

**Bills Committee on Companies Bill**  
**Committee Stage Amendments to the Companies Bill**  
**Part 8 – Registration of Charges**

The table below sets out the proposed Committee Stage Amendments (CSAs) in relation to Part 8 (“Registration of Charges”) (clauses 331 to 355) of the Companies Bill. 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. The marked-up Chinese provisions in the Annex only contain CSAs solely applicable to the Chinese text. CSAs to Schedule 10 (“Transitional and Saving Provisions”) will be reported to the Bills Committee later in one go.

A list of abbreviations used in this table is as follows:

Bills Committee: Bills Committee on Companies Bill

CB: Companies Bill

CO: Companies Ordinance (Cap 32)

CSA: Committee Stage Amendment

FS: Financial Secretary

HKAB: Hong Kong Association of Banks

LegCo: Legislative Council

Registrar: Registrar of Companies

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
<b>General amendments across the CB</b>			
1	Change “14 days” to “15 days” for delivery of documents to the Registrar	Where a document has to be delivered to the Registrar within “14 days”, the time limit should be changed to “15 days”.	<ul style="list-style-type: none"> <li>• Some Bills Committee Members were concerned that the 14-day period may be insufficient for companies to deliver certain documents to the Registrar for registration or notification, as the delivery period for some of the documents was 15 days in CO.</li> <li>• Upon review, the Administration agreed to extend the 14-day period to 15 days for the relevant provisions in CB. Please see paragraphs 31 to 32 of LegCo Paper</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
			<p>No. CB(1)357/11-12(01) “Administration’s response to issues raised by members at the meetings on 4 and 11 November 2011 in relation to Part 4 and Part 5”.</p> <ul style="list-style-type: none"> <li>Insofar as Part 8 is concerned, we propose to amend clauses 349(4), 350(4)(a) and (b) and 353(1)(a) and (b) pursuant to this item.</li> </ul>
2	Amend the Notes in the CB as appropriate	CB currently contains 37 Notes. Upon review, we consider that some Notes have to be deleted or amended while some new Notes should be added.	<ul style="list-style-type: none"> <li>Detailed proposals are set out in LegCo Paper No. CB(1)1295/11-12(02) ““Notes” and “Examples” in the Companies Bill” discussed on 10 April 2012. Members endorsed the proposal relating to Part 8, i.e. to delete the Note under clause 346(4).</li> </ul>
<b>Other amendments specific to Part 8</b>			
3	Clause 331 Interpretation	<p>(I) Add “registered” in clause 331(4)(a)(ii) before “non-Hong Kong company”.</p> <p>(II) Amend “...受該公司設定的押記規限的財產...” in clause 331(5)(a) to “...受該公司設定的押記規限的財產...”.</p>	<ul style="list-style-type: none"> <li>As different definitions are provided for “registered non-Hong Kong company” and “non-Hong Kong company” in clause 2(1), it is preferable to specify the reference as “registered non-Hong Kong company” for the sake of clarity.</li> <li>This CSA is proposed in response to the LegCo Legal Adviser’s observation that the word “created” is rendered as “設立” and “設定” in clause 331(5)(a).</li> </ul>
4	Clause 332 Application of Part	Delete clause 332.	<ul style="list-style-type: none"> <li>Clause 332 is not necessary because if a company has delivered a notice under clause 782(1) or the Registrar has entered in the register a statement of dissolution under clause 783(2), the company will no longer be a registered non-Hong Kong company.</li> </ul>
5	Clause 334	Amend “...設立該項押記或證明	<ul style="list-style-type: none"> <li>This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to clarify that the instrument may evidence the “existence” instead of “creation” of</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
	Company must register specified charge created by it	該項押記的設立的文章...” in clause 334(1), (3)(a) and (5)(a)(ii) to “...設立該項押記或證明有該項押記的設立的文章...”.	the charge.
6	Clause 335 Registered non-Hong Kong company must register specified charge created by it	Amend “...設立該項押記或證明該項押記的設立的文章...” in clause 335(1) and (3)(a) to “...設立該項押記或證明有該項押記的設立的文章...”.	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 5 in respect of clause 334.</li> </ul>
7	Clause 336 Consequences of contravention of section 334 or 335	<p>(I) Add “registered” in clause 336(2) before “non-Hong Kong company”.</p> <p>(II) Amend “...合約或契約。” in clause 336(5) to “...合約或契約責任。”.</p>	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 3(I) in respect of clause 331(4)(a)(ii).</li> <li>• This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to modernise the drafting. The words “契約” mean “legal obligation” here, thus should be rendered as “責任”.</li> </ul>
8	Clause 337 Company must register charge existing on property acquired	Amend “...設立該項押記或證明該項押記的設立的文章...” in clause 337(2) and (3)(b) to “...設立該項押記或證明有該項押記的設立的文章...”.	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 5 in respect of clause 334.</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
9	Clause 339  Registered non-Hong Kong company must register charge existing on property on date of company's registration under Part 16	Amend "...設立該項押記或證明該項押記的設立的文書..." in clause 339(2) to "...設立該項押記或證明有該項押記的設立的文書...".	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 5 in respect of clause 334.</li> </ul>
10	Clause 340  Company or registered non-Hong Kong company must register particulars of issue of debentures	(I) Amend "...of the charge is delivered for registration..." in clause 340(1)(c) to "...of the charge is <u>required to be</u> delivered for registration...".	<ul style="list-style-type: none"> <li>• This CSA is introduced in response to HKAB's comments (vide LegCo Paper No. CB(1)1805/10-11(14)).</li> <li>• HKAB considered that clause 340(1)(c) seemed to suggest that, if (for example, wrongly) no statement of particulars of charge has been delivered, there is no requirement to register other particulars. The provision should be amended to make it clear that the provision applies where a statement of particulars <u>is required to be</u> registered.</li> <li>• Please see page 31 of LegCo Paper No. CB(1)339/11-12(01) "<i>Administration's Response to Deputations' Views</i>".</li> </ul>
		(II) Delete clause 340(5)(b) to remove the requirement to pay the prescribed fee.	<ul style="list-style-type: none"> <li>• A prescribed fee needs to be paid on the first registration of a debenture forming part of a series under clauses 334, 335 or 339 of CB. Upon review, we are inclined not to charge for the subsequent issues of debentures in the same series as such subsequent issues only require filing of a simple form.</li> </ul>
		(III) Delete clause 340(7).	<ul style="list-style-type: none"> <li>• Given the CSA in (II) under this clause, clause 340(7) has to be removed as it</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
			deals with recovery of the fee paid by a person interested.
11	Clause 341 Company or registered non-Hong Kong company must register particulars of commission etc. in relation to debentures	<p>(I) Amend “... 或證明押記的設立” in clause 341(1)(b)(i) to “...或證明有押記的設立”.</p> <p>(II) Delete clause 341(7)(b) to remove the requirement to pay the prescribed fee.</p> <p>(III) Delete clause 341(8).</p>	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 3(I) in respect of clause 331(4)(a)(ii).</li> <li>• Please see the remarks under Item 5 in respect of clause 334.</li> <li>• Whilst clause 341(7) provides for a separate provision to deal with the filing of details of commission, allowance or discount in relation to debentures, the intention is not to charge an additional fee.</li> <li>• Given the CSA in (II) under this clause, clause 341(8) has to be removed as it deals with recovery of the registration fee.</li> </ul>
12	Clause 342 Consequences of contravention of section 341	Add “registered” in clause 342(1) before “non-Hong Kong company”.	<ul style="list-style-type: none"> <li>• Please see the remarks under Item 3(I) in respect of clause 331(4)(a)(ii).</li> </ul>
13	Clause 344 Notification to Registrar of payment of debt, release, etc.	(I) Amend “...不再是有關公司或註冊非香港公司的財產或業務...” in clause 344(1)(b)(ii) to “...不再是構成有關公司或註冊非香港公司的財產或業務...”; and amend “...不再是	<ul style="list-style-type: none"> <li>• This CSA is proposed in response to the LegCo Legal Adviser’s suggestion, to align with the existing rendition of the same expression in section 85(2) of CO as “不再...構成...”.</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
		公司財產或業務...” in clause 344(2), (3)(c) and (4) to “...不再是構成公司財產或業務...”.	
		(II) Amend “...告知處長。” in clause 344(2) to “...告通知處長。”.	<ul style="list-style-type: none"> <li>This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to align the Chinese rendition of “notify” (告知) in clause 344(2) with “notification” (通知) in clauses 344(3), as the heading of clause 344 also uses “通知” (rather than “告知”) as a verb.</li> </ul>
14	Clause 345  Extension of time for registration	Remove clause 345(5).	<ul style="list-style-type: none"> <li>Clause 345(5) empowers the Court to order that the liability incurred for an offence committed under clause 345(7) be retained and is not extinguished even although an order for extension of time for registration of the charge or debenture has been granted and the registration is effected within the extended period.</li> <li>Given that to date no prosecution action has been taken out where an order to grant an extension of time has been granted by the Court, we anticipate that it is unlikely for such a power to be invoked by the Court in the future. If an extension of time for registration of a charge or debenture has been granted by the Court, it is unlikely that the Court will order that the criminal liability incurred should not be extinguished if the registration is effected within the extended time.</li> <li>A similar proposal was raised at the Bills Committee on 3 June 2011. Our response then was set out in paragraphs 21 and 22 of LegCo Paper CB(1)2439/10-11(05) “Administration’s response to issues raised by members at the meeting on 3 June 2011 in relation to Parts 6 to 8”. While we expressed reservation then, upon review, we consider the proposal viable for the reasons set out in the preceding paragraphs.</li> </ul>
15	Heading of	Amend “就強制執行保證通知處長” in the heading to “就強制執行	<ul style="list-style-type: none"> <li>The word “security” can be rendered as “保證” or “抵押”, depending on the context. In the context of a security conferred by a charge, the rendition of “抵</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
	Division 6  Notice to Registrar of Enforcement of Security	保證抵押通知處長”。	押” is more appropriate.
16	Clause 350  Obligation to keep copies of instruments creating charges	<p>(I) Amend “...告知處長” in clause 350(4)(a) and (b) and (6) to “...告通知處長”。</p> <p>(II) Amend “...該副本一直是備存於公司...” in clause 350(6)(a) to “...該副本一直是時刻備存於公司...”; and amend “...並自此一直備存於該註冊辦事處...” in clause 350(6)(b) to “...並自此一直時刻備存於該註冊辦事處...”。</p> <p>(III) Add “registered” in clause 350(7) before “non-Hong Kong company”。</p>	<ul style="list-style-type: none"> <li>• This CSA is proposed in response to the LegCo Legal Adviser’s suggestion. The word “notify” is rendered as “告知” in clause 350(4) and (6), while “notification” as “通知” in clause 350(5). As clause 350(5) refers to “第(4)(a)或(b)款的通知”, this CSA is proposed to remove any doubt as to what “通知” is being referred to therein.</li> <li>• This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to align with the Chinese rendition of the same expression of “at all times” in other provisions relating to keeping of documents in CB (e.g. clause 305(4)) as “時刻”。</li> <li>• Please see the remarks under Item 3(I) in respect of clause 331(4)(a)(ii).</li> </ul>
17	Clause 352  Obligation of registered	Amend “...，該人員即屬犯罪...” in clause 352(5) to “...，該人員即屬	<ul style="list-style-type: none"> <li>• This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to correspond with the position in the English text.</li> </ul>

Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
	non-Hong Kong company to keep register of charges	犯罪...”.	
18	Clause 353 Notification of place where register of charges is kept	(I) Amend “...告知處長” in clause 353(1)(a) and (b) and (3) to “...告通知處長”.	<ul style="list-style-type: none"> <li>This CSA is proposed in response to the LegCo Legal Adviser’s suggestion to align the Chinese rendition of “notify” (告知) in clause 353(1)(a) and (b) and (3) with “notification” (通知) in clause 353(2).</li> </ul>
		(II) Amend “...該登記冊一直是備存於公司...” in clause 353(3)(a) to “...該登記冊一直是時刻備存於公司...”; and “...並自此一直備存於該註冊辦事處...” in clause 353(3)(b) to “...並自此一直時刻備存於該註冊辦事處...”.	<ul style="list-style-type: none"> <li>Please see the remarks under Item 16(II) in respect of clause 350(6)(a) and (b).</li> </ul>
		(III) Add “registered” in clause 353(4) before “non-Hong Kong company”.	<ul style="list-style-type: none"> <li>Please see the remarks under Item 3(I) in respect of clause 331(4)(a)(ii).</li> </ul>
19	Clause 355 Financial Secretary may make regulations for purposes of	(I) Amend “...條備存...” in clause 355(1)(a)(i) and (ii) “...條須備存...”.	<ul style="list-style-type: none"> <li>This CSA is proposed in response to LegCo Legal Adviser’s suggestion. Clause 355(1)(a) renders the expression “are to be kept” and “is to be kept” as “備存”. However, the underlying provisions (i.e. clauses 350 and 352) use the word “須” to qualify the act of “備存”. The CSA is thus proposed to reflect the legislative intent that such obligations are imposed.</li> </ul>



Item	Relevant matter/ provision	Proposed Committee Stage Amendment	Remarks
	this Division	(II) Delete “可” from clause 355(4) and add “可” in clauses 355(4)(a), (b), (c) and (d) before “規定”.	<ul style="list-style-type: none"> <li>• This CSA is proposed in response to LegCo Legal Adviser’s observation that the word “可” is placed in each paragraph under clause 355(2) and (3), but omitted in the paragraphs under clause 355(4) and placed in clause 355(4) instead.</li> <li>• This CSA does not apply to clause 355(4)(e) because the latter will be deleted pursuant to the CSA in (III) under this clause.</li> </ul>
		(III) Delete clause 355(4)(e).	<ul style="list-style-type: none"> <li>• This CSA is proposed in response to a recommendation by the Bills Committee at the meeting on 11 November 2011 when a similar clause in Part 7 (clause 306(8)) was considered (see paragraph 9 of LegCo Paper No. CB(1)744/11-12(01) “Administration’s response to issues raised by members at the meeting on 11 November 2011 in relation to Part 7”). Members considered that as the Court had a wide discretion to make the order there was no need to limit the discretion of the Court.</li> <li>• The same CSA is also applicable to clause 355(4)(e), which empowers FS to make regulations limiting the discretion of the Court to make an order compelling immediate inspection of the copies or the register of charges.</li> </ul>

**Financial Services and the Treasury Bureau**  
**Companies Registry**  
**27 April 2012**

**331. Interpretation**

(1) In this Part—

*charge* (押記) includes mortgage;

*manager* (經理人) excludes a special manager of the estate or business of a company or registered non-Hong Kong company appointed under section 216 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32).

(2) For the purposes of this Part—

(a) if a ship or aircraft of a registered non-Hong Kong company is registered in Hong Kong, it is to be regarded as property in Hong Kong of the company even though it is physically located outside Hong Kong; and

(b) if a ship or aircraft of a registered non-Hong Kong company is registered in a place outside Hong Kong, it is to be regarded as property outside Hong Kong of the company even though it is physically located in Hong Kong.

(3) In Divisions 2 and 4, a reference to a person interested in a charge excludes the company or registered non-Hong Kong company creating the charge.

(4) For the purposes of Divisions 2 and 3, a copy of an instrument in relation to a charge delivered for registration is a certified copy if it is certified as a true copy—

(a) by—

(i) a director or company secretary of the company or registered non-Hong Kong company delivering the copy for registration; or

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- (ii) a person authorized by that company or [registered](#)<sup>1</sup> non-Hong Kong company for the purpose; or
- (b) by—
- (i) any other person interested in the charge; or
- (ii) in the case of—
- (A) an interested person who is a natural person, a person authorized by the interested person for the purpose; or
- (B) an interested person that is a body corporate, a person authorized by the interested person for the purpose, or a director or company secretary of the interested person.
- (5) In Division 6, a reference to the charged property of a registered non-Hong Kong company is a reference to—
- (a) the property in Hong Kong of the company and subject to a charge created by the company, except property that was not in Hong Kong when the charge was created; or
- (b) the property in Hong Kong of the company and subject to a charge that subsisted when the property was acquired by the company, except property that was not in Hong Kong when it was so acquired.

