

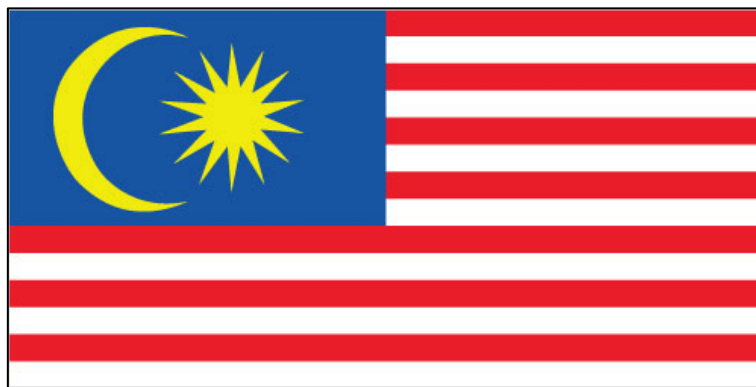
CLIMATE CHANGE LEGISLATION IN

MALAYSIA

AN EXCERPT FROM

The 2015 Global Climate Legislation Study

A Review of Climate Change Legislation in 99 Countries



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Malaysia

Legislative Process

Modelled on the Westminster system, the Malaysian Parliament is bicameral. The two chambers are the House of Representatives and the Senate. The Parliament is the ultimate legislative body in Malaysia. Its main function is to pass, amend, and repeal acts of law. It is subordinate to the King who is the Head of State.

The House of Representatives consists of 222 members. General elections take place every five years and are based on the first-past-the-post-system, with the next election due to be held in 2018. The party with the most votes forms the federal government and supplies the Prime Minister. The Senate has 70 members. Membership is made up of two categories: 26 members elected by the State Legislative Assembly to represent 13 states (each state represented by two members); and 44 members appointed by the King on the advice of the Prime Minister, including two members from the Federal Territory of Kuala Lumpur, and one member each from the Federal Territory of Labuan and Putrajaya.

Laws are introduced to Parliament as bills and go through three parliamentary readings. Typically, bills are introduced by a government ministry and read by either the Minister of the Deputy Minister of the ministry concerned. Bills can also be introduced by members of the House of Representatives or the Senate. The first reading principally consists of the act of submission, i.e. the introduction of the bill to parliament. At the second reading, the bill is debated at length. It then goes through a committee stage before being returned to the House of Representatives for a third and final reading and vote. Bills that pass the House of Representatives are referred to the Senate. The Senate may choose not to pass the bill. However, non-approval by the Senate can only delay and not prevent a bill from being passed. The legislative process is completed when the King signs the bill into law (Royal Assent). Laws take effect once they are published in the Government Gazette.

Malaysia operates as a federated system of government, with federal and state governments having specific legislative and executive authority as provided for in the Federal Constitution. Matters related to natural resources generally fall within the legislative purview of the state government, but as climate change is not specifically referred to in the constitution, matters relating to aspects of climate change (particularly adaptation) can also be deemed to fall within the state government purview.

Approach to Climate Change

The key government agency responsible for climate change is the Ministry of Natural Resources and Environment (MONRE) (and its subsidiary Department of Environment). MONRE has the executive mandate over matters related to the UNFCCC and is also charged with matters related to sustainable forest management (excluding in Sabah and Sarawak where separate ministries hold mandates for forestry-related policy) and the National Water Resources Policy (discussed in the adaptation section below). Other climate change-related policy, including renewable energy policy and the feed-in tariff regime, is enacted by the Ministry of Energy, Green Technology and Water (KeTTHA). The Malaysian Meteorological Department within the Ministry of Science, Technology and Innovation both monitors the climate, and creates future climate change projection scenarios.

In 2010, Malaysia launched a National Policy on Climate Change to mainstream and to provide a framework for the country's various activities in this area. Under five principles, it contains 10 strategic thrusts (policy goals) and 43 key actions, with a focus on climate change mitigation, adaption, and capacity building. While the policy document itself does not provide any detailed

descriptions or timeline for their achievement the government has established a National Green Technology and Climate Change Council (NGTCCC) and the Malaysian Green Technology Corporation (GreenTech Malaysia) to provide institutional support for the policy. The NGTCCC works through five sub-councils and GreenTech Malaysia has an explicit mission of promoting and coordinating programmes that help to realise the country's potential for green technology. MONRE and KeTTHA serve on a joint secretariat for the NGTCCC.

