

Bills Committee on Companies Bill
Committee Stage Amendments to the Companies Bill
Part 17 – Companies not Formed, but Registrable, under this Ordinance

The table below sets out the proposed Committee Stage Amendments (CSAs) in relation to Part 17 (“Companies not Formed, but Registrable, under this Ordinance”) (clauses 794 to 808) of the Companies Bill (CB). In preparing the CSAs, the Administration has taken account of, *inter alia*, the views of Members, deputations and the Legislative Council Legal Adviser. Marked-up copy of the proposed CSAs in numerical order is at [Annex](#) for reference.

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
1	Clause 805 Eligible company may substitute articles for non-statutory constitutional document	Change “objections” in subclause (7) to “objects”.	<ul style="list-style-type: none"> • Correcting a clerical error.
2	Clause 807 Exceptions to section 806(1)	Delete subclauses (3) to (5)	<ul style="list-style-type: none"> • It is more appropriate to place some of the exceptions to clause 806(1) as set out in clause 807 in the Companies (Winding Up and Miscellaneous Provisions) Ordinance, as they are all related to contributories in the event of an eligible company being wound up. A new section will be added to the Companies (Winding Up and Miscellaneous Provisions) Ordinance to state what is currently in subclauses (3) to (5). As a result of this, these subclauses are no longer necessary. We propose to delete them.

805. Eligible company may substitute articles for non-statutory constitutional document

- (1) The eligible company may alter the form of its constitution by substituting articles for a non-statutory constitutional document of the company.
- (2) An alteration must be made by special resolution.
- (3) Subject to subsections (5) and (6), so much of sections 84 and 86 as relate to the matters specified in subsection (4) applies to an alteration (so far as applicable) if the eligible company, had it been formed under this Ordinance, would have been a private company.
- (4) The matters specified for the purposes of subsection (3) are—
 - (a) matters consequential on the passing of a resolution for an alteration under section 84; and
 - (b) an application to the Court for the cancellation of an alteration of a private company's objects.
- (5) A reference in section 84(7) to a copy of the company's articles as altered is to be read as a copy of the articles substituted for a non-statutory constitutional document of the eligible company under this section.
- (6) On the delivery to the Registrar under section 84 of a copy of the company's articles substituted for a non-statutory constitutional document of the eligible company or on the date when the alteration is no longer liable to be cancelled by order of the Court, whichever is the later—
 - (a) the articles apply to the company in the same manner as if it were a private company registered under this Ordinance with the articles; and
 - (b) the non-statutory constitutional document ceases to apply to the company.
- (7) An alteration may be made under subsection (1) with or without an alteration of the eligible company's objects¹ under section 84.

¹ Item 1 / 第(1)款

807. Exceptions to section 806(1)

- (1) The eligible company may not adopt as its articles any or all of the provisions of the model articles prescribed under section 73, unless those provisions are adopted by special resolution.
- (2) Subject to section 808, the eligible company does not have any power to alter a provision in an Ordinance relating to the company.

~~(3) If the eligible company is wound up, a person specified in subsection (5) is a contributory—~~

~~(a) liable to pay or contribute to the payment of—~~

~~(i) the company's debts and liabilities contracted before the registration;~~

~~(ii) any sum for the adjustment of the rights of the members among themselves in respect of those debts and liabilities; and~~

~~(iii) the costs and expenses of winding up the company, so far as relating to those debts and liabilities; and~~

~~(b) liable to contribute to the company's assets all sums due from the person in respect of the liability under paragraph (a).~~

~~(4) In the event of the death or bankruptcy of such a contributory, the provisions of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) with respect to the personal representatives, and to the trustees of bankrupt, apply.~~

~~(5) The person specified for the purposes of subsection (3) is a person who is liable to pay or contribute to the payment of the eligible company's debts and liabilities contracted before the registration.²~~

² Item 2 / 第(2)款