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<sup>1</sup> Item 3(I)／第 3(I)項

**331. 釋義** (Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)

(1) 在本部中 —

**押記**(charge)包括按揭；

**經理人**(manager)不包括根據《公司(清盤及雜項條文)條例》(第32章)第216條委任的公司或註冊非香港公司的產業或業務的特別經理人。

(2) 就本部而言 —

(a) 如註冊非香港公司的船舶或飛機是在香港註冊的，則該船舶或飛機即使實際上是處於香港以外地方，亦須視為該公司在香港的財產；及

(b) 如註冊非香港公司的船舶或飛機是在香港以外地方註冊的，則該船舶或飛機即使實際上是處於香港境內，亦須視為該公司在香港以外的財產。

(3) 在第2及4分部中，提述擁有某項押記的權益的人，不包括設立該項押記的公司或註冊非香港公司。

(4) 就第2及3分部而言，交付登記的一份關乎某項押記的文書的副本，如經以下的人核證為真實副本，即屬經核證副本 —

(a) 以下的人 —

(i) 交付該副本登記的公司或註冊非香港公司的董事或公司秘書；或

(ii) 該公司或非香港公司為此目的授權的人；或

(b) 以下的人 —

(i) 擁有該項押記的權益的任何其他人；或

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- (ii) 如 —
- (A) 擁有權益的人是自然人，該擁有權益的人為此目的授權的人；或
  - (B) 擁有權益的人是法人團體，該擁有權益的人為此目的授權的人，或該擁有權益的人的董事或公司秘書。
- (5) 在第 6 分部中，提述註冊非香港公司的已押記財產，即提述 —
- (a) 該公司在香港境內而又受該公司設**定立**<sup>2</sup>的押記規限的財產，但不包括在設立該項押記時不在香港境內的財產；或
  - (b) 該公司在香港境內的財產，而在該公司取得該財產時該財產已受某項押記規限；但如在該公司取得該財產時該財產不在香港境內，則不包括該財產。

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<sup>2</sup> Item 3(II)／第 3(II)項

~~332. Application of Part~~

~~This Part does not apply to a registered non Hong Kong company—~~

- ~~— (a) that delivers a notice to the Registrar under section 782(1) of the fact that it has ceased to have a place of business in Hong Kong; or~~
- ~~— (b) in relation to which the Registrar enters in the Companies Register a statement of dissolution under section 783(2).<sup>3</sup>~~

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<sup>3</sup> Item 4 / 第 4 項

### 334. 公司須登記它設立的指明押記

(1) 公司須在第(5)(a)款指明的登記期內，將關於該公司設立的每項指明押記的詳情的陳述，連同設立該項押記或證明<sup>4</sup>該項押記<sup>的設立</sup><sup>5</sup>的文書(如有的話)的經核證副本，交付處長登記。

(2) 凡 —

(a) 公司設立了一項指明押記，而該項押記 —

(i) 是藉在屬一個債權證系列的組成部分的債權證提述任何其他載有該項押記的文書而由該債權證給予的(不論該債權證是否亦載有該項押記)；或

(ii) 是載於屬一個債權證系列的組成部分的債權證，但不是藉在該債權證提述任何其他文書而由該債權證給予的；及

(b) 每名該債權證系列的債權證的持有人，均對該項押記的權益享有同等權利，

則如該公司在第(5)(b)款指明的登記期內，將關於該項押記的詳情的陳述，連同第(4)款指明的文書的經核證副本，交付處長登記，該公司即視為已就該項押記遵守第(1)款。

(3) 擁有指明押記的權益的人 —

(a) 可在第(5)(a)款指明的登記期內，將關於該項押記的詳情的陳述，連同設立該項押記或證明<sup>6</sup>該項押記<sup>的設立</sup><sup>7</sup>的文書(如有的話)的經核證副本，交付處長登記；或

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<sup>4</sup> Item 5 / 第 5 項

<sup>5</sup> Item 5 / 第 5 項

<sup>6</sup> Item 5 / 第 5 項

(b) (如屬第(2)款的情況)可在第(5)(b)款指明的登記期內，將關於該項押記的詳情的陳述，連同第(4)款指明的文書的經核證副本，交付處長登記。

(4) 就 —

(a) (如有關指明押記是藉提述某文書而給予的)第(2)(a)(i)款而言，有關文書即該文書；或

(b) 第(2)(a)(ii)款而言，有關文書即有關債權證系列的任何一份債權證。

(5) 就 —

(a) 第(1)或(3)(a)款而言 —

(i) 登記期是設立有關指明押記的日期後的一個月；或

(ii) 如有關指明押記是在香港以外設立，並且包含在香港以外的財產，則登記期是設立該項押記或證明有<sup>8</sup>該項押記的設立<sup>9</sup>的文書的經核證副本(如付出應有努力發送)可在經正常的郵遞程序於香港接獲的日期後的一個月；及

(b) 第(2)或(3)(b)款而言 —

(i) 如有關指明押記是藉提述某文書而給予的，登記期是簽立該文書後的一個月；如沒有該文書，則登記期是簽立有關債權證系列的首份債權證後的一個月；或

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<sup>7</sup> Item 5 / 第 5 項

<sup>8</sup> Item 5 / 第 5 項

<sup>9</sup> Item 5 / 第 5 項



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- (ii) 如有關指明押記是在香港以外設立，並且包含在香港以外的財產，則登記期是有關指明文書的經核證副本(如付出應有努力發送)可在經正常的郵遞程序於香港接獲的日期後的一個月。
- (6) 關於指明押記的詳情的陳述 —
- (a) 須符合指明格式；及
  - (b) 須隨附訂明費用。
- (7) 擁有指明押記的權益的人如已向處長繳付登記關於該項押記的詳情的陳述的訂明費用，則可向設立該項押記的公司討回該費用。
- (8) 如指明押記是在香港設立，並且包含在香港以外某地方的財產，則即使仍需進一步的程序以使該項押記按照該地方的法律得以有效或有效力，仍可根據第(1)、(2)或(3)款，將設立或本意是設立該項押記的文書的經核證副本，交付處長登記。

### 335. 註冊非香港公司須登記它設立的指明押記

- (1) 註冊非香港公司須在第(6)(a)款指明的登記期內，將關於該公司就其在香港境內的財產設立的每項指明押記的詳情的陳述，連同設立該項押記或證明有<sup>10</sup>該項押記的設立<sup>11</sup>的文書(如有的話)的經核證副本，交付處長登記。
- (2) 凡 —
  - (a) 註冊非香港公司就其在香港境內的財產設立了一項指明押記，而該項押記 —
    - (i) 是藉在屬一個債權證系列的組成部分的債權證提述任何其他載有該項押記的文書而由該債權證給予的(不論該債權證是否亦載有該項押記)；或
    - (ii) 是載於屬一個債權證系列的組成部分的債權證，但不是藉在該債權證提述任何其他文書而由該債權證給予的；及
  - (b) 每名該債權證系列的債權證的持有人，均對該項押記的權益享有同等權利，則如該公司在第(6)(b)款指明的登記期內，將關於該項押記的詳情的陳述，連同第(4)款指明的文書的經核證副本，交付處長登記，該公司即視為已就該項押記遵守第(1)款。
- (3) 擁有指明押記的權益的人 —
  - (a) 可在第(6)(a)款指明的登記期內，將關於該項押記的詳情的陳述，連同設立該項押記或證明有<sup>12</sup>該項押記的設

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<sup>10</sup> Item 6/第 6 項

<sup>11</sup> Item 6/第 6 項

<sup>12</sup> Item 6/第 6 項

- 立<sup>13</sup>的文書(如有的話)的經核證副本，交付處長登記；  
或
- (b) (如屬第(2)款的情況)可在第(6)(b)款指明的登記期內，將關於該項押記的詳情的陳述，連同第(4)款指明的文書的經核證副本，交付處長登記。
- (4) 就 —
- (a) (如有關指明押記是藉提述某文書而給予的)第(2)(a)(i)款而言，有關文書即該文書；或
- (b) 第(2)(a)(ii)款而言，有關文書即有關債權證系列的任何一份債權證。
- (5) 如註冊非香港公司就某財產設立押記時，該財產不在香港境內，則第(1)及(2)款不適用於該項押記。
- (6) 就 —
- (a) 第(1)或(3)(a)款而言，登記期是設立有關指明押記的日期後的一個月；及
- (b) 第(2)或(3)(b)款而言 —
- (i) 如有關指明押記是藉提述某文書而給予的，登記期是簽立該文書後的一個月；或
- (ii) 如沒有該文書，登記期是簽立有關債權證系列的首份債權證後的一個月。
- (7) 關於指明押記的詳情的陳述 —
- (a) 須符合指明格式；及
- (b) 須隨附訂明費用。

<sup>13</sup> Item 6 / 第 6 項

- (8) 擁有指明押記的權益的人如已向處長繳付登記關於該項押記的詳情的陳述的訂明費用，則可向設立該項押記的註冊非香港公司討回該費用。

**336. Consequences of contravention of section 334 or 335**

- (1) This section applies if—
  - (a) a company contravenes section 334(1) in relation to a specified charge, and a person interested in the charge has not registered the charge under section 334(3); or
  - (b) a registered non-Hong Kong company contravenes section 335(1) in relation to a specified charge, and a person interested in the charge has not registered the charge under section 335(3).
- (2) Subject to section 345, the company or registered non-Hong Kong company, and every responsible person of the company or [registered](#)<sup>14</sup> non-Hong Kong company, commit an offence.
- (3) A person who commits an offence under subsection (2) is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (4) Subject to section 345, the specified charge is void against any liquidator and creditor of the company or registered non-Hong Kong company so far as any security on its undertaking or property is conferred by the charge.
- (5) Subsection (4) does not prejudice any contract or obligation for repayment of the money secured by the specified charge.
- (6) At the lender's option, the money secured by a specified charge becomes immediately payable when the charge becomes void under subsection (4).

