CB(1)1033/11-12(03)

For Reference Only

Proposed revised Schedule 9 to the Companies Bill

Consequential amendments to the Companies Ordinance (Cap 32) and its subsidiary legislation pursuant to the Companies Bill

Marked-up version

Chapter:	32	COMPANIES ORDINANCE	Gazette Number	Version Date
		Long title		30/06/1997

~~To consolidate and amend the law relating to companies.~~ To make provision for the winding up of companies; for receivers and managers; for offering of shares and debentures; for prospectuses; for disqualification of directors; for prevention of evasion of the Societies Ordinance; and for incidental and connected matters.

[1 July 1933]

(Originally 39 of 1932 (Cap 32, 1950))

Section:	1	Short title		30/06/1997

This Ordinance may be cited as the ~~Companies~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance.

Section:	2	Interpretation	8 of 2011	13/05/2011

Interpretation and Specification of Forms

(Amended 3 of 1997 s. 2)

(1) In this Ordinance, unless the context otherwise requires-

~~"accounts" (帳目) includes a company's group accounts, whether prepared in the form of accounts or not; (Added 80 of 1974 s. 2)~~

"agent" (代理人) does not include a person's counsel acting as such; (Added 6 of 1984 s. 2)

"amend" (修訂) includes delete, add to or vary and the doing of all or any of such things simultaneously; (Added 30 of 2004 s. 2)

~~"annual return" (周年申報表) means the return required to be made under section 107; (Amended 28 of 2003 s. 2)~~

~~"articles" (章程細則) means the articles of association of a company, as originally framed or as altered by special resolution, including, so far as they apply to the company, the regulations contained in Table A in the First Schedule annexed to the Companies Ordinance 1865 (1 of 1865), or in that table as altered in pursuance of powers given under that Ordinance, or in Table A in the First Schedule to the Companies Ordinance 1911 (58 of 1911), or in that table as altered in pursuance of section 117 of the last mentioned Ordinance, or in Table A in the First Schedule to this Ordinance;~~

articles (章程細則), in relation to a company, means the articles of association of the company;

Note—

Please also see section 93 of the Companies Ordinance (of 2011). A condition of an existing company's memorandum of association is to be regarded as a provision of the company's articles.

"authorized financial institution" (認可財務機構) means an authorized institution within the meaning of section 2 of the Banking Ordinance (Cap 155); (Added 12 of 1998 s. 2. Amended 49 of 1995 s. 53)

"book and paper" (簿冊及文據) and "book or paper" (簿冊或文據) include accounts, deeds, writings, and documents;

"certificate of solvency" (有償債能力證明書) means a certificate issued under section 233; (Added 28 of 2003 s. 2)

"Commission" (監察委員會) means-

(a) subject to paragraphs (b) and (c), the Securities and Futures Commission referred to in section 3(1) of the Securities and Futures Ordinance (Cap 571);

(b) where any relevant transfer order made under section 25 of that Ordinance is in force, the recognized exchange company concerned or both the Securities and Futures Commission and the recognized exchange company concerned, in accordance with the provisions of that order; or

(c) where any relevant transfer order made under section 68 of that Ordinance is in force, the recognized exchange controller concerned or both the Securities and Futures Commission and the recognized exchange controller concerned, in accordance with the provisions of that order; (Replaced 5 of 2002 s. 407)

Companies Register (公司登記冊) has the meaning given by section 2(1) of the Companies Ordinance (of 2011);

~~"company" (公司) means a company formed and registered under this Ordinance or an existing company;~~

company (公司) means—

(a) a company formed and registered under the Companies Ordinance (of 2011); or

(b) an existing company;

~~"company limited by guarantee" (擔保有限公司) and "company limited by shares" (股份有限公司) have the meanings assigned to them respectively by section 4(2); (Added 6 of 1984 s. 2)~~

company limited by guarantee (擔保有限公司) has the meaning given by section 8 of the Companies Ordinance (of 2011) for the purposes of that Ordinance;

company limited by shares (股份有限公司) has the meaning given by section 7 of the Companies Ordinance (of 2011) for the purposes of that Ordinance;

company secretary (公司秘書) includes any person occupying the position of company secretary (by whatever name called);

"contributory" (分擔人) has the meaning assigned to it by section 171; (Added 6 of 1984 s. 2)

"court" (法院、法庭) means the Court of First Instance; (Replaced 6 of 1984 s. 2. Amended 25 of 1998 s. 2)

"creditors' voluntary winding up" (債權人自動清盤) has the meaning assigned to it by section 233(4); (Added 6 of 1984 s. 2)

~~"debenture" (債權證) includes debenture stock, bonds and any other debt securities of a company whether constituting a charge on the assets of the company or not; (Amended 8 of 2011 s. 17)~~

debenture (債權證), in relation to a company, includes debenture stock, bonds and any other debt securities of the company, whether or not constituting a charge on the assets of the company;

"default fine" (失責罰款) has the meaning assigned to it by section 351(1A)(d); (Added 6 of 1984 s. 2. Amended 75 of 1993 s. 2)

~~"digital signature" (數碼簽署) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (Added 12 of 2010 s. 24)~~

"director" (董事) includes any person occupying the position of director by whatever name called;

"document" (文件) includes summons, notice, order, and other legal process, and registers;

~~"electronic record" (電子紀錄) has the meaning assigned to it by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (Added 30 of 2004 s. 2)~~

~~"entitled person" (有權利的人), in relation to a listed company, means a person who under section 129G(1) as read with the proviso thereto is entitled to be sent copies of the documents mentioned in that section; (Added 27 of~~

~~2001 s. 2)~~

~~"existing company" (現有公司) means a company formed and registered under the Companies Ordinance 1865 (1 of 1865), or the Companies Ordinance 1911 (58 of 1911);~~

existing company (原有公司) means a company formed and registered under a former Companies Ordinance;

financial statements (財務報表) means—

(a) the annual financial statements; or

(b) the annual consolidated financial statements,

as defined by section 356(1) of the Companies Ordinance (of 2011);

~~"financial year" (財政年度), in relation to any body corporate, means the period in respect of which any profit and loss account of the body corporate laid before it in general meeting is made up, whether that period is a year or not; (Added 80 of 1974 s. 2)~~

former Companies Ordinance (《舊有公司條例》) means—

(a) the Companies Ordinance 1865 (1 of 1865);

(b) the Companies Ordinance 1911 (58 of 1911); or

(c) the pre-amended Ordinance;

~~"founder member" (創辦成員) means a person who has signed his name on a memorandum in accordance with section 4(1); (Added 30 of 2004 s. 2)~~

founder member (創辦成員) has the meaning given by section 2(1) of the Companies Ordinance (of 2011);.

"general rules" (一般規則) means general rules made under section 296 and includes forms;

~~"group accounts" (集團帳目) has the meaning assigned to it by section 124(1); (Added 80 of 1974 s. 2)~~

"group of companies" (公司集團) means any 2 or more companies or bodies corporate one of which is the holding company of the other or others; (Added 6 of 1984 s. 2)

"image record" (影像紀錄) means a record produced using the imaging method and, where the context permits, includes a record in a legible form; (Added 28 of 2003 s. 2)

"imaging method" (影像處理方法) means a method by which documents in a legible form or in the form of microfilm are scanned by a scanner and the information recorded therein is converted into electronic images, which are then stored on electronic storage media capable of being retrieved and reproduced in a legible form; (Added 28 of 2003 s. 2)

~~"incorporation form" (法團成立表格) has the meaning assigned to it by section 14A(1); (Added 30 of 2004 s. 2)~~

"issued generally" (公開發出), in relation to a prospectus, means issued to persons who are not existing members or debenture holders of the company; (Added 78 of 1972 s. 2)

limited company (有限公司) means a company limited by guarantee or a company limited by shares;

"liquidator" (清盤人) includes a provisional liquidator holding such office by virtue of section 194; (Added 46 of 2000 s. 2)

~~"listed company" (上市公司) means a company which has any of its shares listed on a recognized stock market; (Added 77 of 1991 s. 2. Amended 5 of 2002 s. 407)~~

"manager" (經理), in relation to a company, means a person who, under the immediate authority of the board of directors, exercises managerial functions but does not include-

(a) a receiver or manager of the property of the company; or

(b) a special manager of the estate or business of the company appointed under section 216; (Added 28 of 2003 s. 2)

member (成員), in relation to a company, means—

(a) a founder member of the company; or

(b) a person who agrees to become a member of the company and whose name is entered, as a member, in the company's register of members;

"members' voluntary winding up" (成員自動清盤) has the meaning assigned to it by section 233(4); (Added 6 of 1984 s. 2)

~~"memorandum" (章程大綱) means the memorandum of association of a company, as originally framed or as altered in pursuance of any enactment;~~

"the minimum subscription" (最低認購額) has the meaning assigned to it by section 42(2); (Added 6 of 1984 s. 2)

~~"non-Hong Kong company" (非香港公司) has the meaning assigned to it by section 332; (Added 30 of 2004 s. 2)~~

non-Hong Kong company (非香港公司) means a company incorporated outside Hong Kong that—

(a) establishes a place of business in Hong Kong on or after the commencement date of Part 16 of the Companies Ordinance (of 2011); or

(b) has established a place of business in Hong Kong before that commencement date and continues to have a place of business in Hong Kong at that commencement date;

~~"notice of intent" (意願通知書) means a notice of intent referred to in regulations made under section 359A(2); (Added 27 of 2001 s. 2)~~

~~"offer to sell" (售賣要約), in relation to any shares or debentures, includes-~~

~~(a) any act or omission or other thing calculated to invite offers to purchase the shares or debentures;~~

~~(b) any reference to offer for sale; (Added 30 of 2004 s. 2)~~

"officer" (高級人員), in relation to a body corporate, includes a director, manager or ~~secretary~~ company secretary of the body corporate; (Added 80 of 1974 s. 2)

"officer who is in default" (失責高級人員) has the meaning assigned to it by section 351(2); (Added 6 of 1984 s. 2)

"Official Receiver" (破產管理署署長) means the Official Receiver appointed under the Bankruptcy Ordinance (Cap 6); (Added 30 of 1999 s. 2)

ordinary resolution (普通決議) has the meaning given by section 553 of the Companies Ordinance (of 2011);

"place of business" (營業地點), in relation to a non-Hong Kong company, has the meaning ~~assigned to it by section 341(1)~~ given by section 762(1) of the Companies Ordinance (of 2011); (Added 30 of 2004 s. 2)

pre-amended Ordinance (《修訂前的本條例》) means the Companies Ordinance (Cap. 32) as in force from time to time before the commencement date of section 1 of Schedule 9 to the Companies Ordinance (of 2011);

"prescribed" (訂明) means as respects the provisions of this Ordinance relating to the winding-up of companies, prescribed by general rules, and as respects the other provisions of this Ordinance, prescribed by the Chief Executive in Council; (Amended 23 of 1999 s. 3)

"printed" (印刷、印製) means produced by ordinary letterpress or lithography ~~or by such other process as the Registrar in his discretion may accept~~; (Added 4 of 1963 s. 2)

"private company" (私人公司) has the meaning ~~assigned to it by section 29~~ given by section 10 of the Companies Ordinance (of 2011) for the purposes of that Ordinance; (Added 6 of 1984 s. 2)

"prospectus" (招股章程)-

(a) subject to paragraph (b), means any prospectus, notice, circular, brochure, advertisement, or other document-

(i) offering any shares in or debentures of a company (including a company incorporated outside Hong Kong, and whether or not it has established a place of business in Hong Kong) to the public for subscription or purchase for cash or other consideration; or

(ii) calculated to invite offers by the public to subscribe for or purchase for cash or other consideration any shares in or debentures of a company (including a company incorporated outside Hong Kong, and whether or not it has established a place of business in Hong Kong);

(b) does not include any prospectus, notice, circular, brochure, advertisement, or other document-

(i) to the extent that it is a publication falling within section 38B(2); or

(ii) to the extent that it contains or relates to an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule; (Replaced 30 of 2004 s. 2)

~~"recognized certificate" (認可證書) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap 553); (Added 12 of 2010 s. 24)~~

"recognized exchange company" (認可交易所) means a company recognized under section 19(2) of the Securities and Futures Ordinance (Cap 571) as an exchange company for operating a stock market; (Added 5 of 2002 s. 407)

"recognized exchange controller" (認可控制人) has the same meaning as in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 5 of 2002 s. 407)

"recognized stock market" (認可證券市場) has the same meaning as in section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 5 of 2002 s. 407)

"record" (紀錄) includes not only a written record but any record conveying information or instructions by any other means whatsoever; (Added 28 of 2003 s. 2)

registered non-Hong Kong company (註冊非香港公司) means a non-Hong Kong company that is registered in the Companies Register as a registered non-Hong Kong company;

"Registrar" (處長) means the Registrar of Companies appointed under ~~section 303~~ section 20(1) of the Companies Ordinance (of 2011); (Replaced 6 of 1984 s. 2)

~~"Registrar's index of company names" (處長公司名稱索引) means the index of names kept by the Registrar under section 22C; (Added 60 of 1990 s. 2)~~

~~"relevant financial documents" (有關財務文件), in relation to a listed company, means the documents required to be sent under section 129G(1) in respect of the company; (Added 27 of 2001 s. 2)~~

~~"reserve director" (備任董事) means a person nominated as a reserve director of a private company under section 153A(6); (Added 28 of 2003 s. 2)~~

~~"resolution for reducing share capital" (股本減少決議) has the meaning assigned to it by section 58(2); (Added 6 of 1984 s. 2)~~

"a resolution for voluntary winding up" (自動清盤決議) has the meaning assigned to it by section 228(2); (Added 6 of 1984 s. 2)

~~"shadow director" (影子董事), in relation to a company, means a person in accordance with whose directions or instructions the directors or a majority of the directors of the company are accustomed to act; (Added 28 of 2003 s. 2)~~

shadow director (幕後董事), in relation to a body corporate, means a person in accordance with whose directions or instructions (excluding advice given in a professional capacity) the directors, or a majority of the directors, of the body corporate are accustomed to act;

~~"share" (股、股份) means share in the share capital of a company, and includes stock except where a distinction between stock and shares is expressed or implied;~~

share (股份)—

(a) means a share in a company's share capital; and

(b) if any of the company's shares is converted into stock, includes stock;

~~"share warrant" (認股權證) has the meaning assigned to it by section 73; (Added 6 of 1984 s. 2)~~

special resolution (特別決議) has the meaning given by section 554 of the Companies Ordinance (of 2011);

"specified corporation" (指明法團) means a company or a non-Hong Kong company; (Added 30 of 2004 s. 2)

"specified form" (指明格式), in relation to a particular provision of this Ordinance, means the appropriate form specified for the time being under section 2A, for the purposes of that provision; (Added 3 of 1997 s. 3)

"structured product" (結構性產品) has the meaning given by section 1A of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571); (Added 8 of 2011 s. 17)

~~"summary financial report" (財務摘要報告), in relation to a listed company, means a summary financial report of the company which complies with section 141CF(1); (Added 27 of 2001 s. 2)~~

~~"Table A" (A表) means Table A in the First Schedule;~~

"the time of the opening of the subscription lists" (開立認購名單的時間) has the meaning assigned to it by section 44A(1); (Added 6 of 1984 s. 2)

~~"unlimited company" (無限公司) has the meaning assigned to it by section 4(2); (Added 6 of 1984 s. 2. Amended 77 of 1991 s. 2)~~

unlimited company (無限公司) has the meaning given by section 9 of the Companies Ordinance (of 2011) for the purposes of that Ordinance;

~~"unlisted company" (非上市公司) means a company which does not have any of its shares listed on a recognized stock market. (Added 77 of 1991 s. 2. Amended 5 of 2002 s. 407)~~

~~(Amended 1 of 1949 s. 22; 10 of 1987 s. 2; 86 of 1992 s. 2; 5 of 2002 s. 407; 30 of 2004 s. 2)~~

~~(2) A person shall not be considered to be a shadow director of a company by reason only that the directors or a majority of the directors of the company act on advice given by him in a professional capacity. (Replaced 28 of 2003 s. 2)~~

(3) References in this Ordinance to a body corporate or to a corporation shall be construed as not including a corporation sole but as including a company incorporated outside Hong Kong. (Added 80 of 1974 s. 2)

(4) For the purposes of this Ordinance, a company shall, subject to the provisions of subsection (6), be deemed to be a subsidiary of another company, if-

(a) that other company-

(i) controls the composition of the board of directors of the first-mentioned company; or (Amended 6 of 1984 s. 2)

(ii) controls more than half of the voting ~~power~~ rights of the first-mentioned company; or

(iii) holds more than half of the issued share capital of the first-mentioned company (excluding any part of it which carries no right to participate beyond a specified amount in a distribution of either profits or capital); or

(b) the first-mentioned company is a subsidiary of any company which is that other company's subsidiary. (Added 80 of 1974 s. 2)

(5) For the purposes of subsection (4), the composition of a company's board of directors shall be deemed to be controlled by another company if that other company by the exercise of some power exercisable by it, without the consent of any other person, can appoint or remove all or a majority of the directors, and, for the purposes of this provision, that other company shall be deemed to have power to make such an appointment if- (Amended 12 of 2005 s. 2)

(a) a person cannot be appointed as a director without the exercise in his favour by that other company of such a power; or

(b) a person's appointment as a director follows necessarily from his being a director or other officer of that other company. (Added 80 of 1974 s. 2)

(6) In determining whether one company is a subsidiary of another company-

(a) any shares held or power exercisable by that other company in a fiduciary capacity shall be treated as not held or exercisable by it;

(b) subject to paragraphs (c) and (d), any shares held or power exercisable-

(i) by any person as a nominee for that other company (except where that other company is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of that other company, not being a subsidiary which is concerned only in a fiduciary capacity,

shall be treated as held or exercisable by that other company;

(c) any shares held or power exercisable by any person by virtue of the provisions of any debentures of the first-mentioned company or of a trust deed for securing any issue of such debentures shall be disregarded; and

(d) any shares held or power exercisable by, or by a nominee for, that other company or its subsidiary (not being held or exercisable as mentioned in paragraph (c)) shall be treated as not held or exercisable by that other company if the ordinary business of that other company or its subsidiary, as the case may be, includes the lending of money and the shares are held or power is exercisable as aforesaid by way of security only for the purposes of a transaction entered into in the ordinary course of that business. (Added 80 of 1974 s. 2)

(7) A reference in this Ordinance to the holding company of a company shall be read as a reference to a company of which that last-mentioned company is a subsidiary. (Added 80 of 1974 s. 2)

(8) In subsections (4), (5), (6) and (7) the expression "company" (公司) includes any body corporate or corporation. (Added 4 of 1976 s. 2)

~~(8A)In sections 152FA, 152FB and 152FD, the expression "record" (紀錄) includes book and paper. (Added 30 of 2004 s. 2)~~

(9) For the avoidance of doubt it is declared that a reference, in relation to any purpose of this Ordinance, to any form, matter, particular or information specified by the Registrar means, except where it is provided otherwise, specified by him for the time being for that purpose. (Added 3 of 1997 s. 3)

(10) Any provision of this Ordinance that refers (in whatever words) to-

(a) the founder members; (Amended 30 of 2004 s. 2)

(b) the members or shareholders of a company;

(c) a majority of members or shareholders of a company; or

(d) a specified number or percentage of members or shareholders of a company,

shall, unless the context otherwise requires, apply with necessary modifications in relation to a company that has only one founder member or that has only one person as a member or shareholder, as the case may be. (Added 28 of 2003 s. 2. Amended 30 of 2004 s. 2)

(11) Any provision of this Ordinance that refers (in whatever words) to-

(a) the directors of a company;

(b) the board of directors of a company;

(c) a majority of the directors of a company; or

(d) a specified number or percentage of the directors of a company,

shall, unless the context otherwise requires, apply with necessary modifications in relation to a private company that has only one director. (Added 28 of 2003 s. 2)

(12) The reference to a non-Hong Kong company in the definition of "specified corporation" in subsection (1) shall, before the commencement of section 1(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), be deemed to be a reference to an oversea company as is for the time being defined under this Ordinance. (Added 30 of 2004 s. 2 and L.N. 81 of 2005)

[cf. 1929 c. 23 s. 380 U.K.]

Section:	2A	Registrar to specify forms	L.N. 267 of 2003	13/02/2004

(1) The Registrar may specify a form, for use in relation to any purpose of this Ordinance-

(a) unless it is provided otherwise in this Ordinance; or

(b) except where a form for that purpose may be or is prescribed,

and any such form may contain any particulars ancillary or incidental to that purpose.

(2) In exercising, as regards any purpose of this Ordinance, the power conferred on him by subsection (1), the Registrar may, if he thinks fit, specify 2 or more different forms to be used in respect of that purpose, in different circumstances.

(3) (Repealed 28 of 2003 s. 3)

(Added 3 of 1997 s. 4)

Section:	2B	Construction of references to parent company, etc.	L.N. 163 of 2005	01/12/2005

(1) A reference in this Ordinance to parent company, parent undertaking or subsidiary undertaking shall be construed in accordance with the Twenty-third Schedule.

(2) A reference in a provision specified under subsection (3) for the purposes of this subsection—

(a) to a holding company shall be deemed to include a parent company;

(b) to a subsidiary or subsidiary company shall be deemed to include a subsidiary undertaking; and

(c) to shares or an undertaking shall be construed in accordance with the Twenty-third Schedule.

(3) The provisions specified for the purposes of subsection (2) are ~~sections 123, 124, 125, 126, 127, 128, 129, 129A, 129D, 133, 140, 141, 161, 161B, 161BA, 163B and 163D and the Second Schedule, the Third Schedule, the Fourth Schedule and the Tenth Schedule.~~ the Third Schedule and the Fourth Schedule.

(4) The Secretary for Financial Services and the Treasury may, by notice published in the Gazette, amend subsection (3).

(Added 12 of 2005 s. 3)

Section:	3	(Repealed 6 of 1984 s. 3)		30/06/1997

~~Part:~~	~~I~~	~~INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~Section:~~	~~4~~	~~Mode of forming incorporated company~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~**Memorandum of Association**~~

~~(1) Any one or more persons may, for any lawful purpose, by signing his or their name or names on a~~

~~memorandum of association (which must be printed in the English or Chinese language) and otherwise complying with the requirements of this Ordinance in respect of registration, form an incorporated company, with or without limited liability. (Amended 6 of 1984 s. 4; 83 of 1995 s. 2; 28 of 2003 s. 4; 30 of 2004 s. 2)~~

~~(2) Such a company may be either-~~

~~(a) a company having, or deemed by virtue of subsection (3) to have, the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Ordinance termed a company limited by shares); or (Amended 6 of 1984 s. 4)~~

~~(b) a company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the company in the event of its being wound up (in this Ordinance termed a company limited by guarantee); or~~

~~(c) a company not having any limit on the liability of its members (in this Ordinance termed an unlimited company).~~

~~(3) A company whose memorandum contains a condition in accordance with the fourth paragraph of the form set out in Table B in the First Schedule shall be deemed to be, and, in the case of such a company registered at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), always to have been, a company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them. (Added 6 of 1984 s. 4)~~

~~(4) With effect from the commencement** of section 4(2) of the Companies (Amendment) Ordinance 2003 (28 of 2003), a company cannot be formed as, or become, a company limited by guarantee with a share capital. (Added 28 of 2003 s. 4)~~

~~[cf. 1929 c. 23 s. 1 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~**** Commencement date: 13 February 2004.**~~

~~Section:~~	~~5~~	~~Requirements with respect to memorandum~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~(1) The memorandum of every company limited by shares or by guarantee must state the name of the company and-~~

~~(a) if the name is in English, with "Limited" as the last word of the name;~~

~~(b) if the name is in Chinese, with "有限公司" as the last 4 Chinese characters of the name; and~~

~~(c) if the name is both in English and Chinese, with "Limited" as the last word of the name in English and "有限公司" as the last 4 Chinese characters of the name in Chinese respectively. (Replaced 3 of 1997 s. 5)~~

~~(1A) The-~~

~~(a) memorandum of-~~

~~(i) an association referred to in section 21(1) must state the objects of the association; and~~

~~(ii) a company which is authorized to change its name under section 21(2) must state the objects of the company; and~~

~~(b) memorandum of any other company may state the objects of the company. (Added 3 of 1997 s. 5)~~

~~(1B) Subsection (1A) does not affect any requirement relating to the memorandum of a company specified in or under any other enactment. (Added 3 of 1997 s. 5)~~

~~(2) The memorandum of a company limited by shares or by guarantee must also state that the liability of its members is limited.~~

~~(3) The memorandum of a company limited by guarantee must also state that each member undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and of the costs, charges, and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.~~

~~(4) In the case of a company having a share capital-~~

~~(a) the memorandum must also, unless the company is an unlimited company, state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount;~~

~~(b) no founder member may take less than one share;~~

~~(c) each founder member must write opposite to his name the number of shares he takes. (Amended 30 of 2004 s. 2)~~

~~(5) The powers of a company formed on or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) shall include, unless expressly excluded or modified by the memorandum or articles, the powers set forth in the Seventh Schedule. (Added 6 of 1984 s. 5)~~

~~[cf. 1929 c. 23 s. 2 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~5A~~	~~Powers of a company~~		~~30/06/1997~~

~~(1) A company has the capacity and the rights, powers and privileges of a natural person.~~

~~(2) Without limiting subsection (1), a company may do anything which it is permitted or required to do by its memorandum or by any enactment or rule of law.~~

~~(Added 3 of 1997 s. 6)~~

~~Section:~~	~~5B~~	~~Power limited by memorandum, etc.~~		~~30/06/1997~~

~~(1) A company-~~

~~(a) whose objects are stated in its memorandum shall not carry on any business or do anything that it is not authorized by its memorandum to carry on or do; and~~

~~(b) shall not exercise any power which is expressly excluded or modified by its memorandum or articles, contrary to such exclusion or modification.~~

~~(2) A member of a company may bring proceedings to restrain the doing of an act in contravention of subsection (1); but no such proceedings shall lie in respect of an act to be done in fulfilment of any legal obligation arising under a previous act of the company.~~

~~(3) An act of a company (including a transfer of property to or by the company) is not invalid by reason only that it contravenes subsection (1).~~

~~(Added 3 of 1997 s. 6)~~

~~Section:~~	~~5C~~	~~Exclusion of deemed notice~~		~~30/06/1997~~

~~A person shall not be taken to have notice of any matter merely because of its being disclosed in the memorandum or articles kept by the Registrar or a return or resolution lodged with him.~~

~~(Added 3 of 1997 s. 6)~~

~~Section:~~	~~6~~	~~Signature of memorandum~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) The memorandum shall be signed by each founder member of the company. (Amended 30 of 2004 s. 2; 12 of 2010 s. 3)~~

~~(2) (Repealed 12 of 2010 s. 3)~~

~~(Replaced 6 of 1984 s. 6)~~

~~[cf. 1948 c. 38 s. 3 U.K.]~~

~~Section:~~	~~7~~	~~Restriction on alteration of memorandum~~		~~30/06/1997~~

~~A company may not alter its memorandum except in the cases, in the mode and to the extent for which express provision is made in this Ordinance.~~

~~(Amended 6 of 1984 s.7)~~

~~[cf. 1929 c.23 s.4 U.K.]~~

~~Section:~~	~~8~~	~~Mode in which and extent to which objects may be altered~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A company may, by special resolution of which notice has been duly given to all the members of the company (including, for the purposes of this section, members who are not entitled to such notice under the articles of the company), alter the conditions of its memorandum with respect to the objects of the company by abandoning or~~

~~restricting any of those objects or by adopting any new object which could lawfully have been contained in the memorandum at the time of its registration:~~

~~Provided that, where a private company passes such a resolution, an application may be made to the court in accordance with subsections (2) to (5) for the alteration to be cancelled, and if such an application is made, the alteration shall not have effect except in so far as it is confirmed by the court. (Replaced 6 of 1984 s. 8. Amended 28 of 2003 s. 5)~~

~~(2) An application under this section may be made-~~

~~(a) by the holders of not less in the aggregate than 5 per cent in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by shares, not less than 5 per cent of the company's members; or~~

~~(b) by the holders of not less than 5 per cent of the company's debentures entitling the holders to object to alterations of its objects.~~

~~(3) An application under this section shall be made within 28 days after the date on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.~~

~~(4) On an application under this section the court may make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members, and may give such directions and make such orders as it may think expedient for facilitating or carrying into effect any such arrangement.~~

~~(5) The debentures entitling the holders to object to alterations of a company's objects shall be any debentures secured by a floating charge that were issued or first issued before 15 February 1963, or form part of the same series as any debentures so issued, and a special resolution altering a company's objects shall require the same notice to the holders of any such debentures as to members of the company.~~

~~In default of any provisions regulating the giving of notice to any such debenture holders, the provisions of the company's articles regulating the giving of notice to members shall apply.~~

~~(6) (Repealed 6 of 1984 s. 8)~~

~~(7) Where a private company passes a resolution altering its objects (Amended 28 of 2003 s. 5)~~

~~(a) if no application is made with respect thereto under this section, it shall within 15 days after the end of the period for making such an application deliver to the Registrar a printed copy of its memorandum as altered and certified as correct by an officer of the company; and~~

~~(b) if such an application is made it shall-~~

~~(i) forthwith give notice of that fact to the Registrar; and~~

~~(ii) within 15 days after the date of any order cancelling or confirming the alteration, deliver to the Registrar an office copy of the order and, in the case of an order confirming the alteration, a printed copy of its memorandum as altered and certified as correct by an officer of the company. (Amended 28 of 2003 s. 5)~~

~~The court may by order at any time extend the time for the delivery of documents to the Registrar under paragraph (b) of this subsection for such period as the court may think proper.~~

~~(7A)Where a company (not being a private company) passes a resolution altering its objects, it shall, within 15 days after the date on which the resolution was passed, deliver to the Registrar a printed copy of its memorandum as altered and certified as correct by an officer of the company. (Added 28 of 2003 s. 5)~~

