

香港特別行政區政府財經事務局的信頭  
**Letterhead of FINANCIAL SERVICES BUREAU, GOVERNMENT OF THE HONG  
KONG**

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本函檔號 OUR REF.: C2/1/12C (2000) XI  
來函檔號 YOUR REF.:

20 April 2000

The Hon Ronald Arculli, JP  
Chairman  
Bills Committee on the Companies (Amendment) Bill 2000  
Legislative Council  
Legislative Council Building  
8 Jackson Road  
Hong Kong

Dear

**Companies (Amendment) Bill 2000**

I note with disappointment about the decision reached by the Bills Committee at its meeting of 10 April 2000 to curtail the examination of the corporate rescue and insolvent trading proposals in the Bill.

Notwithstanding, I fully understand the position of the Bills Committee which, having regard to the complexity of the subject matter and the submissions made by various third parties, has come to the considered view that it is practically not possible to complete the scrutiny of the entire Bill in the time available.

However, I wish to stress that in drafting the Bill to implement the recommendations of the Law Reform Commission on corporate rescue, the Administration has made its best endeavours to balance the diametrically different and competing interests of the various parties involved, such as the company, the creditors (secured and unsecured), the employees and the shareholders. We consider that the current legislative proposal is a prudent approach and at least, we would be able to allow the rescue scheme to make a start. We hope to be able to re-introduce the relevant proposal into the Legislative Council in the near future for members' favourable consideration.

Consequent to the above, please find attached a copy of the draft Committee Stage Amendments that the Administration intends to move when the Bill resumes its second reading. The CSAs are prepared on the premise that all the clauses in relation to corporate rescue and insolvent trading are excised from the Companies (Amendment) Bill 2000. The CSAs have also included amendments to clause 14 by adding new sections (6A) to (6D) to the existing section 116B specifying the requirement on the company to keep a record of all of its resolutions and of the signatures thereto to be entered into a book kept for that purpose.

I understand that there are just one or two outstanding matters in the Bill and I look forward to having an early meeting with the Bills Committee to settle them.

I would like to take this opportunity to express my deep appreciation to the Bills Committee for its support in this matter.

With warm regards,

Yours sincerely,

(Susie Ho)  
for Secretary for Financial Services

Encl.

1st draft: 9.3.00

2nd draft: 20.3.00

3rd draft: 21.3.00

4th draft: 5.4.00

5th draft: 11.4.00

6th draft: 13.4.00

7th draft: 19.4.00

## COMPANIES (AMENDMENT) BILL 2000

### Amendments to be moved by the Secretary for Financial Services

#### Clause

#### Amendment Proposed

1(2)

By deleting the clause and substituting -

“(2) This Ordinance shall come into operation on 1 July 2000.”.

2(b)

By deleting the clause.

9

By adding before paragraph (a) -

“(aa) in subsection (1), by repealing “最少” ;”;

14

(a) By adding in the proposed section 116B -

“(6A) A company shall cause a record of all its resolutions (and of the signatures thereto) agreed to in accordance with this section to be entered into a book kept for that purpose

in the same way as minutes of proceedings of a general meeting of the company.

(6B) Where a record made in accordance with subsection (6A) by a company purports to be signed by a director of the company or secretary of the company, then

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(a) the record is evidence of the proceedings in agreeing to the resolution to which the record relates; and

(b) until the contrary is proved, the requirements of this Ordinance with respect to those proceedings shall be deemed to be complied with.

(6C) Section 120 shall apply to a record made in accordance with subsection (6A) as that section applies to the minutes of proceedings of any general meeting of a company.

(6D) If a company fails to comply with subsection (6A), the company and every officer of the company who is in default shall be liable to a fine and,

for continued default, to a daily default fine.”.

(b) In the proposed section 116BA -

(i) in subsection (3) -

(A) in paragraph (a), by deleting “or”;

(B) in paragraph (b), by deleting “contents.” and substituting “contents; or”;

(C) by adding -

“(c) that he had reasonable grounds to believe and did believe that a competent and reliable person was -

(i) charged with the duty of sending a copy of the resolution to the company’s auditors or of otherwise

informing the auditors  
of its contents; and

(ii) in a position to  
discharge that duty.”;

(ii) By deleting subsection (4) and substituting -

“(4) A failure to comply with  
subsection (1) shall not affect the validity of  
any resolution.”.

16, 17, 18,  
199b) (ii),  
(c) (i) and  
(d), 21, 22  
and 24

By deleting the clauses.

33(b)

In the proposed section 199(4) (b), by deleting “subsection (5)”  
and substituting “subsection (6)”.

44 and 45

By deleting the clauses.

51(b) (a) By adding immediately before the item relating to the proposed section 116BA(2) the following -

“116B(6D) Company Summary Level 3 \$300”.

failing to

enter

record of

resolutions

agreed in

accordance

with

section

116B

(b) By deleting the entries relating to the proposed sections 168ZI(2), 168ZN(5) and 168ZW(4).

30(a) (iii) By deleting the clause and substituting -

“(iii) by repealing paragraph (d) and substituting -

“(d) the court may make any appointment and

order as it thinks fit if the creditors and

contributories of the company do not pass

a resolution or do not meet;”;

53 By deleting the clause.

Schedule By deleting sections 45, 47, 48(a) and (b) (i), 49, 50, 54 and 55.