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<sup>14</sup> Item 7(I) / 第 7(I) 項

**336. 違反第 334 或 335 條的後果** *(Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)*

- (1) 如有以下情況，本條適用 —
  - (a) 公司就指明押記違反第 334(1)條，而擁有該項押記的權益的人沒有根據第 334(3)條登記該項押記；或
  - (b) 註冊非香港公司就指明押記違反第 335(1)條，而擁有該項押記的權益的人沒有根據第 335(3)條登記該項押記。
- (2) 除第 345 條另有規定外，有關公司或註冊非香港公司及其每名責任人均屬犯罪。
- (3) 任何人犯第(2)款所訂罪行，可處第 5 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另處罰款 \$1,000。
- (4) 除第 345 條另有規定外，在以有關公司或註冊非香港公司的業務或財產作出的抵押是由指明押記授予的範圍內，該項押記相對於該公司或註冊非香港公司的任何清盤人及債權人而言屬無效。
- (5) 第(4)款不損害關於付還指明押記所保證的借款的合約或契約責任<sup>15</sup>。
- (6) 當一項指明押記根據第(4)款變為無效時，借款人有權要求立即付還該項押記所保證的借款。

<sup>15</sup> Item 7(II) / 第 7(II)項

**337. 公司須將所取得的財產的原有押記登記**

- (1) 如有以下情況，本條適用 —
  - (a) 公司取得受押記規限的財產；而
  - (b) 該項押記所屬的種類，是假使它是在該公司取得該財產後才由該公司設立，則該公司便須按第 334(1)條的規定將關於該項押記的詳情的陳述交付登記者。
- (2) 公司須在第(3)款指明的登記期內，將關於有關押記的詳情的陳述，連同設立該項押記或證明有<sup>16</sup>該項押記的設立<sup>17</sup>的文書(如有的話)的經核證副本，交付處長登記。
- (3) 登記期是 —
  - (a) 取得有關財產的程序完成的日期後的一個月；或
  - (b) (如有關財產是在香港以外，而有關押記亦是在香港以外設立)設立該項押記或證明有<sup>18</sup>該項押記的設立<sup>19</sup>的文書的經核證副本(如付出應有努力發送)可在經正常的郵遞程序於香港接獲的日期後的一個月。
- (4) 關於押記的詳情的陳述 —
  - (a) 須符合指明格式；及
  - (b) 須隨附訂明費用。
- (5) 除第 345 條另有規定外，如公司違反第(2)款，該公司及其每名責任人均屬犯罪。

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<sup>16</sup> Item 8／第 8 項

<sup>17</sup> Item 8／第 8 項

<sup>18</sup> Item 8／第 8 項

<sup>19</sup> Item 8／第 8 項

- (6) 任何人犯第(5)款所訂罪行，可處第 5 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另處罰款 \$1,000。



**339. 註冊非香港公司須將在公司根據第 16 部註冊的日期已就財產設立的押記登記**

- (1) 如有以下情況，本條適用 —
- (a) 在註冊非香港公司根據第 16 部註冊的日期，該公司有在香港境內的 —
    - (i) 受該公司設立的押記規限的財產；或
    - (ii) 受在取得該財產時已存在的押記規限的財產；而
  - (b) 該項押記所屬的種類，是假使它是在該公司根據第 16 部註冊後才由該公司設立，或該公司是在該項註冊後才取得該財產，則該公司便須按第 335(1)或 338(3)條的規定將關於該項押記的詳情的陳述交付登記者。
- (2) 註冊非香港公司須在第(5)款指明的登記期內，將關於有關押記的詳情的陳述，連同設立該項押記或證明有<sup>20</sup>該項押記的設立<sup>21</sup>的文書(如有的話)的經核證副本，交付處長登記。
- (3) 如屬第(1)(a)(i)款的情況，而 —
- (a) 有關押記 —
    - (i) 是藉在屬一個債權證系列的組成部分的債權證提述任何其他載有該項押記的文書而由該債權證給予的(不論該債權證是否亦載有該項押記)；或
    - (ii) 是載於屬一個債權證系列的組成部分的債權證，但不是藉在該債權證提述任何其他文書而由該債權證給予的；及

<sup>20</sup> Item 9／第 9 項

<sup>21</sup> Item 9／第 9 項

- (b) 每名該債權證系列的債權證的持有人，均對該項押記的權益享有同等權利，

則如有關註冊非香港公司在第(5)款指明的登記期內，將關於該項押記的詳情的陳述，連同第(4)款指明的文書的經核證副本，交付處長登記，該公司即視為已就該項押記遵守第(2)款。

- (4) 就—
- (a) (如有關押記是藉提述某文書而給予的)第(3)(a)(i)款而言，有關文書即該文書；或
- (b) 第(3)(a)(ii)款而言，有關文書即有關債權證系列的任何一份債權證。
- (5) 登記期是註冊非香港公司根據第 16 部註冊的日期後的一個月。
- (6) 關於押記的詳情的陳述—
- (a) 須符合指明格式；及
- (b) 須隨附訂明費用。
- (7) 除第 345 條另有規定外，如註冊非香港公司違反第(2)款，該公司及其每名責任人均屬犯罪。
- (8) 任何人犯第(7)款所訂罪行，可處第 5 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另處罰款 \$1,000。

**340. Company or registered non-Hong Kong company must register particulars of issue of debentures**

- (1) This section applies if—
  - (a) a debenture forming part of a series—
    - (i) contains a charge created by a company or registered non-Hong Kong company; or
    - (ii) gives a charge created by a company or registered non-Hong Kong company, by reference to any other instrument containing the charge;
  - (b) every holder of the debentures of the series is entitled equally to the benefit of the charge; and
  - (c) a statement of the particulars of the charge is [required to be](#)<sup>22</sup> delivered for registration under section 334(2), 335(2) or 339(3).
- (2) The company or registered non-Hong Kong company must deliver a statement of the particulars of every issue of the debentures of the series to the Registrar for registration within the registration period specified in subsection (4).
- (3) A person interested in the charge may deliver a statement of the particulars of an issue of debentures to the Registrar for registration within the registration period specified in subsection (4).
- (4) The registration period is—
  - (a) if a statement of the particulars of the charge is delivered for registration under section 334(2) or 335(2)—
    - (i) in the case of an issue of debentures made at the time of the creation of the charge, the registration

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<sup>22</sup> Item 10(I)／第 10(I)項

- period specified in relation to the registration of the charge in section 334(5)(b) or 335(6)(b); or
- (ii) in the case of any subsequent issue of debentures, one month after the date of the issue; or
- (b) if a statement of the particulars of the charge is delivered for registration under section 339(3)—
- (i) in the case of an issue of debentures made on or before the registration under Part 16, the registration period specified in relation to the registration of the charge in section 339(5); or
  - (ii) in the case of any subsequent issue of debentures, one month after the date of the issue.

(5) A statement of the particulars of an issue of debentures—

~~(a) must be in the specified form;~~ **and**

~~(b) must be accompanied by the prescribed fee.~~<sup>23</sup>

(6) Without limiting section 22, a statement of the particulars of an issue of debentures must contain the date and the amount of the issue.

~~(7) If a person interested in a charge pays to the Registrar any prescribed fee for the registration of a statement of the particulars of an issue of debentures, the fee is recoverable from the company or registered non-Hong Kong company creating the charge.~~<sup>24</sup>

(8) Subject to section 345, if subsection (2) is contravened, and a person interested in the charge has not delivered a statement of the particulars of the issue of debentures for registration under subsection (3), the company or registered non-Hong

<sup>23</sup> Item 10(II)／第 10(II) 項

<sup>24</sup> Item 10(III)／第 10(III) 項

Kong company, and every responsible person of the company or registered<sup>25</sup> non-Hong Kong company, commit an offence.

- (9) A person who commits an offence under subsection (8) is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (10) A contravention of subsection (2) does not affect the validity of the debentures issued.
- (11) In this section, a reference to the time of the creation of a charge is a reference to the time of execution of—
  - (a) the instrument by reference to which the charge is given; or
  - (b) if there is no such instrument, the first debenture of the series.