~~(8) If a company makes default in giving notice or delivering any document to the Registrar as required by subsection (7) or (7A), 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. (Amended 7 of 1990 s. 2; 28 of 2003 s. 5)~~

~~(9) In relation to a resolution for altering the conditions of a company's memorandum with respect to the objects of the company passed before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), the provisions of this section in force immediately before such commencement shall continue to have effect as if that Ordinance had not been enacted. (Replaced 6 of 1984 s. 8)~~

~~(10) In relation to a resolution for altering the conditions of a company's memorandum with respect to the objects of the company that is passed by a company (whether a private company or not) after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) and before the commencement** of section 5 of the Companies (Amendment) Ordinance 2003 (28 of 2003), the provisions of this section in force immediately before the commencement** of section 5 of the Companies (Amendment) Ordinance 2003 (28 of 2003) shall continue to have effect as if section 5 of that Ordinance had not been enacted. (Added 28 of 2003 s. 5)~~

~~(Replaced 4 of 1963 s. 3. Amended 6 of 1984 s. 8)~~

~~[cf. 1929 c. 38 s. 5 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~
~~**** Commencement date: 13 February 2004.**~~

~~Section:~~	~~9~~	~~Articles prescribing regulations for companies~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~**Articles of Association**~~

~~There may in the case of a company limited by shares, and there shall in the case of a company limited by guarantee or unlimited, be registered with the memorandum, articles of association prescribing regulations for the company.~~
~~(Amended 15 of 1955 s. 2 ; 30 of 2004 s. 2; 12 of 2010 s. 4)~~
~~[cf. 1929 c. 23 s. 6 U.K.]~~

~~Section:~~	~~10~~	~~Regulations required in case of unlimited company or company limited by guarantee~~		~~30/06/1997~~

~~(1) In the case of an unlimited company the articles shall state the number of members with which the company proposes to be registered and, if the company has a share capital, the amount of share capital with which the company proposes to be registered. (Amended 6 of 1984 s. 9)~~
~~(2) In the case of a company limited by guarantee, the articles shall state the number of members with which the company proposes to be registered. (Amended 6 of 1984 s. 9)~~
~~(3) Where a company not having a share capital has increased the number of its members beyond the registered number, it shall, within 15 days after the increase was resolved on or took place, give to the Registrar notice of the increase, and the Registrar shall record the increase. If default is made in complying with this subsection, 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. (Amended 7 of 1990 s. 2)~~
~~[cf. 1929 c. 23 s. 7 U.K.]~~

~~Section:~~	~~11~~	~~Adoption and application of Table A~~		~~30/06/1997~~

~~(1) Articles of association may adopt all or any of the regulations contained in Table A.~~
~~(2) In the case of a company limited by shares and registered after the commencement of this Ordinance, if articles are not registered, or, if articles are registered, in so far as the articles do not exclude or modify the regulations contained in Table A, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.~~
~~[cf. 1929 c.23 s.8 U.K.]~~

~~Section:~~	~~12~~	~~Printing and signature of articles~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Articles shall— (Amended 30 of 2004 s. 2)~~
~~(a) be printed in the English or Chinese language; (Amended 83 of 1995 s. 2)~~
~~(b) be divided into paragraphs numbered consecutively;~~
~~(c) be signed by each founder member of the company. (Amended 30 of 2004 s. 2; 12 of 2010 s. 5)~~
~~(2) (Repealed 12 of 2010 s. 5)~~
~~(Replaced 6 of 1984 s. 10)~~
~~[cf. 1948 c. 38 s. 9 U.K.]~~

~~Section:~~	~~13~~	~~Alteration of articles by special resolution~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Subject to the provisions of this Ordinance and to the conditions contained in its memorandum, a company may by special resolution alter or add to its articles.~~
~~(1A)Nothing in this section shall authorize a company to make any alteration or addition in its articles which is~~

~~inconsistent with any special rights attached to a class of shares in the company. (Added 6 of 1984 s. 11)~~

~~(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Ordinance, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.~~

~~(3) Where the articles of a company are altered, the company shall within 15 days after the alteration deliver to the Registrar a printed copy of its articles as altered and certified as correct by an officer of the company. (Added 30 of 1999 s. 3)~~

~~(4) If a company makes default in delivering any document to the Registrar as required by subsection (3), 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. (Added 30 of 1999 s. 3)~~

~~[cf. 1929 c. 23 s. 10 U.K.]~~

~~Section:~~	~~14~~	~~Statutory forms of memorandum and articles~~		~~30/06/1997~~

~~Form of Memorandum and Articles~~

~~The form of~~

~~(a) the memorandum of association of a company limited by shares;~~

~~(b) the memorandum and articles of association of a company limited by guarantee and not having a share capital;~~

~~(c) the memorandum and articles of association of a company limited by guarantee and having a share capital;~~

~~(d) the memorandum and articles of association of an unlimited company having a share capital;~~

~~shall be respectively in accordance with the forms set out in Tables B, C, D and E in the First Schedule, or as near thereto as circumstances admit.~~

~~[cf. 1929 c. 23 s. 11 U.K.]~~

~~Section:~~	~~14A~~	~~Incorporation form~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~Application to Registrar for Formation of Incorporated Company~~

~~(Added 30 of 2004 s. 2)~~

~~(1) A person who wishes to form an incorporated company shall apply to the Registrar in the specified form (in this Ordinance referred to as the "incorporation form"), which shall contain such particulars as are specified in the form.~~

~~(2) Without prejudice to the generality of subsection (1), the incorporation form shall contain~~

~~(a) the name of the company intended to be incorporated;~~

~~(b) the intended address of the company's registered office in Hong Kong;~~

~~(c) a statement as to whether the company is to be a company limited by shares, a company limited by guarantee or an unlimited company;~~

~~(d) if the company is to be a company limited by shares or limited by guarantee, a statement as to whether it is to be a private company;~~

~~(e) if the company is to be a company limited by shares or an unlimited company having a share capital, the amount of share capital with which the company proposes to be registered and the number of shares of fixed amount into which the share capital is to be divided;~~

~~(f) if the company is to be a company limited by guarantee, the number of members with which the company proposes to be registered on its incorporation, and the amount that each person who is to be a member is to undertake to contribute to the assets of the company in the event of its being wound up; (Amended 12 of 2010 s. 6)~~

~~(g) the name and address of each person who is to be a founder member of the company and, if the company is to be a company limited by shares or an unlimited company having a share capital, the number of shares that each founder member is to take, on the incorporation of the company;~~

~~(h) the following particulars with respect to each person who is to be a director of the company on its incorporation~~

~~(i) in the case of an individual, his present forename and surname and any former forename or surname, any alias, his usual residential address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and~~

~~(ii) in the case of a body corporate, its corporate name and registered or principal office;~~

~~(i) the following particulars with respect to the person who is to be the secretary of the company on its incorporation (or, where there are to be joint secretaries, with respect to each of them)~~

~~(i) in the case of an individual, his present forename and surname and any former forename or surname, any alias, his usual residential address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and~~

~~(ii) in the case of a body corporate, its corporate name and registered or principal office,~~

~~but where all the partners in a firm are joint secretaries, the name and principal office of the firm may be substituted for the particulars mentioned in subparagraphs (i) and (ii);~~

~~(j) the statement of compliance required by section 18(2); (Amended 12 of 2010 s. 6)~~

~~(k) if the signatory is to be a director of the company on its incorporation, a statement by the signatory—~~

~~(i) that he or she has consented to be a director of the company; and~~

~~(ii) if the signatory is an individual, that he or she has attained the age of 18 years; (Replaced 12 of 2010 s. 6)~~

~~(l) in relation to each person (other than the signatory) who is to be a director of the company on its incorporation—~~

~~(i) a statement by the person that he or she has consented to be a director of the company and, if the person is an individual, that he or she has attained the age of 18 years; or~~

~~(ii) a statement by the signatory that the person has consented to be a director of the company and, if the person is an individual, that the person has attained the age of 18 years; (Added 12 of 2010 s. 6)~~

~~(m) a statement that the company's memorandum and articles (if any) have been signed in accordance with sections 6 and 12; and (Added 12 of 2010 s. 6)~~

~~(n) a statement that the contents of the copies of the company's memorandum and articles (if any) delivered under section 15, with or without the part showing the signature and the date of signing as they appear on the original documents, are the same as those of the memorandum and articles. (Added 12 of 2010 s. 6)~~

~~(3) The incorporation form shall be signed by any person who is named in the form as a founder member. (Amended 12 of 2010 s. 6)~~

~~(4) The terms and expressions used in subsection (2)(h) and (i) shall be construed in accordance with section 158(10).~~

~~(5) In subsection (2), "signatory" (簽署人), in relation to an incorporation form, means the person who signs the form for the purposes of subsection (3). (Added 12 of 2010 s. 6)~~

~~(6) The Financial Secretary may, by order published in the Gazette, amend subsection (2). (Added 12 of 2010 s. 6)~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~15~~	~~Delivery and registration of incorporation form, memorandum and articles~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~**Registration**~~

~~(1) A duly completed incorporation form shall be delivered to the Registrar for registration together with copies of the memorandum and articles, if any. (Amended 12 of 2010 s. 7)~~

~~(2) The Registrar shall retain and register the documents delivered under this section.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~16~~	~~Effect of registration~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) On the registration of a company's incorporation form and copies of its memorandum and articles, if any, the Registrar shall issue a certificate, with his signature or his printed signature, certifying that the company is incorporated and, in the case of a limited company, that the company is limited. (Amended 83 of 1995 s. 3; 12 of 2010 s. 8)~~

~~(2) From the date of incorporation mentioned in the certificate of incorporation, the founder members, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated company, and having perpetual succession and a common seal, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is mentioned in this Ordinance.~~

~~(Amended 30 of 2004 s. 2)~~
~~[cf. 1929 c. 23 s. 13 U.K.]~~

~~Section:~~	~~17~~	~~Power of company to hold lands~~		~~30/06/1997~~

~~(1) Every company incorporated under this Ordinance shall have power to acquire, hold and dispose of land. (Replaced 74 of 1974 s. 3)~~

~~(2) For the purposes of this section, "land" (土地) includes any estate or interest in land, buildings, messuages and tenements of what nature or kind soever. (Replaced 25 of 1958 s. 2)~~

~~[cf. 1929 c. 23 s. 14 U.K.]~~

~~Section:~~	~~18~~	~~Conclusiveness of certificate of incorporation~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) A certificate of incorporation issued by the Registrar in respect of any association shall be conclusive evidence that all the requirements of this Ordinance in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a company authorized to be registered and duly registered under this Ordinance. (Amended 83 of 1995 s. 4)~~

~~(2) A statement of compliance specified in subsection (3) shall be produced to the Registrar and the Registrar may accept the statement as sufficient evidence of compliance with all the requirements referred to in subsection (1). (Replaced 30 of 2004 s. 2. Amended 12 of 2010 s. 9)~~

~~(3) The statement specified for the purposes of subsection (2) is a statement—~~

~~(a) certifying the company's compliance with all the requirements referred to in subsection (1);~~

~~(b) certifying that the particulars contained in the incorporation form are accurate and consistent with those contained in the memorandum and articles of the company; and~~

~~(c) signed by the founder member who signs the form for the purposes of section 14A(3). (Added 12 of 2010 s. 9)~~

~~[cf. 1929 c. 23 s. 15 U.K.]~~

~~Section:~~	~~18A~~	~~Delivery of consent of director~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Each consent given for the purposes of section 14A(2)(l)(ii) in relation to a company intended to be incorporated must be delivered to the Registrar in the specified form not later than 14 days after the date of incorporation of the company.~~

~~(2) If subsection (1) is contravened, the company, every officer of the company who is in default, and the founder member who signs the incorporation form for the purposes of section 14A(3), commit an offence, and each is liable to a fine and, for continued contravention, to a daily default fine.~~

~~(3) In any proceedings against a founder member for an offence under this section, it is a defence for the founder member to establish that he or she took all reasonable steps to secure compliance with subsection (1).~~

~~(Added 12 of 2010 s. 10)~~

~~Section:~~	~~19~~	~~Unlimited companies may be re-registered as limited~~		~~30/06/1997~~

~~(1) A company which, at or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), is registered as unlimited may be re-registered as limited if a special resolution that it should be so re-registered (complying with the requirement of subsection (2)) is passed and an application in that behalf, framed in the specified form and signed by a director or by the secretary of the company, is lodged with the Registrar together with the documents mentioned in subsection (3) not earlier than the day on which the copy of the resolution forwarded to him in pursuance of section 117 is received by him; and the Eighth Schedule shall have effect for the purposes of this section as if for references in that Schedule to the registration of a company there were substituted references to its re-registration under this section. (Amended 3 of 1997 s. 7)~~

~~(2) The said requirement is that the resolution—~~

~~(a) shall state the manner in which the liability of the members of the company is to be limited and, if the company is to have a share capital, what that capital is to be; and~~

~~(b) shall—~~

~~(i) if the company is to be limited by guarantee, provide for the making of such alterations in its memorandum~~

~~and such alterations in and additions to its articles as are requisite to bring the memorandum and articles, both in substance and in form, into conformity with the requirements of this Ordinance with respect to the substance and form of the memorandum and articles of a company to be formed thereunder whose condition as to mode of limitation of liability and possession of a share capital (or want of it) will be similar to the condition of the company as to those matters which will obtain upon its re-registration;~~

~~(ii) if the company is to be limited by shares, provide for the making of such alterations in its memorandum as are requisite to bring it, both in substance and in form, into conformity with the requirements of this Ordinance with respect to the substance and form of the memorandum of a company to be formed thereunder as a company so limited, and such alterations in and additions to its articles as are requisite in the circumstances.~~

~~(3) The documents referred to in subsection (1) are a printed copy of the memorandum as altered in pursuance of the resolution and a printed copy of the articles as so altered.~~

~~(4) The Registrar shall retain the application and other documents lodged with him under subsection (1) and shall issue to the company a certificate of incorporation appropriate to the status to be assumed by the company by virtue of this section; and upon the issue of the certificate-~~

~~(a) the status of the company shall, by virtue of the issue, be changed from unlimited to limited; and~~

~~(b) the alterations in the memorandum specified in the resolution and the alterations in, and additions to, the articles so specified shall, notwithstanding anything in this Ordinance, take effect.~~

~~(5) A certificate of incorporation issued by virtue of this section shall be conclusive evidence that the requirements of this section with respect to re-registration and of matters precedent and incidental thereto have been complied with, and that the company was authorized to be re-registered under this Ordinance in pursuance of this section and was duly so re-registered.~~

~~(6) In the event of the winding up of a company re-registered in pursuance of this section, the following provisions shall have effect-~~

~~(a) notwithstanding section 170(1)(a), a past member of the company who was a member thereof at the time of re-registration shall, if the winding up commences within the period of 3 years beginning with the day on which the company is re-registered, be liable to contribute to the assets of the company in respect of debts and liabilities of its contracted before that time;~~

~~(b) where no persons who were members of the company at that time are existing members of the company, a person who, at that time, was a present or past member thereof shall, subject to section 170(1)(a) and paragraph (a) of this subsection, but notwithstanding section 170(1)(c), be liable to contribute as aforesaid notwithstanding that the existing members have satisfied the contributions required to be made by them in pursuance of this Ordinance;~~

~~(c) notwithstanding section 170(1)(d) and (e), there shall be no limit on the amount which a person who, at that time, was a past or present member of the company is liable to contribute as aforesaid.~~

~~(Replaced 6 of 1984 s. 12)~~

~~[cf. 1967 c. 81 s. 44 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~20~~	~~Restriction on registration of companies by certain names~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~**Provisions with respect to Names of Companies**~~

~~(1) A company shall not be registered by a name-~~

~~(a) which is the same as a name appearing in the Registrar's index of company names;~~

~~(b) which is the same as that of a body corporate incorporated or established under an Ordinance;~~

~~(c) the use of which by the company would, in the opinion of the Chief Executive, constitute a criminal offence; or~~

~~(d) which, in the opinion of the Chief Executive, is offensive or otherwise contrary to the public interest.~~

~~(2) Except with the consent of the Chief Executive no company shall be registered by a name which-~~

~~(a) in the opinion of the Chief Executive, would be likely to give the impression that the company is connected in any way with the Central People's Government or the Government of Hong Kong or any department of either Government; or~~

~~(b) includes any word or expression for the time being specified in an order made under section 22B.~~

~~(2A)Except with the consent of the Registrar, a company must not be registered by a name that is the same as a~~

~~name for which a direction has been given under section 22 or 22A on or after the commencement* of the Companies (Amendment) Ordinance 2010 (12 of 2010). (Added 12 of 2010 s. 12)~~

~~(3) In determining for the purposes of subsection (1)(a) or (b) or (2A) whether one name is the same as another— (Amended 12 of 2010 s. 12)~~

~~(a) the following shall be disregarded—~~

~~(i) the definite article, where it is the first word of the name;~~

~~(ii) the following words and expressions where they appear at the end of the name, that is to say—~~

~~(A) "company";~~

~~(B) "and company";~~

~~(C) "company limited";~~

~~(D) "and company limited";~~

~~(E) "limited";~~

~~(F) "unlimited";~~

~~(G) "public limited company";~~

~~(H) "公司"; (Added 3 of 1997 s. 8)~~

~~(I) "有限公司"; (Added 3 of 1997 s. 8)~~

~~(J) "無限公司"; and (Added 3 of 1997 s. 8)~~

~~(K) "公眾有限公司"; (Added 3 of 1997 s. 8)~~

~~(iii) abbreviations of any of the words or expressions referred to in subparagraph (ii) where they appear at the end of the name; and~~

~~(iv) type and case of letters, accents, spaces between letters and punctuation marks; (Amended 3 of 1997 s. 8)~~

~~(b) "and" and "&", "Hong Kong", "Hongkong" and "HK", and "Far East" and "FE" are respectively to be taken as the same;~~

~~(c) two different Chinese characters shall be regarded as the same if the Registrar is satisfied that having regard to the usage of the two Chinese characters in Hong Kong, they can reasonably be used interchangeably. (Added 3 of 1997 s. 8)~~

~~(Replaced 60 of 1990 s. 3. Amended 23 of 1999 s. 3)~~

~~[cf. 1985 c. 6 s. 26 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 10 December 2010 (Parts 1, 3, 4, 6 and 8).**~~

~~Section:~~	~~20A~~	~~(Repealed 60 of 1990 s. 4)~~		~~30/06/1997~~

~~(Repealed 60 of 1990 s. 4)~~

~~**Note:**~~

~~**See 60 of 1990 s. 11.**~~

~~Section:~~	~~21~~	~~Power to dispense with certain words in name of charitable and other companies~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) Where it is proved to the satisfaction of the Registrar that an association about to be formed as a limited company is to be formed for promoting commerce, art, science, religion, charity or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Registrar may by licence direct that the association may be registered as a company with limited liability, without the addition of—~~

~~(a) if the name of the association is in English, the word "Limited" to its name;~~

~~(b) if the name of the association is in Chinese, the expression in Chinese "有限公司" to its name; and~~

~~(c) if the name of the association is both in English and Chinese, such word and expression to its name in English and Chinese respectively,~~

~~and the association may be registered accordingly and shall, on registration, enjoy all the privileges and (subject to the provisions of this section) be subject to all the obligations of limited companies. (Replaced 3 of 1997 s. 9)~~

~~(2) Where it is proved to the satisfaction of the Registrar—~~

~~(a) that the objects of a company registered under this Ordinance as a limited company are restricted to those specified in subsection (1) and to objects incidental or conducive thereto; and~~

~~(b) that by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members,~~

~~the Registrar may by licence authorize the company to make by special resolution a change in its name including or consisting of the omission of the word "Limited" or the expression in Chinese "有限公司" or both such word and expression, as the case may be, and subsections (7) and (8) of section 22 shall apply to a change of name under this subsection as they apply to a change of name under that section. (Amended 3 of 1997 s. 9; 12 of 2010 s. 53)~~

~~(3) A licence by the Registrar under this section may be granted on such conditions and subject to such regulations as the Registrar thinks fit, and those conditions and regulations shall be binding on the body to which the licence is granted, and (where the grant is under subsection (1)) shall, if the Registrar so directs, be inserted in the memorandum and articles, or in one of those documents.~~

~~(4) A body to which a licence is granted under this section shall be exempted from the provisions of this Ordinance relating to the use of the word "Limited" or the expression in Chinese "有限公司" or both such word and expression, as the case may be, as any part of its name, the publishing of its name and the sending of lists of members to the Registrar. (Amended 3 of 1997 s. 9)~~

~~(5) A licence under this section may at any time be revoked by the Registrar, and upon revocation the Registrar shall, where the name upon the register of the body to which it was granted is-~~

~~(a) in English, enter the word "Limited" at the end of that name;~~

~~(b) in Chinese, enter the expression in Chinese "有限公司" at the end of that name; or~~

~~(c) both in English and Chinese, enter such word and expression at the end of its name in English and Chinese respectively,~~

~~and the body shall cease to enjoy the exemptions and privileges or, as the case may be, the exemptions granted by this section:~~

~~Provided that before a licence is so revoked, the Registrar shall give to the body notice in writing of his intention, and shall afford it an opportunity of being heard in opposition to the revocation. (Amended 3 of 1997 s. 9)~~

~~(6) A body in respect of which a licence under this section is in force shall not have power to alter its memorandum or articles unless-~~

~~(a) (Repealed 46 of 2000 s. 3)~~

~~(b) the proposed alteration is approved in writing by the Registrar.~~

~~(7) Where a body in respect of which a licence under this section is in force alters its memorandum or articles, the Registrar may (unless he sees fit to revoke the licence) vary the licence by making it subject to such conditions and regulations as the Registrar thinks fit, in lieu of or in addition to the conditions and regulations, if any, to which the licence was formerly subject.~~

~~(8) Where a licence granted under this section to a body the name of which contains the words "Chamber of Commerce" or the expression in Chinese "總商會" is revoked, the body shall within a period of 6 weeks from the date of revocation or such longer period as the Registrar may think fit to allow, change its name to a name which does not contain those words, and (Amended 3 of 1997 s. 9)~~

~~(a) the notice to be given under the proviso to subsection (5) to that body shall include a statement to the effect of the foregoing provisions of this subsection; and~~

~~(b) subsections (7) and (8) of section 22 shall apply to a change of name under this subsection as they apply to a change of name under that section. (Amended 12 of 2010 s. 53)~~

~~(9) If a body referred to in subsection (8) makes default in complying with the requirements of that subsection, it shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)~~

~~(10) Without prejudice to section 23 of the Interpretation and General Clauses Ordinance (Cap 1), this section shall apply in relation to any body in respect of which a licence (being a licence granted under this Ordinance in respect of the registration of that body as a company with limited liability without the addition of the word "Limited" to its name) is in force at the commencement of the Companies (Amendment) Ordinance 1978 (51 of 1978) as if such licence had been granted under this section after the commencement of that Ordinance.~~

~~(Replaced 51 of 1978 s. 2)~~

~~[cf. 1948 c. 38 s. 19 U.K.]~~

~~Section:~~	~~22~~	~~Change of name~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) A company may by special resolution change its name.~~

~~(1A) Where a company passes a special resolution changing its name, it shall, within 15 days after the passing of the resolution, give notice in the specified form of the change of its name to the Registrar. (Added 28 of 2003 s. 7)~~

~~(1B) If a company fails to comply with subsection (1A), the company and every officer of the company who is in default is liable to a fine and, for continued default, to a daily default fine. (Added 28 of 2003 s. 7)~~

~~(2) Where a company has been registered by a name which-~~

~~(a) is the same as or, in the opinion of the Registrar, too like a name appearing at the time of the registration in the Registrar's index of company names;~~

~~(b) is the same as or, in the opinion of the Registrar, too like a name which should have appeared in that index at that time; or~~

~~(c) is the same as or, in the opinion of the Registrar, too like the name of a body corporate incorporated or established under any Ordinance at the time of the registration,~~

~~the Registrar may within 12 months of that time, in writing, direct the company to change its name within such period as he may specify.~~

~~(3) Section 20(3) applies in determining under subsection (2) whether a name is the same as or too like another.~~

~~(3A) If a company has been registered by a name by which, at the time of the registration, the company must not be registered under section 20(2), the Registrar may in writing, within 3 months after the time of the registration, direct the company to change the name within the period specified by the Registrar. (Added 12 of 2010 s. 13)~~

~~(3B) The Registrar may in writing direct a company to change, within the period specified by the Registrar, a name by which the company has been registered if the Registrar receives, from a person in whose favour an order is made by a court restraining the company from using the name or any part of the name-~~

~~(a) an office copy of the order; and~~

~~(b) a notice in the specified form. (Added 12 of 2010 s. 13)~~

~~(3C) In subsection (3B), "court" (法院) means any court of the Hong Kong Special Administrative Region of competent jurisdiction. (Added 12 of 2010 s. 13)~~

~~(4) If it appears to the Registrar that misleading information has been given for the purpose of a company's registration by a particular name, or that undertakings or assurances have been given for that purpose and have not been fulfilled, he may within 5 years of the date of its registration by that name direct, in writing, the company to change its name within such period as he may specify.~~

~~(5) Where a direction is given under subsection (2), (3A), (3B) or (4), the Registrar may by a further direction in writing extend the period within which the company is to change its name, at any time before the end of that period. (Amended 12 of 2010 s. 13)~~

~~(6) A company which fails to comply with a direction under this section and every officer of the company who is in default shall be liable to-~~

~~(a) a fine and, in the case of an individual, imprisonment; and~~

~~(b) for continued default, a daily default fine.~~

~~(7) Where a company gives notice of a change of its name to the Registrar under subsection (1A), the Registrar shall, subject to section 20-~~

~~(a) enter the new name on the register in place of the former name; and~~

~~(b) issue a certificate of change of name,~~

~~and the change of name shall have effect from the date on which the certificate is issued. (Replaced 28 of 2003 s. 7)~~

~~(8) A change of name by a company under this section does not affect any rights or obligations of the company or render defective any legal proceedings by or against it and any legal proceedings that could have been commenced or continued against it by its former name may be commenced or continued against it by its new name.~~

~~(Replaced 60 of 1990 s. 5)~~

~~[cf. 1985 c. 6 s. 28 U.K.]~~

~~Section:~~	~~22A~~	~~Power of Registrar to require company to change misleading or offensive name, etc.*~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) If in the opinion of the Registrar the name by which a company is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public, he may direct it to change its name.~~

~~(1A) If a company has been registered by a name by which, at the time of the registration, the company must not be registered under section 20(1)(c) or (d), the Registrar may direct the company to change the name. (Added 12 of~~

~~2010 s. 14)~~

~~(2) A direction given under this section to a company shall, if not duly made the subject of an application under subsection (3) to the court, be complied with within a period of 6 weeks from the date of the direction or such longer period as the Registrar may think fit to allow.~~

~~(3) A company to which a direction is given under this section may, within a period of 3 weeks from the date of the direction, apply to the court to set the direction aside, and the court may set it aside or confirm it; and if it confirms it, it shall specify a period within which it shall be complied with.~~

~~(4) If a company makes default in complying with a direction under this section, it shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)~~

~~(5) Subsections (7) and (8) of section 22 shall apply in relation to a change of name under this section as they apply in relation to a change of name under that section. (Amended 12 of 2010 s. 54)~~

~~(Added 6 of 1984 s.13)~~

~~[cf. 1967 c.81 s.46 U.K.]~~

~~**Note:**~~

~~*** (Amended 12 of 2010 s. 14)**~~

~~Section:~~	~~22AA~~	~~Power of Registrar to replace company name in case of failure to comply with direction~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section applies if—~~

~~(a) on or after the commencement* of the Companies (Amendment) Ordinance 2010 (12 of 2010), the Registrar directs a company to change a name under section 22(2), (3A), (3B) or (4) or 22A(1) or (1A); and~~

~~(b) the company fails to comply with the direction—~~

~~(i) in the case of a direction under section 22(2), (3A), (3B) or (4), within the period specified by the Registrar or, if the period is extended under section 22(5), the extended period; and~~

~~(ii) in the case of a direction under section 22A(1) or (1A), within the period specified in section 22A(2) or, if a period is specified by the court under section 22A(3) for the direction, the period specified by the court.~~

~~(2) Without limiting sections 22(6) and 22A(4), the Registrar may replace the name with—~~

~~(a) if the name is in English, a new name that consists of the words "Company Registration Number" as its prefix, followed by the registration number of the company as stated in the certificate of incorporation;~~

~~(b) if the name is in Chinese, a new name that consists of the Chinese characters "公司註冊編號" as its prefix, followed by the registration number of the company as stated in the certificate of incorporation; or~~

~~(c) if the name is both in English and Chinese, a new name in English that consists of the words "Company Registration Number" as its prefix, followed by the registration number of the company as stated in the certificate of incorporation, and in Chinese that consists of the Chinese characters "公司註冊編號" as its prefix, followed by that registration number.~~

~~(3) On replacing the name with a new name, the Registrar must enter the new name on the register in place of the replaced name.~~

~~(4) The replacement takes effect on the date on which the new name is entered on the register under subsection (3).~~

~~(5) Within 30 days after entering the new name on the register, the Registrar must—~~

~~(a) by notice in writing notify the company of—~~

~~(i) the fact that a name of the company has been replaced with a new name; and~~

~~(ii) the date on which the replacement takes effect under subsection (4); and~~

~~(b) by notice in the Gazette notify that fact and that date.~~

~~(6) A replacement of a name of a company under this section does not affect any rights or obligations of the company or render defective any legal proceedings by or against it. Any legal proceedings that could have been commenced or continued against the company by the replaced name may be commenced or continued against it by its new name.~~

~~(Added 12 of 2010 s. 15)~~

~~**Note:**~~

~~*** Commencement date: 10 December 2010 (Parts 1, 3, 4, 6 and 8).**~~

~~Section:~~	~~22B~~	~~Specification of names by Chief Executive~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The Chief Executive may by order~~

~~(a) specify words or expressions for the registration of which as, or as part of, a company's name the approval of the Chief Executive is required under section 20(2)(b); and~~

~~(b) in relation to any such word or expression, specify a Government department or other body as the relevant body for the purposes of subsection (2). (Amended 23 of 1999 s. 3)~~

