

立法會
Legislative Council

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Paper for the House Committee Meeting on 5 February 2010

**Legal Service Division Report on
Business Registration (Amendment) Bill 2010**

I. SUMMARY

- 1. Objects of the Bill** The main purpose of the Bill is to amend the Business Registration Ordinance (Cap. 310) (BRO) to provide for simultaneous business registration applications on incorporation or application for non-Hong Kong company registration under the Companies Ordinance (Cap. 32).
- 2. Comments** (a) For the implementation of the Phase II of the Integrated Companies Registry Information System (ICRIS II), including the one-stop service for company incorporation and business registration, the Bill proposes to add new provisions to BRO so that applications for incorporation or registration under the Companies Ordinance (Cap. 32) would be deemed to be simultaneous applications for business registration under BRO; and the Registrar of Companies (the Registrar) would be empowered to perform certain functions of the Commissioner of Inland Revenue (the Commissioner) in relation to simultaneous business registration applications.

(b) The Bill also provides for the making of business registration applications by electronic means; and for treating the company's notification of change in certain particulars to the Registrar as a notification to the Commissioner under BRO.
- 3. Public Consultation** The Standing Committee on Company Law Reform (the Committee) has been consulted on the legislative proposals under this Bill and the Companies (Amendment) Bill 2010, the Committee supported the proposals. The Companies Registry and the Inland Revenue Department (IRD) have also consulted their customer liaison groups and users' committee respectively on the relevant legislative proposals. They were also supportive of the proposals.
- 4. Consultation with LegCo Panel** The Administration briefed the Panel on Financial Affairs on the legislative proposals under the Companies (Amendment) Bill 2010 and this Bill at its meeting on 11 June 2009. Individual members expressed concerns on the certain issues relating to the legislative proposals under the Companies (Amendment) Bill 2010, but members did not raise any query on the legislative proposals under this Bill.
- 5. Conclusion** Members may wish to consider whether a Bills Committee is to be formed to study the policy aspects of the Bill in detail.

II. REPORT

Objects of the Bill

To amend the Business Registration Ordinance (Cap. 310) (BRO) to provide for simultaneous business registration applications on incorporation or application for non-Hong Kong company registration under the Companies Ordinance (Cap. 32), to provide for the making of business registration applications and the issue of business registration certificates by electronic means, and to make related and consequential amendments to other Ordinances.

LegCo Brief Reference

2. File ref.: C2/1/72(2009) issued by the Financial Services and the Treasury Bureau on 20 January 2010.

Date of First Reading

3. 3 February 2010.

Background

4. Currently, applications for company incorporation/registration and business registration have to be made separately under the Companies Ordinance and BRO respectively. A company is also required under the above Ordinances to notify the Registrar of Companies (the Registrar) and the Commissioner of Inland Revenue (the Commissioner) respectively of any change in certain particulars of the company.

5. To enhance the ease of doing business by providing a one-stop service to the business community, the Administration proposes that upon the implementation of Phase II of the Integrated Companies Registry Information System (ICIRS II) by the Companies Registry, amendments will be made to BRO to provide for simultaneous business registration applications on incorporation of companies and simultaneous notification of change of a company's particulars to the Commissioner on notification of such change to the Registrar. According to paragraph 2 of the LegCo Brief, ICIRS II is developed by the Companies Registry to enable on-line applications for company registration and filing of company documents. Legislative amendments which are necessary for the implementation of ICIRS II by the Companies Registrar have been introduced by the Companies (Amendment) Bill 2010 gazetted on 22 January 2010.

Comments

6. The Bill adds new provisions to BRO to provide for a new simultaneous business registration application scheme. Under the scheme, a person who makes an

application for company incorporation or registration under the Companies Ordinance is deemed to have also made an application for business registration under BRO. Further, the new section 5C empowers the Registrar to perform, for and on behalf of the Commissioner, certain functions in relation to simultaneous business applications and requires the Registrar to transmit certain information and particulars to the Commissioner for the purpose of business registration. Under the new section 5D, the Commissioner would be empowered to specify forms (including the format of an electronic record) and the manner of the delivery of specified forms (including delivery of electronic records) to the Registrar for the purposes of simultaneous business registration applications.

7. Other important amendments relate to the following matters -

- (a) extending the obligation of secrecy applicable to officers of the Inland Revenue Department (IRD) under section 4 of BRO to officers of the Companies Registry;
- (b) providing for the refund of prescribed business registration fees and/or levies by the Commissioner under certain circumstances; and
- (c) treating the company's notification of the change in certain particulars to the Registrar as a notification to the Commissioner under BRO.

8. The Bill also proposes technical amendments to the Business Registration Regulations (Cap. 310 sub. leg. A) and consequential amendments.

9. If enacted, the Bill will come into operation on a day to be appointed by the Secretary for Financial Services and the Treasury by notice published in the Gazette.

Public Consultation

10. According to paragraph 23 of the LegCo Brief, the Standing Committee on Company Law Reform (the Committee) has been consulted on the legislative proposals under the Companies (Amendment) Bill 2010 and this Bill, and the Committee supported the proposals. Further, the Companies Registry and IRD have also consulted their Customer Liaison Groups and Users' Committee respectively, and they were also supportive of the proposals.

Consultation with LegCo Panel

11. The Administration briefed the Panel on Financial Affairs on the proposed legislative amendments under the Companies (Amendment) Bill 2010 and this Bill at its meeting on 11 June 2009. Members of the Panel did not raise any query or objection to legislative proposals under this Bill.

Conclusion

12. The Legal Service Division is still scrutinizing the legal and drafting aspects of the Bill. Members may consider whether a Bills Committee is to be formed to study the policy aspects of the Bill in detail.

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