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<sup>25</sup> Item 10(IV)／第 10(IV)項

**341. 公司或註冊非香港公司須就債權證將佣金等的詳情登記** (Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)

- (1) 如有以下情況，本條適用 —
- (a) 如公司或註冊非香港公司直接或間接支付或提供任何佣金、津貼或折扣予任何人，作為該人作出以下事情的代價 —
    - (i) 無條件或有條件地認購該公司或註冊非香港公司的任何債權證，或同意如此認購該等債權證；或
    - (ii) 促致或同意促致無條件或有條件地認購該公司或註冊非香港公司的任何債權證；
  - (b) 該債權證 —
    - (i) 設立押記，或證明有<sup>26</sup>押記的設立<sup>27</sup>；或
    - (ii) 屬一個債權證系列的組成部分，並載有押記或藉提述任何其他載有押記的文書給予押記；
  - (c) 該項押記是由該公司或註冊非香港公司設立的；及
  - (d) 以下條文規定將關於該項押記的詳情的陳述交付登記 —
    - (i) 第 334(1)條；
    - (ii) 第 335(1)條；或
    - (iii) 第 339(2)條。

<sup>26</sup> Item 11(I) / 第 11(I) 項

<sup>27</sup> Item 11(I) / 第 11(I) 項

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- (2) 公司或註冊非香港公司須在第(6)(a)款指明的登記期內，將關於有關佣金、津貼或折扣的詳情的陳述，交付處長登記。
- (3) 如 —
- (a) 屬第(1)(d)(i)款的情況，而關於有關押記的詳情的陳述根據第 334(2)條交付登記；或
  - (b) 屬第(1)(d)(ii)款的情況，而關於有關押記的詳情的陳述根據第 335(2)條交付登記，
- 則有關公司或註冊非香港公司如在第(6)(b)款指明的登記期內，將關於有關佣金、津貼或折扣的詳情的陳述交付處長登記，即視為已遵守第(2)款。
- (4) 如屬第(1)(d)(iii)款的情況，而關於有關押記的詳情的陳述根據第 339(3)條交付登記，則有關註冊非香港公司如在第(6)(c)款指明的登記期內，將關於有關佣金、津貼或折扣的詳情的陳述，交付處長登記，即視為已遵守第(2)款。
- (5) 擁有有關押記的權益的人 —
- (a) 可在第(6)(a)款指明的登記期內，將關於有關佣金、津貼或折扣的詳情的陳述，交付處長登記；或
  - (b) (如屬第(3)款的情況)可在第(6)(b)款指明的登記期內，將關於有關佣金、津貼或折扣的詳情的陳述，交付處長登記。
- (6) 就 —
- (a) 第(2)或(5)(a)款而言 —
    - (i) 如屬第(1)(d)(i)款的情況，登記期是第 334(5)(a)條就該項押記的登記而指明的登記期；
    - (ii) 如屬第(1)(d)(ii)款的情況，登記期是第 335(6)(a)條就該項押記的登記而指明的登記期；或

- (iii) 如屬第(1)(d)(iii)款的情況，登記期是第 339(5)條就該項押記的登記而指明的登記期；
- (b) 第(3)或(5)(b)款而言 —
  - (i) 如債權證是在設立該項押記時發行的，則登記期是第 334(5)(b)或 335(6)(b)條就該項押記的登記而指明的登記期；或
  - (ii) 如屬任何其後發行的債權證，則登記期是發行日期後的一個月；或
- (c) 第(4)款而言 —
  - (i) 如債權證是在根據第 16 部註冊當日或之前發行的，則登記期是在第 339(5)條就該項押記的登記而指明的登記期；或
  - (ii) 如屬任何其後發行的債權證，則登記期是發行日期後的一個月。
- (7) 關於佣金、津貼或折扣的詳情的陳述 —
  - (a) 須符合指明格式；及
  - (b) 須隨附訂明費用。
- (8) 擁有有關押記的權益的人如已向處長繳付登記關於有關佣金、津貼或折扣的詳情的陳述的訂明費用，則可向設立該項押記的公司或註冊非香港公司討回該費用。
- (9) 就本條而言，存放任何債權證作為公司或註冊非香港公司的任何債項的保證，不得視為按折扣發行該等債權證。
- (10) 在本條中，對設立押記之時的提述，即提述 —
  - (a) (如該項押記是藉提述某文書而給予的)簽立該文書之時；或



- (b) (如沒有該文書)簽立有關債權證系列的首份債權證之時。

**341. Company or registered non-Hong Kong company must register particulars of commission etc. in relation to debentures**

- (1) This section applies if—
- (a) any commission, allowance or discount has been paid or made, directly or indirectly, by a company or registered non-Hong Kong company to any person in consideration of the person—
    - (i) subscribing or agreeing to subscribe, absolutely or conditionally, for any debenture of the company or registered non-Hong Kong company; or
    - (ii) procuring or agreeing to procure absolute or conditional subscriptions for any debenture of the company or registered non-Hong Kong company;
  - (b) the debenture—
    - (i) creates or evidences a charge; or
    - (ii) forms part of a series of debentures, and either contains a charge or gives a charge by reference to any other instrument containing a charge;
  - (c) the charge is created by the company or registered non-Hong Kong company; and
  - (d) a statement of the particulars of the charge is required to be delivered for registration under—
    - (i) section 334(1);
    - (ii) section 335(1); or
    - (iii) section 339(2).
- (2) The company or registered non-Hong Kong company must deliver a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(a).

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- (3) Where—
- (a) in the case of subsection (1)(d)(i), a statement of the particulars of the charge is delivered for registration under section 334(2); or
  - (b) in the case of subsection (1)(d)(ii), a statement of the particulars of the charge is delivered for registration under section 335(2),
- the company or registered non-Hong Kong company is to be regarded as having complied with subsection (2) if it delivers a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(b).
- (4) Where, in the case of subsection (1)(d)(iii), a statement of the particulars of the charge is delivered for registration under section 339(3), the registered non-Hong Kong company is to be regarded as having complied with subsection (2) if it delivers a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(c).
- (5) A person interested in the charge—
- (a) may deliver a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(a); or
  - (b) may, in the case of subsection (3), deliver a statement of the particulars of the commission, allowance or discount to the Registrar for registration within the registration period specified in subsection (6)(b).
- (6) The registration period is—
- (a) for the purposes of subsection (2) or (5)(a)—

- (i) in the case of subsection (1)(d)(i), the registration period specified in relation to the registration of the charge in section 334(5)(a);
  - (ii) in the case of subsection (1)(d)(ii), the registration period specified in relation to the registration of the charge in section 335(6)(a); or
  - (iii) in the case of subsection (1)(d)(iii), the registration period specified in relation to the registration of the charge in section 339(5);
- (b) for the purposes of subsection (3) or (5)(b)—
- (i) in the case of an issue of debentures made at the time of the creation of the charge, the registration period specified in relation to the registration of that charge in section 334(5)(b) or 335(6)(b); or
  - (ii) in the case of any subsequent issue of debentures, one month after the date of the issue; or
- (c) for the purposes of subsection (4)—
- (i) in the case of an issue of debentures made on or before the registration under Part 16, the registration period specified in relation to the registration of that charge in section 339(5); or
  - (ii) in the case of any subsequent issue of debentures, one month after the date of the issue.

(7) A statement of the particulars of any commission, allowance or discount—

~~(a)~~ must be in the specified form; and

~~(b)~~ must be accompanied by the prescribed fee<sup>28</sup>.

<sup>28</sup> Item 11(II)／第 11(II) 項

- ~~(8) If a person interested in the charge pays to the Registrar any prescribed fee for the registration of a statement of the particulars of the commission, allowance or discount, the fee is recoverable from the company or registered non-Hong Kong company creating the charge.<sup>29</sup>~~
- (9) For the purposes of this section, the deposit of any debenture as security for any debt of a company or registered non-Hong Kong company is not to be regarded as an issue of debentures at a discount.
- (10) In this section, a reference to the time of the creation of a charge is a reference to the time of execution of—
- (a) the instrument by reference to which the charge is given; or
  - (b) if there is no such instrument, the first debenture of the series.

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<sup>29</sup> Item 11(III)/第 11(III)項

**342. Consequences of contravention of section 341**

- (1) Subject to section 345, if section 341(2) is contravened, and a person interested in the charge has not delivered a statement of the particulars of the commission, allowance or discount (as the case may be) for registration under section 341(5), the company or registered non-Hong Kong company, and every responsible person of the company or registered<sup>30</sup> non-Hong Kong company, commit an offence.
- (2) A person who commits an offence under subsection (1) is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (3) A contravention of section 341(2) does not affect the validity of the debentures issued.