~~(2) Where a company or the promoter of a proposed company proposes to have as, or as part of, its name any word or expression referred to in subsection (1), a request shall be made in writing by the company or the promoter to any body specified under subsection (1)(b) as the relevant body in relation to such word or expression, to indicate whether it has any objection to the proposed name and the reasons for any such objection.~~

~~(3) Where a company or a promoter makes a request under subsection (2) the company secretary or the promoter shall deliver in writing to the Registrar a statement that such request has been made to the body referred to in subsection (2) together with a copy of any written reply received from that body and, in the case of a change of name, the notice of change of name required by section 22(1A). (Amended 28 of 2003 s. 8)~~

~~(4) Section 305 (inspection, production and evidence of documents kept by Registrar) shall not apply to any document delivered under subsection (3).~~

~~(5) An order under this section may contain such transitional provisions and savings as the Chief Executive may consider appropriate, and may make different provisions for different cases or different classes of cases. (Amended 23 of 1999 s. 3)~~

~~(Added 60 of 1990 s. 6)~~

~~[cf. 1985 c. 6 s. 29 U.K.]~~

~~Section:~~	~~22C~~	~~Registrar's index of company names~~	~~23 of 1999~~	~~01/07/1997~~

~~Remarks:~~

~~Adaptation amendments retroactively made - see 23 of 1999 s. 3~~

~~(1) The Registrar shall keep an index of the names of the following~~

~~(a) every company; and~~

~~(b) every company incorporated outside Hong Kong which has complied with section 333.~~

~~(2) The Chief Executive may by order amend subsection (1) so as to add to it any other body or class of body whether incorporated or unincorporated. (Amended 23 of 1999 s. 3)~~

~~(Added 60 of 1990 s. 6)~~

~~[cf. 1985 c. 6 s. 714 U.K.]~~

~~Section:~~	~~23~~	~~Effect of memorandum and articles~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~**General Provisions with respect to Memorandum and Articles**~~

~~(1) Subject to the provisions of this Ordinance, the memorandum and articles shall, when registered, have effect as a contract under seal~~

~~(a) between the company and each member; and~~

~~(b) between a member and each other member,~~

~~and shall be deemed to contain covenants on the part of the company and of each member to observe all the provisions of the memorandum and articles. (Replaced 28 of 2003 s. 9)~~

~~(1A)Without limiting the generality of subsection (1), the memorandum and articles shall, when registered, be enforceable by the company against each member and by a member against the company and against each other member. (Added 28 of 2003 s. 9)~~

~~(2) All money payable by any member to the company under the memorandum or articles shall be a debt due from him to the company, and be of the nature of a specialty debt.~~

~~[cf. 1929 c. 23 s. 20 U.K.]~~

~~Section:~~	~~24~~	~~Provision as to memorandum and articles of companies limited by guarantee~~		~~30/06/1997~~

~~(1) In the case of a company limited by guarantee and not having a share capital, and registered on or after 1 January 1912, every provision in the memorandum or articles or in any resolution of the company purporting to give any person a right to participate in the divisible profits of the company otherwise than as a member shall be void.~~

~~(2) For the purpose of the provisions of this Ordinance relating to the memorandum of a company limited by guarantee and of this section, every provision in the memorandum or articles, or in any resolution, of a company limited by guarantee and registered on or after the date aforesaid, purporting to divide the undertaking of the company into shares or interests shall be treated as a provision for a share capital, notwithstanding that the nominal amount or number of the shares or interests is not specified thereby.~~

~~[cf. 1929 c. 23 s. 21 U.K.]~~

~~Section:~~	~~25~~	~~Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent~~		~~30/06/1997~~

~~Notwithstanding anything in the memorandum or articles of a company, no member of the company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the company:~~

~~Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.~~

~~[cf. 1929 c. 23 s. 22 U.K.]~~

~~Section:~~	~~25A~~	~~Power to alter conditions in memorandum which could have been contained in articles~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to the provisions of sections 25 and 168A, any condition contained in a company's memorandum which could lawfully have been contained in articles of association instead of in the memorandum may, subject to the provisions of this section, be altered by the company by special resolution:~~

~~Provided that, where a private company passes such a resolution, an application may be made to the court for the alteration to be cancelled, and if such an application is made, the alteration shall not have effect except in so far as it is confirmed by the court. (Amended 28 of 2003 s. 10)~~

~~(2) This section shall not apply where the memorandum itself provides for or prohibits the alteration of all or any of the said conditions, and shall not authorize any variation or abrogation of the special rights of any class of members.~~

~~(3) Where a private company passes a resolution under this section altering any condition contained in its memorandum, subsections (2)(a), (3), (4), (7) and (8) of section 8 shall apply in relation to the alteration and to any application made under this section in the same manner as they apply in relation to alterations and to applications made under section 8. (Replaced 28 of 2003 s. 10)~~

~~(3A)Where a company (not being a private company) passes a resolution under this section altering any condition contained in its memorandum, subsections (7A) and (8) of section 8 shall apply in relation to the alteration made under this section in the same manner as they apply in relation to alterations made under section 8. (Added 28 of 2003 s. 10)~~

~~(4) This section shall apply to a company's memorandum whether registered before or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).~~

~~(5) In relation to a resolution for altering any condition contained in a company's memorandum that is passed by a company (whether a private company or not) under this section before the commencement** of section 10 of the Companies (Amendment) Ordinance 2003 (28 of 2003), the provisions of this section in force immediately before that commencement shall continue to have effect as if section 10 of that Ordinance had not been enacted. (Added 28 of 2003 s. 10)~~

~~(Added 6 of 1984 s. 14)~~

~~[cf. 1948 c. 38 s. 23 U.K.]~~

Note:
*** Commencement date: 31 August 1984.**
**** Commencement date: 13 February 2004.**

Section:	26	Copies of memorandum and articles to be given to members		30/06/1997

(1) A company shall, on being so required by any member, send to him a copy of the memorandum and of the articles, if any, and a copy of any Ordinance which alters the memorandum, subject to payment, in the case of a copy of the memorandum and of the articles, of $5 or such less sum as the company may prescribe, and, in the case of a copy of an Ordinance, of such sum not exceeding the published price thereof as the company may require.

(2) If a company makes default in complying with this section, the company and every officer of the company who is in default shall be liable for each offence to a fine. (Amended 7 of 1990 s. 2)

(Amended 6 of 1984 s. 15)

[cf. 1929 c. 23 s. 23 U.K.]

Section:	27	Issued copies of memorandum to embody alterations		30/06/1997

(1) Where an alteration is made in the memorandum of a company, every copy of the memorandum issued after the date of the alteration shall be in accordance with the alteration.

(2) If, where any such alteration has been made, the company at any time after the date of the alteration issues any copies of the memorandum which are not in accordance with the alteration, the company and every officer of the company who is in default shall be liable for each offence to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 16; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 24 U.K.]

Section:	28	Definition of member	L.N. 139 of 2008	11/07/2008

Membership of Company

(1) The founder members of a company shall be deemed to have agreed to become members of the company, and on its registration shall be entered as members in its register of members. (Amended 30 of 2004 s. 2)

(2) Every other person who agrees to become a member of a company, and whose name is entered in its register of members, shall be a member of the company.

[cf. 1929 c. 23 s. 25 U.K.]

Section:	28A	Membership of holding company		30/06/1997

(1) Subject to the provisions of this section, a body corporate cannot be a member of a company which is its holding company, and any allotment or transfer of shares in a company to its subsidiary shall be void.

(2) Nothing in this section shall apply where the subsidiary is concerned as personal representative, or where it is concerned as trustee, unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.

(3) This section shall not prevent a subsidiary which was, at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), a member of its holding company, from continuing to be a member.

(4) This section shall not prevent a company which at the date it becomes a subsidiary of another company is a member of that other company, from continuing to be a member.

(5) This section shall not prevent a subsidiary from becoming a member of its holding company, or prevent an allotment to a subsidiary of shares in its holding company, by or by virtue of the exercise by the subsidiary of any rights of conversion attached to any shares in its holding company or under any debentures thereof held by the subsidiary at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).

(6) This section shall not prevent a subsidiary which is a member of its holding company from accepting and holding further shares in its holding company if such further shares are allotted to it as fully paid up in consequence of a capitalization of reserves or profits by such holding company.

~~(7) Subject to subsection (2), a subsidiary which is a member of its holding company shall have no right to vote at meetings of the holding company or any class of members thereof.~~

~~(8) Subject to subsection (2), this section shall apply in relation to a nominee for a body corporate which is a subsidiary, as if references therein to such a body corporate included references to a nominee for it.~~

~~(9) Where a holding company makes an offer of shares to its members it may sell, on behalf of a subsidiary, any such shares which the subsidiary could, but for this section, have taken by virtue of shares already held by it in the holding company, and pay the proceeds of the sale to the subsidiary.~~

~~(10) In relation to a company limited by guarantee or unlimited which is a holding company, the reference in this section to shares, whether or not it has a share capital, shall be construed as including a reference to the interest of its members as such, whatever the form of that interest.~~

~~(Added 6 of 1984 s. 17)~~

~~[cf. 1984 c. 38 s. 27 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~29~~	~~Meaning of private company~~		~~30/06/1997~~

~~**Private Companies**~~

~~(1) For the purposes of this Ordinance, the expression "private company" (私人公司) means a company which by its articles~~

~~(a) restricts the right to transfer its shares; and~~

~~(b) limits the number of its members to 50, not including persons who are in the employment of the company and persons who, having been formerly in the employment of the company, were while in that employment, and have continued after the determination of that employment to be, members of the company; and~~

~~(c) prohibits any invitation to the public to subscribe for any shares or debentures of the company.~~

~~(2) Where 2 or more persons hold one or more shares in a company jointly, they shall, for the purposes of this section, be treated as a single member.~~

~~[cf. 1929 c. 23 s. 26 U.K.]~~

~~Section:~~	~~30~~	~~Circumstances in which company ceases to be or to enjoy privileges of a private company~~	~~23 of 1999~~	~~01/07/1997~~

~~Remarks:~~

~~Adaptation amendments retroactively made - see 23 of 1999 s. 3~~

~~(1) If a company, being a private company, alters its articles in such manner that they no longer include the provisions which, under section 29, are required to be included in the articles of a company in order to constitute it a private company, the company shall, as on the date of the alteration, cease to be a private company and shall, within a period of 14 days after the said date, deliver to the Registrar for registration a prospectus or a statement in lieu of prospectus in the form and containing the particulars set out in Part I of the Second Schedule and, in the cases mentioned in Part II of that Schedule setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule. (Amended 78 of 1972 s. 3)~~

~~(1A)Every statement in lieu of prospectus delivered under subsection (1) shall, where the persons making any report required by Part II of the Second Schedule have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the Second Schedule, have endorsed thereon or attached thereto a written statement signed by those persons setting out the adjustments and giving the reasons therefor. (Added 78 of 1972 s. 3)~~

~~(2) If default is made in complying with subsection (1) or (1A), the company and every officer of the company who is in default shall be liable to a default fine. (Amended 78 of 1972 s. 3; 7 of 1990 s. 2)~~

~~(2A)Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) includes any untrue statement, any person who authorized the delivery of the statement, in lieu of prospectus for registration shall be liable to imprisonment and a fine, unless he proves either that the untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe~~

~~that the untrue statement was true. (Added 78 of 1972 s.3. Amended 7 of 1990 s. 2)~~

~~(2B) For the purposes of this section-~~

~~(a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and~~

~~(b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein. (Added 78 of 1972 s. 3)~~

~~(2C) The Chief Executive in Council may by regulation amend the Second Schedule. (Added 78 of 1972 s. 3. Amended 23 of 1999 s. 3)~~

~~(3) Where the articles of a company include the provisions aforesaid but default is made in complying with any of those provisions, the company shall cease to be entitled to the privileges and exemptions conferred on private companies under the provisions contained in sections 109(3) and 141D, and thereupon the said provisions shall apply to the company as if it were not a private company: (Amended 6 of 1984 s. 18)~~

~~Provided that the court, on being satisfied that the failure to comply with the conditions was accidental or due to inadvertence or to some other sufficient cause, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any other person interested and on such terms and conditions as seem to the court just and expedient, order that the company be relieved from such consequences as aforesaid.~~

~~[cf. 1929 c. 23 s. 27 U.K.]~~

~~Section:~~	~~31~~	~~(Repealed 28 of 2003 s. 12)~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(Subheading repealed 28 of 2003 s. 11)~~

~~Section:~~	~~32~~	~~Form of contracts~~		~~30/06/1997~~

~~**Contracts, etc.**~~

~~(1) Contracts on behalf of a company may be made as follows- (Amended L.N. 223 of 1976)~~

~~(a) a contract which if made between private persons would be by law required to be in writing and under seal, may be made on behalf of the company in writing under the common seal of the company; (Amended 6 of 1984 s. 20)~~

~~(b) a contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the company in writing signed by any person acting under its authority, express or implied;~~

~~(c) a contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the company by any person acting under its authority, express or implied.~~

~~(2) A contract made according to this section shall be effectual in law, and shall bind the company and its successors and all other parties thereto.~~

~~(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.~~

~~[cf. 1929 c. 23 s. 29 U.K.]~~

~~Section:~~	~~32A~~	~~Pre-incorporation contracts~~		~~30/06/1997~~

~~(1) Where a contract purports to have been made in the name or on behalf of a company at a time when the company has not been incorporated-~~

~~(a) subject to subsection (2) and any express agreement to the contrary, the contract shall have effect as a contract entered into by the person purporting to act for the company or as agent for it, and he shall be personally liable on and entitled to enforce the contract accordingly;~~

~~(b) the company may, after incorporation, ratify the contract to the same extent as if it had already been incorporated at that time and as if the contract had been entered into on its behalf by an agent acting without its authority.~~

~~(2) Where a contract is ratified by virtue of this section, the person who purported to act for or on behalf of the company in making the contract shall not thereafter be under any greater liability than he would have been if he had~~

~~entered into the contract on behalf of the company as an agent acting without its authority and after its incorporation.~~

~~(Added 6 of 1984 s. 21)~~

~~[cf. 1972 c. 68 s. 9 U.K.]~~

~~Section:~~	~~33~~	~~Bills of exchange and promissory notes~~		~~30/06/1997~~

~~A bill of exchange or promissory note shall be deemed to have been made, accepted, or endorsed on behalf of a company if made, accepted, or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.~~

~~[cf. 1929 c. 23 s. 30 U.K.]~~

~~Section:~~	~~34~~	~~Execution of deeds abroad~~		~~30/06/1997~~

~~(1) A company may, by writing under its common seal, empower any person, either generally or in respect of any specified matters, as its attorney, to execute deeds on its behalf in any place not situate in Hong Kong. (Amended 1 of 1949 s. 6; 6 of 1984 s. 259)~~

~~(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effect as if it were under its common seal.~~

~~[cf. 1929 c. 23 s. 31 U.K.]~~

~~Section:~~	~~35~~	~~Power for company to have official seal for use abroad~~		~~30/06/1997~~

~~(1) A company whose objects require or comprise the transaction of business outside Hong Kong, may, if authorized by its articles, have for use in any territory, district, or place not situate in Hong Kong, an official seal, which shall be a facsimile of the common seal of the company, with the addition on its face of the name of every territory, district, or place where it is to be used. (Amended 1 of 1949 s. 7; 6 of 1984 s.259)~~

~~(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.~~

~~(3) A company having an official seal for use in any such territory, district or place may, by writing under its common seal, authorize any person appointed for the purpose in that territory, district or place, to affix the official seal to any deed or other document to which the company is party in that territory, district or place.~~

~~(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of the agent's authority has been given to the person dealing with him.~~

~~(5) The person affixing any such official seal shall, by writing under his hand, certify on the deed or other instrument, to which the seal is affixed, the date on which and the place at which it is affixed.~~

~~[cf. 1929 c. 23 s. 32 U.K.]~~

~~Section:~~	~~36~~	~~Authentication of documents~~		~~30/06/1997~~

~~**Authentication of Documents**~~

~~A document or proceeding requiring authentication by a company may be signed by a director, secretary, or other authorized officer of the company, and need not be under its common seal.~~

~~[cf. 1929 c. 23 s. 33 U.K.]~~

Part:	II	SHARE CAPITAL AND DEBENTURES		30/06/1997

Section:	37	Dating of prospectus		30/06/1997

Prospectus

A prospectus issued by or on behalf of a company shall be dated, and that date shall, unless the contrary is

proved, be taken as the date of publication of the prospectus.

(Amended 78 of 1972 s. 4)
[cf. 1929 c. 23 s. 34 U.K.]

Section:	38	Specific requirements as to particulars in prospectus	L.N. 154 of 2004	03/12/2004

(1) Subject to the provisions of section 38A, every prospectus issued by or on behalf of a company must either be in the English language and contain a Chinese translation or be in the Chinese language and contain an English translation, and must state the matters specified in Part I of the Third Schedule and set out the reports specified in Part II of that Schedule, and the said Parts I and II shall have effect subject to the provisions contained in Part III of the said Schedule. (Replaced 78 of 1972 s. 5. Amended 83 of 1995 s. 5)

(1A) Every prospectus to which subsection (1) applies must contain a statement specified in Part 1 of the Eighteenth Schedule. (Added 78 of 1972 s. 5. Amended 83 of 1995 s. 5; 23 of 2004 s. 56; 30 of 2004 s. 2)

(1B) If any prospectus is issued which does not comply with or contravenes the requirements of subsections (1) and (1A), the company and every person who is knowingly a party to the issue thereof shall be liable to a fine. (Added 78 of 1972 s. 5. Amended 7 of 1990 s. 2)

(2) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this section, or purporting to affect him with notice of any contract, document, or matter not specifically referred to in the prospectus, shall be void.

(3) Subject to the provisions of section 38A, it shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this section: (Amended 78 of 1972 s. 5)

Provided that this subsection shall not apply if it is shown that the form of application was issued- (Amended 30 of 2004 s. 2)

(a) in connexion with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures;
(b) in relation to shares or debentures which were not offered to the public; or
(c) in connexion with an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule. (Added 30 of 2004 s. 2)

If any person acts in contravention of the provisions of this subsection, he shall be liable to a fine. (Amended 6 of 1984 s. 259; 7 of 1990 s. 2; 30 of 2004 s. 2)

(3A) This section shall not prevent the publication of the English version only of a prospectus in an English language newspaper or the Chinese version only in a Chinese language newspaper, nor the publication in such newspaper together with the prospectus of a form of application relating thereto. (Added 6 of 1984 s. 22)

(4) In the event of non-compliance with or contravention of any of the requirements of this section, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if-

(a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or
(b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or
(c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 19 of Part I of the Third Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed. (Amended 78 of 1972 s. 5)

(5) This section shall not apply-

(a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or
(b) to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being listed on a recognized stock market; (Amended 6 of 1984 s. 259; 10 of 1987 s. 11; 5 of 2002 s. 407)

but, subject as aforesaid, this section shall apply to a prospectus or a form of application whether issued on the formation of a company or subsequently. (Replaced 78 of 1972 s. 5)

(6) Nothing in this section shall limit or diminish any liability which any person may incur ~~under the general law or this Ordinance apart from this section.~~ under—

(a) the general law;

(b) the provisions of the pre-amended Ordinance having a continuing effect under Schedule 10 to the Companies Ordinance (of 2011) or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1);

(c) this Ordinance apart from this section; or

(d) the Companies Ordinance (of 2011).

(7) It is hereby declared that the provisions of the Third Schedule applied by this section are also applied to a guarantor corporation in relation to an offer or invitation to the public to subscribe for or purchase debentures of a company. (Replaced 30 of 2004 s. 2)

(8) In subsection (7), "guarantor corporation" (提供擔保的法團), in relation to an offer or invitation to the public to subscribe for or purchase debentures of a company, means a corporation that guarantees or agrees to guarantee-

(a) the repayment of any money received or to be received by the company in response to the offer or invitation;

(b) any other obligations of the company under or in respect of the debentures; or

(c) in favour of the company any amount-

(i) to which the company is entitled; and

(ii) receipt of which, as stated in the prospectus concerned, is intended to enable the company to wholly or partly discharge any of its obligations under or in respect of the debentures. (Added 30 of 2004 s. 2)

[cf. 1929 c. 23 s. 35 U.K.]

Section:	38A	Exemption of certain persons and prospectuses from compliance with certain requirements	L.N. 154 of 2004	03/12/2004

(1) Where it is proposed to offer any shares in or debentures of a company to the public by a prospectus or class of prospectuses issued generally, there may, on the request of the applicant, and subject to such conditions (if any) as the Commission thinks fit, be issued by the Commission a certificate of exemption from compliance with any or all of the requirements of the relevant provisions if, having regard to the circumstances, the Commission considers that the exemption will not prejudice the interest of the investing public and compliance with any or all of those requirements-

(a) would be irrelevant or unduly burdensome; or

(b) is otherwise unnecessary or inappropriate. (Replaced 30 of 2004 s. 2)

(2) Whether or not a request referred to in subsection (1) has been made, the Commission may, by notice published in the Gazette, and subject to such conditions (if any) as the Commission thinks fit and specified in the notice, exempt-

(a) any class of companies; or

(b) any class of prospectuses issued by companies,

from any or all of the requirements of the relevant provisions if, having regard to the circumstances, the Commission considers that the exemption will not prejudice the interest of the investing public and compliance with any or all of those requirements, in the case of that class of companies or prospectuses, as the case may be-

(c) would be irrelevant or unduly burdensome; or

(d) is otherwise unnecessary or inappropriate. (Replaced 30 of 2004 s. 2)

(3) Where exemption from compliance with section 38(1) and (3) in relation to the requirements of the Third Schedule is granted under this section, whether by the issue of a certificate of exemption or by a notice in the Gazette, the certificate or notice, as the case may be, shall be expressed to have effect with regard to all of the requirements of the Third Schedule or to such of them as are specified in the certificate or notice, as the case may be.

(4) In this section, "relevant provisions" (有關條文) means any of the provisions of-

(a) section 38(1), (1A), (3) or (7), 38D(3) or (4), 42(1) or (4), 44A(1), (2) or (6) or 44B(1) or (2); or

(b) Part 1 of the Twentieth Schedule or Part 1 of the Twenty-first Schedule. (Added 30 of 2004 s. 2)

(5) The Commission may, by order published in the Gazette, amend subsection (4). (Added 30 of 2004 s. 2)

(6) The Commission shall publish, by means of an on-line medium, such particulars of exemptions granted

under subsection (1) as it considers appropriate. (Added 30 of 2004 s. 2)

(7) Where the Commission proposes to issue-

(a) a notice of exemption under subsection (2); or

(b) an amendment order under subsection (5),

it shall publish a draft of the proposed notice or order, in such manner as it considers appropriate, for the purpose of inviting representations on the proposed notice or order by the public. (Added 30 of 2004 s. 2)

(8) Where the Commission issues a notice or order mentioned in subsection (7) after a draft is published under that subsection in relation to the notice or order, it shall-

(a) publish, in such manner as it considers appropriate, an account setting out in general terms-

(i) the representations made on the draft; and

(ii) the response of the Commission to the representations; and

(b) where the notice or order is issued with modifications which in the opinion of the Commission result in the notice or order being significantly different from the draft, publish, in such manner as it considers appropriate, details of the difference. (Added 30 of 2004 s. 2)

(9) Subsections (7) and (8) do not apply if the Commission considers, in the circumstances of the case, that-

(a) it is unnecessary or inappropriate that such subsections should apply; or

(b) any delay involved in complying with such subsections would not be-

(i) in the interest of the investing public; or

(ii) in the public interest. (Added 30 of 2004 s. 2)

(Replaced 86 of 1992 s. 3)

Section:	38AA	Exemption for structured products	8 of 2011	13/05/2011

Expanded Cross Reference:
17, 18, 19, 20, 21, 22

If it is proposed to offer any shares in or debentures of a company that are structured products, the following provisions do not apply in relation to the offer—

(a) sections 37, 38, 38A, 38B, 38BA, 38C, 38D, 39A, 39B, 39C, 40, 40A, 40B, 41, 41A, 42, 43, 44, 44A, 44B and 48A;

(b) the Third Schedule; and

(c) the Seventeenth to the Twenty-second Schedules. <* Note - Exp. X-Ref.: Schedules 17, 18, 19, 20, 21, 22 *>

(Added 8 of 2011 s. 18)

Section:	38B	Advertisements concerning prospectuses	L.N. 154 of 2004	03/12/2004

(1) Subject to subsection (2), it shall not be lawful for any person to publish or cause to be published-

(a) by way of advertisement any extract from or abridged version of a prospectus; or

(b) an advertisement in relation to a prospectus or proposed prospectus,

whether in the English or Chinese language or in any other language in relation to shares or debentures of a company whether incorporated in or outside Hong Kong. (Replaced 30 of 2004 s. 2)

(2) Notwithstanding subsection (1)-

(a) the publication of an extract from or abridged version of a prospectus which is in accordance with such requirements as may have been specified by the Commission under subsection (2A)(a); (Replaced 86 of 1992 s. 4. Amended 30 of 2004 s. 2)

(b) the publication of the English version only of a prospectus in an English language newspaper or the Chinese version only in a Chinese language newspaper;

(c) the publication of an advertisement, invitation or document which has been authorized by the Commission under section 105 of the Securities and Futures Ordinance (Cap 571); (Added 86 of 1992 s. 4. Amended 5 of 2002 s. 407; 30 of 2004 s. 2)

(d) the publication of an extract from or abridged version of a prospectus which is in accordance with such requirements as may have been authorized by the Commission under subsection (2A)(b) in that particular case; (Added 86 of 1992 s. 4. Amended 30 of 2004 s. 2)

(e) the publication of an advertisement which-

(i) complies with the requirements of the Nineteenth Schedule applicable to the advertisement; and
(ii) contains such information as is permitted under subsection (2AA); or (Added 30 of 2004 s. 2)

(f) the publication of an advertisement-
(i) in relation to a company which is a collective investment scheme authorized under section 104(1) of the Securities and Futures Ordinance (Cap 571); and
(ii) which has been authorized under section 105 of the Securities and Futures Ordinance (Cap 571), (Added 30 of 2004 s. 2)

shall not contravene this section.

(2AA) For the purposes of subsection (2)(e)(ii), the Commission may, on the request of the applicant, and in accordance with the guidelines published under section 38BA, permit an advertisement to contain such information as is specified in the permission and subject to such conditions as are specified in the permission. (Added 30 of 2004 s. 2)

(2A) The Commission may-
(a) by notice in the Gazette, specify requirements applicable to the form and manner of, and any other matters relating to, publication of an extract from or abridged version of a prospectus, or any class of prospectuses;
(b) in any particular case, specify requirements applicable to and authorize the form and manner of, and any other matters relating to, publication of any extract from or abridged version of a prospectus. (Added 86 of 1992 s. 4. Amended 30 of 2004 s. 2)

(2B) A prospectus referred to in subsection (2A) means a prospectus relating to shares in or debentures of a company, whether incorporated in or outside Hong Kong. (Added 86 of 1992 s. 4)

(3) If any person acts in contravention of subsection (1), he shall be liable to a fine. (Amended 7 of 1990 s. 2)

(Added 78 of 1972 s. 6)

Section:	38BA	Commission may publish guidelines relating to publications falling within section 38B(2)	L.N. 154 of 2004	03/12/2004

(1) The Commission may prepare and publish guidelines in relation to the form and manner of, and any other matters relating to, publications falling within section 38B(2).

(2) Guidelines published under subsection (1) are not subsidiary legislation.

(Added 30 of 2004 s. 2)

Section:	38C	Expert's consent to issue of prospectus containing statement by him		30/06/1997

(1) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless-
(a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and
(b) a statement that he has given and has not withdrawn his consent as aforesaid appears in the prospectus.

(2) If any prospectus is issued in contravention of this section the company and every person who is knowingly a party to the issue thereof shall be liable to a fine. (Amended 7 of 1990 s. 2)

(3) In this section the expression "expert" (專家) includes engineer, valuer, accountant, and any other person whose profession gives authority to a statement made by him.

(Added 78 of 1972 s. 6)
[cf. 1948 c. 38 s. 40 U.K.]

Section:	38D	Registration of prospectus	L.N. 154 of 2004	03/12/2004

(1) No prospectus shall be issued by or on behalf of a company unless the prospectus complies with the requirements of this Ordinance and, on or before the date of its publication, its registration has been authorized under this section and a copy thereof has been registered by the Registrar.

(2) Every prospectus shall-
(a) on the face of it, state that a copy has been registered as required by this section and immediately after

such statement-

(i) state that neither the Commission nor the Registrar takes any responsibility as to the contents of the prospectus;

(ii) where the prospectus is or is to be authorized for issue by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (Cap 571), state that neither the Commission nor the recognized exchange company nor the Registrar takes any responsibility as to the contents of the prospectus; or

(iii) where the prospectus is or is to be authorized for issue by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, state that neither the Commission nor the recognized exchange controller nor the Registrar takes any responsibility as to the contents of the prospectus; (Replaced 5 of 2002 s. 407)

(b) on the face of it, specify or refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to the copy so registered; and

(c) conform with such requirements as are prescribed by the Chief Executive in Council ~~or specified by the Registrar under section 346 which are applicable to prospectuses to be registered under this Part~~ and the requirements set out in subsection (7A). (Amended 23 of 1999 s. 3)

(3) An application for authorization for registration of a prospectus under this section shall be made in writing to the Commission and there shall be delivered to the Commission together with the application a copy of the prospectus proposed to be registered which has been signed by every person who is named therein as a director or proposed director of the company or by his agent authorized in writing and having endorsed thereon or attached thereto-

(a) any consent to the issue of the prospectus required by section 38C from any person as an expert; and

(b) in the case of a prospectus issued generally, also-

(i) a copy of any contract required by paragraph 17 of the Third Schedule to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof or, if in the case of a prospectus exempted under section 38A from compliance with the requirements of section 38(1), a contract or a copy thereof or a memorandum of a contract is required by the Commission to be available for inspection in connection with the request made under section 38A(1), a copy or, as the case may be, a memorandum of that contract;

(ii) where the prospectus offers shares in the company for sale to the public, a list of the names, addresses and descriptions of the vendor or vendors of the shares; and

(iii) where the persons making any report required by Part II of the Third Schedule have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in paragraph 42 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(4) The references in subsection (3)(b)(i) to the copy of a contract required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a language other than English or Chinese, be taken as references to a copy of a translation of the contract in either language or a copy embodying a translation in English or Chinese of the parts not in either language, as the case may be, being a translation certified in the prescribed manner under subsection (10) to be a correct translation. (Amended 83 of 1995 s. 7; 30 of 2004 s. 2)

(5) The Commission may-

(a) authorize the registration by the Registrar, of a prospectus to which this section applies and where the Commission so authorizes, the Commission shall issue a certificate-

(i) certifying that the Commission has done so; and

(ii) specifying the documents which are required to be endorsed on or attached to the copy of the prospectus to be registered; or

(b) refuse to authorize such registration.

