to SE.A Plus (a category under the SE.A Guidelines), which enabled an SE.A Plus organisation whose legal form was a company to issue tax-deductible receipts to donors pursuant to Section 44(11C) of the Income Tax Act 1967, expired in December 2020 (Lembaga Hasil Dalam Negeri, 2019). The subsequent tax benefit offered to SE.ACs (a category under the previous two-category accreditation), which exempted SE.ACs from income tax under Section 127(3A) of the Income Tax Act 1967, also expired in December 2023 (MoF, 2023). As of April 2024, the MoF has not issued new guidelines to replace the expired guidelines. It remains unclear as to whether further tax benefits will be offered to accredited social enterprises and whether tax benefits will be granted to all three categories or limited to only one or two categories of social enterprises.

⁵ Greenwashing is defined as communicating a misleading belief of an organisation towards promoting environmental performance (Lyon & Montgomery, 2015).

⁶ Socialwashing is similar to greenwashing, which refers to the act of communicating misleading beliefs of an organisation in addressing human and societal issues (Meisinger, 2022).

KUSKOP lists a few incentives for social enterprises on its website. However, there are no clear distinctions in the benefits or incentives offered to the different categories of social enterprises. For instance, both SE.ASASs and SE.ACs (under the previous two-category accreditation) were eligible to apply for SME Bank's Skim Juara Lestari, provided that the social enterprise had been in operation for a minimum of 2 years and more than 50% of the social enterprise's revenue was generated from business activities (CEDAR, n.d.).

Another example is the MyCIF rolled out by the Securities Commission, which regarded all social enterprises (Basic SE, SE.A, and SE.A Plus) under the previous three-category accreditation based on the SE.A Guidelines as eligible social enterprises (SC, n.d.). Meanwhile, funders such as SME Bank (in offering Skim Pembiayaan Perusahaan Sosial) require social enterprises to be registered with KUSKOP and to be in operation for at least 1 year (SME Bank, 2024). Another example is Yayasan Hasanah, which requires social enterprises to be registered with KUSKOP and to be established for at least two years to qualify for the Hasanah Special Grant 2024 (Yayasan Hasanah, n.d.). Both organisations do not use the three-category accreditation as a guide in setting the criteria. Hence, there are no differences in terms of the benefits available to social enterprises with different categories.

Considering the above, the rationale behind the introduction of the three-category of social enterprises and the different criteria is unclear. It is not clear why INSKEN has created the three different categories of social enterprises with different processing fees (RM300 for SE.Ac, RM50 for SE.B, zero fee for Aspiring SE). Further, there appears to be no specific incentives provided to social enterprises accredited as with the SE.Ac status, apart from a longer validity period.

Implications of Policy Shortcomings

The findings presented offer insights into the limitations of the accreditation policy's effectiveness in fostering the growth of the social enterprise sector in Malaysia. While the accreditation policy is aimed at creating a robust ecosystem for social entrepreneurs in Malaysia (KUSKOP, 2022a), its effectiveness may be limited by the shortcomings observed and discussed. The substantial decline in the number of registered social enterprises from 414 in December 2021 to 243 in June 2024 and the similar decrease in the number of accredited social enterprises from 48 to 17 during the same period raise concerns about the policy's effectiveness. Although a definitive causal link between these declines and the policy's shortcomings cannot be established without further research, the observed trends suggest a potential correlation.

Recommendations

The accreditation policy for social enterprises in Malaysia has undergone four rounds of changes since 2017. Each time a change was made, the new requirements were issued on the webpage of the agency administering the accreditation process, and all the earlier information became unavailable. These frequent changes have led to subjective and ambiguous criteria, a lack of transparency and accountability, and concerns about the rationale of implementing the three different categories of social enterprises. These issues may be addressed by establishing written guidelines that are valid over a longer period and backed by a statute to ensure optimal outcomes for social enterprises.

Unlike webpage content, which can be easily amended without the public being aware of it, a written document that clearly spells out the criteria for the accreditation of social enterprises is crucial in order to ensure the reliability and credibility of the accreditation process and requirements.

However, a guideline issued by a ministry is ineffective without the force of law. A guideline without backing by an Act of Parliament is “merely a statement of principles pointing the general direction” (*Syarikat Bekerjasama-sama Serbaguna Sungai Gelugor Dengan Tanggungan Berhad v. Majlis Perbandaran Pulau Pinang* [1996]). For a guideline to hold weight and to be legally effective, it must be established under an Act pursuant to Section 3 of the Interpretation Acts 1948 and 1967. Thus, this study recommends that an Act of Parliament, such as a Social Enterprises Act, be introduced in Malaysia to confer legal recognition to social enterprises.