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<sup>30</sup> Item 12 / 第 12 項

### 344. 就償還債項、解除等通知處長

- (1) 如有以下情況，本條適用 —
  - (a) 藉已登記押記保證的債項，已全部或部分償付或清償；  
或
  - (b) 受已登記押記規限的財產或業務的全部或任何部分 —
    - (i) 已解除押記而不再受該項押記規限；或
    - (ii) 已不再**是構成**<sup>31</sup>有關公司或註冊非香港公司的財產或業務的一部分。
- (2) 有關公司、註冊非香港公司、承按人或對有關押記享有權利的人，可將上述償付、清償、解除押記或財產或業務不再**是構成**<sup>32</sup>公司財產或業務的一部分一事，**告通**<sup>33</sup>知處長。
- (3) 有關通知 —
  - (a) 須符合指明格式；
  - (b) 須隨附訂明費用；及
  - (c) 須隨附處長為證明有關償付、清償、解除押記或財產或業務不再**是構成**<sup>34</sup>公司財產或業務的一部分一事而要求的文書的經核證副本。
- (4) 如處長基於隨附於上述通知的文書，信納有關償付、清償、解除押記或財產或業務不再**是構成**<sup>35</sup>公司財產或業務的一部

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<sup>31</sup> Item 13(I)／第 13(I) 項

<sup>32</sup> Item 13(I)／第 13(I) 項

<sup>33</sup> Item 13(II)／第 13(II) 項

<sup>34</sup> Item 13(I)／第 13(I) 項

<sup>35</sup> Item 13(I)／第 13(I) 項

分一事確有發生，則處長對該通知及隨附的文書的處理方式，須猶如該通知及文書是向處長交付登記一樣。

- (5) 就本條而言，任何文書的副本，如經以下的人核證為真實副本，即屬經核證副本 —
- (a) 承按人或對有關押記享有權利的人；或
  - (b) 如 —
    - (i) 承按人或對有關押記享有權利的人是自然人，獲承按人或對該項押記享有權利的人為此目的授權的人；或
    - (ii) 承按人或對有關押記享有權利的人是法人團體 —
      - (A) 獲承按人或對有關押記享有權利的人為此目的授權的人；或
      - (B) 承按人或對該項押記享有權利的人的董事或公司秘書。
- (6) 就本條而言，以下押記屬已登記押記 —
- (a) 符合以下說明的押記 —
    - (i) 已根據第 2 或 3 分部，將關於該項押記的詳情的陳述及所需的隨附文書交付處長登記；及
    - (ii) 處長已為第 26(1)條的目的，記錄載於該陳述及該文書的資料；或
  - (b) 符合以下說明的押記 —
    - (i) 在緊接本分部的生效日期前，已根據《前身條例》第 III 部登記；或
    - (ii) 在本分部的生效日期當日或之後，已按根據附表 10 具有持續效力的《前身條例》第 III 部登記。



**345. Extension of time for registration**

- (1) The Court may, on application by the company or registered non-Hong Kong company or by a person interested in the charge, order that—
  - (a) the registration period specified in section 334(5), 335(6), 337(3), 338(4), 339(5), 340(4) or 341(6) be extended;
  - (b) the time required for registration by section 80 or 82 of the predecessor Ordinance, or that section as extended by section 91 of that Ordinance, having a continuing effect under Schedule 10 be extended; or
  - (c) the time required for registration by section 91(5) of the predecessor Ordinance having a continuing effect under Schedule 10 be extended.
- (2) The Court may make an order under subsection (1) on any terms and conditions that the Court thinks just and expedient.
- (3) The Court must not make an order unless the Court is satisfied that—
  - (a) the failure specified in subsection (6)—
    - (i) was accidental;
    - (ii) was due to inadvertence or to some other sufficient cause; or
    - (iii) is not of a nature to prejudice the position of creditors or members of the company or registered non-Hong Kong company; or
  - (b) it is just and equitable to grant the relief on other grounds.
- (4) If—

- (a) the Court makes an order under subsection (1) in relation to a charge or debenture; and
- (b) the failure specified in subsection (6) is rectified within the extended period or time,

any liability already incurred for an offence under the offence provision specified in subsection (7) in relation to the registration of the charge or debenture is extinguished.

~~(5) Subsection (4) does not apply if the Court makes a direction to that effect.<sup>36</sup>~~

(6) The failure is—

- (a) in the case of subsection (1)(a), a failure to deliver a statement as required under Division 2, 3 or 4, or any accompanying instrument, within that registration period;
- (b) in the case of subsection (1)(b), a failure to deliver—
  - (i) the particulars as required under section 80 or 82 of the predecessor Ordinance having a continuing effect under section 64(2), 65(2), 66(2) or 67(2) of Schedule 10 within that time; or
  - (ii) a statement as required under section 80 or 82 of the predecessor Ordinance having a continuing effect under section 64(4)(a), 65(4)(a), 66(4) or 67(4) of Schedule 10, or any accompanying instrument, within that time; or
- (c) in the case of subsection (1)(c), a failure to deliver—
  - (i) the particulars as required under section 91(5) of the predecessor Ordinance having a continuing effect under section 68(2) of Schedule 10 within that time; or

<sup>36</sup> Item 14 / 第 14 項

- (ii) a statement as required under section 91(5) of the predecessor Ordinance having a continuing effect under section 68(4) of Schedule 10, or any accompanying instrument, within that time.
- (7) The offence provision is—
- (a) in the case of subsection (1)(a), section 336(2), 337(5), 338(6), 339(7), 340(8) or 342(1);
  - (b) in the case of subsection (1)(b), section 81 or 82 of the predecessor Ordinance having a continuing effect under Schedule 10; or
  - (c) in the case of subsection (1)(c), section 91(6) of the predecessor Ordinance having a continuing effect under Schedule 10.

**346. Rectification of registered particulars**

- (1) The Court may, on application by the company or registered non-Hong Kong company or by a person interested in the charge, order that—
- (a) an omission or misstatement of any particular in any of the following be rectified—
    - (i) a statement of the particulars of a charge, or any accompanying instrument, delivered for registration under—
      - (A) Division 2 or 3;
      - (B) section 80 or 82 of the predecessor Ordinance, or that section by virtue of section 91 of that Ordinance, having a continuing effect under section 64(4)(a), 65(4)(a), 66(4) or 67(4) of Schedule 10; or
      - (C) section 91(5) of the predecessor Ordinance having a continuing effect under section 68(4) of Schedule 10;
    - (ii) a statement of the particulars of an issue of debentures, or a statement of the particulars of commission, allowance or discount, delivered for registration under—
      - (A) Division 4;
      - (B) section 80 or 82 of the predecessor Ordinance, or that section by virtue of section 91 of that Ordinance, having a continuing effect under section 64(4)(a), 65(4)(a), 66(4) or 67(4) of Schedule 10; or

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- (C) section 91(5) of the predecessor Ordinance having a continuing effect under section 68(4) of Schedule 10;
- (iii) a notification, or any accompanying instrument, under section 344;
- (iv) a memorandum under section 85 of the predecessor Ordinance; or
- (b) an omission or misstatement of any of the following be rectified—
- (i) any particular with respect to a charge delivered for registration before the commencement date of this section under section 80, 82 or 91(5) of the predecessor Ordinance;
- (ii) any particular with respect to a charge delivered for registration under section 80, 82 or 91(5) of the predecessor Ordinance having a continuing effect under section 64(2), 65(2), 66(2), 67(2) or 68(2) of Schedule 10.
- (2) The Court may make an order under subsection (1) on any terms and conditions that the Court thinks just and expedient.
- (3) The Court must not make an order unless the Court is satisfied that—
- (a) the omission or misstatement—
- (i) was accidental;
- (ii) was due to inadvertence or to some other sufficient cause; or
- (iii) is not of a nature to prejudice the position of creditors or members of the company or registered non-Hong Kong company; or

- (b) it is just and equitable to grant the relief on other grounds.
- (4) The Court may make an order to rectify an omission or misstatement of any particular in any accompanying instrument mentioned in subsection (1)(a)(i) or (iii) to the extent as permitted by common law rules and equitable principles.

**Note—**

~~Rectification may be ordered if the instrument failed accurately to record the intention of the parties.~~<sup>37</sup>

## 第 6 分部

### 就強制執行保證抵押<sup>38</sup>通知處長

(Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)

#### 347. 委任接管人或經理人的通知

- (1) 如任何人取得委任公司財產或註冊非香港公司已押記財產的接管人或經理人的命令，或如任何人根據任何文書所載的權力委任上述接管人或經理人，該人須在該項命令或根據該權力作出委任的日期後的 7 日內，將關於該事實的陳述交付處長登記。
- (2) 第(1)款所指的陳述須載有 —
  - (a) 獲委任為接管人或經理人的人的姓名及地址；及
  - (b) 該人的身分證號碼或(如該人沒有身分證)該人持有的任何護照的號碼及簽發國家。
- (3) 第(1)款所指的陳述 —
  - (a) 須符合指明格式；及
  - (b) 須隨附訂明費用。
- (4) 任何人違反第(1)款，即屬犯罪，可處第 3 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另處罰款\$300。

<sup>38</sup> Item 15 / 第 15 項

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**349. Notice of cessation of appointment of receiver or manager or mortgagee going out of possession of property, etc.**

- (1) This section applies to—
  - (a) a person—
    - (i) whose particulars are required to be included in a statement delivered to the Registrar under section 347(1); or
    - (ii) whose particulars were, before the commencement date of section 347, required to be included in a notice delivered to the Registrar under section 87(1) of the predecessor Ordinance; and
  - (b) a person—
    - (i) whose particulars are required to be included in a statement delivered to the Registrar under section 348(1); or
    - (ii) whose particulars were, before the commencement date of section 348, required to be included in a notice delivered to the Registrar under section 87(2) of the predecessor Ordinance.
- (2) If the person mentioned in subsection (1)(a) ceases to act as receiver or manager, the person must, within 7 days after the date of the cessation, deliver a statement of the cessation to the Registrar for registration.
- (3) If the person mentioned in subsection (1)(b) goes out of possession of the property or charged property, the person must, within 7 days after going out of possession, deliver a statement of that fact to the Registrar for registration.