(6) The Commission shall not authorize the registration of a prospectus which relates to an intended company.

(7) The Registrar-

(a) shall not register a prospectus under this section unless-

(i) it is dated and the copy thereof to be registered has been signed in the manner required by this section;

(ii) it is accompanied by a certificate issued under subsection (5);

(iii) it has endorsed thereon or attached thereto all the documents specified in the certificate issued

under subsection (5); ~~and~~

(iv) it conforms with such requirements as are prescribed by the Chief Executive in Council ~~or specified by the Registrar under section 346 which are applicable to prospectuses to be registered under this Part~~ and the requirements set out in subsection (7A); and (Amended 23 of 1999 s. 3)

(v) it is accompanied by any fee that is payable, in respect of the registration, under a regulation made under section 25 of the Companies Ordinance (of 2011); and

(b) shall register a prospectus if subparagraphs (i), (ii), (iii) ~~and (iv)~~, (iv) and (v) of paragraph (a) are complied with in respect of that prospectus.

(7A) The following are the requirements set out for the purposes of subsections (2)(c) and (7)(a)(iv)—

(a) any requirement that the Registrar may specify, by notice in the Gazette, in relation to font size of prospectuses for the purposes of this section;

(b) any other requirements that the Registrar may specify, by any means that the Registrar thinks fit, for the purpose of—

(i) ensuring that documents of the same kind are of a standard form; and

(ii) enabling the Registrar to make copies or image records of documents and to make and keep records of the information contained in them.

(7B) For the purposes of subsection (7A)(b), the Registrar may specify different requirements for different documents or classes of documents.

(8) If a prospectus is issued without having endorsed thereon or attached thereto the required documents or without a copy thereof which has the required documents endorsed or attached having been registered under this section by the Registrar, the company, and every person who is knowingly a party to the issue of the prospectus, shall be liable to a fine and, for continued default, to a daily default fine from the date of the issue of the prospectus until a copy thereof is so registered or until the required documents are endorsed or attached, as the case may be.

(9) Any person aggrieved by the refusal to authorize the registration of a prospectus under this section may appeal to the court and the court may either dismiss the appeal or order that the registration of the prospectus be authorized by the Commission under this section.

(10) A translation mentioned in subsection (4) shall be-

(a) certified by the person making the translation as a correct translation; and

(b) deemed to be certified in the prescribed manner if the person making the translation has been certified, by the appropriate person mentioned in subparagraph (i) or (ii), as a person believed by that appropriate person to be competent to translate it into the English or Chinese language, as the case may be, that is to say-

(i) if the translation be made outside Hong Kong-

(A) a notary public in the place where the translation is made;

(B) such other person as may be specified by the Commission; or

(C) such other person belonging to a class of persons specified by the Commission, by notice published in the Gazette, for the purposes of this paragraph;

(ii) if the translation be made in Hong Kong-

(A) a notary public in Hong Kong;

(B) a solicitor of the High Court of Hong Kong;

(C) such other person as may be specified by the Commission; or

(D) such other person belonging to a class of persons specified by the Commission, by notice published in the Gazette, for the purposes of this paragraph. (Added 30 of 2004 s. 2)

(11) A notice published under subsection (10)(b)(i)(C) or (ii)(D) is not subsidiary legislation. (Added 30 of 2004 s. 2)

(Replaced 86 of 1992 s. 5)

Section:	39	(Repealed 6 of 1984 s. 23)		30/06/1997

Section:	39A	Amendment of prospectus consisting of one document	L.N. 154 of 2004	03/12/2004

(1) A prospectus-

(a) consisting of one document; and

(b) to which the provisions of this Part are applicable,

may only be amended in accordance with the provisions of Part 1 of the Twentieth Schedule.

(2) The provisions of Part 1 of the Twentieth Schedule may alter the operation of a provision of this Part in relation to any prospectus, or class of prospectuses, which may be amended under subsection (1).

(3) If any company contravenes subsection (1), the company and every officer of the company who is in default shall be liable to a fine.

(4) For the avoidance of doubt, it is hereby declared that this section and Part 1 of the Twentieth Schedule do not apply to a prospectus to which section 39B applies.

(Added 30 of 2004 s. 2)

Section:	39B	Prospectus may consist of more than one document, etc.	L.N. 154 of 2004	03/12/2004

(1) A prospectus to which the provisions of this Part are applicable may consist of more than one document in accordance with the provisions of Part 1 of the Twenty-first Schedule.

(2) A prospectus to which subsection (1) applies may only be amended in accordance with the provisions of Part 1 of the Twenty-first Schedule.

(3) The provisions of Part 1 of the Twenty-first Schedule may alter the operation of a provision of this Part in relation to any prospectus, or class of prospectuses, which falls within subsection (1) or which may be amended under subsection (2).

(4) If any company contravenes subsection (2), the company and every officer of the company who is in default shall be liable to a fine.

(Added 30 of 2004 s. 2)

Section:	39C	Submission of certified copies	10 of 2005	08/07/2005

Expanded Cross Reference:
37, 38, 38A, 38B, 38BA, 38C, 38D, 39, 39A, 39B, 39C, 40, 40A, 40B, 41, 41A, 42, 43, 44, 44A, 44B

Where any document (howsoever described), other than a prospectus, is required under any of the provisions of sections 37 to 44B inclusive to be submitted to the Registrar by a company, the requirement shall be deemed to be satisfied by the submission to the Registrar of a copy of the document certified— <* Note- Exp. x-Ref: Sections 37, 38, 38A, 38B, 38BA, 38C, 38D, 39, 39A, 39B, 39C, 40, 40A, 40B, 41, 41A, 42, 43, 44, 44A, 44B *>

(a) to be a true copy of the document; and

(b) by—

(i) a director or ~~secretary~~ company secretary of the company or an agent of the director or ~~secretary~~ company secretary authorized in writing for the purpose by the director or ~~secretary~~ company secretary;

(ii) a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159) or a certified public accountant within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); or (Amended 10 of 2005 s. 223)

(iii) a notary public within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159).

(Added 30 of 2004 s. 2)

Section:	40	Civil liability for misstatements in prospectus	L.N. 154 of 2004	03/12/2004

(1) Subject to the provisions of this section, where a prospectus invites persons to subscribe for shares in or debentures of a company, the following persons shall be liable to pay compensation to all persons who subscribe for any shares or debentures on the faith of the prospectus for the loss or damage they may have sustained by reason of any untrue statement included therein, that is to say-

(a) every person who is a director of the company at the time of the issue of the prospectus;

(b) every person who has authorized himself to be named and is named in the prospectus as a director or as having agreed to become a director either immediately or after an interval of time;

(c) every person being a promoter of the company; and

(d) every person who has authorized the issue of the prospectus:

Provided that where under section 38C the consent of a person is required to the issue of a prospectus and he has

given that consent, he shall not by reason of his having given it be liable under this subsection as a person who has authorized the issue of the prospectus except in respect of an untrue statement purporting to be made by him as an expert.

(1A) Subsection (1)(d) shall not apply-

(a) to the Commission;

(b) where the relevant prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (Cap 571), to the Commission or the recognized exchange company; or

(c) where the relevant prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller. (Replaced 5 of 2002 s. 407)

(2) No person shall be liable under subsection (1) if he proves-

(a) that, having consented to become a director of the company, he withdrew his consent before the issue of the prospectus, and that it was issued without his authority or consent; or

(b) that the prospectus was issued without his knowledge or consent, and that on becoming aware of its issue he forthwith gave reasonable public notice that it was issued without his knowledge or consent; or

(c) that, after the issue of the prospectus and before allotment thereunder, he, on becoming aware of any untrue statement therein, withdrew his consent thereto and gave reasonable public notice of the withdrawal and of the reason therefor; or

(d) that-

(i) as regards every untrue statement not purporting to be made on the authority of an expert or of a public official document or statement, he had reasonable ground to believe, and did up to the time of the allotment of the shares or debentures, as the case may be, believe, that the statement was true; and

(ii) as regards every untrue statement purporting to be a statement by an expert or contained in what purports to be a copy of or extract from a report or valuation of an expert, it fairly represented the statement, or was a correct and fair copy of or extract from the report or valuation, and he had reasonable ground to believe and did up to the time of the issue of the prospectus believe that the person making the statement was competent to make it and that person had given the consent required by section 38C to the issue of the prospectus and had not withdrawn that consent before delivery of a copy of the prospectus for registration or, to the defendant's knowledge, before allotment thereunder; and

(iii) as regards every untrue statement purporting to be a statement made by an official person or contained in what purports to be a copy of or extract from a public official document, it was a correct and fair representation of the statement or copy of or extract from the document:

Provided that this subsection shall not apply in the case of a person liable, by reason of his having given a consent required of him by the said section 38C, as a person who has authorized the issue of the prospectus in respect of an untrue statement purporting to be made by him as an expert.

(3) A person who, apart from this subsection would under subsection (1) be liable, by reason of his having given a consent required of him by section 38C, as a person who has authorized the issue of a prospectus in respect of an untrue statement purporting to be made by him as an expert, shall not be so liable if he proves-

(a) that, having given his consent under the said section 38C to the issue of the prospectus, he withdrew it in writing before delivery of a copy of the prospectus for registration; or

(b) that, after delivery of a copy of the prospectus for registration and before allotment thereunder, he, on becoming aware of the untrue statement, withdrew his consent in writing and gave reasonable public notice of the withdrawal, and of the reason therefor; or

(c) that he was competent to make the statement and that he had reasonable ground to believe and did up to the time of the allotment of the shares or debentures, as the case may be, believe that the statement was true.

(4) Where-

(a) the prospectus contains the name of a person as a director of the company, or as having agreed to become a director thereof, and he has not consented to become a director, or has withdrawn his consent before the issue of the prospectus, and has not authorized or consented to the issue thereof; or

(b) the consent of a person is required under section 38C to the issue of the prospectus and he either has

not given that consent or has withdrawn it before the issue of the prospectus,

the directors of the company, except any without whose knowledge or consent the prospectus was issued, and any other person who authorized the issue thereof shall be liable to indemnify the person named as aforesaid or whose consent was required as aforesaid, as the case may be, against all damages, costs and expenses to which he may be made liable by reason of his name having been inserted in the prospectus or of the inclusion therein of a statement purporting to be made by him as an expert, as the case may be, or in defending himself against any action or legal proceeding brought against him in respect thereof:

Provided that a person shall not be deemed for the purposes of this subsection to have authorized the issue of a prospectus by reason only of his having given the consent required by section 38C to the inclusion therein of a statement purporting to be made by him as an expert.

(5) For the purposes of this section-

(a) the expression "promoter" (發起人) means a promoter who was a party to the preparation of the prospectus, or of the portion thereof containing the untrue statement, but does not include any person by reason of his acting in a professional capacity for persons engaged in procuring the formation of the company; and

(b) the expression "expert" (專家) has the same meaning as in section 38C.

(6) This section shall apply to a publication falling within section 38B(2) as if the publication were a prospectus. (Added 30 of 2004 s. 2)

(7) It is hereby declared that, for the purposes of this section, "persons who subscribe for any shares or debentures" (任何股份或債權證的認購人) includes persons specified in the Twenty-second Schedule. (Added 30 of 2004 s. 2)

(Replaced 78 of 1972 s. 7)
[cf. 1948 c. 38 s. 43 U.K.]

Section:	40A	Criminal liability for misstatements in prospectus	L.N. 154 of 2004	03/12/2004

(1) Where a prospectus issued after the commencement* of the Companies (Amendment) Ordinance 1972 (78 of 1972) includes any untrue statements, any person who authorized the issue of the prospectus shall be liable to imprisonment and a fine, unless he proves either that the statement was immaterial or that he had reasonable grounds to believe and did up to the time of the issue of the prospectus believe that the statement was true. (Amended 7 of 1990 s. 2)

(2) A person shall not be deemed for the purposes of this section to have authorized the issue of a prospectus by reason only of his having given the consent required by section 38C to the inclusion therein of a statement purporting to be made by him as an expert.

(3) Subsection (1) shall not apply-

(a) to the Commission;

(b) where the relevant prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (Cap 571), to the Commission or the recognized exchange company; or

(c) where the relevant prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller. (Replaced 5 of 2002 s. 407)

(4) This section shall apply to a publication falling within section 38B(2) as if the publication were a prospectus. (Added 30 of 2004 s. 2)

(Added 78 of 1972 s. 8)
[cf. 1948 c. 38 s. 44 U.K.]

Note:
*** Commencement date: 1 March 1973.**

Section:	40B	Right to damages and compensation not affected		30/06/1997

A person is not debarred from obtaining damages or other compensation from a company by reason only of-

(a) his holding or having held shares in the company; or

(b) his having any right-
(i) to apply or subscribe for shares; or
(ii) to be included in the register of the company in respect of shares.

(Added 3 of 1997 s. 10)
[cf. 1985 c. 6 s. 111A U.K.]

Section:	41	Document containing offer of shares or debentures for sale to be deemed prospectus		30/06/1997

(1) Where a company allots or agrees to allot any shares in or debentures of the company with a view to all or any of those shares or debentures being offered for sale to the public, any document by which the offer for sale to the public is made shall for all purposes be deemed to be a prospectus issued by the company, and all enactments and rules of law as to the contents of prospectuses and to liability in respect of statements in and omissions from prospectuses, or otherwise relating to prospectuses, shall apply and have effect accordingly, as if the shares or debentures had been offered to the public for subscription and as if persons accepting the offer in respect of any shares or debentures were subscribers for those shares or debentures, but without prejudice to the liability, if any, of the persons by whom the offer is made, in respect of mis-statements contained in the document or otherwise in respect thereof.

(2) For the purposes of this Ordinance, it shall, unless the contrary is proved, be evidence that an allotment of, or an agreement to allot, shares or debentures was made with a view to the shares or debentures being offered for sale to the public if it is shown-

(a) that an offer of the shares or debentures or of any of them for sale to the public was made within 6 months after the allotment or agreement to allot; or
(b) that at the date when the offer was made the whole consideration to be received by the company in respect of the shares or debentures had not been so received.

(3) Section 38D as applied by this section shall have effect as though the persons making the offer were persons named in a prospectus as directors of a company, and section 38 as applied by this section shall have effect as if it required a prospectus to state in addition to the matters required by that section to be stated in a prospectus-

(a) the net amount of the consideration received or to be received by the company in respect of the shares or debentures to which the offer relates; and
(b) the place and time at which the contract under which the said shares or debentures have been or are to be allotted, or a copy thereof, may be inspected. (Amended 78 of 1972 s. 9)

(4) Where a person making an offer to which this section relates is a company or a firm, it shall be sufficient if the document aforesaid is signed on behalf of the company or firm by 2 directors of the company or not less than half of the partners, as the case may be, and any such director or partner may sign by his agent authorized in writing.

[cf. 1929 c. 23 s. 38 U.K.]

Section:	41A	Interpretation of provisions relating to prospectuses	L.N. 154 of 2004	03/12/2004

(1) For the purposes of the foregoing provisions of this Part- (Amended 30 of 2004 s. 2)

(a) a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and
(b) a statement shall be deemed to be included in a prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

(2) For the purposes of sections 40 and 40A, “untrue statement” (不真實陳述), in relation to any prospectus, includes a material omission from the prospectus. (Added 30 of 2004 s. 2)

(Added 78 of 1972 s. 10)
[cf. 1948 c. 38 s. 46 U.K.]

Section:	42	Prohibition of allotment unless minimum subscription received		30/06/1997

Allotment

(1) Subject to section 38A, no allotment shall be made of any share capital of a company offered to the public

for subscription unless the amount stated in the prospectus as the minimum amount which, in the opinion of the directors must be raised by the issue of share capital in order to provide for the matters specified in paragraph 7 in Part I of the Third Schedule has been subscribed, and the sum payable on application for the amount so stated has been paid to and received by the company. For the purposes of this subsection, a sum shall be deemed to have been paid to and received by the company if a cheque for that sum has been received in good faith by the company and the directors of the company have no reason for suspecting that the cheque will not be paid. (Amended 78 of 1972 s. 11; 86 of 1992 s. 8)

(2) The amount so stated in the prospectus shall be reckoned exclusively of any amount payable otherwise than in cash and is in this Ordinance referred to as the minimum subscription.

(3) The amount payable on application on each share shall not be less than 5 per cent of the ~~nominal amount~~ issue price of the share.

(4) Subject to section 38A, if the conditions aforesaid have not been complied with on the expiration of 30 days after the first issue of the prospectus, all money received from applicants for shares shall be forthwith repaid to them without interest, and, if any such money is not so repaid within 38 days after the issue of the prospectus, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 8 per cent per annum from the expiration of the 38th day: (Amended 86 of 1992 s. 8)

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part. (Replaced 78 of 1972 s. 11)

(5) Any condition requiring or binding any applicant for shares to waive compliance with any requirement of this section shall be void.

(6) This section, except subsection (3), shall not apply to any allotment of shares subsequent to the first allotment of shares offered to the public for subscription.

[cf. 1929 c. 23 s. 39 U.K.]

Section:	43	Prohibition of allotment in certain cases unless statement in lieu of prospectus delivered to Registrar	L.N. 154 of 2004	03/12/2004

(1) A company having a share capital which does not issue a prospectus on its formation, or which has issued such a prospectus but has not proceeded to allot any of the shares offered to the public for subscription, shall not allot any of its shares or debentures unless at least 3 days before the first allotment of either shares or debentures there has been delivered to the Registrar for registration a statement in lieu of prospectus signed by every person who is named therein as a director or a proposed director of the company or by his agent authorized in writing, in the form and containing the particulars set out in Part I of the Fourth Schedule and, in the cases mentioned in Part II of that Schedule, setting out the reports specified therein, and the said Parts I and II shall have effect subject to the provisions contained in Part III of that Schedule.

(2) Every statement in lieu of prospectus delivered under subsection (1) shall, where the persons making any such report as aforesaid have made therein or have, without giving the reasons, indicated therein any such adjustments as are mentioned in paragraph 5 of the said Fourth Schedule, have endorsed thereon or attached thereto a written statement signed by those person setting out the adjustments and giving the reasons therefor.

(3) This section shall not apply to a private company or any allotment of shares or debentures the subject of an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule. (Amended 30 of 2004 s. 2)

(4) If a company acts in contravention of subsection (1) or (2), the company and every director of the company who knowingly and wilfully authorizes or permits the contravention shall be liable to a fine. (Amended 7 of 1990 s. 2)

(5) Where a statement in lieu of prospectus delivered to the Registrar under subsection (1) includes any untrue statement, any person who authorized the delivery of the statement in lieu of prospectus for registration shall be liable to imprisonment and a fine, unless he proves either that the untrue statement was immaterial or that he had reasonable ground to believe and did up to the time of the delivery for registration of the statement in lieu of prospectus believe that the untrue statement was true. (Amended 7 of 1990 s. 2)

(6) For the purposes of this section-

(a) a statement included in a statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included; and

(b) a statement shall be deemed to be included in a statement in lieu of prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein.

(6A) For the purposes of subsection (5), “untrue statement” (不真實陳述), in relation to a statement in lieu of prospectus, includes a material omission from the statement. (Added 30 of 2004 s. 2)

(7) The Chief Executive in Council may by regulation amend the Fourth Schedule. (Amended 23 of 1999 s. 3)

(Replaced 78 of 1972 s. 12)
[cf. 1948 c. 38 s. 48 U.K.]

Section:	44	Effect of irregular allotment		30/06/1997

(1) An allotment made by a company to an applicant in contravention of the provisions of sections 42 and 43, shall be voidable at the instance of the applicant within 1 month after the holding of the statutory meeting of the company and not later, or, in any case where the company is not required to hold a statutory meeting, or where the allotment is made after the holding of the statutory meeting, within 1 month after the date of the allotment, and not later, and shall be so voidable notwithstanding that the company is in course of being wound up.

(2) If any director of a company knowingly contravenes, or permits or authorizes the contravention of, any of the provisions of the said sections with respect to allotment, he shall be liable to compensate the company and the allottee respectively for any loss, damages, or costs which the company or the allottee may have sustained or incurred thereby:

Provided that proceedings to recover any such loss, damages, or costs shall not be commenced after the expiration of 2 years from the date of the allotment.

[cf. 1929 c. 23 s. 41 U.K.]

Section:	44A	Applications for, and allotment of, shares and debentures		30/06/1997

(1) No allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally and no proceedings shall be taken on applications made in pursuance of a prospectus so issued, until the beginning of the 3rd day after that on which the prospectus is first so issued or such later time (if any) as may be specified in the prospectus.

The beginning of the said 3rd day or such later time as aforesaid is hereafter in this Ordinance referred to as "the time of the opening of the subscription lists".

(2) Subject to section 38A, no allotment shall be made of any shares in or debentures of a company in pursuance of a prospectus issued generally later than 30 days after the day on which the prospectus is first so issued. (Amended 86 of 1992 s. 9)

(3) In subsections (1) and (2), the references to the day on which the prospectus is first issued generally shall be construed as referring to the day on which it is first so issued as a newspaper advertisement:

Provided that, if it is not so issued as a newspaper advertisement before the 3rd day after that on which it is first so issued in any other manner, the said reference shall be construed as referring to the day on which it is first so issued in any manner.

(4) The validity of an allotment shall not be affected by any contravention of the foregoing provisions of this section but, in the event of any such contravention, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)

(5) In the application of this section to a prospectus offering shares or debentures for sale, the foregoing subsections shall have effect with the substitution of references to sale for references to allotment, and with the substitution for the reference to the company and every officer of the company who is in default of a reference to any person by or through whom the offer is made and who knowingly and wilfully authorizes or permits the contravention.

(6) An application for shares in or debentures of a company which is made in pursuance of a prospectus issued generally shall not be revocable until after the expiration of the 5th day after the time of the opening of the subscription lists, or the giving before the expiration of the said 5th day, by some person responsible under section 40 for the prospectus, of a public notice having the effect under that section of excluding or limiting the responsibility of the person giving it.

(7) In reckoning for the purposes of this section and section 44B the 3rd or 5th day after another day, any intervening day which is a Saturday or Sunday or which is a general holiday in Hong Kong shall be disregarded, and if the 3rd or 5th day (as so reckoned) is itself a Saturday or Sunday or such a holiday there shall for the said purposes be substituted the 1st day thereafter which is none of them. (Amended 6 of 1984 s. 259)

(Added 78 of 1972 s. 13)

[cf. 1948 c. 38 s. 50 U.K.]

Section:	44B	Allotment of shares and debentures to be listed on stock exchange		30/06/1997

(1) Where a prospectus, whether issued generally or not, states that application has been or will be made for permission for the shares or debentures offered thereby to be listed on any stock exchange, any allotment made on an application in pursuance of the prospectus shall, whenever made, be void if the permission has not been applied for before the 3rd day after the first issue of the prospectus or if the permission has been refused before the expiration of 3 weeks from the date of the closing of the subscription lists or such longer period not exceeding 6 weeks as may, within the said 3 weeks, be notified to the applicant for permission by or on behalf of the stock exchange. (Amended 6 of 1984 s. 259)

(2) Where the permission has not been applied for as aforesaid, or has been refused as aforesaid, the company shall forthwith repay without interest all money received from applicants in pursuance the prospectus, and, if any such money is not repaid within 8 days after the company becomes liable to repay it, the directors of the company shall be jointly and severally liable to repay that money with interest at the rate of 8 per cent per annum from the expiration of the 8th day:

Provided that a director shall not be liable if he proves that the default in the repayment of the money was not due to any misconduct or negligence on his part.

(3) All money received as aforesaid shall be kept in a separate bank account so long as the company may become liable to repay it under subsection (2); and, if default is made in complying with this subsection, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)

(4) Any condition requiring or binding any applicant for shares or debentures to waive compliance with any requirement of this section shall be void.

(5) For the purposes of this section, permission shall not be deemed to be refused if it is intimated that the application for it, though not at present granted, will be given further consideration.

(6) This section shall have effect-

(a) in relation to any shares or debentures agreed to be taken by a person underwriting an offer thereof by a prospectus as if he had applied therefor in pursuance of the prospectus; and

(b) in relation to a prospectus offering shares for sale with the following modifications, that is to say-

(i) references to sale shall be substituted for references to allotment;

(ii) the persons by whom the offer is made, and not the company, shall be liable under subsection (2) to repay money received from applicants, and references to the company's liability under that subsection shall be construed accordingly; and

(iii) for the reference in subsection (3) to the company and every officer of the company who is in default there shall be substituted a reference to any person by or through whom the offer is made and who knowingly and wilfully authorizes or permits the default.

(Added 78 of 1972 s. 13)

[cf. 1948 c. 38 s. 51 U.K.]

