

Response by The Hong Kong Institute of Company Secretaries to the Bills Committee of the Legislative Council on the Companies (Amendment) Bill 2002

The Hong Kong Institute of Company Secretaries (“HKICS”) welcomes the opportunity to comment on the Companies (Amendment) Bill 2002, which aims to implement some of the recommendations made in February 2000 in “The Report of the Standing Committee on Company Law Reform (SCCLR) on the Recommendations of a Consultancy Report of the Review of the Hong Kong Companies Ordinance”.

HKICS supports the enactment of the Companies (Amendment) Bill 2002 but would draw the Bills Committee’s attention to the items below.

1. Clause 32

In relation to the register of charges to be kept by the Registrar, section 83(2) is amended by removing the requirement for the certificate of registration to state the amount secured. HKICS queries why this useful information should be removed.

2. Clauses 14, 15, 16, 17, 19, 20, 21, 22, and 23

In amending sections 47E, 47F, 47G, 48, 49J, 49K, 49L, 49M and 49Q respectively in relation to the relaxation of financial assistance rules by a company to acquire its own shares by replacing the references in those sections to a statutory declaration by references to a statement in the specified form, there is no provision dealing with the consequences of making a false statement.

3. Clause 76

In amending section 228A by requiring the directors of a company to file a winding-up statement in the specified form instead of a statutory declaration, there is no provision dealing with the consequences of making a false statement.

4. Clause 79(1)-(5)

In amending section 233 in relation to the declaration of solvency by requiring a certificate of solvency in the specified form instead of a statutory declaration, there is no provision dealing with the consequences of making a false statement.

5. Clause 86

In amending section 300B(3) in relation to the submission of statement of affairs to the receiver by requiring a statement in writing instead of an affidavit, there is no provision dealing with the consequences of making a false statement.