- (4) If there is any change to the particulars of the person included in the statement or notice, the person must, within 154<sup>39</sup> days after the date of the change, deliver a statement of that change to the Registrar for registration.
- (5) Subsection (4) does not apply if—
- (a) in the case of a person mentioned in subsection (1)(a)—
    - (i) the person has ceased to act as receiver or manager; and
    - (ii) the person has delivered a statement of the cessation to the Registrar under subsection (2) or has, before the commencement date of section 347, given notice of the cessation under section 87(4) of the predecessor Ordinance; or
  - (b) in the case of a person mentioned in subsection (1)(b)—
    - (i) the person has gone out of possession of the property or charged property; and
    - (ii) the person has delivered a statement of that fact to the Registrar under subsection (3) or has, before the commencement date of section 348, given notice of that fact under section 87(4) of the predecessor Ordinance.
- (6) A statement under subsection (2), (3) or (4) must be in the specified form.
- (7) If a person contravenes subsection (2), (3) or (4), the person commits an offence and is liable to a fine at level 3 and, in the case of a continuing offence, to a further fine of \$300 for each day during which the offence continues.

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<sup>39</sup> Item 1 / 第 1 項

**350. 備存設立押記的文書的副本的責任** *(Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)*

- (1) 公司須在其註冊辦事處或 (b) 根據第 648 條訂立的規例訂明的地方，備存 —
  - (a) 每份設立該公司根據本部須予登記的押記的文書的副本；及
  - (b) 每份設立該公司根據《前身條例》第 III 部須予登記的押記的文書的副本。
- (2) 註冊非香港公司須在其在香港的主要營業地點或 (b) 根據第 355 條訂立的規例訂明的地方，備存 —
  - (a) 每份設立該公司根據本部須予登記的押記的文書的副本；及
  - (b) 每份設立該公司根據《前身條例》第 III 部須予登記的押記的文書的副本。
- (3) 凡 —
  - (a) 公司或註冊非香港公司發行一系列債權證；
  - (b) 該等債權證載有該公司或註冊非香港公司根據本部或根據《前身條例》第 III 部須予登記的押記；及
  - (c) 該等債權證的條款是相同的，則該公司或註冊非香港公司如按照第(1)或(2)款備存該等債權證的其中一份債權證的副本，即視為已就該等債權證遵守該款。
- (4) 公司或註冊非香港公司須 —

- (a) 在第(1)或(2)款所述的文書的副本首次備存在某地方後的 145<sup>40</sup>日內，將該地方告通<sup>41</sup>知處長；及
- (b) 在備存該文書的副本所在的地方有所更改後的 145<sup>42</sup>日內，將該項更改告通<sup>43</sup>知處長。
- (5) 第(4)(a)或(b)款所指的通知，須符合指明格式。
- (6) 在以下情況下，第(4)(a)款不規定公司或註冊非香港公司告通<sup>44</sup>知處長備存有關文書的副本所在的地方—
- (a) 自該副本開始存在之時起，該副本一直是時刻<sup>45</sup>備存於該公司的註冊辦事處或該註冊非香港公司在香港的主要營業地點；或
- (b) 該副本在 1984 年 8 月 31 日已存在，並自此一直時刻<sup>46</sup>備存於該註冊辦事處或主要營業地點。
- (7) 如第(1)、(2)或(4)款遭違反，有關公司或註冊非香港公司及其每名責任人均屬犯罪，可各處第 4 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款 \$700。

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<sup>40</sup> Item 1／第 1 項

<sup>41</sup> Item 16(I)／第 16(I) 項

<sup>42</sup> Item 1／第 1 項

<sup>43</sup> Item 16(I)／第 16(I) 項

<sup>44</sup> Item 16(I)／第 16(I) 項

<sup>45</sup> Item 16(II)／第 16(II) 項

<sup>46</sup> Item 16(II)／第 16(II) 項

**350. Obligation to keep copies of instruments creating charges**

- (1) A company must keep at its registered office, or at a place prescribed by regulations made under section 648—
  - (a) a copy of every instrument creating a charge required to be registered by the company under this Part; and
  - (b) a copy of every instrument creating a charge required to be registered by the company under Part III of the predecessor Ordinance.
- (2) A registered non-Hong Kong company must keep at its principal place of business in Hong Kong, or at a place prescribed by regulations made under section 355—
  - (a) a copy of every instrument creating a charge required to be registered by the company under this Part; and
  - (b) a copy of every instrument creating a charge required to be registered by the company under Part III of the predecessor Ordinance.
- (3) Where—
  - (a) a series of debentures is issued by a company or registered non-Hong Kong company;
  - (b) the debentures contain a charge required to be registered by the company or registered non-Hong Kong company under this Part or under Part III of the predecessor Ordinance; and
  - (c) the terms of the debentures are the same,the company or registered non-Hong Kong company is to be regarded as having complied with subsection (1) or (2) in relation to the debentures if it keeps a copy of one of the debentures in accordance with that subsection.
- (4) A company or registered non-Hong Kong company—

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- (a) must, within 154 days after a copy of an instrument mentioned in subsection (1) or (2) is first kept at a place, notify the Registrar of the place; and
- (b) must, within 154 days after there is a change in the place where a copy of such an instrument is kept, notify the Registrar of the change.
- (5) A notification under subsection (4)(a) or (b) must be in the specified form.
- (6) Subsection (4)(a) does not require a company or registered non-Hong Kong company to notify the Registrar of the place where a copy of an instrument is kept if—
- (a) the copy has been kept at the company's registered office, or the registered non-Hong Kong company's principal place of business in Hong Kong, at all times since it came into existence; or
- (b) the copy was in existence on 31 August 1984 and has been kept at that registered office or principal place of business at all times since then.
- (7) If subsection (1), (2) or (4) is contravened, the company or registered non-Hong Kong company, and every responsible person of the company or registered<sup>47</sup> non-Hong Kong company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

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<sup>47</sup> Item 16(III)／第 16(III)項

**352. 註冊非香港公司備存押記登記冊的責任**

- (1) 註冊非香港公司須在以下地方備存押記登記冊 —
  - (a) 該公司在香港的主要營業地點；或
  - (b) 根據第 355 條訂立的規例訂明的地方。
- (2) 註冊非香港公司須 —
  - (a) 在其押記登記冊記入 —
    - (i) 每項該公司就其在香港境內的財產設立的押記；及
    - (ii) 每項就該公司取得的在香港境內的財產設立的押記；及
  - (b) 就(a)(i)及(ii)段指明的每項押記，在其押記登記冊內記入以下詳情 —
    - (i) 該項押記所保證的款額；
    - (ii) 該項押記所規限的財產的描述；
    - (iii) (除屬不記名證券外)對該項押記享有權利的人的姓名或名稱。
- (3) 如在註冊非香港公司就財產設立押記時或取得有關財產時，該財產不在香港境內，則第(2)款不適用於該項押記。
- (4) 如註冊非香港公司違反第(1)或(2)款，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款\$700。

- (5) 註冊非香港公司的高級人員明知而故意地授權或准許他人遺漏作出任何根據第(2)款須作出的記項，該人員<sup>48</sup>即屬犯罪，可處第 5 級罰款。

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<sup>48</sup> Item 17 / 第 17 項

**353. 關於押記登記冊備存於何處的通知** (Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。)

- (1) 公司或註冊非香港公司須 —
  - (a) 在押記登記冊首次備存在某地方後的 145<sup>49</sup>日內，將該地方告通<sup>50</sup>知處長；及
  - (b) 在備存該登記冊所在的地方有所更改後的 145<sup>51</sup>日內，將該項更改告通<sup>52</sup>知處長。
- (2) 第(1)(a)或(b)款所指的通知，須符合指明格式。
- (3) 在以下情況下，第(1)(a)款不規定公司或註冊非香港公司告通<sup>53</sup>知處長備存有關押記登記冊所在的地方 —
  - (a) 自該登記冊開始存在之時起，該登記冊一直是時刻<sup>54</sup>備存於該公司的註冊辦事處或該註冊非香港公司在香港的主要營業地點；或
  - (b) 該登記冊在 1984 年 8 月 31 日已存在，並自此一直時刻<sup>55</sup>備存於該註冊辦事處或主要營業地點。