The provisions of the proposed Act should include the following:

- 1) legal definitions of the terms “social enterprise” and “accredited social enterprise,” which shall be confined exclusively to businesses or organisations falling under these definitions and which are duly accredited pursuant to the Act;
- 2) a statutory provision relating to the establishment of a Social Enterprises Agency which shall have the autonomy and authority to administer the accreditation of social enterprises in Malaysia, to monitor compliance with the accreditation criteria, to maintain a registry of accredited social enterprises with the information accessible to the public, to penalise any misuse/abuse of the terms “social enterprise” and “accredited social enterprise” in Malaysia, and to impose duties to promote and support the advancement of accredited social enterprises;
- 3) a statutory provision conferring power to the Minister in charge of the accreditation of social enterprises to make regulations prescribing the procedures of accreditation and revocation of accreditation, prescribing the forms relevant for the implementation of the Act, and prescribing the detailed deliberation of the accreditation criteria, including the requirements on the impact report;
- 4) a schedule in the Act listing the classifications of accredited social enterprises. For ease of recognition, it is suggested that a business or an organisation that will not distribute any parts of its profits to the owners or members be categorised as Full Accredited SE [SE(FA)], whereas a business or an organisation that intends to distribute not exceeding 50% of its profits to the owners or members be categorised as Partial SE [SE(PA)]; and
- 5) a schedule in the Act mandating the provisions necessary to be included in the social enterprise’s governing document, such as its constitution or by-laws, based on the category either as SE(FA) or SE(PA), and shall include a provision limiting the profit distribution.

By implementing a social enterprise accreditation policy supported by an Act of Parliament, the risk of ambiguity and frequent modifications, especially on the different categories of accreditation, can be mitigated. At the same time, by delegating the details of the accreditation criteria and the procedures of accreditation and revocation of accreditation to a minister-in-charge, the Parliament is relieved from the details as the minister-in-charge would have better expertise (Ali Mohamed, 2017). This study also suggests that the regulations be gazetted as Legislative Supplement A (known as P.U(A)) per Section 18 of the Interpretation Acts 1948 and 1967. Doing so will enable the accreditation procedures and the implementation of the accreditation criteria to be legally recognised as conduct taken pursuant to the proposed Act, as provided in Section 24 of the Interpretation Acts 1948 and 1967.

These recommendations are aimed at streamlining and simplifying the accreditation process of social enterprises into two categories known as SE(FA) and SE(PA). This clear and straightforward approach will enable the general public to easily identify and engage with accredited social enterprises, thereby eliminating confusion and promoting transparency.

CONCLUSION

This article has demonstrated that the frequent modifications made to the accreditation policy and to the categories of accreditation of social enterprises indicate that the government's policy alone is inadequate to provide optimal support to social enterprises. The growth and advancement of the social enterprise sector in Malaysia hinges primarily on the existence of a stable accreditation policy. Therefore, it is submitted that the social enterprise accreditation policy should be in a permanent written form, carefully planned, and duly established under an Act of Parliament. This is essential for the long-term growth and development of social enterprises. Establishing the right legal policy to govern the sector and its parameters is vital towards ensuring the promotion and sustainability of social enterprises. Hence, this study recommends that social enterprises be conferred with a legal status through legal recognition via the enactment of an Act of Parliament, and that social enterprises be supported by subsidiary legislation, which is delegated to a minister-in-charge who has expertise on the social enterprise sector to deliberate on the details.

This article has addressed three important timeframes of the social enterprise accreditation policy in Malaysia, comprising the past, the present, and the future. It has explored a relatively uncharted territory in the realm of scholarly articles with regard to the history and development of the social enterprise accreditation policy in Malaysia. It is hoped that this study offers a fresh perspective through discussions on the effectiveness of the accreditation policy for social enterprises in Malaysia, a topic that has yet to be widely discussed. By delving into this unique topic and tracing the evolution of the social enterprise accreditation policy, this article aims to shape the future of the law and policy development of the social enterprise sector in Malaysia. In doing so, it has highlighted the inadequacies of the current policy and advocated for legislative intervention to provide greater clarity, certainty, transparency, and accountability in the social enterprise sector. It is hoped that the recommendations and proposals suggested in this article will play a pivotal role in mapping the future of the law on social enterprises in Malaysia. The findings of this study contribute to the growing body of knowledge on the accreditation policy of Malaysian social enterprises and have important implications for policymakers.

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