Federal-level climate change legislation and other policy initiatives have a strong focus on the energy sector. Beginning with Malaysia's 8th Development Plan (2001-2005) the government identified the promotion of renewable energy as a priority area. The 9th Development Plan (2005-2010) and 10th Development Plan (also known as the 10th Malaysia Plan, 2010-2015) have given further impetus to this policy objective. Some of the earlier projects in the energy sector include the Small Renewable Energy Power Programme (SREP), the Biomass for Generation and Co-Generation Project (BIOGEN) and the Sarawak Corridor of Renewable Energy (SCORE). The government has also introduced a National Green Technology Policy and a National Renewable Energy Policy and Action Plan in 2009. More recently, Parliament passed the Renewable Energy Act 2011 and the Sustainable Energy Development Authority Act 2011. These acts established a feed-in tariff system, guaranteeing the producers of renewable energy a fixed premium price for their product.

The Prime Minister has also announced a *“voluntary reduction of up to 40% in terms of carbon emission intensity of GDP by the year 2020 compared to 2005 levels on the condition of receiving the transfer of technology and finance of adequate and effective levels from Annex 1 countries”* at the 15th Conference of Parties to the UNFCCC in December 2009 and reiterated the same goal at the 2014 UN Climate Summit in New York. The government has, among other initiatives, launched the Low Carbon City Framework (LCCF). Under the LCCF, five cities (among them Kuala Lumpur) will pioneer low-carbon solutions and practices in four main areas: urban environment, urban transportation, urban infrastructure, and buildings. For this purpose, the government has approved 36 loans worth over USD200m.

Energy supply

Natural gas supplies most of Malaysia's primary energy, at nearly 39,000 ktoe in 2012 with the rest coming from crude oil (about 28,000 ktoe), coal and coke (15,900 ktoe) and hydropower (2,100 ktoe). The vast majority of electricity is generated by thermal generation, followed by hydropower and co-generation.

Beginning with the 8th Development Plan (2001-2005), the development of the renewable energy sector has been a priority. The latest Development Plan (2010-2015) includes policy objectives and initiatives aimed at scaling-up renewable energy projects such as: removal of subsidies for natural gas by 2015; removal of subsidies for petroleum/gasoline; creation of a feed-in tariff system for renewable energy; and promotion of biofuel from palm oil). Within this broader policy framework, the government formulated a National Green Technology Strategy in 2009 and made KeTTHA the focal institution for promoting renewable energy, energy efficiency, and green technology in Malaysia. A National Renewable Energy Policy and Action Plan requires renewables to make up 5% of the total energy mix by 2015.

The Renewable Energy Act 2011 established a system of feed-in tariffs as outlined in the 10th Development Plan. The system sets fixed tariff rates for electricity generated from solar, biomass, biogas, and hydro energy. Depending on the type of resource used, these tariffs are guaranteed for a period of 16-21 years. The Sustainable Energy Development Authority administers and manages the feed-in tariff system, which according to Malaysia's latest report to the UNFCCC, is expected to reach a capacity of 2,080MW (approx. 11% of peak electricity demand) by 2020. It is estimated that this would avoid 42.2mtCO₂e.

Other initiatives include the SREP, SCORE and BIOGEN programmes. Established in 2001, SREP provides small power generation plants generating electricity from renewable resources with access to the distribution grid system. Renewable energy sources covered under the programme include biomass, biogas, municipal waste, solar, mini-hydro, and wind. According to government sources, SREP had approved 43 projects by March 2010, producing a total of 286.15MW of electricity. In place since 2002, BIOGEN develops and implements biomass power generation programmes in the palm oil sector. One of its most significant programmes is a 14MW power plant in Sabah, generating electricity from oil palm residues. The primary focus of the SCORE programme is to develop 28,000MW of hydropower in Sarawak. The programme's centrepiece is the Bakun hydro-power dam. Completed in 2011, the Bakun dam has a production capacity of 2,400MW. Other hydropower projects being developed under SCORE include Pelagus (770MW), Baleh (950MW), Murum (990MW), Baram (1,000MW), and Limbang (1,000MW).

