

## BUSINESS REGISTRATION (AMENDMENT) BILL 2010

## COMMITTEE STAGE

## 4. Official secrecy

(1) Section 4(1) is repealed and the following substituted –

“(1) Except in the performance of the functions referred to in subsection (1A), an officer of the Inland Revenue Department, or of the Companies Registry –

(a) must preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person that may come to the officer’s notice in the performance of any function under this Ordinance;

(b) must not communicate any such matter to any person other than –

(i) the person to whom such matter relates;

(ii) the executor of the person referred to in subparagraph (i);  
or

(iii) the authorized representative of the person referred to in subparagraph (i) or the executor;  
and

(c) must not allow any person to have access to any record relating to any such matter in the possession, custody or control of the Commissioner or the Registrar.

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- (1A) The functions are –
- (a) in relation to an officer of the Inland Revenue Department, functions under the Inland Revenue Ordinance (Cap. 112) or under this Ordinance; and
  - (b) in relation to an officer of the Companies Registry, functions under this Ordinance.”.

(2) Section 4(2) is amended by repealing “Every officer of the Inland Revenue Department shall,” and substituting “An officer of the Inland Revenue Department, or of the Companies Registry, must,”.

- (3) Section 4(3) is repealed and the following substituted –

“(3) Except as may be necessary for the purpose referred to in subsection (3A), no officer of the Inland Revenue Department, or of the Companies Registry, may be required –

- (a) to divulge or communicate to any court any matter or thing coming to the officer’s notice in the performance of any function under this Ordinance; or
- (b) to produce in any court any document pertaining to such matter or thing other than a document required to be kept by the Commissioner under this Ordinance.

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- (3A) The purpose is –

- (a) in relation to an officer of the Inland Revenue Department, to carry into effect the provisions of the Inland Revenue Ordinance (Cap. 112) or of this Ordinance; and

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(b) in relation to an officer of the Companies Registry, to carry into effect the provisions of this Ordinance,

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(3B) In relation to an officer of the Companies Registry, subsections (1) and (3) do not apply to any particulars that are provided in an incorporation application or company registration application.”.

(4) Section 4(5) is amended by adding “, or of the Companies Registry,” after “Inland Revenue Department”.

(5) Section 4(6) is amended by repealing “that department” and substituting “the Audit Commission”.

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## 9. Section 7A added

The following is added –

**“7A. Refund of prescribed business registration fees, prescribed branch registration fees or levies**

(1) Any prescribed business registration fee, prescribed branch registration fee or levy paid is not to be refunded except where it is provided otherwise in this section or any other provision of this Ordinance.

(2) Subject to subsection (3), the Commissioner must refund any prescribed business registration fee or prescribed branch registration fee, as the case may be, or levy paid in respect of a business or a branch of a business –

- (a) as soon as practicable after the Commissioner has given the notification under section 6(4A) if the Commissioner has decided not to register the business or branch for any of the reasons specified in section 6(4); or
- (b) as soon as practicable if the Commissioner has removed the entry in respect of the business or branch from the register under section 6(4B), and there is no appeal against the removal under section 6(4C) or an appeal under section 6(4C) is unsuccessful or withdrawn.

(3) Except in the case of a branch of a business, subsection (2)(b) does not entitle the following companies to any refund –

- (a) a company incorporated under the Companies Ordinance (Cap. 32);
- (b) a non-Hong Kong company to which Part XI of that Ordinance applies.

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(4) If the Registrar refuses an incorporation application made on or after the day on which section 6 of the Business Registration (Amendment) Ordinance 2010 ( of 2010) comes into operation, the Commissioner must as soon as practicable refund to the applicant the prescribed business registration fee and levy paid under section 5A(1)(a).”

## 14. Exemptions

(1) Section 16 is amended by renumbering it as section 16(1).

(2) Section 16(1)(d) is amended by repealing “Secretary for Financial Services and the Treasury” and substituting “Secretary”.

(3) Section 16 is amended by adding –

“(2) In respect of any prescribed business registration fee and levy required to be paid under section 5A(1)(a) or 5B(1)(a) –

(a) the liability to pay the fee and levy is not affected by any claim that this Ordinance does not apply to the relevant company or business under this section; and

(b) if the Commissioner is satisfied that this Ordinance does not apply to the relevant company after the fee and levy have been paid, the fee and levy are to be refunded as soon as practicable.”

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## 25. Forms

(9) Form 4 set out in regulation 9 is repealed and the following substituted –

“FORM 4

[s. 4(2)]

### BUSINESS REGISTRATION ORDINANCE

(Chapter 310)

#### *Oath or Affirmation of Secrecy*

I, ..... (*full name*)  
of .....  
(*address*), an officer of the Inland Revenue Department/Companies Registry<sup>(1)</sup>, having been appointed to perform functions under the Business Registration Ordinance (“the principal Ordinance”), swear/solemnly and sincerely affirm<sup>(1)</sup> that (except in the performance of functions under the principal Ordinance or under the Inland Revenue Ordinance (Cap. 112)<sup>(2)</sup> or where it is expressly authorized by any enactment) –

(a) I will at all times preserve and aid in preserving secrecy with regard to all matters relating to the affairs of any person which may come to my notice in the performance of any function under the principal Ordinance (other than particulars that are provided in an incorporation application or company registration application as respectively defined under the principal Ordinance<sup>(3)</sup>);

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(b) I will not communicate any such matter to any person other than –

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- (i) the person to whom such matter relates;
  - (ii) the executor of the person referred to in subparagraph (i);  
or
  - (iii) the authorized representative of the person referred to in subparagraph (i) or the executor;  
and
- (c) I will not allow any person to have access to any record relating to any such matter in the possession, custody or control of the Commissioner of Inland Revenue/Registrar of Companies<sup>(1)</sup>.

.....  
Sworn/Affirmed<sup>(1)</sup> at .....

Hong Kong this ..... day of

.....  
Before me,

.....  
*Commissioner for  
Oaths*

(1) Delete whichever is not applicable.

(2) Delete “or under the Inland Revenue Ordinance (Cap. 112)” in the case of an officer of the Companies Registry.

(3) Delete this phrase in brackets in the case of an officer of the Inland Revenue Department.”.

刪除: ”