

立法會
Legislative Council

LC Paper No. CB(1) 867/02-03
(These minutes have been seen
by the Administration)

Ref: CB1/BC/6/01/2

Bills Committee on Companies (Amendment) Bill 2002

Minutes of eleventh meeting
held on Thursday, 23 January 2003, at 2:30 pm
in Conference Room A of the Legislative Council Building

- Members present** : Hon Audrey EU Yuet-mee, SC, JP (Chairman)
Hon Albert HO Chun-yan
Hon Eric LI Ka-cheung, JP
Hon NG Leung-sing, JP
Hon Miriam LAU Kin-yee, JP
- Members absent** : Dr Hon David CHU Yu-lin, JP
Hon CHAN Kwok-keung
Hon CHAN Kam-lam, JP
Hon SIN Chung-kai
Hon Emily LAU Wai-hing, JP
Hon Henry WU King-cheong, BBS, JP
- Attendance by invitation** : Financial Services and the Treasury Bureau

Mr Esmond LEE
Principal Assistant Secretary for Financial Services and
the Treasury (Financial Services)4

Mr Arthur AU
Assistant Secretary for Financial Services and the
Treasury (Financial Services)(4)1

Representatives from the Companies Registry

Mr G W E JONES
Registrar of Companies

Mr J S BUSH
Secretary
Standing Committee on Company Law Reform

Ms D SILKSTONE
Registry Solicitor

Representatives from the Department of Justice

Mr J E GUNTER
Senior Assistant Law Draftsman

Mr Vidy CHEUNG
Senior Government Counsel

Clerk in attendance : Miss Becky YU
Chief Assistant Secretary (1)1

Staff in attendance : Miss Monna LAI
Assistant Legal Adviser 7

Mrs Mary TANG
Senior Assistant Secretary (1)2

I. Confirmation of minutes

(LC Paper No. CB(1) 767/02-03 -- Minutes of the meeting held on
9 January 2003)

The minutes of the meeting held on 9 January 2003 were confirmed.

II. Meeting with the Administration

- (LC Paper No. CB(1) 777/02-03(01) -- Assistant Legal Adviser 7's letter dated 14 January 2003 to the Administration
- LC Paper No. CB(1) 777/02-03(02) -- List of follow-up actions arising from the discussion on 9 January 2003
- LC Paper No. CB(1) 777/02-03(03) -- Administration's response to CB(1) 777/02-03(02)
- LC Paper No. CB(1) 777/02-03(04) -- Administration's response to comments from members and/or deputations on certain provisions in the Bill)
2. The Committee deliberated (Index of proceedings attached at **Annex A**).
 3. The Administration was requested to -
 - (a) update the comparison table on governance of shadow directors between Hong Kong and overseas countries by including practices in the United States and New Zealand;
 - (b) consult the Probate Committee of the Law Society regarding the need for appointment of a person to act in place of the sole director (who was also the sole member) of a company; and
 - (c) advise the policy intent behind the existing provisions of section 157I on the enforceability of a guarantee entered into or any security provided by a company under section 157H which were enacted in 1984. To compare these provisions with their equivalent under the UK Companies Act. To also consider modernizing these provisions in the light of present situation.
 4. Members agreed to the following schedule of meetings -
 - Thursday, 20 February 2003 at 10:45 am;
 - Thursday, 27 February 2003 at 10:45 am;
 - Wednesday, 12 March 2003 at 8:30 am;
 - Thursday, 20 March 2003 at 8:30 am; and
 - Tuesday, 15 April 2003 at 8:30 am
 5. There being no other business, the meeting ended at 4:40 pm.

**Proceedings of the meeting of the
Bills Committee on Companies (Amendment) Bill 2002
Meeting on Thursday, 23 January 2003, at 2:30 pm
in Conference Room A of the Legislative Council Building**

Time marker	Speaker	Subject(s)	Action required
000000 – 000108	Chairman	Confirmation of minutes of meeting on 9 January 2003 (LC Paper No. CB(1) 767/02-03)	
000109 – 000447	Administration	Explanation on LC Paper No. CB(1) 777/02-03 - Definition of “shadow director”	
000448 –000899	Mr Albert HO Administration Chairman	Whether nominee companies would be regarded as shadow directors and required to be registered under section 158	The Administration to update the comparison table on governance of shadow directors between Hong Kong and overseas countries by including practices in the United States and New Zealand
000900 –001107	Chairman Administration	Review of the UK company law	
001108 –001741	Chairman Administration Mr NG Leung-sing ALA7	Extension of “credit transaction” to cover tenancy agreements	
001742 –002008	Chairman Administration Mr Eric LI	Transaction limit of \$500,000	
002009 –003299	Chairman Administration Mr Eric LI Ms Miriam LAU	Enforcement of section 98(3)	
003300 - 004305	Administration Mr Albert HO	Appointment of a person to act in place of the sole director (who was also the sole member) of a company	

Time marker	Speaker	Subject(s)	Action required
004306 –005902	Mr Albert HO Administration Ms Miriam LAU Mr Eric LI	Concern over difficulties in obtaining probate and freezing of assets pending grant of probate	The Administration to consult the Probate Committee of the Law Society regarding the need for appointment of a person to act in place of the sole director (who was also the sole member) of a company
005903 – 010147	Chairman Administration	Discussion on the Administration's response to ALA7's comments on the paper on "Provision of financial assistance to directors" issued under LC Paper No. CB(1) 395/02-03(01)	
010148 –011232	Administration ALA7	Hire purchase agreement and conditional sales agreement	
011233 –012613	ALA7 Administration Chairman Mr Albert HO Ms Miriam LAU	Enforceability of a guarantee entered into or any security provided by a company under section 157I	
012614 –013052	Mr Albert HO	Whether guarantee could be enforced against companies which had been wound up and whether bank as chargee should be protected if it had knowledge of the contravention	
013053 –013610	Ms Miriam LAU Mr Albert HO Chairman ALA7	Establishment of knowledge of contravention under section 157I	
013611 - 014103	Mr Eric LI Chairman Administration	Disposal of devalued mortgaged properties of companies which had wound up	

Time marker	Speaker	Subject(s)	Action required
014104 - 014126	Mr Albert HO Chairman Administration	Whether the interest in any property need to be protected under section 157I(3)(b) if parties to the transaction had knowledge of contravention	
014127 - 014248	Chairman	The voidable concept and the equitable principle adopted in United Kingdom	
014249 - 014500	Chairman Ms Miriam LAU	Applicability of section 157I(3)(a) to sub-mortgagees who had no knowledge of the contravention	
014501 - 015039	Mr Eric LI Mr Albert HO Chairman ALA7	Policy intent behind the existing provisions of section 157I	The Administration to advise the policy intent behind the existing provisions of section 157I on the enforceability of a guarantee entered into or any security provided by a company under section 157H which were enacted in 1984. To compare these provisions with their equivalent under the UK Companies Act. To also consider modernizing these provisions in the light of present situation
015040 - 015456	Chairman	Date of next meeting	