~~Section:~~	~~45~~	~~Return as to allotments~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Whenever a company limited by shares or a company limited by guarantee and having a share capital makes any allotment of its shares, the company shall within 1 month thereafter deliver to the Registrar for registration-~~ ~~(Amended 28 of 2003 s. 13)~~

~~(a) a return of the allotments in the specified form, in English or Chinese, stating the number and nominal amount of the shares comprised in the allotment, the names and addresses of the allottees, and the amount, if any, paid or due and payable on each share whether on account of the nominal value of the share or by way of premium; and (Replaced 6 of 1984 s. 24. Amended 83 of 1995 s. 8; 3 of 1997 s. 11)~~

~~(b) in the case of shares allotted as fully or partly paid up otherwise than in cash, or allotted in consideration of a premium paid or payable wholly or partly otherwise than in cash, a copy of a contract in writing constituting the title of the allottee to the allotment together with a copy of any contract for sale, or for services or other consideration in respect of which that allotment was made, such copies being duly certified by an officer of the company to be true copies, and a return stating the~~

~~number and nominal amount of shares so allotted, the extent to which they are to be treated as paid up, the extent to which premium paid or payable wholly or partly otherwise than in cash is to be treated as paid, and the consideration for which they have been allotted. (Replaced 80 of 1975 s. 2. Amended 28 of 2003 s. 13)~~

~~(1A) Notwithstanding subsection (1)~~

~~(a) where shares are allotted credited as fully or partly paid up otherwise than in cash in pursuance of a scheme of arrangement under section 166, the delivery to the Registrar under that section of an office copy of the order of the court sanctioning the scheme shall be a sufficient compliance with the requirements of subsection (1)(b);~~

~~(b) where shares are allotted credited as fully paid up on a capitalization, the delivery by the company to the Registrar of a copy of the resolution authorizing the allotment shall be a sufficient compliance with the requirements of subsection (1)(b). (Added 6 of 1984 s. 24)~~

~~(2) Where such a contract as mentioned in subsection (1)(b) is not reduced to writing, the company shall within 1 month after the allotment deliver to the Registrar for registration a return in the specified form containing the particulars of the contract specified in that subsection. (Replaced 28 of 2003 s. 13)~~

~~(3) If default is made in complying with this section, the company and every officer of the company who is in default shall be liable to a default fine and, for continued default, to a daily default fine: (Amended 6 of 1984 s. 24; 7 of 1990 s. 2)~~

~~Provided that, in case of default in delivering to the Registrar any document within 1 month after the allotment any document required to be delivered by this section, the company, or any person liable for the default, may apply to the court for relief, and the court, if satisfied that the omission to deliver the document was accidental or due to inadvertence or that it is just and equitable to grant relief, may make an order extending the time for the delivery of the document for such period as the court may think proper. (Amended 28 of 2003 s. 13)~~

~~[cf. 1929 c. 23 s. 42 U.K.]~~

~~Section:~~	~~46~~	~~Power to pay certain commissions, and prohibition of payment of all other commissions, discounts, &c.~~		~~30/06/1997~~

~~Commissions and Discounts~~

~~(1) It shall be lawful for a company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company if~~

~~(a) the payment of the commission is authorized by the articles; and~~

~~(b) the commission paid or agreed to be paid does not exceed 10 per cent of the price at which the shares are issued or the amount or rate authorized by the articles, whichever is the less; and~~

~~(c) the amount or rate per cent of the commission paid or agreed to be paid is~~

~~(i) in the case of shares offered to the public for subscription, disclosed in the prospectus; or~~

~~(ii) in the case of shares not offered to the public for subscription, disclosed in the statement in lieu of prospectus, or in a statement in the specified form signed in like manner as a statement in lieu of prospectus and delivered before the payment of the commission to the Registrar for registration, and, where a circular or notice, not being a prospectus, inviting subscription for the shares is issued, also disclosed in that circular or notice; and (Amended 3 of 1997 s. 12)~~

~~(d) the number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.~~

~~(2) Save as aforesaid, no company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount, or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the company or to the contract price of any work to be executed for the company, or the money be paid out of the nominal purchase money or contract price, or otherwise.~~

~~(3) Nothing in this section shall affect the power of any company to pay such brokerage as it has heretofore been lawful for a company to pay.~~

~~(4) A vendor to, promoter of, or other person who receives payment in money or shares from, a company shall~~

~~have and shall be deemed always to have had power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the company, would have been legal under this section.~~

~~(5) If default is made in complying with the provisions of this section relating to the delivery to the Registrar of the statement in the specified form, the company and every officer of the company who is in default shall be liable to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2; 3 of 1997 s. 12)~~

~~[cf. 1929 c. 23 s. 43 U.K.]~~

Section:	47	(Repealed 80 of 1974 s. 3)		30/06/1997

~~Section:~~	~~47A~~	~~Financial assistance generally prohibited~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~47B, 47C, 47D, 47E, 47F, 47G, 48~~

~~Financial assistance by a company~~
~~for acquisition of its own shares~~

~~Provisions applying to all companies~~

~~(1) Subject to sections 47B to 48, where a person is acquiring or is proposing to acquire shares in a company, it is not lawful for the company or any of its subsidiaries to give financial assistance directly or indirectly for the purpose of that acquisition before or at the same time as the acquisition takes place. <* Note - Exp. X-Ref.: Sections 47B, 47C, 47D, 47E, 47F, 47G, 48 *>~~

~~(2) Subject to sections 47B to 48, where a person has acquired shares in a company and any liability has been incurred (by that or any other person), for the purpose of that acquisition, it is not lawful for the company or any of its subsidiaries to give financial assistance directly or indirectly for the purpose of reducing or discharging the liability so incurred. <* Note - Exp. X-Ref.: Sections 47B, 47C, 47D, 47E, 47F, 47G, 48 *>~~

~~(3) If a company acts in contravention of this section, it is liable to a fine, and every officer who is in default is liable to imprisonment or a fine.~~

~~(Added 77 of 1991 s. 3)~~
~~[cf. 1985 c. 6 s. 151 U.K.]~~

~~Section:~~	~~47B~~	~~Definitions~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~47A, 47B, 47C, 47D, 47E, 47F, 47G, 48~~

~~(1) In sections 47A to 48 <* Note - Exp. X-Ref.: Sections 47A, 47B, 47C, 47D, 47E, 47F, 47G, 48 *>~~
~~"distributable profits" (可分發利潤), in relation to the giving of any financial assistance -~~

~~(a) means those profits out of which the company could lawfully make a distribution equal in value to that assistance; and~~

~~(b) includes, in a case where the financial assistance is or includes a non-cash asset, any profit which, if the company were to make a distribution of that asset, would under section 79L be available for that purpose;~~

~~"distribution" (分發) has the meaning given by section 79A;~~

~~"financial assistance" (資助) means -~~

~~(a) financial assistance given by way of gift;~~

~~(b) financial assistance given by way of guarantee, security or indemnity, other than an indemnity in respect of the indemnifier's own neglect or default, or by way of release or waiver;~~

~~(c) financial assistance given by way of a loan or any other agreement under which any of the obligations of the person giving the assistance are to be fulfilled at a time when in accordance with the agreement any obligation of another party to the agreement remains unfulfilled, or by way of the novation of, or the assignment of rights arising under, a loan or such other agreement; or~~

~~(d) any other financial assistance given by a company the net assets of which are thereby reduced to a~~

~~material extent or which has no net assets.~~

~~(2) In paragraph (d) of the definition of "financial assistance" (資助) in subsection (1), "net assets" (淨資產) has the same meaning as in section 157HA(15). (Amended 28 of 2003 s. 14).~~

~~(3) In sections 47A to 48 <* Note - Exp. X-Ref.: Sections 47A, 47B, 47C, 47D, 47E, 47F, 47G, 48 *>~~

~~(a) a reference to a person incurring a liability includes his changing his financial position by making an agreement or arrangement (whether enforceable or unenforceable, and whether made on his own account or with any other person) or by any other means; and~~

~~(b) a reference to a company giving financial assistance for the purpose of reducing or discharging a liability incurred by a person for the purpose of the acquisition of shares includes its giving such assistance for the purpose of wholly or partly restoring his financial position to what it was before the acquisition took place.~~

~~(Added 77 of 1991 s. 3)~~

~~[cf. 1985 c. 6 s. 152 U.K.]~~

~~Section:~~	~~47C~~	~~Transactions not prohibited by section 47A~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~(1) Section 47A(1) does not prohibit a company from giving financial assistance for the purpose of an acquisition of shares in it or its holding company if~~

~~(a) the company's principal purpose in giving that assistance is not to give it for the purpose of any such acquisition, or the giving of the assistance for that purpose is but an incidental part of some larger purpose of the company; and~~

~~(b) the assistance is given in good faith in the interests of the company.~~

~~(2) Section 47A(2) does not prohibit a company from giving financial assistance if~~

~~(a) the company's principal purpose in giving the assistance is not to reduce or discharge any liability incurred by a person for the purpose of the acquisition of shares in the company or its holding company, or the reduction or discharge of any such liability is but an incidental part of some larger purpose of the company; and~~

~~(b) the assistance is given in good faith in the interests of the company.~~

~~(3) Section 47A does not prohibit~~

~~(a) a distribution of a company's assets by way of dividend lawfully made or a distribution made in the course of the company's winding up;~~

~~(b) the allotment of bonus shares;~~

~~(c) a reduction of capital confirmed by order of the court under section 60;~~

~~(d) a redemption or purchase of shares made in accordance with sections 49 to 49S; <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(e) anything done in pursuance of an order of the court under section 166;~~

~~(f) anything done under an arrangement made in pursuance of section 237; or~~

~~(g) anything done under an arrangement made between a company and its creditors which is binding on the creditors by virtue of section 254.~~

~~(4) Section 47A does not prohibit~~

~~(a) where the lending of money is part of the ordinary business of the company, the lending of money by the company in the ordinary course of its business;~~

~~(b) the provision by a company in accordance with any scheme for the time being in force, of money for the purchase of, or subscription for, fully paid shares in the company or its holding company, being a purchase or subscription by trustees of or for shares to be held by or for the benefit of employees of the company or of any subsidiary of the company, including any director holding a salaried employment or office in the company or any subsidiary of the company;~~

~~(c) the making by a company of loans to persons (other than directors) employed in good faith by the company with a view to enabling those persons to acquire fully paid shares in the company or its holding company to be held by them by way of beneficial ownership.~~

~~(5) References in subsection (4)(c) to a director shall include references to~~

~~(a) the spouse or any child or step-child of such director;~~

~~(b) a person acting in his capacity as the trustee (other than as trustee under an employee's share scheme or a pension scheme) of any trust the beneficiaries of which include the director, his spouse or any of his children or step-children or the terms of which confer a power on the trustees that may be exercised for the benefit of the director, his spouse or any of his children or step-children; and~~

~~(c) a person acting in his capacity as partner of that director or of his spouse, child or step-child, or of any trustee referred to in paragraph (b).~~

~~(6) References in subsection (5) to the child or step-child of any person shall include a reference to any illegitimate child of that person, but shall not include a reference to any person who has attained the age of 18 years.~~

~~(Added 77 of 1991 s. 3)~~

~~[cf. 1985 c. 6 s. 153 U.K.]~~

~~Section:~~	~~47D~~	~~Special restriction for listed companies~~		~~30/06/1997~~

~~Listed Companies~~

~~(1) In the case of a listed company, section 47C(4) authorizes the giving of financial assistance only if the company has net assets which are not thereby reduced or, to the extent that those assets are thereby reduced, if the assistance is provided out of distributable profits.~~

~~(2) For this purpose the following definitions apply—~~

~~(a) "net assets" (淨資產) means the amount by which the aggregate of the company's assets exceeds the aggregate of its liabilities (taking the amount of both assets and liabilities to be as stated in the company's accounting records immediately before the financial assistance is given);~~

~~(b) "liabilities" (負債) includes any amount retained as reasonably necessary for the purpose of providing for any liability or loss which is either likely to be incurred, or certain to be incurred but uncertain as to the amount or as to the date on which it will arise.~~

~~(Added 77 of 1991 s. 3)~~

~~[cf. 1985 c. 6 s. 154 U.K.]~~

~~Section:~~	~~47E~~	~~Relaxation of section 47A for unlisted companies~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~47F, 47G, 48~~

~~Unlisted Companies~~

~~(1) Section 47A does not prohibit an unlisted company from giving financial assistance in a case where the acquisition of shares in question is or was an acquisition of shares in the company or, if it is a subsidiary of another unlisted company, in that other company if the following provisions of this section, and sections 47F to 48, are complied with as respects the giving of that assistance. <* Note - Exp. X-Ref.: Sections 47F, 47G, 48 *>~~

~~(2) The financial assistance may only be given if the company has net assets which are not thereby reduced or, to the extent that they are reduced, if the assistance is provided out of distributable profits and section 47D(2) applies for the interpretation of this subsection.~~

~~(3) This section does not permit financial assistance to be given by a subsidiary, in a case where the acquisition of shares in question is or was an acquisition of shares in its holding company, if it is also a subsidiary of a listed company which is itself a subsidiary of that holding company.~~

~~(4) Unless the company proposing to give the financial assistance is a wholly-owned subsidiary, the giving of assistance under this section shall be approved by special resolution of the company in general meeting.~~

~~(5) Where the financial assistance is to be given by the company in a case where the acquisition of shares in question is or was an acquisition of shares in its holding company, that holding company and any other company which is both the company's holding company and a subsidiary of that other holding company (except, in any case, a company which is a wholly-owned subsidiary) shall also approve by special resolution in general meeting the giving of the financial assistance.~~

~~(6) A majority of the directors of the company proposing to give the financial assistance and, where the shares acquired or to be acquired are shares in its holding company, a majority of the directors of that company and of any~~

~~other company which is both the company's holding company and a subsidiary of that other holding company shall before the financial assistance is given make a statement complying with section 47F. (Amended 3 of 1997 s. 13; 28 of 2003 s. 15)~~

~~(7) In relation to a resolution agreed to, or proposed to be agreed to, in accordance with section 116B giving approval under subsection (4) or (5), section 47G(11)(a) shall not apply, but the statement referred to in subsection (6) shall be supplied— (Amended 28 of 2003 s. 15)~~

~~(a) to each member by whom, or on whose behalf, the resolution is required to be signed in accordance with section 116B; and~~

~~(b) at or before the time at which the resolution is supplied to the member for signature. (Added 46 of 2000 s. 4)~~

~~[cf. 1985 c. 6 Sch. 15A, Pt. II, item 4, U.K.]~~

~~(Added 77 of 1991 s. 3)~~

~~[cf. 1985 c. 6 s. 155 U.K.]~~

~~Section:~~	~~47F~~	~~Directors' statement under section 47E~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The statement referred to in section 47E(6) shall be in the specified form, shall be signed by the directors and shall state— (Amended 28 of 2003 s. 16)~~

~~(a) the form which such assistance is to take;~~

~~(b) the names and addresses of the persons to whom such assistance is to be given; (Amended 28 of 2003 s. 16)~~

~~(c) the purpose for which the company intends those persons to use such assistance;~~

~~(d) that the directors making the statement have formed the opinion, as regards the company's initial situation immediately following the date on which the assistance is proposed to be given, that there will be no ground on which it could then be found to be unable to pay its debts; and either (Amended 28 of 2003 s. 16)~~

~~(i) if it is intended to commence the winding up of the company within 12 months of that date, that the company will be able to pay its debts in full within 12 months of the commencement of the winding up; or~~

~~(ii) in any other case, that the company will be able to pay its debts as they fall due during the year immediately following that date.~~

~~(2) In forming their opinion for purposes of subsection (1)(d), the directors shall take into account the same liabilities (including contingent and prospective liabilities) as would be relevant under section 177 to the question whether the company is unable to pay its debts.~~

~~(3) A statement made by a majority of a company's directors under section 47E(6) shall be delivered to the Registrar within 15 days after it is made. (Replaced 28 of 2003 s. 16)~~

~~(4) If a company fails to comply with subsection (3), the company and every officer who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(5) A director of a company who makes a statement under section 47E(6) without having reasonable grounds for the opinion expressed in it is liable to imprisonment or a fine. (Amended 28 of 2003 s. 16)~~

~~(Added 77 of 1991 s. 3)~~

~~[cf. 1985 c. 6 s. 156 U.K.]~~

~~Section:~~	~~47G~~	~~Special resolution under section 47E~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A special resolution required by section 47E to be passed by a company approving the giving of financial assistance shall be passed on the date on which a majority of the directors of that company make the statement required by section 47E(6) in connection with the giving of that assistance, or within 30 days immediately following that date. (Amended 28 of 2003 s. 17)~~

~~(2) Where such a resolution has been passed, an application may be made to the court for the cancellation of the resolution—~~

~~(a) by the holders of not less in the aggregate than 10% in nominal value of the company's issued share capital or any class of it; or~~

~~(b) if the company is not limited by shares, by not less than 10% of the company's members,~~

~~but the application shall not be made by a person who has consented to or voted in favour of the resolution.~~

~~(3) The application shall be made within 28 days after the passing of the resolution and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.~~

~~(4) If such an application is made, the company shall forthwith give notice in the specified form of that fact to the Registrar. (Amended 3 of 1997 s. 14)~~

~~(5) On the hearing of the application, the court shall make an order either cancelling or confirming the resolution and~~

~~(a) may make that order on such terms and conditions as it thinks fit, and may (if it thinks fit) adjourn the proceedings in order that an arrangement may be made to the satisfaction of the court for the purchase of the interests of dissentient members; and~~

~~(b) may give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.~~

~~(6) The court's order may, if the court thinks fit, provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and may make such alterations in the company's memorandum and articles as may be required in consequence of that provision.~~

~~(7) The company shall, within 15 days from the making of the court's order, or within such longer period as the court may at any time by order direct, deliver to the Registrar an office copy of the order.~~

~~(8) If the court's order requires the company not to make any, or any specified, alteration in its memorandum or articles, the company shall not then have power without the leave of the court to make any such alteration in breach of the requirement. (Amended 80 of 1997 s. 102)~~

~~(9) An alteration in the memorandum or articles made by virtue of an order under this section, if not made by resolution of the company, is of the same effect as if duly made by resolution; and this Ordinance applies accordingly to the memorandum or articles as so altered.~~

~~(10) A company which fails to comply with subsection (4) or (7), and any officer who is in default, is liable to a fine and, for continued default, to a daily default fine.~~

~~(11) A special resolution passed by a company is not effective for purposes of section 47E~~

~~(a) unless the statement required by section 47E(6) is available for inspection by members of the company at the meeting at which the resolution is passed; (Amended 28 of 2003 s. 17)~~

~~(b) if it is cancelled by the court on an application under this section.~~

~~(Added 77 of 1991 s. 3)~~
~~[cf. 1985 c. 6 ss. 54 & 157 U.K.]~~

~~Section:~~	~~48~~	~~Time for giving financial assistance under section 47E~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) This section applies as to the time before and after which financial assistance may not be given by a company in pursuance of section 47E.~~

~~(2) Where a special resolution is required by that section to be passed approving the giving of the assistance, the assistance shall not be given before the expiry of the period of 4 weeks beginning with~~

~~(a) the date on which the special resolution is passed; or~~

~~(b) where more than one such resolution is passed, the date on which the last of them is passed,~~

~~unless for that resolution (or, if more than one, each of them), every member of the company which passed the resolution who is entitled to vote at general meetings of the company voted in favour of the resolution.~~

~~(3) If application for the cancellation of any such resolution is made under section 47G, the financial assistance shall not be given before the final determination of the application unless the court otherwise orders.~~

~~(4) The assistance shall not be given after the expiry of the period of 3 months beginning with~~

~~(a) the date on which the majority of the directors of the company proposing to give the assistance made their statement under section 47E(6); or (Replaced 28 of 2003 s. 18)~~

~~(b) where that company is a subsidiary and both a majority of its directors and a majority of the directors of any of its holding companies made such a statement, the date on which the earliest of the statements was made, (Replaced 28 of 2003 s. 18)~~

~~unless the court, on an application under section 47G, otherwise orders.~~

~~(Replaced 77 of 1991 s. 3)~~
~~[cf. 1985 c. 6 s. 158 U.K.]~~

Section:	48A	Construction of references to offering shares or debentures to the public	L.N. 154 of 2004	03/12/2004

Construction of References to offering Shares or Debentures to the Public

(1) Any reference in this Ordinance to offering shares or debentures to the public shall, subject to any provision to the contrary contained therein, be construed as including a reference to offering them to any section of the public, whether selected as members or debenture holders of the company concerned or as clients of the person issuing the prospectus or in any other manner, and references in this Ordinance or in a company's articles to invitations to the public to subscribe for shares or debentures shall, subject as aforesaid, be similarly construed.

(2) Subsection (1) shall not be taken as requiring any offer or invitation to be treated as made to the public if it can properly be regarded, in all the circumstances, as not being calculated to result, directly or indirectly, in the shares or debentures becoming available for subscription or purchase by persons other than those receiving the offer or invitation, or otherwise as being a domestic concern of the persons making and receiving it, and in particular-

(a) a provision in a company's articles prohibiting invitations to the public to subscribe for shares or debentures shall not be taken as prohibiting the making to members or debenture holders of an invitation which can properly be regarded as aforesaid; and

(b) the provisions of this Ordinance relating to private companies shall be construed accordingly.

(3) For the avoidance of doubt, it is hereby declared that the provisions of the Seventeenth Schedule shall not be construed to prejudice the generality of this section. (Added 30 of 2004 s. 2)

(Added 78 of 1972 s. 14)
[cf. 1948 c. 38 s. 55 U.K.]

~~Section:~~	~~48B~~	~~Application of premiums received on issue of shares~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~Issue of Shares at Premium, Redeemable Preference Shares, and Shares at Discount~~

~~(Replaced 80 of 1974 s. 5)~~

~~(1) Where a company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account, to be called "the share premium account", and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid-up share capital of the company.~~

~~(2) Where shares are issued for a consideration other than cash and the value of the consideration, as estimated by the directors having regard to all relevant information, is in excess of the amount credited as paid up on the shares so issued, the shares shall be deemed to have been issued at a premium equal to the difference between the value so estimated and the amount credited as paid up on the shares so issued.~~

~~(3) The share premium account may, notwithstanding anything in subsection (1), be applied by the company-~~

~~(a) in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares; or (Amended 30 of 1999 s. 4)~~

~~(b) in writing off-~~

~~(i) the preliminary expenses of the company; or~~

~~(ii) the expenses of, or the commission paid or discount allowed on, any issue of shares of the company. (Amended 30 of 1999 s. 4)~~

~~(c) (Repealed 30 of 1999 s. 4)+~~

~~(4) For the purposes of subsection (3), the expenses of the issue of any shares shall be deemed to include such portion of the ad valorem fee paid under the Eighth Schedule by the company upon its registration or upon any increase thereafter in its nominal share capital as is attributable to the nominal amount of the shares issued.~~

~~(5) Where a company has before the commencement of the Companies (Amendment) (No. 4) Ordinance 1974 (80 of 1974) issued any shares at a premium, this section shall apply as if the shares had been issued after the commencement of that Ordinance:~~

~~Provided that any part of the premiums which has been so applied that it does not at the commencement of that Ordinance form an identifiable part of the company's reserves within the meaning of the Tenth Schedule shall be disregarded in determining the sum to be included in the share premium account.~~

~~(6) Sections 48C and 48D give relief from the requirements of this section, and in those sections references to the issuing company are to the company issuing shares as mentioned in this section. (Added 30 of 1999 s. 4)~~

~~(Added 80 of 1974 s. 6)~~

~~[cf. 1948 c. 38 s. 56 U.K.]~~

~~**Note:**~~

~~*** Section 48B(3)(c) was repealed by section 4(a) of the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 42 of that Ordinance provides as follows:**~~

~~**"42. Validation of certain applications of share premium accounts**~~

~~**Where, at any time before the commencement* of section 4(a), a share premium account has been applied by a company pursuant to section 48B(3)(c) of the principal Ordinance, then, notwithstanding section 49A(1)(b) of the principal Ordinance, that application of that account shall, by virtue of this section, be as valid and effectual as if that section had never been enacted.".**~~

~~**Before its repeal, section 48B(3)(c) read:**~~

~~**"(c) in providing for the premium payable on redemption of any redeemable preference shares of the company.".**~~

~~*** Commencement date: 11 November 1999.**~~

~~Section:~~	~~48C~~	~~Merger relief~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~Merger Relief~~

~~(1) With the exception made by section 48D(6), this section applies where the issuing company has secured at least a 90 per cent equity holding in another company in pursuance of an arrangement providing for the allotment of equity shares in the issuing company on terms that the consideration for the shares allotted is to be provided:~~

~~(a) by the issue or transfer to the issuing company of equity shares in the other company; or~~

~~(b) by the cancellation of any such shares not held by the issuing company.~~

~~(2) If the equity shares in the issuing company allotted in pursuance of the arrangement in consideration for the acquisition or cancellation of equity shares in the other company are issued at a premium, section 48B does not apply to the premiums on those shares.~~

~~(3) Where the arrangement also provides for the allotment of any shares in the issuing company on terms that the consideration for those shares is to be provided by the issue or transfer to the issuing company of non-equity shares in the other company or by the cancellation of any such shares in that company not held by the issuing company, relief under subsection (2) extends to any shares in the issuing company allotted on those terms in pursuance of the arrangement.~~

~~(4) Subject to subsection (5), the issuing company is to be regarded for the purposes of this section as having secured at least a 90 per cent equity holding in another company in pursuance of such an arrangement as is mentioned in subsection (1) if in consequence of an acquisition or cancellation of equity shares in that company (in pursuance of that arrangement) it holds equity shares in that company (whether all or any of those shares were acquired in pursuance of that arrangement, or not) of an aggregate nominal value equal to 90 per cent or more of the nominal value of that company's equity share capital.~~

~~(5) Where the equity share capital of the other company is divided into different classes of shares, this section does not apply unless the requirements of subsection (1) are satisfied in relation to each of those classes of shares taken separately.~~

~~(6) Shares held by a company which is the issuing company's holding company or subsidiary, or a subsidiary of the issuing company's holding company, or by its or their nominees, are to be regarded for the purposes of this section as held by the issuing company.~~

~~(7) In relation to a company and its shares and capital, the following definitions apply for the purposes of this section:~~

~~"arrangement" (安排) means any agreement, scheme or arrangement, including an arrangement sanctioned under section 166 or 237;~~

~~"equity shares" (權益股份) means shares comprised in the company's issued share capital (excluding any part of such capital which carries no right to participate beyond a specified amount in a distribution of either profits or capital);~~

~~"non-equity shares" (非權益股份) means shares (of any class) not so comprised.~~

~~(Added 30 of 1999 s. 5)~~

~~Section:~~	~~48D~~	~~Relief in respect of group reconstructions~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) This section applies where the issuing company-~~

~~(a) is a wholly-owned subsidiary of another company ("the holding company"); and~~

~~(b) allots shares to the holding company or to another wholly-owned subsidiary of the holding company in consideration for the transfer to the issuing company of assets other than cash, being assets of any company ("the transferor company") which is a member of the group of companies which comprises the holding company and all its wholly-owned subsidiaries.~~

~~(2) Where the shares in the issuing company allotted in consideration for the transfer are issued at a premium, the issuing company is not required by section 48B to transfer any amount in excess of the minimum premium value to the share premium account.~~

~~(3) In subsection (2), "the minimum premium value" (最低溢價值) means the amount (if any) by which the base value of the consideration for the shares allotted exceeds the aggregate nominal value of those shares.~~

~~(4) For the purpose of subsection (3), the base value of the consideration for the shares allotted is the amount by which the base value of the assets transferred exceeds the base value of any liabilities of the transferor company assumed by the issuing company as part of the consideration for the assets transferred.~~

~~(5) For the purpose of subsection (4)-~~

~~(a) the base value of the assets transferred is to be taken as-~~

~~(i) the cost of those assets to the transferor company; or~~

~~(ii) the amount at which those assets are stated in the transferor company's accounting records immediately before the transfer,~~

~~whichever is the less; and~~

~~(b) the base value of the liabilities assumed is to be taken as the amount at which they are stated in the transferor company's accounting records immediately before the transfer.~~

~~(6) Section 48C does not apply in a case falling within this section.~~

~~(Added 30 of 1999 s. 5)~~

~~[cf. 1985 c. 6 s. 132 U.K.]~~

~~Section:~~	~~48E~~	~~Provisions supplementary to sections 48C and 48D~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) An amount corresponding to one representing the premiums or part of the premiums on shares issued by a company which by virtue of section 48C or 48D is not included in the company's share premium account may also be disregarded in determining the amount at which any shares or other consideration provided for the shares issued is to be included in the company's balance sheet.~~

~~(2) References in sections 48C, 48D and 48F and this section (however expressed) to-~~

~~(a) the acquisition by a company of shares in another company; and~~

~~(b) the issue or allotment of shares to, or the transfer of shares to or by, a company,~~

~~include (respectively) the acquisition of any of those shares by, and the issue or allotment or (as the case may be) the transfer of any of those shares to or by, nominees of that company; and the reference in section 48D to the company transferring the shares is to be construed accordingly.~~

~~(3) References in sections 48C, 48D and 48F and this section to the transfer of shares in a company include the transfer of a right to be included in the company's register of members in respect of those shares.~~

~~(4) In sections 48C and 48D and this section, "company" (公司), except in references to the issuing company, includes any body corporate.~~

~~(Added 30 of 1999 s. 5)~~

~~[cf. 1985 c. 6 s. 133 U.K.]~~

~~Section:~~	~~48F~~	~~Provision for extending or restricting relief from section 48B~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~Expanded Cross Reference:~~
~~48C, 48D, 48E~~

~~(1) The Financial Secretary may make regulations to make such provision as appears to him to be appropriate-~~
~~(a) for relieving companies from the requirements of section 48B in relation to premiums other than cash premiums; or~~
~~(b) for restricting or otherwise modifying any relief from those requirements provided by sections 48C to 48E. <* Note - Exp. X-Ref.: Sections 48C, 48D, 48E *>~~

~~(2) Regulations made under this section may make different provision for different cases or classes of case and may contain such incidental and supplementary provisions as the Financial Secretary thinks fit.~~

~~(3) No regulations shall be made under this section unless a draft of them has been laid before and approved by resolution of the Legislative Council and section 34 of the Interpretation and General Clauses Ordinance (Cap 1) shall not apply to such regulations.~~

~~(Added 30 of 1999 s. 5)~~
~~[cf. 1985 c. 6 s. 134 U.K.]~~

~~Section:~~	~~49~~	~~Power to issue redeemable shares~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~Redeemable shares; Purchase by a company of its own shares~~

~~Redemption and purchase generally~~

~~(1) Subject to sections 49 to 49S, a company limited by shares or limited by guarantee and having a share capital may, if authorized to do so by its articles, issue shares which are to be redeemed or are liable to be redeemed at the option of the company or the shareholder. <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(2) No redeemable shares may be issued at a time when there are no issued shares of the company which are not redeemable.~~

~~(3) Redeemable shares may not be redeemed unless they are fully paid; and the terms of redemption shall provide for payment on redemption.~~

~~(Replaced 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 159 U.K.]~~

~~Section:~~	~~49A~~	~~Financing etc. of redemption~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q 49R, 49S~~

~~(1) Subject to subsection (2) and to sections 49I and 49P(4)-~~
~~(a) redeemable shares may only be redeemed out of distributable profits of the company or out of the proceeds of a fresh issue of shares made for the purposes of the redemption; and~~
~~(b) any premium payable on redemption shall be paid out of distributable profits of the company.~~

~~(2) If the redeemable shares were issued at a premium, any premium payable on their redemption may be paid out of the proceeds of a fresh issue of shares made for the purposes of the redemption, up to an amount equal to-~~
~~(a) the aggregate of the premiums received by the company on the issue of the shares redeemed; or~~
~~(b) the current amount of the company's share premium account (including any sum transferred to that account in respect of premiums on the new shares),~~
~~whichever is the less; and in that case the amount of the company's share premium account shall be reduced by a sum corresponding (or by sums in the aggregate corresponding) to the amount of any payment made by virtue of this subsection out of the proceeds of the issue of the new shares.~~

~~(3) Subject to sections 49 to 49S, redemption of shares may be effected on such terms and in such manner as may be provided by the company's articles. <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(4) Shares redeemed under this section shall be treated as cancelled on redemption, and the amount of the company's issued share capital shall be diminished by the nominal value of those shares accordingly; but the redemption of shares by a company is not to be taken as reducing the amount of the company's authorized share capital.~~

~~(5) Without prejudice to subsection (4) and subject to subsection (6), where a company is about to redeem shares, it has power to issue shares up to the nominal value of the shares to be redeemed as if those shares had never been issued.~~

~~(6) Where new shares are issued before the redemption of existing shares, the new shares shall be deemed, so far as relates to the Eighth Schedule, not to have been issued under subsection (5) unless the existing shares are redeemed within 1 month of the issue of the new shares.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 160 U.K.]~~

~~Section:~~	~~49B~~	~~Power of company to purchase own shares~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q 49R, 49S~~

~~(1) Subject to sections 49, 49A, 49BA, 49C, 49E, 49F, 49G, 49H, 49P, 49Q, 49R and 49S, a listed company may, if authorized to do so by its articles, purchase its own shares (including any redeemable shares).~~

~~(2) Subject to sections 49 to 49S, an unlisted company limited by shares or limited by guarantee and having a share capital may, if authorized to do so by its articles, purchase its own shares (including any redeemable shares). <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(3) Sections 49 and 49A apply to the purchase by a company under this section of its own shares as they apply to the redemption of redeemable shares, save that the terms and manner of purchase need not be determined by the articles as required by section 49A(3).~~

~~(4) Notwithstanding subsections (1) and (2) but subject to sections 49, 49A, 49F, 49G, 49H, 49I(4) and (5), 49P, 49Q, 49R and 49S, except that such purchases may be made either out of or otherwise than out of its distributable profits or the proceeds of a fresh issue of shares, a listed company and an unlisted company limited by shares or limited by guarantee and having a share capital may, if authorized to do so by its articles, purchase its own shares (including any redeemable shares) in order to -~~

~~(a) settle or compromise a debt or claim;~~
~~(b) eliminate a fractional share or fractional entitlement or in the case of a listed company, an odd lot of shares;~~
~~(c) fulfil an agreement in which the company has an option or is obliged to purchase shares under an employee share scheme which had previously been approved by the company in general meeting; or~~
~~(d) comply with an order of the court under section 8(4), 47G(5) or 168A(2). (Amended 13 of 1995 s. 2)~~