Energy demand

Manufacturing is the biggest final energy user, accounting for nearly 43% of total final energy consumption. A National Energy Efficiency Action Plan was released in draft form for consultation in January 2014 by KeTTHA, which aims to achieve a reduction of 6% in electricity demand growth over the 10 year period of the plan, and forecasts a total reduction of 90m tCO₂e over the lifetime of the energy-efficient technologies adopted. The action plan will complement the Malaysian Industrial Energy Efficiency Improvement Project, a joint initiative of the government, the United Nations Development Programme, and the Global Environment Facility that was completed in 2009. Outcomes included the development of energy efficiency and conservation guidelines for electrical equipment, guidelines for industrial energy audits, and the development of a benchmarking system and database.

In 2008, the government issued the Efficient Management of Electrical Energy Regulation as part of the Electricity Supply Act 1990. Under the regulation, all installations that consume 3m kWh or more of electricity over a period of six months must have an energy efficiency manager. In 2013, Minimum Energy Performance Standards (MEPS) were introduced as part of the Electricity (Amendment) Regulations 2013 and apply to selected electrical appliances such as refrigerators or air-conditioners, as well as lighting. Affected electrical products must meet minimum performance standards to be eligible for sale and the MEPS information must be made available to consumers via mandatory labelling.

Malaysia has also introduced several fiscal incentives for energy efficiency, such as a 100% tax exemption of statutory income for a period of 10 years for companies providing energy conservation services, and an import duty and sales tax exemption for companies which import energy efficient equipment or buy it from local manufacturers for third party use. The Green Technology Financing Scheme was introduced in 2010 with funding of RM3.5bn (USD1.04bn) to provide soft loans to companies to support the development of green technology.

REDD+ and LULUCF

According to The United Nations Collaborative Programme on Reducing Emissions from Deforestation and Forest Degradation in Developing Countries (UN-REDD), Malaysia has one of the highest deforestation rates in the world, and it is accelerating at a faster rate than any other tropical country. From 2000 to 2012, the country lost 14.4% or 47,278 km² of its forest cover, an area larger than Denmark. This loss of tropical forest was offset by a 25,978km² gain in forest cover from industrial timber and palm oil plantations. The central piece of legislation to protect the rainforest is the National Forestry Act 1984, amended in 1993. The 1993 act sets out a more comprehensive approach to sustainable forestry management and conservation. In particular, its amendments to the National Forestry Act 1984 involve mandatory and higher fines for illegal logging practices. However, state government is able to enact forestry policy and legislation independently of the federal government.

At the Rio Earth Summit in 1992, the government pledged to maintain a forest and tree cover of 50% of its land area, with this commitment reiterated at the Copenhagen COP in 2009 and in the 2014 Fifth National Report to the Convention on Biological Diversity. The latest report to the UNFCCC mentions two afforestation initiatives: the National Landscape Department plans to plant 20m trees by 2020, while in April 2010, the Prime Minister announced plans to plant 26m trees by 2015, one for each Malaysian. Malaysia joined the UN-REDD programme in 2012 and is developing a REDD+ Roadmap that will follow a phased approach with the development of a national-level REDD+ Strategy and local-level implementation overseen by the Ministry of Natural Resources and Environment.

Transportation

In 2006, Malaysia launched a National Biofuel Policy to promote the production and consumption of biodiesel from palm oil. Among other objectives (e.g. reduce dependency on fossil fuels, create new demand for palm oil, and mobilise local resources for biofuels) the policy aimed to mitigate climate change by reducing GHG emissions. To support the launch of its biofuel policy, the Malaysian Government reportedly provided USD26.8m in subsidies in the period of 2004-2006. In 2007, the National Biofuel Policy was supplemented by the Malaysian Biofuel Industry Act, which created a blending mandate for palm oil biodiesel (B5 blend) and a regulatory regime to license blending, storage, transportation, and export. Malaysia's B5 scheme has a volume of 500,000 metric tons, but has not been fully implemented yet.

A Government Transformation Programme (GTP) Roadmap was launched in 2010 and included improving urban public transport as a key result area. It included a target of increasing public transport modal share in Klang Valley to 25% by 2012. This target was not achieved (the share of public transport reached 21% by 2013), but it has been remained in place as a target for future versions of the GTP Roadmap.

