



اَللّٰهُمَّ صَلِّ وَسَلِّمْ عَلٰى نَبِيِّنَا مُحَمَّدٍ
وَعَلٰى اٰلِهِٖٓ وَسَلَّمَ

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Research Title:

**STUDY ON THE JURISDICTION ON LICENSING BODY WITH REFERENCE TO
TRADE DESCRIPTION ACT 2011**

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ABSTRACT

The issue of *halal* certificate authenticity was not new for public at large. Muslim consumers are in confusion in choosing foods or food products since they are marked with various *halal* symbols, labels or logos affixed by manufacturers on their food packaging. To eliminate the confusion among Muslim consumers, Malaysia Department of Islamic Development (JAKIM) had introduced a Malaysian *Halal* logo in 2007 to be used in uniform by all manufacturers or premises provided that manufacturers must apply *Halal* Certificate from JAKIM or States Islamic Religious Departments (JAIN) or States Islamic Religious Council (MAIN). This policy did not prevent anyone to use expression of *halal* in any manner since the law permit its use in 1975. However, in the most recent development, JAKIM, MAIN and JAIN are recognized as the component of competent authorised bodies in Malaysia to issue the certificate when Trade Description Act 2011 came into force simultaneously and two new Orders namely the Trade Descriptions (Definition of *Halal*) Order 2011, Trade Descriptions (Certification and Marking of *Halal*) Order 2011 and a Regulations namely the Trade Descriptions (Certification and marking of *Halal* Fees) Regulations 2011. This research is done to analyse the powers of JAKIM, MAIN and JAIN under the TDA 2011 as the component of competent authorised bodies in Malaysia to monitor and control the application of *Halal Certificate* by the food premises and manufacturers as well as the enforcement practise of JAKIM in monitoring and controlling the issuance of *Halal Certificate* under TDA 2011. Besides that this research will also highlight suggestions an appropriate reformation to the existing legal framework on the authoritative bodies to issue and monitor the issuance of *Halal Certificate*.

TABLE OF CONTENTS

	<u>PAGE</u>
I. TITLE	1
II. CHAPTER 1	
INTRODUCTION	2
PROBLEM STATEMENT	7
OBJECTIVE OF THE STUDY	9
LITERATURE REVIEW	10
METHODOLOGY	14
SCOPE AND LIMITATION	15
SIGNIFICANCE OF THE STUDY	16
PROVISIONAL PLAN OF RESEARCH	17
III. CHAPTER 2	
HISTORY OF HALAL CERTIFICATION	18
IV. CHAPTER 3	
HISTORY AND DEVELOPMENT OF TRADE DESCRIPTION ACT 1972 AND ITS REGULATIONS	22
THE COMING IN OF TRADE DESCRIPTION ACT 2011 AND ORDERS	29
MONITORING AND AUDITING PROCESS BY JAKIM	31
V. CHAPTER 4	
FINDINGS	42

CHAPTER 1

INTRODUCTION

Religion of Islam comes with comprehensive standard of regulations and discipline to be conformed by all Muslims. The concept of lawful (*halal*) and forbidden (*haram*) in Islam is clear. Islam has guidelines in all matter but not limited to faith and belief, religious rituals, food consumption, business transaction, relationship between men and women, and marriage. *Halal* and *haram* are Quranic terms used to determine the lawful and unlawful of a matter with regard Islamic jurisprudence or Islamic teaching.

Religion of Islam commands its followers to eat and drink of the things that are good quality and determined by Islamic law. There are verses of Al-Quran describing God's commands to Muslims to eat good food, *halal* animals slaughtered in the name of Allah and take the proceeds obtained in the war.¹

Allah S.W.T. says that:

"And We made the cloud give you shade, and sent down to you Mann and Salwa: 'Eat of the good things We have provided you'. And they (by their ingratitude) did Us no harm, but were harming only themselves."²

"This day [all] good foods have been made lawful, and the food of those who were given the Scripture is lawful for you and your food is lawful for them. And [lawful in marriage are] chaste women from among the believers and chaste women from among those who were given the Scripture before you, when you have given them their due compensation, desiring chastity, not unlawful sexual intercourse or taking

¹ JAKIM authors panel, *Ayat-ayat Suruhan* (Malaysia Department of Islamic Development Kuala Lumpur 2006) p 295.

² Al-Quran: Al-Baqarah verse 57.

[secret] lovers. And whoever denies the faith - his work has become worthless, and he, in the Hereafter, will be among the losers".³

"Say, I do not find within that which was revealed to me [anything] forbidden to one who would eat it unless it be a dead animal or blood spilled out or the flesh of swine - for indeed, it is impure - or it be [that slaughtered in] disobedience, dedicated to other than Allah . But whoever is forced [by necessity], neither desiring [it] nor transgressing [its limit], then indeed, your Lord is Forgiving and Merciful".⁴

"Eat from the good things with which We have provided you and do not transgress [or oppress others] therein, lest My anger should descend upon you. And he upon whom My anger descends has certainly fallen."⁵

Halal in general term means permitted, allowed, authorized, approved, sanctioned, lawful, legal, legitimate or licit. The word 'Food for Muslims' or 'food certified Halal' or 'Halal' or having similar meanings can be define as follows:

- (a) Free of, and not made of, or containing any part or substance taken or extracted from animal which are forbidden (HARAM) to be consumed by Muslims, according to Islamic laws.
- (b) Not containing any substances, this is declared as filth according to Islamic Laws.
- (c) Not prepared, processed, produced or manufactured using utensils, equipment or machinery which are not free from filthy substances as directed by Islamic Laws, and
- (d) During preparation, processing or storage, it should not come into contact or be in close proximity with any food which do not fulfilled the requirements as stipulated in

³ Ibid. Al-Ma'idah verse 5.

⁴ Ibid. Al-An'am verse 145.

⁵ Ibid. Taha verse 81.