~~(5) In subsection (4)(b), an "odd lot of shares" (碎股) means a number of shares in the company less than the usual number authorized for trading on a recognized stock market. (Amended 5 of 2002 s. 407)~~

~~(6) A company may not under this section purchase its shares if as a result of the purchase there would no longer be any member of the company holding shares other than redeemable shares.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 162 U.K.]~~

~~Section:~~	~~49BA~~	~~Requirements for listed company to purchase own shares~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A listed company may purchase its own shares -~~

~~(a) subject to subsections (2), (3) and (7), under a general offer;~~
~~(b) subject to subsections (2), (3) and (4), on a recognized stock market or on an approved stock exchange;~~
~~(c) subject to subsections (5) and (6), otherwise than on a recognized stock market or on an approved stock exchange, and otherwise than under a general offer referred to in paragraph (a). (Amended 5 of~~

~~2002 s. 407)~~

~~(2) A listed company shall not—~~

~~(a) make a general offer under subsection (1)(a) unless the proposed general offer is authorized by the company in general meeting; or~~

~~(b) purchase any of its own shares on a recognized stock market or on an approved stock exchange under subsection (1)(b), unless the proposed purchase is authorized by the company in general meeting. (Amended 5 of 2002 s. 407)~~

~~(3) A listed company shall include together with the notice of any general meeting called for the purpose of subsection (2)—~~

~~(a) in the case of a general offer under subsection (1)(a)—~~

~~(i) a copy of the document containing the proposed general offer; and~~

~~(ii) a statement, signed by the directors of the company, containing such particulars as would enable a reasonable person to form as a result thereof a valid and justifiable opinion as to the merits of the proposed general offer; and~~

~~(b) in the case of a purchase under subsection (1)(b), a memorandum of the terms of the proposed purchase.~~

~~(4) An authorization given by a company in general meeting under subsection (2)(b) shall be valid for the period expiring on the date of the next annual general meeting of the company and such period may be extended by the company at such annual general meeting until the date of the next annual general meeting of the company.~~

~~(5) A listed company shall not make a purchase of any of its shares under subsection (1)(c) unless the proposed purchase has been authorized by a special resolution of the company and section 49D(4) shall apply to such a resolution as it applies to a resolution under that subsection.~~

~~(6) A listed company shall include together with the notice of any meeting called for the purpose of subsection (5)—~~

~~(a) where the proposed purchase agreement is in writing, a copy of the proposed purchase agreement; or~~

~~(b) where the proposed purchase agreement is not in writing, a memorandum of the terms of the proposed purchase agreement; and~~

~~(c) a statement, signed by the directors of the company, after having made due and diligent inquiry of the members of the company holding the shares to which the proposed purchase agreement relates, containing such particulars as would enable a reasonable person to form as a result thereof a valid and justifiable opinion as to the merits of the proposed purchase agreement.~~

~~(7) If, in the case of a general offer under subsection (1)(a), a member of the company may be compelled to dispose of his shares under section 168B—~~

~~(a) the company shall appoint an independent investment adviser to advise members who may be affected by the compulsory disposal on the merits of the proposed general offer; and~~

~~(b) the proposed general offer shall be authorized by a special resolution of the company, on which no relevant shareholder votes and for this purpose—~~

~~(i) a relevant shareholder shall be regarded as voting not only if he votes on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;~~

~~(ii) notwithstanding anything in the company's articles, any member of the company may demand a poll on that question; and~~

~~(iii) a vote and a demand for a poll by a person as proxy for a relevant shareholder are the same (respectively) as a vote and demand by a relevant shareholder.~~

~~(8) A person shall not be appointed as an investment adviser under subsection (7) unless he is a corporation licensed to carry on, or an authorized financial institution registered for carrying on, a business in advising on securities or advising on corporate finance under Part V of the Securities and Futures Ordinance (Cap 571) and is neither— (Amended 5 of 2002 s. 407)~~

~~(a) a member, officer or employee of the company making the general offer or of a related company thereof; nor~~

~~(b) a related company of the company making the general offer.~~

~~(9) For the purposes of this section—~~

~~"approved stock exchange" (核准證券交易所) means a stock exchange approved, by notice published in the Gazette, for the purposes of this section by—~~

~~(a) the Commission; and~~

~~(b) the recognized exchange company that operates the recognized stock market on which the shares concerned are listed; (Added 5 of 2002 s. 407)~~

~~"general offer" (公開要約) means an offer to all members of a company or to all members holding shares of a particular class in a company, other than any members residing in a jurisdiction where such an offer is contrary to the laws of that jurisdiction, on terms which are the same in relation to all such shares or in relation to the shares of each class;~~

~~"related company" (有關連的公司) in relation to a company, means any company that is the company's subsidiary or holding company or a subsidiary of that company's holding company;~~

~~"relevant shareholder" (有關股東) means a person to whom the description "relevant shareholder" in the Thirteenth Schedule applies.~~

~~(10) In the application of the definition of "officer" (高級人員) in section 2(1) to subsection (8), "director" (董事) includes-~~

~~(a) any person occupying the position of director, by whatever name called; and~~

~~(b) a shadow director. (Replaced 28 of 2003 s. 19)~~

~~(11) The Commission may exempt any listed company from any of the provisions of this section, subject to such conditions as it thinks fit.~~

~~(12) The Commission may-~~

~~(a) suspend or withdraw an exemption granted under subsection (11) on the ground that the conditions subject to which the exemption was granted have not been complied with or on such other ground as the Commission thinks fit; or~~

~~(b) vary any condition imposed under subsection (11).~~

~~(Added 77 of 1991 s. 4. Amended 86 of 1992 s. 10; 5 of 2002 s. 407)~~

~~Section:~~	~~49C~~	~~Payments apart from purchase price to be made out of distributable profits~~		~~30/06/1997~~

~~A payment made by a company in consideration of-~~

~~(a) acquiring any right with respect to the purchase of its own shares permitted under section 49B;~~

~~(b) acquiring any right with respect to the purchase of its own shares in pursuance of a contract approved under section 49E;~~

~~(c) the variation of a contract permitted under section 49B or approved under section 49D or 49E; or~~

~~(d) the release of any of the company's obligations with respect to the purchase of any of its own shares under a contract permitted under section 49B or approved under section 49D or 49E,~~

~~shall be made out of the company's distributable profits.~~

~~(Added 77 of 1991 s. 4)~~

~~[cf. 1985 c. 6 s. 168 U.K.]~~

~~Section:~~	~~49D~~	~~Authority for purchase by unlisted company~~	~~46 of 2000~~	~~01/07/2000~~

~~(1) An unlisted company may only purchase its own shares under a contract approved in advance in accordance with this section or under section 49E.~~

~~(2) The terms of the proposed contract shall be authorized by a special resolution of the company before the contract is entered into; and this section applies with respect to that authority and to resolutions conferring it.~~

~~(3) The authority to enter into a contract to purchase an unlisted company's own shares may be varied, revoked or from time to time renewed by special resolution of the company.~~

~~(4) A special resolution to confer, vary, revoke or renew authority under subsection (3) is not effective if any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution and the resolution would not have been passed if he had not done so and for this purpose-~~

~~(a) a member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;~~

~~(b) notwithstanding anything in the company's articles, any member of the company may demand a poll on that question; and~~

(c) a vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

(5) A special resolution to confer, vary, revoke or renew authority under subsection (3) is not effective for the purposes of this section unless (if the proposed contract is in writing) a copy of the contract or (if not) a written memorandum of its terms is available for inspection by members of the company both—

(a) at the company's registered office for not less than 15 days ending with the date of the meeting at which the resolution is passed; and

(b) at the meeting itself.

A memorandum of contract terms so made available shall include the names of any members holding shares to which the contract relates; and a copy of the contract so made available shall have annexed to it a written memorandum specifying any such names which do not appear in the contract itself.

(6) An unlisted company may agree to a variation of an existing contract so approved, but only if the variation is authorized by a special resolution of the company before it is agreed to; and subsections (3), (4) and (5) apply to the authority for a proposed variation as they apply to the authority for a proposed contract, save that a copy of the original contract or (as the case may require) a memorandum of its terms, together with any variations previously made, shall also be available for inspection in accordance with subsection (5).

(7) In relation to a resolution agreed to, or proposed to be agreed to, in accordance with section 116B—

(a) conferring authority to make a purchase of the company's shares under subsection (2);

(b) varying, revoking or renewing an authority under subsection (3); or

(c) conferring authority to vary a contract for a purchase of the company's shares under subsection (6),

then—

(i) subsection (4) shall not apply but, for the purposes of section 116B(1), a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to attend and vote;

(ii) subsection (5) shall not apply but the documents referred to in that subsection and, where that subsection applies by virtue of subsection (6), the further documents referred to in subsection (6), shall be supplied—

(A) to each member by whom, or on whose behalf, the resolution is required to be signed in accordance with section 116B; and

(B) at or before the time at which the resolution is supplied to the member for signature. (Added 46 of 2000 s. 5)

(8) Subsection (7) shall also have effect in relation to a resolution agreed to, or proposed to be agreed to, in accordance with section 116B in relation to which the provisions of subsections (3) to (6) apply by virtue of section 49E(3) or 49F(2). (Added 46 of 2000 s. 5)

[cf. 1985 c. 6 Sch. 15A, Pt. II, item 5, U.K.]

(Added 77 of 1991 s. 4)

[cf. 1985 c. 6 s. 164 U.K.]

Section:	49E	Authority for contingent purchase contract		30/06/1997

(1) A contingent purchase contract is a contract entered into by a company and relating to any of its shares—

(a) which does not amount to a contract to purchase those shares; but

(b) under which the company may (subject to any conditions) become entitled or obliged to purchase those shares.

(2) A listed company may only make a purchase of its own shares in pursuance of a contingent purchase contract if the proposed contingent purchase contract is authorized in advance by a special resolution of the company before the contract is entered into, and section 49BA(5) and (6) applies to authorization for a proposed contingent purchase contract as to authorization for a proposed purchase agreement under section 49BA(1)(c).

(3) An unlisted company may only make a purchase of its own shares in pursuance of a contingent purchase contract if the contract is approved in advance by a special resolution of the company before the contract is entered into; and section 49D(3), (4), (5) and (6) applies to the contract and its terms.

(Added 77 of 1991 s. 4)

[cf. 1985 c. 6 s. 165 U.K.]

~~Section:~~	~~49F~~	~~Assignment or release of company's right to purchase own shares~~		~~30/06/1997~~

~~(1) The rights of a company under a contract approved under section 49D or 49E or authorized under section 49BA or 49E are not capable of being assigned.~~

~~(2) An agreement by an unlisted company to release its rights under a contract approved under section 49D or 49E is void unless the terms of the release agreement are approved in advance by a special resolution of the company before the agreement is entered into; and section 49D(3), (4), (5) and (6) applies to approval for a proposed release agreement as to authority for a proposed variation of an existing contract.~~

~~(3) An agreement by a listed company to release its rights under a contract authorized under section 49BA(1)(a) or (c) or under section 49E is void unless the terms of the release agreement are authorized in advance by a special resolution of the company before the agreement is entered into; and section 49BA(5) and (6) applies to authorization for a proposed release agreement as to authorization for a proposed purchase agreement under section 49BA(1)(c).~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 167 U.K.]~~

~~Section:~~	~~49G~~	~~Disclosure by company of purchase of own shares~~		~~30/06/1997~~

~~(1) Within the period of 14 days beginning with the date on which any shares purchased by a company under this Ordinance are delivered to it, the company shall deliver to the Registrar for registration a return in the specified form stating with respect to shares of each class purchased the number and nominal value of those shares and the date on which they were delivered to the company. (Amended 3 of 1997 s. 15)~~

~~(2) In the case of a listed company, the return shall also state-~~

~~(a) the aggregate amount paid by the company for the shares; and~~

~~(b) the maximum and minimum prices paid in respect of shares of each class purchased.~~

~~(3) Particulars of shares delivered to the company on different dates and under different contracts may be included in a single return to the Registrar; and in such a case the amount required to be stated under subsection (2)(a) is the aggregate amount paid by the company for all the shares to which the return relates.~~

~~(4) Where a company enters into a contract approved under section 49BA(1)(c), 49D or 49E, the company shall keep at its registered office-~~

~~(a) if the contract is in writing, a copy of it; and~~

~~(b) if not, a memorandum of its terms,~~

~~from the conclusion of the contract until the end of the period of 10 years beginning with the date on which the purchase of all the shares in pursuance of the contract is completed or (as the case may be) the date on which the contract otherwise determines.~~

~~(5) Every copy and memorandum so required to be kept shall, during business hours (subject to such reasonable restrictions as the company may in general meeting impose, provided that not less than 2 hours in each day are allowed for inspection), be open to inspection without charge-~~

~~(a) by any member of the company; and~~

~~(b) if it is a listed company, by any other person.~~

~~(6) If default is made in delivering to the Registrar any return required by this section, every officer of the company who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(7) If default is made in complying with subsection (4), or if an inspection required under subsection (5) is refused, the company and every officer who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(8) In the case of a refusal of an inspection required under subsection (5) of a copy or memorandum, the court may by order compel an immediate inspection of it.~~

~~(9) The obligation of a company under subsection (4) to keep a copy of any contract or (as the case may be) a memorandum of its terms applies to any variation of the contract so long as it applies to the contract.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 169 U.K.]~~

~~Section:~~	~~49H~~	~~The capital redemption reserve~~		~~30/06/1997~~

~~(1) Where under this Ordinance shares of a company are redeemed or purchased wholly out of the company's profits, the amount by which the company's issued share capital is diminished in accordance with section 49A(4) on cancellation of the shares redeemed or purchased shall be transferred to a reserve, called "the capital redemption reserve" (資本贖回儲備).~~

~~(2) If the shares are redeemed or purchased wholly or partly out of the proceeds of a fresh issue and the aggregate amount of those proceeds is less than the aggregate nominal value of the shares redeemed or purchased, the amount of the difference shall be transferred to the capital redemption reserve.~~

~~(3) Subsection (2) does not apply if the proceeds of the fresh issue are applied by the company in making a redemption or purchase of its own shares in addition to a payment out of capital under section 49I.~~

~~(4) The provisions of this Ordinance relating to the reduction of a company's share capital apply as if the capital redemption reserve were paid up share capital of the company, except that the reserve may be applied by the company in paying up its unissued shares to be allotted to members of the company as fully paid bonus shares.~~

~~(Added 77 of 1991 s. 4)~~

~~[cf. 1985 c. 6 s. 170 U.K.]~~

~~Section:~~	~~49I~~	~~Power of private companies to redeem or purchase own shares out of capital~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49I, 49J, 49K, 49L, 49M, 49N, 49O~~

~~Redemption or purchase of own shares out of capital (private companies only)~~

~~(1) Subject to sections 49I to 49O, a private company limited by shares or limited by guarantee and having a share capital may, if so authorized by its articles, make a payment in respect of the redemption or purchase under section 49A or (as the case may be) section 49B, of its own shares otherwise than out of its distributable profits or the proceeds of a fresh issue of shares. <* Note - Exp. X-Ref.: Sections 49I, 49J, 49K, 49L, 49M, 49N, 49O *>~~

~~(2) References in this section to payment out of capital are (subject to subsection (6)) to any payment so made, whether or not it would be regarded apart from this section as a payment out of capital.~~

~~(3) The payment which may (if authorized in accordance with this Ordinance) be made by a company out of capital in respect of the redemption or purchase of its own shares is such an amount as, taken together with-~~

~~(a) any available profits of the company; and~~

~~(b) the proceeds of any fresh issue of shares made for the purposes of the redemption or purchase,~~

~~is equal to the price of redemption or purchase; and the payment permissible under this subsection is referred to in section 49S as the "permissible capital payment".~~

~~(4) Subject to subsection (6), if the permissible capital payment for shares redeemed or purchased is less than their nominal amount, the amount of the difference shall be transferred to the company's capital redemption reserve.~~

~~(5) Subject to subsection (6), if the permissible capital payment is greater than the nominal amount of the shares redeemed or purchased-~~

~~(a) the amount of any capital redemption reserve, share premium account or fully paid share capital of the company; and~~

~~(b) any amount representing unrealised profits of the company for the time being standing to the credit of any revaluation reserve maintained by the company,~~

~~may be reduced by a sum not exceeding (or by sums not in the aggregate exceeding) the amount by which the permissible capital payment exceeds the nominal amount of the shares.~~

~~(6) Where the proceeds of a fresh issue are applied by a company in making any redemption or purchase of its own shares in addition to a payment out of capital under this section, the references in subsections (4) and (5) to the permissible capital payment are to be read as referring to the aggregate of that payment and those proceeds.~~

~~(Added 77 of 1991 s. 4)~~

~~[cf. 1985 c. 6 s. 171 U.K.]~~

Section:	49J	Availability of profits for purposes of section 49I	L.N. 267 of 2003	13/02/2004

(1) The reference in section 49I(3)(a) to available profits of the company is to the company's profits which are available for distribution (within the meaning of Part IIA); but the question whether a company has any profits so available and the amount of any such profits are to be determined for purposes of that section in accordance with subsections (2), (3), (4), (5) and (6), instead of sections 79F, 79G, 79H, 79I, 79J and 79K.

(2) Subject to subsection (3), that question is to be determined by reference to-

(a) profits, losses, assets and liabilities;

(b) provisions for depreciation, diminution in value of assets and retentions to meet liabilities; and

(c) share capital and reserves (including undistributable reserves),

as stated in the relevant accounts for determining the permissible capital payment.

(3) The relevant accounts for this purpose are such accounts, prepared as at any date within the period for determining the amount of the permissible capital payment, as are necessary to enable a reasonable judgment to be made as to the amounts of any of the items mentioned in subsection (2)(a) to (c).

(4) For purposes of determining the amount of the permissible capital payment, the amount of the company's available profits (if any) determined in accordance with subsections (2) and (3) is treated as reduced by the amount of any distributions lawfully made by the company after the date of the relevant accounts and before the end of the period for determining the amount of that payment.

(5) The reference in subsection (4) to distributions lawfully made by the company includes-

(a) financial assistance lawfully given out of distributable profits in a case falling within section 47D or 47E;

(b) any payment lawfully made by the company in respect of the purchase by it of any shares in the company (except a payment lawfully made otherwise than out of distributable profits); and

(c) a payment of any description specified in section 49C(1) lawfully made by the company.

(6) Reference in this section to the period for determining the amount of the permissible capital payment is to the period of 3 months ending with the date on which the statement of the directors purporting to specify the amount of that payment is made in accordance with section 49K(3). (Amended 28 of 2003 s. 20)

(Added 77 of 1991 s. 4)

[cf. 1985 c. 6 s. 172 U.K.]

Section:	49K	Conditions for payment out of capital	L.N. 267 of 2003	13/02/2004

(1) Subject to any order of the court under section 49O, a payment out of capital by a private company for the redemption or purchase of its own shares is not lawful unless the requirements of this section and sections 49L and 49M are satisfied.

(2) The payment out of capital shall be approved by a special resolution of the company.

(3) The company's directors shall make a statement specifying the amount of the permissible capital payment for the shares in question and stating that, having made full inquiry into the affairs and prospects of the company, they have formed the opinion- (Amended 28 of 2003 s. 21)

(a) as regards its initial situation immediately following the date on which the payment out of capital is proposed to be made, that there will be no grounds on which the company could then be found unable to pay its debts; and

(b) as regards its prospects for the year immediately following that date, that, having regard to their intentions with respect to the management of the company's business during that year and to the amount and character of the financial resources which will in their view be available to the company during that year, the company will be able to continue to carry on business as a going concern (and will accordingly be able to pay its debts as they fall due) throughout that year.

(4) In forming their opinion for purposes of subsection (3)(a), the directors shall take into account the same liabilities (including prospective and contingent liabilities) as would be relevant under section 177 to the question whether a company is unable to pay its debts.

(5) The directors' statement shall be in the specified form, shall be signed by the directors and shall contain such information with respect to the nature of the company's business as may be specified by the Registrar, and shall in addition have annexed to it a report addressed to the directors by the company's auditors stating that- (Amended 3 of 1997 s. 16; 28 of 2003 s. 21)

(a) they have inquired into the company's state of affairs;

(b) the amount specified in the statement as the permissible capital payment for the shares in question is in their view properly determined in accordance with sections 49I and 49J; and (Amended 28 of 2003 s. 21)

(c) they are not aware of anything to indicate that the opinion expressed by the directors in the statement as to any of the matters mentioned in subsection (3) is unreasonable in all the circumstances. (Amended 28 of 2003 s. 21)

(6) A director who signs a statement under this section without having reasonable grounds for the opinion expressed in the statement is liable to imprisonment or a fine, or both. (Amended 28 of 2003 s. 21)

(7) In relation to a resolution agreed to, or proposed to be agreed to, in accordance with section 116B giving approval under subsection (2), then-

(a) section 49L(2) shall not apply but, for the purposes of section 116B(1), a member holding shares to which the resolution relates shall not be regarded as a member who would be entitled to attend and vote;

(b) section 49L(4) shall not apply but the documents referred to in that section shall be supplied-

(i) to each member by whom, or on whose behalf, the resolution is required to be signed in accordance with section 116B; and

(ii) at or before the time at which the resolution is supplied to the member for signature. (Added 46 of 2000 s. 6)

[cf. 1985 c. 6 Sch. 15A, Pt. II, item 6, U.K.]

(Added 77 of 1991 s. 4)

[cf. 1985 c. 6 s. 173 U.K.]

Section:	49L	Procedure for special resolution under section 49K	L.N. 267 of 2003	13/02/2004

(1) The resolution required by section 49K shall be passed on, or within the week immediately following, the date on which the directors make the statement required by that section; and the payment out of capital shall be made no earlier than 5 nor more than 7 weeks after the date of the resolution. (Amended 28 of 2003 s. 22)

(2) The resolution is ineffective if any member of the company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution and the resolution would not have been passed if he had not done so.

(3) For purposes of subsection (2), a member who holds such shares is to be regarded as exercising the voting rights carried by them in voting on the resolution not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll; and, notwithstanding anything in a company's articles, any member of the company may demand a poll on that question.

(4) The resolution is ineffective unless the directors' statement and auditors' report required by section 49K are available for inspection by members of the company at the meeting at which the resolution is passed. (Amended 28 of 2003 s. 22)

(5) For purposes of this section a vote and a demand for a poll by a person as proxy for a member are the same (respectively) as a vote and demand by the member.

(Added 77 of 1991 s. 4)

[cf. 1985 c. 6 s. 174 U.K.]

Section:	49M	Publicity for proposed payment out of capital	L.N. 267 of 2003	13/02/2004

(1) Within the week immediately following the date of the resolution for payment out of capital the company shall cause to be published in the Gazette a notice-

(a) stating that the company has approved a payment out of capital for the purpose of acquiring its own shares by redemption or purchase or both (as the case may be);

(b) specifying the amount of the permissible capital payment for the shares in question and the date of the resolution under section 49K; (Amended 28 of 2003 s. 23)

(c) stating that the directors' statement and auditors' report required by that section are available for inspection at the company's registered office; and (Amended 28 of 2003 s. 23)

(d) stating that any creditor of the company may at any time within the 5 weeks immediately following the date of the resolution for payment out of capital apply to the court under section 49N for an order prohibiting the payment.

~~(2) Within the week immediately following the date of the resolution the company shall also either cause a notice to the same effect as that required by subsection (1) to be published once in each of an English language newspaper and a Chinese language newspaper specified in the list issued for the purposes of section 71A or give notice in writing to that effect to each of its creditors.~~

~~(3) References in this section to the first notice date are to the day on which the company first publishes the notice required by subsection (1) or first publishes or gives the notice required by subsection (2) (whichever is the earlier).~~

~~(4) Not later than the first notice date the company shall deliver to the Registrar a copy of the directors' statement and of the auditors' report required by section 49K. (Amended 28 of 2003 s. 23)~~

~~(5) The directors' statement and auditors' report (Amended 28 of 2003 s. 23)~~

~~(a) shall be kept at the company's registered office throughout the period beginning with the first notice date and ending 5 weeks after the date of the resolution for payment out of capital; and~~

~~(b) shall during business hours on any day during that period be open to the inspection of any member or creditor of the company without charge.~~

~~(6) If an inspection required under subsection (5) is refused, the company and every officer who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(7) In the case of refusal of an inspection required under subsection (5) of a directors' statement or auditors' report, the court may by order compel an immediate inspection of that statement or report. (Amended 28 of 2003 s. 23)~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 175 U.K.]~~

~~Section:~~	~~49N~~	~~Objections by company's members or creditors~~		~~30/06/1997~~

~~(1) Where a private company passes a special resolution approving for purposes of this Ordinance any payment out of capital for the redemption or purchase of any of its shares-~~

~~(a) any member of the company other than one who consented to or voted in favour of the resolution; and~~

~~(b) any creditor of the company,~~

~~may within 5 weeks of the date on which the resolution was passed apply to the court for cancellation of the resolution.~~

~~(2) The application may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint in writing for the purpose.~~

~~(3) If an application is made, the company shall-~~

~~(a) forthwith give notice in the specified form of that fact to the Registrar; and (Amended 3 of 1997 s. 17)~~

~~(b) within 15 days from the making of any order of the court on the hearing of the application, or such longer period as the court may by order direct, deliver an office copy of the order to the Registrar.~~

~~(4) A company which fails to comply with subsection (3), and any officer who is in default, is liable to a fine and for continued default, to a daily default fine.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 176 U.K.]~~

~~Section:~~	~~49O~~	~~Powers of court on application under section 49N~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P 49Q, 49R, 49S~~

~~(1) On the hearing of an application under section 49N the court may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the court's satisfaction for the purchase of the interests of dissentient members or for the protection of dissentient creditors (as the case may be); and the court may give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.~~

~~(2) Without prejudice to its powers under subsection (1), the court shall make an order on such terms and conditions as it thinks fit either confirming or cancelling the resolution; and, if the court confirms the resolution, it may in particular by order alter or extend any date or period of time specified in the resolution or in any provision in sections 49 to 49S which applies to the redemption or purchase of shares to which the resolution refers. <* Note -~~

~~Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(3) The court's order may, if the court thinks fit, provide for the purchase by the company of the shares of any of its members and for the reduction accordingly of the company's capital, and may make such alterations in the company's memorandum and articles as may be required in consequence of that provision.~~

~~(4) If the court's order requires the company not to make any, or any specified, alteration in its memorandum or articles, the company shall not then have power without leave of the court to make any such alteration in breach of the requirement. (Amended 80 of 1997 s. 102)~~

~~(5) An alteration in the memorandum or articles made by virtue of an order under this section, if not made by resolution of the company, is of the same effect as if duly made by resolution; and this Ordinance applies accordingly to the memorandum or articles as so altered.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 177 U.K.]~~

~~Section:~~	~~49P~~	~~Effect of company's failure to redeem or purchase~~		~~30/06/1997~~

~~Supplementary~~

~~(1) This section has effect where a company has, on or after the commencement* of the Companies (Amendment) Ordinance 1991 (77 of 1991)~~

~~(a) issued shares on terms that they are or are liable to be redeemed; or~~

~~(b) agreed to purchase any of its own shares.~~

~~(2) The company is not liable in damages in respect of any failure on its part to redeem or purchase any of the shares.~~

~~(3) Subsection (2) is without prejudice to any right of the holder of the shares other than his right to sue the company for damages in respect of its failure; but the court shall not grant an order for specific performance of the terms of redemption or purchase if the company shows that it is unable to meet the costs of redeeming or purchasing the shares in question out of distributable profits.~~

~~(4) If the company is wound up and at the commencement of the winding up any of the shares have not been redeemed or purchased, the terms of redemption or purchase may be enforced against the company; and when shares are redeemed or purchased under this subsection, they are treated as cancelled.~~

~~(5) Subsection (4) does not apply if~~

~~(a) the terms provided for the redemption or purchase to take place at a date later than that of the commencement of the winding up; or~~

~~(b) during the period beginning with the date on which the redemption or purchase was to have taken place and ending with the commencement of the winding up the company could not at any time have lawfully made a distribution equal in value to the price at which the shares were to have been redeemed or purchased.~~

~~(6) There shall be paid in priority to any amount which the company is liable under subsection (4) to pay in respect of any shares~~

~~(a) all other debts and liabilities of the company (other than any due to members in their character as such);~~

~~(b) if other shares carry rights (whether as to capital or as to income) which are preferred to the rights as to capital attaching to the first-mentioned shares, any amount due in satisfaction of those preferred rights,~~

~~but, subject to that, any such amount shall be paid in priority to any amounts due to members in satisfaction of their rights (whether as to capital or income) as members.~~

~~(7) Where by virtue of section 71 of the Bankruptcy Ordinance (Cap 6) as applied by section 264, a creditor of a company is entitled to payment of any interest only after payment of all other debts of the company, the company's debts and liabilities for purposes of subsection (6) include the liability to pay that interest.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 178 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 1 September 1991.**~~

~~Section:~~	~~49Q~~	~~Power for Chief Executive in Council to modify certain sections~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~(1) The Chief Executive in Council may by regulations modify sections 49 to 49S with respect to any of the following matters. <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(a) the authority required for a purchase by a company of its own shares;~~

~~(b) the authority required for the release by a company of its rights under a contract for the purchase of its own shares or a contract under which the company may (subject to any conditions) become entitled or obliged to purchase its own shares;~~

~~(c) the information to be included in a return delivered by a company to the Registrar in accordance with section 49G(1);~~

~~(d) the matters to be dealt with in the statement of the directors under section 49K with a view to indicating their opinion of their company's ability to make a proposed payment out of capital with due regard to its financial situation and prospects; and. (Amended 28 of 2003 s. 24)~~

~~(e) the contents of the auditors' report required by that section to be annexed to the directors' statement. (Amended 28 of 2003 s. 24)~~