Adaptation

Malaysia has initiated and partakes in various initiatives related to climate change adaptation. It is a member of the Coral Triangle Initiative, a multilateral partnership of six countries (Malaysia, Philippines, Indonesia, Timor-Leste, Papua New Guinea, and Solomon Islands) to protect the region's marine and coastal ecosystems, in recognition that global marine and coastal ecosystems capture and store more than 30% of man-made carbon emissions.

Climate change in the context of adaptation is listed as a policy under the Ministry of Urban Wellbeing, Housing and Local Government's National Physical Plan 2; and climate change adaptation, specifically determining measures to aid adaptation of water resources to threats and emerging threats, is also mentioned in the 2012 National Water Resources Policy. ; In its second communication to the UNFCCC, the government outlines several adaption measures and develops a "no-regrets" policy approach. This means that adaption measures will be limited to actions which *"prove useful regardless whether future climate change impacts do indeed occur."*

Malaysia: Legislative portfolio

Name of law	Renewable Energy Act 2011
Date	2 June 2011
Summary	The Renewable Energy Act 2011 establishes a system of feed-in tariffs for renewables. The system sets fixed tariff rates for electricity generated from solar, biomass, biogas, and hydro energy. Depending on the type of resource used, these tariffs are guaranteed for a period of 16 to 21 years.

Name of law	Sustainable Energy Development Authority Act 2011
Date	2 June 2011
Summary	The Sustainable Energy Development Authority Act 2011 created the Sustainable Energy Development Authority (SEDA). SEDA is charged with overseeing the implementation and operation of the renewable energy feed-in tariff system established under the Renewable Energy Act 2011.

Name of law	Malaysia Biofuels Industry Act 2007
Date	26 July 2007
Summary	The Malaysia Biofuels Industry Act 2007 creates a blending mandate for palm oil biodiesel with petroleum diesel (B5 blend). Furthermore, the act establishes a regulatory regime for the licensing of blending, storage, transportation, and export of biodiesel from palm oil.

Name of law	Electricity Supply Act 1990
Date	8 September 1993, Amended 2001
Summary	The Electricity Supply Act 1990 is an act to provide for the regulation of the electricity supply industry, the supply of electricity at reasonable prices, the licensing of any electrical installation, the control of any electrical installation, plant and equipment with respect to matters relating to the safety of persons and the efficient use of electricity and for purposes connected therewith.

Relevant regulations enacted under this Act are:

- Electricity (Amendment) Regulations 2013: These regulations introduce Minimum Energy Performance Standards (MEPS) for appliances such as air-conditioners and refrigerators, as well as for lighting. The regulations outline a 'star rating' from 1-5 as well as minimum levels that specific electrical appliances must achieve (for example, domestic fans must achieve a MEPS of two stars).
- Efficient Management of Electrical Energy Regulation 2008: Under the regulation, all installations that consume 3 million kWh or more of electricity over six months must have an electrical energy manager. The energy manager is responsible for analysing the total consumption of electrical energy, advising on the development and implementation of measures to ensure efficient management of electrical energy and monitoring the effectiveness of the measures taken.

Malaysia: Executive portfolio

Name of Policy	10th Malaysia Plan 2011-2015
Date	June 2010
Summary	The 10th Malaysia Plan identifies the importance of developing a climate resilient growth strategy divided into adaptation and mitigation activities. Under adaptation, actions focus on developing a robust risk framework to assess and quantify climate risk faced by Malaysia's economy. Under mitigation, actions include the planned introduction of a feed-in-tariff of 1% incorporated into electricity tariffs of consumers to support the development of renewable energy, and the establishment of a renewable energy fund from the feed-in-tariff. The plan also includes a target of 985MW renewable energy by 2015 (about 6% of the country's electricity generation).

Name of Policy	National Policy on Climate Change
Date	2010
Summary	Published by the Ministry of Natural Resources and Environment, the main objectives of the National Policy on Climate Change include mainstreaming climate change through the wise management of resources and enhanced environmental conservation. The policy also aims to strengthen institutional and implementation capacity to better harmonise opportunities to reduce negative impacts on climate change. The policy is based on the principles of sustainable development, coordinated implementation, effective participation and common but differentiated responsibilities. It contains 43 key actions under 10 strategic thrusts, including making development climate-resilient and supporting knowledge-based decision-making.