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<sup>49</sup> Item 1 / 第 1 項

<sup>50</sup> Item 18(I) / 第 18(I) 項

<sup>51</sup> Item 1 / 第 1 項

<sup>52</sup> Item 18(I) / 第 18(I) 項

<sup>53</sup> Item 18(I) / 第 18(I) 項

<sup>54</sup> Item 18(II) / 第 18(II) 項

<sup>55</sup> Item 18(II) / 第 18(II) 項



- (4) 如第(1)款遭違反，有關公司或註冊非香港公司及其每名責任人均屬犯罪，可各處第 4 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款\$700。

**353. Notification of place where register of charges is kept**

- (1) A company or registered non-Hong Kong company—
- (a) must, within 1514<sup>56</sup> days after a register of charges is first kept at a place, notify the Registrar of the place; and
  - (b) must, within 1514<sup>57</sup> days after there is a change in the place where the register is kept, notify the Registrar of the change.
- (2) A notification under subsection (1)(a) or (b) must be in the specified form.
- (3) Subsection (1)(a) does not require a company or registered non-Hong Kong company to notify the Registrar of the place where the register of charges is kept if—
- (a) the register has been kept at the company's registered office, or the registered non-Hong Kong company's principal place of business in Hong Kong, at all times since it came into existence; or
  - (b) the register was in existence on 31 August 1984 and has been kept at that registered office or principal place of business at all times since then.
- (4) If subsection (1) is contravened, the company or registered non-Hong Kong company, and every responsible person of the company or registered<sup>58</sup> non-Hong Kong company, commit an offence, and each is liable to a fine at level 4 and, in the case of a continuing offence, to a further fine of \$700 for each day during which the offence continues.

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<sup>56</sup> Item 1 / 第 1 項

<sup>57</sup> Item 1 / 第 1 項

<sup>58</sup> Item 18(III) / 第 18(III) 項

**355. 財政司司長可為施行本分部訂立規例** (*Note: CSAs to this provision in the Chinese text do not include the CSAs in the English text. / 這條條文中文本的修正案並不包括英文本中的修正案。*)

- (1) 財政司司長可訂立規例 —
  - (a) 訂明 —
    - (i) 註冊非香港公司根據第 350 條須<sup>59</sup>備存設立押記的文書的副本所在的地方；或
    - (ii) 註冊非香港公司根據第 352 條須<sup>60</sup>備存押記登記冊所在的地方；
  - (b) 就註冊非香港公司須備存該等副本及登記冊以供根據第 354(2)條查閱的責任，訂定條文；
  - (c) 為施行第 354(3)條訂明費用；及
  - (d) 訂明根據本分部須就或准予就該等副本及登記冊訂明的任何其他事情。
- (2) 根據第(1)(a)款訂立的規例 —
  - (a) 可訂明註冊非香港公司在香港的主要營業地點以外的一個地方；
  - (b) 可 —
    - (i) 藉提述註冊非香港公司備存任何其他紀錄所在的地方，訂明一個地方；或
    - (ii) 以任何其他方式，訂明一個地方；

<sup>59</sup> Item 19(I) / 第 19(I) 項

<sup>60</sup> Item 19(I) / 第 19(I) 項

- (c) 可規定除非該等規例訂明的條件獲符合，否則在該等規例訂明的地方備存有關副本或押記登記冊，不屬遵守第 350 或 352 條的規定；
  - (d) 可就第(1)(a)(i)或(ii)款指明的目的訂明多於一個地方；及
  - (e) 可規定除非註冊非香港公司的有關副本及押記登記冊均備存於該規例訂明的地方，否則在該地方備存該等副本或押記登記冊，不屬遵守第 350 或 352 條的規定。
- (3) 根據第(1)(b)款訂立的規例 —
- (a) 可就查閱的時間、期限及方式，訂定條文；及
  - (b) 可界定註冊非香港公司在為查閱的目的而摘錄或出示資料時，就所摘錄或出示的資料的性質及範圍以及摘錄或出示資料的方式方面須遵守的規定。
- (4) 根據第(1)款訂立的規例可<sup>61</sup> —
- (a) 可<sup>62</sup>規定如註冊非香港公司違反任何該等規例 —
    - (i) 該公司；及
    - (ii) 該公司的每名責任人，  
均屬犯罪；
  - (b) 可<sup>63</sup>規定如任何人犯(a)段所述罪行，該人可被處不超過第 5 級的罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另被處不超過\$1,000 的罰款；

<sup>61</sup> Item 19(II)／第 19(II) 項

<sup>62</sup> Item 19(II)／第 19(II) 項

<sup>63</sup> Item 19(II)／第 19(II) 項

- (c) 可<sup>64</sup>規定原訟法庭可在訂明情況下作出命令，飭令立即讓有關副本及押記登記冊受查閱；
  - (d) 可<sup>65</sup>規定如該等副本或押記登記冊是備存於有關註冊非香港公司以外的人的辦事處，則(c)段所述的命令可針對該人以及其高級人員及其他僱員作出；及
  - (e) <sup>66</sup>規定原訟法庭如信納查閱該等副本或押記登記冊的權利正遭濫用，則不得作出(c)段所述的命令。
- (5) 本條例的任何條文或根據本條訂立的規例，不得解釋為阻止註冊非香港公司 —
- (a) 提供比該等規例所規定者更為廣泛的便利；或
  - (b) (如可收取費用)收取較所訂明的費用為低的費用，或不收取費用。

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<sup>64</sup> Item 19(II)／第 19(II) 項

<sup>65</sup> Item 19(II)／第 19(II) 項

<sup>66</sup> Clause 355(4)(e) is proposed to be deleted under Item 19(III) and thus the word “可” is not added before “規定” in this provision.／第 19(III) 項擬議刪除第 355(4)(e) 條，故此我們在這條並無在“規定”前加入“可”字。

**355. Financial Secretary may make regulations for purposes of this Division**

- (1) The Financial Secretary may make regulations—
  - (a) prescribing a place at which—
    - (i) copies of instruments creating charges are to be kept by a registered non-Hong Kong company under section 350; or
    - (ii) a register of charges is to be kept by a registered non-Hong Kong company under section 352;
  - (b) providing for the obligations of a registered non-Hong Kong company to keep the copies and the register available for inspection under section 354(2);
  - (c) prescribing the fees for the purposes of section 354(3); and
  - (d) prescribing any other thing that is required or permitted to be prescribed under this Division in respect of those copies and that register.
- (2) Regulations made under subsection (1)(a) may—
  - (a) prescribe a place other than the registered non-Hong Kong company's principal place of business in Hong Kong;
  - (b) prescribe a place—
    - (i) by reference to the place at which the registered non-Hong Kong company keeps any other records; or
    - (ii) in any other way;
  - (c) provide that section 350 or 352 is not complied with by keeping the copies, or the register of charges, at a place

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- prescribed in the regulations unless conditions prescribed in the regulations are met;
- (d) prescribe more than one place for the purpose specified in subsection (1)(a)(i) or (ii); and
  - (e) provide that section 350 or 352 is not complied with by keeping the copies, or the register of charges, at a place prescribed in the regulations unless both the copies and the register of charges of a registered non-Hong Kong company are kept there.
- (3) Regulations made under subsection (1)(b) may—
- (a) make provision as to the time, duration and manner of inspection; and
  - (b) define what may be required of the registered non-Hong Kong company as regards the nature, extent and manner of extracting or presenting any information for the purposes of inspection.
- (4) Regulations made under subsection (1) may provide that—
- (a) if a registered non-Hong Kong company contravenes any of the regulations, an offence is committed by—
    - (i) the company; and
    - (ii) every responsible person of the company;
  - (b) a person who commits an offence mentioned in paragraph (a) is liable to a fine not exceeding level 5 and, in the case of a continuing offence, to a further fine not exceeding \$1,000 for each day during which the offence continues;
  - (c) the Court may, in prescribed circumstances, by order compel an immediate inspection of the copies and the register of charges; [and](#)
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- (d) if the copies, or the register of charges, are kept at the office of a person other than the registered non-Hong Kong company concerned, an order mentioned in paragraph (c) may be made against that other person and that other person's officers and other employees;~~and~~
- ~~(e) the Court must not make an order mentioned in paragraph (c) if it is satisfied that the rights of inspecting the copies, or the register of charges, are being abused.~~<sup>67</sup>
- (5) Nothing in any provision of this Ordinance or in the regulations made under this section is to be construed as preventing a registered non-Hong Kong company—
- (a) from providing more extensive facilities than are required by the regulations; or
  - (b) if a fee may be charged, from charging a lesser fee than that prescribed or none at all.

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<sup>67</sup> Item 19(III) / 第 19(III) 項