~~(2) The Chief Executive in Council may also by regulations so made make such provision (including modification of sections 49 to 49S) as appears to him to be appropriate. <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(a) for wholly or partly relieving companies from the requirement of section 49I(3)(a) that any available profits shall be taken into account in determining the amount of the permissible capital payment under that section; or~~

~~(b) for permitting a company's share premium account to be applied, to any extent appearing to the Chief Executive in Council to be appropriate, in providing for the premiums payable on redemption or purchase by the company of any of its own shares.~~

~~(3) Regulations under this section-~~

~~(a) may make such further modification of sections 49 to 49S and sections 79J(2) and (3) and 79M as appears to the Chief Executive in Council to be reasonably necessary in consequence of any provision made under such regulations by virtue of subsection (1) or (2); <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(b) may make different provision for different cases or classes of case; and~~

~~(c) may contain such further consequential provisions, and such incidental and supplementary provisions, as the Chief Executive in Council thinks fit.~~

~~(4) No regulations shall be made under this section unless a draft of them has been laid before and approved by resolution of the Legislative Council and section 34 of the Interpretation and General Clauses Ordinance (Cap 1) shall not apply to such regulations.~~

~~(Added 77 of 1991 s. 4. Amended 23 of 1999 s. 3)~~
~~[cf. 1985 c. 6 s. 179 U.K.]~~

~~Section:~~	~~49R~~	~~Transitional cases arising under sections 49 to 49S; and savings~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~(1) Any preference shares issued by a company before the commencement* of the Companies (Amendment) Ordinance 1991 (77 of 1991) which could but for the repeal by that Ordinance of section 49 have been redeemed under that section are subject to redemption in accordance with the provisions of this Ordinance as amended by that Ordinance.~~

~~(2) In a case to which sections 49 and 49A apply by virtue of this section, any premium payable on redemption~~

~~may, notwithstanding the repeal by the Companies (Amendment) Ordinance 1991 (77 of 1991) of any provision of this Ordinance, be paid out of the share premium account instead of out of profits, or partly out of that account and partly out of profits (but subject to the provisions of this Ordinance as amended by that Ordinance so far as payment is out of profits).~~

~~(3) Any capital redemption reserve fund established before the commencement* of the Companies (Amendment) Ordinance 1991 (77 of 1991) by a company for the purposes of the repealed section 49 is to be known as the company's capital redemption reserve and be treated as if it had been established for the purposes of section 49H; and accordingly, a reference in any enactment or in the articles of any company, or in any other instrument, to a company's capital redemption reserve fund is to be construed as a reference to the company's capital redemption reserve.~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 180 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 1 September 1991.**~~

~~Section:~~	~~49S~~	~~Definitions for sections 49 to 49R~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R~~

~~(1) In sections 49 to 49R — <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R *>~~
~~"distributable profits" (可分發利潤), in relation to the making of any payment by a company, means those profits out of which it could lawfully make a distribution (within the meaning given by section 79B(2)) equal in value to the payment;~~
~~"permissible capital payment" (容許資本付款額) means the payment permitted by section 49I.~~

~~(2) In sections 49 to 49R, references to "payment out of capital" (從資本中撥款支付) are to be construed in accordance with section 49I. — <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R *>~~

~~(Added 77 of 1991 s. 4)~~
~~[cf. 1985 c. 6 s. 181 U.K.]~~

~~Section:~~	~~50~~	~~Power to issue shares at a discount~~		~~30/06/1997~~

~~(1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued:~~

~~Provided that -~~

~~(a) the issue of the shares at a discount must be authorized by resolution passed in general meeting of the company, and must be sanctioned by the court;~~
~~(b) the resolution must specify the maximum rate of discount at which the shares are to be issued;~~
~~(c) not less than 1 year must at the date of the issue have elapsed since the date on which the company was entitled to commence business;~~
~~(d) the shares to be issued at a discount must be issued within 1 month after the date on which the issue is sanctioned by the court or within such extended time as the court may allow.~~

~~(2) Where a company has passed a resolution authorizing the issue of shares at a discount, it may apply to the court for an order sanctioning the issue, and on any such application the court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.~~

~~(3) Every prospectus relating to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the prospectus. If default is made in complying with this subsection, 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. (Amended 80 of 1974 s. 8; 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 47 U.K.]~~

~~Section:~~	~~51~~	~~Power of company to arrange for different amounts being paid on shares~~		~~30/06/1997~~

~~Miscellaneous Provisions as to Share Capital~~

~~A company, if so authorized by its articles, may do any one or more of the following things -~~

~~(a) make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;~~

~~(b) accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;~~

~~(c) pay dividend in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.~~

~~[cf. 1929 c. 23 s. 48 U.K.]~~

~~Section:~~	~~52~~	~~Reserve liability of limited company~~		~~30/06/1997~~

~~A limited company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.~~

~~[cf. 1929 c. 23 s. 49 U.K.]~~

~~Section:~~	~~53~~	~~Power of company limited by shares to alter its share capital~~		~~30/06/1997~~

~~(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorized by its articles, may alter the conditions of its memorandum as follows, that is to say, it may -~~

~~(a) increase its share capital by new shares of such amount as it thinks expedient;~~

~~(b) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;~~

~~(c) convert all or any of its paid-up shares into stock, and re-convert that stock into paid-up shares of any denomination;~~

~~(d) subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;~~

~~(e) cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.~~

~~(2) The powers conferred by this section must be exercised by the company in general meeting.~~

~~(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Ordinance.~~

~~[cf. 1929 c. 23 s. 50 U.K.]~~

~~Section:~~	~~54~~	~~Notice to Registrar of consolidation of share capital, conversion of shares into stock, &c.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) If a company having a share capital has -~~

~~(a) consolidated and divided its share capital into shares of larger amount than its existing shares; or~~

~~(b) converted any shares into stock; or~~

~~(c) re-converted stock into shares; or~~

~~(d) subdivided its shares or any of them; or~~

~~(e) redeemed any redeemable preference shares; or~~

~~(f) cancelled any shares, otherwise than in connexion with a reduction of share capital under section 58,~~

~~it shall within 1 month after so doing give notice thereof to the Registrar in the specified form, specifying the shares consolidated, divided, converted, subdivided, redeemed or cancelled, or the stock re-converted, as the case may be.~~

~~(Amended 28 of 2003 s. 25)~~

~~(2) If default is made in complying with this section, 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. (Amended 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 51 U.K.]~~

~~Section:~~	~~55~~	~~Notice of increase of capital~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall, subject to subsection (1A), within 15 days after the passing of the resolution authorizing the increase, give to the Registrar notice of the increase, and the Registrar shall record the increase. (Amended 28 of 2003 s. 26)~~

~~(1A)Where the increase in the share capital of the company takes effect on a date after the date on which the resolution authorizing the increase is passed, the notice referred to in subsection (1) shall be given to the Registrar within 15 days after the increase takes effect. (Added 28 of 2003 s. 26)~~

~~(2) The notice to be given as aforesaid shall be in the specified form and include such particulars as may be specified by the Registrar with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued. (Amended 3 of 1997 s. 18; 28 of 2003 s. 26)~~

~~(3) If default is made in complying with this section, 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. (Amended 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 52 U.K.]~~

~~Section:~~	~~56~~	~~Power of unlimited company to provide for reserve share capital on re-registration~~		~~30/06/1997~~

~~An unlimited company having a share capital may, by its resolution for re-registration as a limited company under section 19, do either or both of the following things, namely— (Amended 6 of 1984 s. 25)~~

~~(a) increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the company being wound up;~~

~~(b) provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the company being wound up.~~

~~[cf. 1929 c. 23 s. 53 U.K.]~~

~~Section:~~	~~57~~	~~Power of company to pay interest out of capital in certain cases~~		~~30/06/1997~~

~~Where any shares of a company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant:~~

~~Provided that—~~

~~(a) no such payment shall be made unless it is authorized by the articles or by special resolution;~~

~~(b) no such payment, whether authorized by the articles or by special resolution, shall be made without the previous sanction of the court;~~

~~(c) before sanctioning any such payment the court may, at the expense of the company, appoint a person to inquire and report to them as to the circumstances of the case, and may, before making the appointment, require the company to give security for the payment of the costs of the inquiry;~~

~~(d) the payment shall be made only for such period as may be determined by the court, and that period shall in no case extend beyond the close of the half year next after the half year during which the works or buildings have been actually completed or the plant provided;~~

~~(e) the rate of interest shall in no case exceed 8 per cent per annum; (Replaced 6 of 1984 s. 26)~~

~~(f) the payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid.~~

~~(Amended 80 of 1974 s. 9)~~

~~[cf. 1929 c. 23 s. 54 U.K.]~~

~~Section:~~	~~57A~~	~~Non voting shares and shares with different voting rights~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) In the case of a company the share capital of which is divided into different classes of shares and includes a class of shares (other than preference or preferred shares so described) the holders of which are not entitled to vote at general meetings of the company, the descriptive title of the shares of that class shall include the words "non voting" or the Chinese characters "無表決權" and those words or characters shall appear legibly on any share certificate, prospectus or directors' report issued by the company. (Amended 12 of 2010 s. 55)~~

~~(2) In the case of a company the share capital of which is divided into different classes of shares, every share certificate issued by the company shall contain in a prominent position a statement that its share capital is divided into different classes of shares; and such statement shall specify in respect of the shares of each class the nominal value thereof and the voting rights attached thereto.~~

~~(3) If default is made in complying with subsection (1) or (2), 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. (Amended 7 of 1990 s. 2)~~

~~(4) This section shall not apply to any share certificate, prospectus or report issued by a company before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).~~

~~(Added 6 of 1984 s. 27)~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~57B~~	~~Approval of company required for allotment of shares by directors~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~(1) Notwithstanding anything in a company's memorandum or articles, the directors shall not without the prior approval of the company in general meeting exercise any power of the company to allot shares:~~

~~Provided that no such prior approval shall be required in relation to the allotment of shares in the company under an offer made pro rata by the company to the members of the company, excluding for that purpose any member whose address is in a place where such offer is not permitted under the law of that place.~~

~~(2) Approval for the purposes of this section may be confined to a particular exercise of that power or may apply to the exercise of that power generally; and any such approval may be unconditional or subject to conditions.~~

~~(3) Any approval for the purposes of this section shall continue in force until—~~

~~(a) the conclusion of the annual general meeting commencing next after the date on which the approval was given; or~~

~~(b) the expiration of the period within which the next annual general meeting after that date is required by law to be held,~~

~~whichever is the earlier; but any approval may be previously revoked or varied by the company in general meeting.~~

~~(4) The directors may allot shares notwithstanding that an approval for the purposes of this section has ceased to be in force if the shares are allotted in pursuance of an offer, agreement or option made or granted by them while the approval was in force and they were authorized by the approval to make or grant an offer, agreement or option which would or might require shares to be allotted after the expiration of the approval.~~

~~(5) (Repealed 46 of 2000 s. 7)~~

~~(6) Any director who knowingly and wilfully contravenes, or permits or authorizes the contravention of, this section shall be liable to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(7) Nothing in this section shall affect the validity of any allotment of shares or require approval for the allotment to the founder members of a company of shares in the company which, by signing the memorandum, they have agreed to take. (Amended 30 of 2004 s. 2)~~

~~(8) This section shall not apply to any allotment of shares made by a company before—~~

~~(a) the beginning of the annual general meeting commencing next after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984); or~~

~~(b) the expiration of the period within which the next annual general meeting after the commencement of that Ordinance is required by law to be held,~~

~~whichever is the earlier.~~

~~(9) This section shall not apply to any allotment of shares made by a company in pursuance of an offer,~~

~~agreement or option made or granted by the company before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).~~

~~(Added 6 of 1984 s. 27)~~
~~[cf. 1980 c. 22 s. 14 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~57C~~	~~Validation of shares improperly issued~~		~~30/06/1997~~

~~Where a company has purported to issue or allot shares and the creation, issue or allotment of those shares was invalid by reason of any provision of this or any other Ordinance, or of the memorandum or articles of the company or otherwise, or the terms of issue or allotment were inconsistent with or unauthorized by any such provision, the court may, upon application made by the company or by a holder or mortgagee of any of those shares or by a creditor of the company, and upon being satisfied that in all the circumstances it is just and equitable so to do, make an order validating the issue or allotment of those shares or confirming the terms of issue or allotment thereof, or both, and upon an office copy of the order being lodged with the Registrar those shares shall be deemed to have been validly issued or allotted upon the terms of the issue or allotment thereof.~~

~~(Added 6 of 1984 s. 27)~~

~~Section:~~	~~58~~	~~Special resolution for reduction of share capital~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~**Reduction of Share Capital**~~

~~(1) Subject to confirmation by the court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorized by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may-~~

~~(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or~~
~~(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or~~
~~(c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the company,~~

~~and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.~~

~~(1A) Except as provided in this Ordinance, no company limited by shares or limited by guarantee and having a share capital shall purchase or subscribe for any shares in the company or reduce its share capital in any way; and this subsection shall apply as if any share premium account or capital redemption reserve fund of a company were paid up share capital of the company. (Added 6 of 1984 s. 28)~~

~~(1B) If a company purports to act in contravention of subsection (1A),-~~

~~(a) the company is liable to a fine;~~
~~(b) every officer who is in default is liable to imprisonment and a fine; and~~
~~(c) a relevant shareholder within the meaning given in the Thirteenth Schedule who knowingly permits the contravention of subsection (1A) is liable to imprisonment and a fine. (Added 77 of 1991 s. 5)~~

~~(1C) Subject to section 168A, if a company purchases any shares in itself under sections 49 to 49S, no such purchase shall be void by reason only of a failure to comply with any of those provisions. <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *> (Added 77 of 1991 s. 5. Amended 28 of 2003 s. 27)~~

~~(1D) Notwithstanding subsection (1C), a purchase which contravenes section 49B(6) is void. (Added 77 of 1991 s. 5)~~

~~(2) A special resolution under this section is in this Ordinance referred to as a resolution for reducing share capital.~~

~~(3) Confirmation by the court of a reduction of the share capital of a company is not required under subsection~~

~~(1) if the sole purpose of the reduction is to re-designate the nominal value of the shares of the company to a lower amount and the following conditions are satisfied—~~

~~(a) the company has only one class of shares;~~

~~(b) all issued shares are fully paid-up and the amount of the net assets of the company is not less than its paid-up share capital;~~

~~(c) the reduction applies to and affects all shares equally;~~

~~(d) the amount arising from the reduction is not less than an amount representing the difference between the amount of the company's fully paid-up share capital immediately before the reduction and the amount of its fully paid-up share capital immediately after the reduction; and~~

~~(e) the amount arising from the reduction is credited to the share premium account of the company. (Added 28 of 2003 s. 27)~~

~~(4) In this section, "net assets" (淨資產), in relation to a company, has the same meaning as in section 157HA(15). (Added 28 of 2003 s. 27)~~

~~[cf. 1929 c. 23 s. 55 U.K.; cf. 1985 c. 6 s. 143 U.K.]~~

~~Section:~~	~~59~~	~~Application to court for confirming order, objections by creditors and settlement of list of objecting creditors~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company has passed a resolution for reducing share capital, it may apply by petition to the court for an order confirming the reduction.~~

~~(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, the following provisions shall have effect, subject nevertheless to subsection (3)—~~

~~(a) every creditor of the company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding-up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction;~~

~~(b) the court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;~~

~~(c) where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating, as the court may direct, the following amount—~~

~~(i) if the company admits the full amount of the debt or claim, or, though not admitting it is willing to provide for it, then the full amount of the debt or claim;~~

~~(ii) if the company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and adjudication as if the company were being wound up by the court.~~

~~(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, the court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) shall not apply as regards any class or any classes of creditors.~~

~~(4) This section does not apply to a reduction of the share capital of a company for which, by virtue of section 58(3), confirmation by the court is not required. (Added 28 of 2003 s. 28)~~

~~[cf. 1929 c. 23 s. 56 U.K.]~~

~~Section:~~	~~60~~	~~Order confirming reduction and powers of court on making such order~~		~~30/06/1997~~

~~(1) The court, if satisfied, with respect to every creditor of the company who under section 59 is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.~~

~~(2) (3) (Repealed 6 of 1984 s. 29)~~

~~[cf. 1929 c. 23 s. 57 U.K.]~~

~~Section:~~	~~61~~	~~Registration of order and minute of reduction~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) In the case of a reduction of the share capital of a company that is subject to confirmation by the court under section 58, the Registrar, on production to him of an order of the court confirming the reduction of the share capital of the company, and the delivery to him of a copy of the order and of a minute approved by the court, showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the order and minute. (Amended 28 of 2003 s. 29)~~

~~(2) On the registration of the order and minute, and not before, the resolution for reducing share capital as confirmed by the order so registered shall take effect.~~

~~(3) Notice of the registration shall be published in such manner as the court may direct.~~

~~(4) The Registrar shall issue a certificate, with his signature or printed signature, certifying the registration of the order and minute, and the certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute. (Replaced 28 of 2003 s. 29)~~

~~(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.~~

~~(6) The substitution of any such minute as aforesaid for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section 27.~~

~~[cf. 1929 c. 23 s. 58 U.K.]~~

~~Section:~~	~~61A~~	~~Registration of special resolution, minute and statement where court confirmation is not required~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company has passed a resolution for reducing share capital under section 58 and, by virtue of section 58(3), confirmation of the reduction by the court is not required, the Registrar, on production to him of a copy of the resolution certified as correct by an officer of the company and the delivery to him of—~~

~~(a) a copy of a minute, certified as correct by an officer of the company, showing with respect to the share capital of the company, as altered by the resolution, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share; and~~

~~(b) a statement in the specified form signed by an officer of the company, certifying that the conditions set out in section 58(3)(a), (b), (c), (d) and (e) have been satisfied,~~

~~shall register the resolution, minute and statement.~~

~~(2) On the registration of the resolution, minute and statement, and not before, the resolution for reducing share capital shall take effect.~~

~~(3) Notice of the registration shall be published in such manner as the Registrar may direct.~~

~~(4) The Registrar shall issue a certificate, with his signature or printed signature, certifying the registration of the resolution, minute and statement, and the certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to the reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.~~

~~(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained in the memorandum.~~

~~(6) The substitution of any such minute for part of the memorandum of the company shall be deemed to be an alteration of the memorandum within the meaning of section 27.~~

~~(Added 28 of 2003 s. 30)~~

~~Section:~~	~~62~~	~~Liability of members in respect of reduced shares~~		~~30/06/1997~~

~~(1) In the case of a reduction of share capital, a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been~~

~~paid, on the share, as the case may be:~~

~~Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the company is unable, within the meaning of the provisions of this Ordinance with respect to winding up by the court, to pay the amount of his debt or claim, then~~ ~~(Amended L.N. 587 of 1995)~~

~~(a) every person who was a member of the company at the date of the registration of the order for reduction and minute, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and~~

~~(b) if the company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.~~

~~(2) Nothing in this section shall affect the rights of the contributories among themselves.~~

~~[cf. 1929 c. 23 s. 59 U.K.]~~

~~Section:~~	~~63~~	~~Penalty for concealing name of creditor~~		~~30/06/1997~~

~~If any officer of the company-~~

~~(a) wilfully conceals the name of any creditor entitled to object to the reduction; or~~

~~(b) wilfully misrepresents the nature or amount of the debt or claim of any creditor; or~~

~~(c) aids, abets or is privy to any such concealment or misrepresentation as aforesaid,~~

~~he shall be guilty of an offence and liable to imprisonment and a fine.~~

~~(Replaced 6 of 1984 s. 30. Amended 7 of 1990 s. 2)~~

~~[cf. 1948 c. 38 s. 71 U.K.]~~

~~Section:~~	~~63A~~	~~Variation of rights attached to special classes of shares~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Variation of Shareholders' Rights~~

~~(1) Where, in the case of a company the share capital of which is divided into different classes of shares, special rights are attached to any such class of shares otherwise than by the memorandum and the articles do not provide for the variation of those rights, the articles shall be deemed to contain provision that such rights shall not be varied except with the consent in writing of the holders of three-fourths in nominal value of the issued shares of the class in question or with the sanction of a special resolution passed at a separate general meeting of the holders of that class.~~

~~(2) Where, in the case of a company the share capital of which is divided into different classes of shares, special rights are attached to any such class of shares by the memorandum and provision for the variation of those rights is, at the time of the company's incorporation, contained in the articles, those rights shall be capable of variation in accordance with the articles as for the time being in force, even if no reference is made in the memorandum to their variation in that manner.~~

~~(3) Where, in the case of a company the share capital of which is divided into different classes of shares, special rights are attached to any such class of shares by the memorandum and the memorandum and articles do not contain provision with respect to the variation of the rights, those rights may be varied if all the members of the company agree to the variation.~~

~~(4) Where the articles of a company contain, or by virtue of this section are deemed to contain, a provision for the variation of the rights attached to any class of shares, those rights shall not be capable of variation otherwise than in accordance with that provision.~~

~~(5) Any provision deemed by virtue of this section to be contained in a company's articles shall be subject to alteration in like manner as a provision in fact contained therein; but any alteration of a provision for the variation of the rights attached to a class of shares which is, or by virtue of this section is deemed to be, contained in a company's articles or the insertion of any such provision into a company's articles shall itself be treated as a variation of those rights.~~

~~(6) Sections 114, 114A, 114AA and 115A and the provisions of the articles relating to general meetings shall,~~

~~so far as applicable, apply in relation to any meeting of shareholders required by virtue of this section or otherwise to take place in connection with the variation of the rights attached to a class of shares, and shall so apply with the necessary modifications and subject to the following. (Amended 28 of 2003 s. 31)~~

~~(a) the necessary quorum at any such meeting other than an adjourned meeting shall be 2 persons holding or representing by proxy at least one-third in nominal value of the issued shares of the class in question, and at an adjourned meeting 1 person holding shares of the class in question or his proxy;~~

~~(b) any holder of shares of the class in question present in person or by proxy may demand a poll.~~

~~(7) Section 64 shall apply where a company's articles are by virtue of subsection (1) deemed to contain a provision for the variation of the rights attached to a class of shares as it applies where the articles in fact contain such a provision.~~

~~(8) In this section and, except where the context otherwise requires, in any provision for the variation of the rights attached to a class of shares contained in a company's articles, references to the variation of those rights shall include references to their abrogation.~~

~~(9) Nothing in subsection (4) shall be construed as derogating from the powers of the court under section 166, 167 or 168A.~~

~~(Added 6 of 1984 s. 31)~~

~~[cf. 1980 c. 22 s. 32 U.K.]~~

~~Section:~~	~~64~~	~~Rights of holders of special classes of shares~~		~~30/06/1997~~

~~(1) If in the case of a company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorizing the variation of the rights attached to any class of shares in the company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than 10 per cent in nominal value of the issued shares of that class may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court. (Amended 6 of 1984 s. 32)~~

~~(1A)Nothing in this section shall affect the right of any member of the company to apply to the court by petition under section 168A. (Added 6 of 1984 s. 32)~~

~~(2) An application under this section must be made within 28 days after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose. (Amended 6 of 1984 s. 32)~~

~~(3) On any such application the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.~~

~~(4) The decision of the court on any such application shall be final.~~

~~(5) The company shall within 21 days after the making of an order by the court on any such application forward a copy of the order to the Registrar, and, if default is made in complying with this provision, 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. (Amended 6 of 1984 s. 32; 7 of 1990 s. 2)~~

~~(6) In this section, "variation" (更改) includes abrogation and "varied" (被更改) shall be construed accordingly.~~

~~[cf. 1929 c. 23 s. 61 U.K.]~~

~~Section:~~	~~64A~~	~~Documents relating to rights of holders of special classes of shares to be filed with Registrar~~	~~46 of 2000~~	~~01/07/2000~~

~~Every company the share capital of which is divided into different classes of shares shall deliver to the Registrar for filing~~

~~(a) a copy of any document or resolution attaching rights to any class of shares in the company which is not otherwise required by this Ordinance to be so filed;~~

~~(b) (c) (Repealed 46 of 2000 s. 8)~~

~~(Added 6 of 1984 s. 33)~~

~~Section:~~	~~65~~	~~Nature of shares~~		~~30/06/1997~~

~~Transfer of Shares and Debentures, Evidence of Title~~

~~The shares or other interest of any member in a company shall be personal estate, transferable in manner provided by the articles of the company, and shall not be of the nature of real estate.~~

~~(Replaced 6 of 1984 s. 34)~~
~~[cf. 1948 c. 38 s. 73 U.K.]~~

~~Section:~~	~~65A~~	~~Numbering of shares~~		~~30/06/1997~~

~~(1) Subject to subsections (2) and (3), each share in a company having a share capital shall be distinguished by its appropriate number.~~

~~(2) If at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank pari passu for all purposes, none of those shares need thereafter have a distinguishing number, so long as it remains fully paid up and ranks pari passu for all purposes with all shares of the same class for the time being issued and fully paid up.~~

~~(3) Where new shares are issued by a company on the terms that, within a period not exceeding 12 months, they will rank pari passu for all purposes with all the existing shares, or all the existing shares of a particular class, in the company, neither the new shares nor the corresponding existing shares need have distinguishing numbers so long as all of them are fully paid up and rank pari passu but the share certificates of the new shares shall, if not numbered, be appropriately worded or enfaced.~~

~~(Added 6 of 1984 s. 34)~~
~~[cf. 1948 c. 38 s. 74 U.K.]~~

~~Section:~~	~~66~~	~~Transfer not to be registered except on production of instrument of transfer~~		~~30/06/1997~~

~~Notwithstanding anything in the articles of a company, it shall not be lawful for the company to register a transfer of shares in or debentures of the company unless a proper instrument of transfer has been delivered to the company:~~

~~Provided that nothing in this section shall prejudice any power of the company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the company has been transmitted by operation of law.~~

~~[cf. 1929 c. 23 s. 63 U.K.]~~

~~Section:~~	~~67~~	~~Transfer by personal representative~~		~~30/06/1997~~

~~A transfer of the share or other interest of a deceased member of a company made by his personal representative shall, although the personal representative is not himself a member of the company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.~~

~~[cf. 1929 c. 23 s. 64 U.K.]~~

~~Section:~~	~~68~~	~~Registration of transfer at request of transferor~~		~~30/06/1997~~

~~On the application of the transferor of any share or interest in a company, the company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.~~

~~[cf. 1929 c. 23 s. 65 U.K.]~~

~~Section:~~	~~69~~	~~Notice of refusal to register transfer~~		~~30/06/1997~~

~~(1) If a company refuses to register a transfer of any shares or debentures, the company shall, within 2 months~~

~~after the date on which the transfer was lodged with the company, send to the transferor and the transferee notice of the refusal. (Amended 6 of 1984 s. 35)~~

~~(1A) Where a company refuses to register any person as a member in respect of shares which have been transmitted to him by operation of law, that person shall be entitled to call on the company to furnish a statement of the reasons for the refusal, and, if the company fails to furnish such statement within a period of 28 days after the request therefor, the company shall, on the expiration of that period, register the transfer forthwith:~~

~~Provided that nothing in this subsection shall affect the rights of any member under the articles whereby he is entitled to any rights of pre-emption over, or rights of purchasing, the shares in question. (Added 6 of 1984 s. 35)~~

~~(1B) Where a company refuses to register a transfer of any shares, the transferee may apply to the court to have the transfer registered by the company; and the court may, if it is satisfied that the application is well-founded, disallow the refusal and order that the transfer be registered forthwith by the company. (Added 6 of 1984 s. 35)~~

~~(2) If default is made in complying with this section or any order made thereunder, 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. (Replaced 6 of 1984 s. 35; Amended 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 66 U.K.]~~

~~Section:~~	~~69A~~	~~Certification of transfers~~		~~30/06/1997~~

~~(1) The certification by a company of any instrument of transfer of shares in or debentures of the company shall be taken as a representation by the company to any person acting on the faith of the certification that there have been produced to the company such documents as on the face of them show a prima facie title to the shares or debentures in the transferor named in the instrument of transfer, but not as a representation that the transferor has any title to the shares or debentures.~~

~~(2) Where any person acts on the faith of a false certification by a company made negligently, the company shall be under the same liability to him as if the certification had been made fraudulently.~~

~~(3) For the purposes of this section-~~

~~(a) an instrument of transfer shall be deemed to be certificated if it bears the words "certificate lodged" or words in English or in Chinese to the like effect; (Amended 3 of 1997 s. 19)~~

~~(b) the certification of an instrument of transfer shall be deemed to be made by a company if-~~

~~(i) the person issuing the instrument is a person authorized, or having apparent authority as agent, to issue certificated instruments of transfer on the company's behalf; and~~

~~(ii) the certification is signed by a person authorized, or having apparent authority as agent, to certificate transfers on the company's behalf or by any officer or servant either of the company or of a body corporate so authorized or having such apparent authority;~~

~~(c) a certification shall be deemed to be signed by any person if-~~

~~(i) it purports to be authenticated by his signature or initials (whether handwritten or not); and~~

~~(ii) it is not shown that the signature or initials was or were placed there neither by himself nor by any person authorized , or having apparent authority as agent, to use the signature or initials for the purpose of certificating transfers on the company's behalf.~~

~~(Added 6 of 1984 s. 36)~~

~~[cf. 1948 c. 38 s. 79 U.K.]~~

~~Section:~~	~~70~~	~~Duties of company with respect to issue of certificates~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Every company shall, within 2 months after the allotment of any of its shares, debentures or debenture stock, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock so allotted, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide. (Replaced 28 of 2003 s. 32)~~

~~(1A) Every company (other than a private company) shall, within 10 business days after the date on which a transfer of any of its shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock so transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide. (Added 28 of 2003 s. 32)~~

~~(1B) Every private company shall, within 2 months after the date on which a transfer of any of its shares, debentures or debenture stock is lodged with the company, complete and have ready for delivery the certificates of all shares, the debentures and the certificates of all debenture stock so transferred, unless the conditions of issue of the~~

~~shares, debentures or debenture stock otherwise provide. (Added 28 of 2003 s. 32)~~

~~(2) If default is made in complying with this section, 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. (Replaced 6 of 1984 s. 37. Amended 7 of 1990 s. 2)~~

