

《公司條例草案》委員會

《公司條例草案》第 17 部—並非根據本條例組成但可根據本條例註冊的公司
委員會審議階段修正案

下表載述政府當局就《公司條例草案》第 17 部(“並非根據本條例組成但可根據本條例註冊的公司”)(第 794 至 808 條) 擬議提出的委員會審議階段修正案(修正案)。政府當局在擬訂這些修正案時，考慮了議員、各團體／代表及立法會法律顧問的意見。該些修正案的標示文本按數序排列載於附件，以供參閱。

項目	有關事宜／ 條文	委員會審議階段修正案	備註
1	第 805 條 合資格公司可用 章程細則替代不 屬法定的章程文 件	將 第 (7) 款 中 的 “objections” 改 為 “objects”。	<ul style="list-style-type: none"> 修正文書錯誤。
2	第 807 條 第 806(1)條的例 外情況	刪除第(3)至(5)款。	<ul style="list-style-type: none"> 將第 807 條所列一些第 806(1)條的例外情況載於《公司(清盤及雜項條文)條例》，較為適宜，因為它們均與合資格公司清盤時的分擔人有關。《公司(清盤及雜項條文)條例》會有新條文，訂明現時在第(3)至(5)款的內容，因此已不需要這些條款。我們建議刪除這些條款。

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 ~~objects~~¹ 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