~~(3) If any company on whom a notice has been served requiring the company to make good any default in complying with the provisions of subsection (1), (1A) or (1B) fails to make good the default within 10 days after the service of the notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the company and any officer of the company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the company or by any officer of the company responsible for the default. (Amended 28 of 2003 s. 32)~~

~~(4) In this section-~~

~~"business day" (營業日) means any day on which a recognized stock market is open for the business of dealing in securities;~~

~~"transfer" (轉讓書) means a transfer duly stamped and otherwise valid, and does not include such a transfer as the company is for any reason entitled to refuse to register and does not register. (Added 28 of 2003 s. 32)~~

~~[cf. 1929 c. 23 s. 67 U.K.]~~

~~Section:~~	~~71~~	~~Certificate to be evidence of title~~		~~30/06/1997~~

~~A certificate, under the common seal of the company or the seal kept by the company under section 73A, specifying any shares held by any member, shall be prima facie evidence of the title of the member to the shares.~~

~~(Amended 6 of 1984 s. 38)~~

~~[cf. 1929 c. 23 s. 68 U.K.]~~

~~Section:~~	~~71A~~	~~Procedure for replacement of lost certificate~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~(1) Any person who is a registered holder of shares in a company or who claims to be entitled to have his name entered in the register of members of a company in respect of shares in that company may, if it appears that the certificate (in this section referred to as the "original certificate") relating to the shares is lost, apply to the company in the specified form for a new certificate in respect of such shares (in this section referred to as the "relevant shares"). (Amended 3 of 1997 s. 20)~~

~~(2) An application to a company under this section for a new certificate shall be accompanied by a statutory declaration made by the applicant stating the grounds upon which the application is made and, in particular-~~

~~(a) when the original certificate was last in the applicant's possession and how he ceased to have possession thereof;~~

~~(b) whether the applicant has executed any transfer in respect of the relevant shares, in blank or otherwise;~~

~~(c) that no other person is entitled to have his name entered in the register of members of the company in respect of the relevant shares; and~~

~~(d) such other particulars as the case may require in order to verify the grounds upon which the application is made.~~

~~(3) Subject to subsection (4), where an application is made to a company under this section for a new certificate, the company shall, if it intends to issue such certificate under this section, publish a notice in the specified form advertising its intention to do so, as follows- (Amended 3 of 1997 s. 20)~~

~~(a) if the application is made by the registered holder of the relevant shares or by a person other than the registered holder with his consent and in either case the latest value of the relevant shares does not exceed $20000, the notice shall be published once in, respectively, an English language newspaper and a Chinese language newspaper specified in a list of newspapers issued for the purposes of this section by the Chief Secretary for Administration and published in the Gazette; (Amended L.N. 67 of 1985; L.N. 242 of 1989; L.N. 362 of 1997)~~

~~(b) if the application is made by a person other than the registered holder of the relevant shares without his consent or the latest value of the relevant shares exceeds $20000, the notice shall be published in the Gazette once in each of 3 consecutive months,~~

~~and for the purposes of this subsection "latest value" (最近價值), in relation to the relevant shares, means the value~~

~~thereof calculated at the last recorded price paid for shares in the company of the same class, prior to the application, at the recognized stock market concerned. (Amended 5 of 2002 s. 407)~~

~~(4) A notice which it is proposed to publish under subsection (3) shall not be published until, and any publication thereof shall not be valid for the purposes of this section unless, the following requirements are first complied with—~~

~~(a) the company has delivered a copy of the notice to the recognized stock market concerned and an authorized officer thereof has certified to the company in writing that such copy is being exhibited in accordance with subsection (5); (Amended 5 of 2002 s. 407)~~

~~(b) where the notice relates to an application made by a person other than the registered holder of the relevant shares without the consent of the registered holder—~~

~~(i) the company has served a copy of the notice on the registered holder by sending it by registered post to his last address appearing in the register of members of the company; and~~

~~(ii) a period of 3 months has expired since the date of service of such copy.~~

~~(5) Each recognized stock market shall set aside a conspicuous place therein for posting and exhibiting all copies of notices delivered to it under subsection (4)(a), and shall keep every such copy exhibited in such place for a period of not less than— (Amended 5 of 2002 s. 407)~~

~~(a) in the case of an application referred to in subsection (3)(a), 1 month;~~

~~(b) in the case of an application referred to in subsection (3)(b), 3 months.~~

~~(6) A company shall not issue a new certificate under this section unless—~~

~~(a) the company has published a notice under subsection (3) advertising its intention to do so and—~~

~~(i) in the case of a notice published under subsection (3)(a), a period of not less than 1 month from the latest valid publication thereof has expired; or~~

~~(ii) in the case of a notice published under subsection (3)(b), a period of not less than 3 months from the first valid publication thereof has expired; and~~

~~(b) the company has not received notice of any other claim in respect of the relevant shares; and~~

~~(c) where the applicant for the new certificate is a person other than the registered holder of the relevant shares—~~

~~(i) an instrument of transfer in respect of the relevant shares is delivered to the company under section 66; or~~

~~(ii) if, in the case of an application made without the consent of the registered holder, such instrument has not been delivered, and the applicant is unable to procure its delivery, to the company under section 66, the company has caused an instrument of transfer in respect of the relevant shares to be executed on behalf of the registered holder by any person appointed by the company and on his own behalf by the applicant.~~

~~(7) Where a company issues a new certificate under this section, it shall forthwith cancel the original certificate and make such entry in the register of members of the company as the case may require in order to record such issue and cancellation and, where the new certificate is issued to a person other than the registered holder of the relevant shares, any instrument of transfer caused to be executed by the company under subsection (6)(c)(ii) shall, for the purpose of registering the relevant shares in the name of that person, be deemed to be an instrument of transfer duly delivered to the company under section 66.~~

~~(8) Every company which issues a new certificate under this section shall, not later than 14 days from the date of issue of the new certificate, give public notice of the issue thereof and of the cancellation of the original certificate by publishing a notice in the Gazette in the specified form and the company shall deliver a copy of the notice to the recognized stock market concerned. (Amended 3 of 1997 s. 20; 5 of 2002 s. 407)~~

~~(9) Where a company fails to publish a notice as required by subsection (8), 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. (Amended 7 of 1990 s. 2)~~

~~(10) Where a new certificate is issued by a company under this section, the following shall apply—~~

~~(a) save as otherwise provided in this subsection, nothing in this section shall affect the power of the court to make an order under section 100 in favour of any person claiming to be entitled to the relevant shares as against the person to whom the new certificate is issued or any person whose name is subsequently entered in the register of members of the company in respect of the relevant shares, but no such order shall be made as against a bona fide purchaser;~~

~~(b) in any case where the court makes an order under section 100 as against the person to whom the new certificate is issued or any person whose names is subsequently entered in the register of members of~~

~~the company in respect of the relevant shares, the court shall not order the payment of damages by the company and the company shall not otherwise be liable for any damage sustained by reason of the issue of the new certificate or the cancellation of the original certificate;~~

~~(c) where any person (in this paragraph referred to as "the claimant") would have been entitled but for this subsection to have his name entered in the register of members of the company in respect of the relevant shares or any of them—~~

~~(i) except where the company is shown to have acted deceitfully, the company shall not be liable for any damage sustained by the claimant by reason of the issue of the new certificate or the cancellation of the original certificate;~~

~~(ii) the person to whom the new certificate is issued shall, where the relevant shares or any of them are purchased from him by a bona fide purchaser, be liable in damages to the claimant for the value of the shares so purchased as at the date of purchase;~~

~~(iii) the person to whom the new certificate is issued and any other person (other than a bona fide purchaser) whose name is subsequently entered in the register of members of the company in respect of the relevant shares or any of them shall, where the relevant shares or any of them are purchased from such other person by a bona fide purchaser, be jointly and severally liable in damages to the claimant for the value of the shares so purchased as at the date of purchase.~~

~~(11) All expenses relating to an application under this section for the issue of a new certificate or the cancellation of an original certificate by any company shall be borne by the applicant, and the company may refuse to take any step in respect of the application until it is satisfied that reasonable provision for the payment of such expenses has been made.~~

~~(12) In this section—~~

~~"bona fide purchaser" (真誠購買人), in relation to any relevant shares, means any of the following—~~

~~(a) a person who purchases such shares in good faith for value and without notice of any defect in the title of the seller;~~

~~(b) a person who becomes entitled to such shares at any time after the purchase thereof by any other person in good faith for value and without notice of any defect in the title of the seller;~~

~~"company" (公司) means a company in the case of which shares are listed on a recognized stock market; (Amended 5 of 2002 s. 407)~~

~~"new certificate" (新股票) means a certificate issued under this section in replacement of an original certificate;~~

~~"registered holder" (登記持有人), in relation to shares in a company, means any person whose name is entered in the register of members of that company in respect of such shares.~~

~~(Added 69 of 1979 s. 2. Amended 10 of 1987 s. 11)~~

~~Section:~~	~~72~~	~~Evidence of grant of probate~~		~~30/06/1997~~

~~The production to a company of any document which is by law sufficient evidence of probate of the will, or letters of administration of the estate of a deceased person having been granted to some person shall be accepted by the company, notwithstanding anything in its articles, as sufficient evidence of the grant.~~

~~(Amended 6 of 1984 s. 39)~~

~~[cf. 1929 c. 23 s. 69 U.K.]~~

~~Section:~~	~~73~~	~~Issue and effect of share warrants to bearer~~		~~30/06/1997~~

~~(1) A company limited by shares, if so authorized by its articles, may, with respect to any fully paid up shares, issue under its common seal a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.~~

~~(2) Such a warrant as aforesaid is in this Ordinance termed a share warrant.~~

~~(3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.~~

~~[cf. 1929 c. 23 s. 70 U.K.]~~

~~Section:~~	~~73A~~	~~Official seals for sealing share certificates etc.~~		~~30/06/1997~~

~~(1) A company may have, for use for sealing securities issued by the company and for sealing documents creating or evidencing securities so issued, an official seal which is a facsimile of the common seal of the company with the addition on its face of the word "securities" or the expression in Chinese "證券" or both such word and expression. (Amended 3 of 1997 s. 21)~~

~~(2) A company which was incorporated before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) and which has such an official seal as is mentioned in subsection (1) may use the seal for sealing such securities and documents as are there mentioned notwithstanding anything in any instrument constituting or regulating the company or in any instrument made before such commencement which relates to any securities or documents if they are sealed with that seal. (Added 6 of 1984 s. 40)~~

~~[cf. 1976 c. 47 s. 2 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~74~~	~~Power to make compensation for losses from forged transfers~~		~~30/06/1997~~

~~(1) Every company having a share capital shall have power to make compensation by a cash payment out of its funds for any loss arising from a transfer of any shares in the company in pursuance of a forged transfer or of a transfer under a forged power of attorney, and, where the shares or stock of a company have by amalgamation or otherwise become the shares or stock of another company, that other company shall have the same power under this section as the original company would have had if it had continued.~~

~~(2) Every company may provide, by insurance or reservation of capital or accumulation of income, a fund to meet claims for such compensation.~~

~~(3) For the purpose of providing such compensation, any company may borrow on the security of its property.~~

~~(4) A company may, for the purposes of this section, impose such reasonable restrictions on the transfer of shares in the company, or with respect to powers of attorney for the transfer thereof, as it may deem necessary for guarding against losses arising from forgery.~~

~~(5) Where a company compensates any person under this section for any loss arising from forgery, the company shall, without prejudice to any other rights or remedies, have the same rights and remedies against the person liable for the loss as the person compensated would have had.~~

~~(Added 6 of 1984 s. 40)~~
~~[cf. 1891 c. 43 s. 1 U.K.; 1892 c. 36 s. 4 U.K.]~~

~~Section:~~	~~74A~~	~~Company's register of debenture holders~~		~~30/06/1997~~

~~Special Provisions as to Debentures~~

~~(1) Any company which issues a series of debentures or debenture stock not transferable by delivery shall keep a register, either in English or Chinese, of the holders of such debentures or debenture stock, and shall enter therein the following particulars (Amended 83 of 1995 s. 9)~~

~~(a) the names and addresses, and the occupations or descriptions, of the holders and a statement of the amount of such debentures or debenture stock held by each holder; (Amended 83 of 1995 s. 9)~~

~~(b) the date at which each person was entered in the register as the holder of such debentures or debenture stock;~~

~~(c) the date at which any person ceased to be a holder of any such debentures or debenture stock.~~

~~(2) The register of holders of debentures of a company shall be kept~~

~~(a) at the registered office of the company; or~~

~~(b) if the work of making it up is done at an office of the company other than the registered office of the company, at that other office; or~~

~~(c) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, at the office of that other person at which the work is done,~~

~~so, however, that it shall not be kept at a place outside Hong Kong.~~

~~(3) Every company shall send notice to the Registrar in the specified form of the place where the register~~

~~required to be kept by the company under this section is kept, and of any change in that place. (Amended 3 of 1997 s. 22)~~

~~(4) Where a company makes default in complying with subsection (1) or (2) or makes default for 14 days in complying with subsection (3), 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.~~

~~(Added 6 of 1984 s. 41. Amended 7 of 1990 s. 2)~~

~~[cf. 1948 c. 38 s. 86 U.K.]~~

~~Section:~~	~~74B~~	~~Construction of provision of instrument relating to form of register of debenture holders~~		~~30/06/1997~~

~~Any provision of an instrument made by a company which requires a register of holders of debentures of the company to be kept in a legible form shall be construed as requiring the register to be kept either—~~

~~(a) in a legible form; or~~

~~(b) in a non-legible form capable of being reproduced in a legible form.~~

~~(Added 6 of 1984 s. 41)~~

~~[cf. 1976 c. 47 s. 3(2) U.K.]~~

~~Section:~~	~~75~~	~~Rights of inspection of register of debenture holders and to copies of register and trust deed or other document~~		~~30/06/1997~~

~~(1) Every register of holders of debentures of a company shall, except when duly closed (but subject to such reasonable restrictions as the company may in general meeting impose, so that no less than 2 hours in each day shall be allowed for inspection), be open to the inspection of the registered holder of any such debentures or any holder of shares in the company without fee, and of any other person on payment of $1 or such less sum as may be prescribed by the company.~~

~~(2) Any person may require a copy of the register of the holders of debentures of the company or any part thereof on payment of $2 or such less sum as may be prescribed by the company for every 100 words or fractional part thereof required to be copied, and such copy shall be forwarded by the company to the person requiring it within 20 days of the receipt by the company of the request.~~

~~(3) A copy of any trust deed or other document for securing any issue of debentures shall be forwarded to any person requiring it within 20 days of the receipt by the company of the request, on payment in the case of a printed trust deed or other document of the sum of $4 or such less sum as may be prescribed by the company, or where the trust deed or other document has not been printed, on payment of $2 for every 100 words or fractional part thereof required to be copied.~~

~~(4) If inspection is refused, or a copy is refused or not forwarded within 20 days after the request therefor is received, 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. (Amended 7 of 1990 s. 2)~~

~~(5) Where a company is in default as aforesaid, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.~~

~~(6) For the purposes of this section, a register shall be deemed to be duly closed if it is closed under section 99.~~

~~(Replaced 6 of 1984 s. 42)~~

~~[cf. 1948 c. 38 s. 87 U.K.]~~

~~Section:~~	~~75A~~	~~Meetings of debenture holders~~		~~30/06/1997~~

~~(1) Where in the case of—~~

~~(a) debentures forming part of a series issued by a company and ranking pari passu with the other debentures of that series; or~~

~~(b) debenture stock,~~

~~the debentures or the trust deed or other document securing the debentures or stock provide for the holding of meetings of holders of debentures or stock, then subject to any provision so made, sections 113, 114B, 114C, 114D(2) and 114E shall apply in relation to such meetings and to the holders of the debentures or stock as they apply in relation to meetings of the company and members of the company.~~

~~(2) The sections mentioned in subsection (1) shall, in their application by virtue of that subsection, have effect~~

~~with the necessary modifications and as if for the reference in section 113(1) to the members there mentioned there were substituted a reference to holders of the debentures or stock entitled to exercise not less than one-tenth of the total voting rights of all holders having the right to vote at the meeting.~~

~~(Added 6 of 1984 s. 43)~~

~~Section:~~	~~75B~~	~~Liability of trustees for debenture holders~~		~~30/06/1997~~

~~(1) Subject to this section, any provision contained in a trust deed for securing an issue of debentures, or in any contract with the holders of debentures secured by a trust deed, shall be void in so far as it would have the effect of exempting a trustee thereof from or indemnifying him against liability for breach of trust where he fails to show the degree of care and diligence required of him as trustee, having regard to the provisions of the trust deed conferring on him any powers, authorities or discretions.~~

~~(2) Subsection (1) shall not invalidate-~~

~~(a) any release otherwise validly given in respect of anything done or omitted to be done by a trustee before the giving of the release; or~~

~~(b) any provision enabling such a release to be given-~~

~~(i) on the agreement thereto of a majority of not less than three-fourths in value of the debenture holders present and voting in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose; and~~

~~(ii) either with respect to specific acts or omissions or on the trustee dying or ceasing to act.~~

~~(3) Subsection (1) shall not operate-~~

~~(a) to invalidate any provision in force at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) so long as any person then entitled to the benefit of that provision or afterwards given the benefit thereof under subsection (4) remains a trustee of the deed in question; or~~

~~(b) to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision was in force.~~

~~(4) While any trustee of a trust deed remains entitled to the benefit of a provision saved by subsection (3), the benefit of that provision may be given either-~~

~~(a) to all trustees of the deed, present and future; or~~

~~(b) to any named trustees or proposed trustees thereof,~~

~~by a resolution passed by a majority of not less than three-fourths in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose in accordance with the provisions of the deed or, if the deed makes no provision for summoning meetings, a meeting summoned for the purpose in any manner approved by the court.~~

~~(Added 6 of 1984 s. 43)~~

~~[cf. 1948 c. 38 s. 88 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~76~~	~~Perpetual debentures~~		~~30/06/1997~~

~~A condition contained in any debentures or in any deed for securing any debentures, whether issued or executed before or after the commencement of this Ordinance shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.~~

~~[cf. 1929 c. 23 s. 74 U.K.]~~

~~Section:~~	~~77~~	~~Power to re-issue redeemed debentures on certain cases~~		~~30/06/1997~~

~~(1) Where either before or after the commencement of this Ordinance a company has redeemed any debentures previously issued, then-~~

~~(a) unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the company; or~~

~~(b) unless the company has, by passing a resolution to that effect or by some other act, manifested its~~

~~intention that the debentures shall be cancelled,~~

~~the company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.~~

~~(2) Subject to subsection (6), on a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.~~

~~(3) (Repealed 80 of 1974 s. 10)~~

~~(4) Where a company has either before or after the commencement of this Ordinance deposited any of its debentures to secure advances from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the company having ceased to be in debit whilst the debentures remained so deposited.~~

~~(5) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a company, whether the re-issue or issue was made before or after the commencement of this Ordinance, shall be treated as the issue of a new debenture for the purposes of stamp duty, but it shall not be so treated for the purposes of any provision limiting the amount or number of debentures to be issued:~~

~~Provided that any person lending money on the security of a debenture re-issued under this section which appears to be duly stamped may give the debenture in evidence in any proceedings for enforcing his security without payment of the stamp duty or any penalty in respect thereof, unless he had notice or, but for his negligence, might have discovered, that the debenture was not duly stamped, but in any such case the company shall be liable to pay the proper stamp duty and penalty.~~

~~(6) Where any debentures which have been redeemed before the commencement of this Ordinance are re-issued subsequently to that date, the re-issue of the debentures shall not prejudice and shall be deemed never to have prejudiced any right or priority which any person would have had under or by virtue of any mortgage or charge created before the commencement of this Ordinance, if section 106 of the Companies Ordinance 1911 (58 of 1911), as originally enacted, had been enacted in this Ordinance instead of this section.~~

~~(Amended 6 of 1984 s. 44)~~

~~[cf. 1929 c. 23 s. 75 U.K.]~~

~~Section:~~	~~78~~	~~Specific performance of contracts to subscribe for debentures~~		~~30/06/1997~~

~~A contract with a company to take up and pay for any debentures of the company may be enforced by an order for specific performance.~~

~~[cf. 1929 c. 23 s. 76 U.K.]~~

Section:	79	Payment of certain debts out of assets subject to floating charge in priority to claims under the charge		30/06/1997

(1) Where a receiver is appointed on behalf of the holders of any debentures of a company secured by a charge which, as created, was a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the company is not at the time in course of being wound up, the debts, which in every winding-up are under the provisions of Part V relating to preferential payments to be paid in priority to all other debts, shall, according to their respective priorities under section 265, be paid out of any assets coming to the hands of the receiver or other person taking possession as aforesaid in priority to any claim for principal or interest in respect of the debentures. (Amended 10 of 1987 s. 3)

(1A) In the application of the provisions of Part V, section 265 shall be construed as if the provision for payment of accrued holiday remuneration becoming payable on the termination of employment before or by the effect of the winding-up order or resolution were a provision for payment of such remuneration becoming payable on the termination of employment before or by the effect of the appointment of the receiver or possession being taken as aforesaid. (Added 6 of 1984 s. 45)

(2) The periods of time mentioned in the said provisions of Part V shall be reckoned from the date of the appointment of the receiver or of possession being taken as aforesaid, as the case may be.

(2A) Where the date referred to in subsection (2) occurred before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), subsections (1) and (2) shall have effect with the substitution, for references to the provisions of Part V, of references to the provisions which, by virtue of section 265(7) are deemed to remain in force in the case therein mentioned, and subsection (1A) shall not apply. (Added 6 of 1984 s. 45)

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the company

available for payment of general creditors.

(Amended 6 of 1984 s. 45)
[cf. 1925 c. 23 s. 78 U.K.]

Note:
*** Commencement date: 31 August 1984.**

~~Part:~~	~~IIA~~	~~DISTRIBUTION OF PROFITS AND ASSETS~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(Part IIA added 77 of 1991 s. 6)~~

~~Section:~~	~~79A~~	~~Interpretation~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S~~

~~(1) In this Part~~

~~"appointed day" (指定日期) means the date of commencement* of this Part under the Companies (Amendment) Ordinance 1991 (77 of 1991);~~

~~"called up share capital" (已催繳股本), in relation to a company, means so much of its share capital as equals the aggregate amount of the calls made on its shares (whether or not those calls have been paid), together with any share capital paid up without being called and any share capital to be paid on a specified future date under the articles, the terms of allotment of the relevant shares or any other arrangements for payment of those shares and "uncalled share capital" (未催繳股本) is to be construed accordingly;~~

~~"capitalisation" (資本化), in relation to a company's profits, means any of the following operations (whenever carried out)~~

~~(a) applying the profits in wholly or partly paying up unissued shares in the company to be allotted to members of the company as fully or partly paid bonus shares; or~~

~~(b) transferring the profits to capital redemption reserve;~~

~~"distribution" (分發) means every description of distribution of a company's assets to its members, whether in cash or otherwise, except distribution by way of~~

~~(a) an issue of shares as fully or partly paid bonus shares;~~

~~(b) the redemption or purchase of any of the company's own shares out of capital (including the proceeds of any fresh issue of shares) or out of unrealised profits in accordance with sections 49 to 49S; <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *>~~

~~(c) the reduction of share capital by extinguishing or reducing the liability of any of the members on any of the company's shares in respect of share capital not paid up, or by paying off paid up share capital; and~~

~~(d) a distribution of assets to members of the company on its winding up;~~

~~"net assets" (淨資產), in relation to a company, has the same meaning as in section 157HA(15). (Amended 28 of 2003 s. 33)~~

~~(2) References to profits and losses of any description are (respectively) to profits and losses of that description made at any time.~~

~~(3) Without prejudice to~~

~~(a) the construction of any other expression (where appropriate) by reference to accepted accounting principles or practice; or~~

~~(b) any specific provision for the treatment of profits of any description as realised,~~

~~it is declared that references in this Part to realised profits, in relation to a company's accounts, are to such profits of the company as fall to be treated as realised profits for the purposes of those accounts in accordance with principles generally accepted with respect to the determination for accounting purposes of realised profits at the time when those accounts are prepared.~~

~~[cf. 1985 c. 6 ss. 263, 264 & 280 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 1 September 1991.**~~

~~Section:~~	~~79B~~	~~Certain distributions prohibited~~		~~30/06/1997~~

~~(1) A company shall not make a distribution except out of profits available for the purpose.~~

~~(2) For the purposes of this Part, a company's profits available for distribution are its accumulated, realised profits, so far as not previously utilised by distribution or capitalisation, less its accumulated, realised losses, so far as not previously written off in a reduction or reorganisation of capital duly made.~~

~~(3) A company shall not apply an unrealised profit in paying up debentures, or any amounts unpaid on its issued shares.~~

~~(4) Where the directors of a company are, after making all reasonable enquiries, unable to determine whether a particular profit made before the appointed day is realised or unrealised, they may treat the profit as realised; and where after making such enquiries they are unable to determine whether a particular loss so made is realised or unrealised, they may treat the loss as unrealised.~~

~~[cf. 1985 c. 6 s. 263 U.K.]~~

~~Section:~~	~~79C~~	~~Restriction on distribution of assets~~		~~30/06/1997~~

~~(1) A listed company may only make a distribution at any time—~~

~~(a) if at that time the amount of its net assets is not less than the aggregate of its called up share capital and undistributable reserves; and~~

~~(b) if, and to the extent that, the distribution does not reduce the amount of those assets to less than that aggregate.~~

~~(2) A listed company's undistributable reserves are—~~

~~(a) the share premium account;~~

~~(b) the capital redemption reserve;~~

~~(c) the amount by which the company's accumulated, unrealised profits, so far as not previously utilised by capitalisation of a description to which this paragraph applies, exceed its accumulated, unrealised losses (so far as not previously written off in a reduction or reorganisation of capital duly made); and~~

~~(d) any other reserve which the company is prohibited from distributing by any enactment (other than one contained in this Part) or by its memorandum or articles,~~

~~and paragraph (c) applies to every description of capitalisation except a transfer of profits of the company to its capital redemption reserve on or after the appointed day.~~

~~(3) A listed company shall not include any uncalled share capital as an asset in any accounts relevant for the purposes of this section.~~

~~[cf. 1985 c. 6 s. 264 U.K.]~~

~~Section:~~	~~79D~~	~~Exemption of certain companies~~		~~30/06/1997~~

~~The Financial Secretary may, on the application of any listed company whose principal business consists of investing its funds in securities, land or other assets with the aim of spreading investment risk and giving its members the benefit of the results of the management of the assets, modify or exempt in relation to that company any of the requirements of sections 79B and 79C, subject to such terms and conditions as he may consider appropriate.~~

~~[cf. 1985 c. 6 s. 267 U.K.]~~

~~Section:~~	~~79E~~	~~Realised profits of insurance company with long term business~~		~~30/06/1997~~

~~(1) Where an insurance company to which Parts III to VI of the Insurance Companies Ordinance (Cap 41) apply carries on long term business—~~

~~(a) any amount properly transferred to the profit and loss account of the company from a surplus in the fund or funds maintained by it in respect of that business; and~~

~~(b) any deficit in that fund or those funds,~~

~~are to be (respectively) treated, for the purposes of this Part, as a realised profit and a realised loss; and, subject to this, any profit or loss arising in that business is to be left out of account for those purposes.~~

~~(2) In subsection (1)~~

~~(a) the reference to a surplus in any fund or funds of an insurance company is to an excess of the assets representing that fund or those funds over that liabilities of the company attributable to its long term business, as shown by an actuarial investigation; and~~

~~(b) the reference to a deficit in any such fund or funds is to the excess of those liabilities over those assets, as so shown.~~

~~(3) In this section~~

~~"actuarial investigation" (精算調查) means an investigation to which section 18 of the Insurance Companies Ordinance (Cap 41) applies or which is made in pursuance of a requirement imposed by section 32 of that Ordinance;~~

~~"long term business" (長期業務) has the same meaning as in the Insurance Companies Ordinance (Cap 41).~~

~~[cf. 1985 c. 6 s. 268 U.K.]~~

~~Section:~~	~~79F~~	~~Distribution to be justified by reference to company's accounts~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~79G, 79H, 79I, 79J, 79K, 79L~~

~~Relevant Accounts~~

~~(1) This section and sections 79G to 79L are for determining the question whether a distribution may be made by a company without contravening section 79B or 79C. <* Note - Exp. X-Ref.: Sections 79G, 79H, 79I, 79J, 79K, 79L *>~~

~~(2) The amount of a distribution which may be made is determined by reference to the following items as stated in the company's accounts~~

~~(a) profits, losses, assets and liabilities;~~

~~(b) provisions within the meaning of paragraph 30(1) of the Tenth Schedule (depreciation, renewals, diminution in value of assets, retentions to meet liabilities, etc.); and~~

~~(c) share capital and reserves (including undistributable reserves).~~

~~(3) Except in a case falling within subsection (4), the company's accounts which are relevant for this purpose are its last annual accounts, that is to say, those prepared under Part IV which were laid in respect of the last preceding financial year in respect of which accounts so prepared were laid; and for this purpose accounts are laid if section 122 has been complied with in relation to them.~~

~~(4) In the following 2 cases~~

~~(a) where the distribution would be found to contravene the relevant section if reference were made only to the company's last annual accounts; or~~

~~(b) where the distribution is proposed to be declared before any accounts are laid in compliance with section 122,~~

~~the accounts relevant under this section (called "interim accounts" in the first case, and "initial accounts" in the second) are those necessary to enable a reasonable judgment to be made as to the amounts of the items mentioned in subsection (2).~~

~~(5) The relevant section is treated as contravened in the case of a distribution unless the statutory requirement about the relevant accounts (that is, the requirement of this section and sections 79G, 79H and 79I, as and where applicable) are complied with in relation to that distribution.~~

~~[cf. 1985 c. 6 s. 270 U.K.]~~

~~Section:~~	~~79G~~	~~Requirement for last annual accounts~~		~~30/06/1997~~

~~(1) If the company's last annual accounts constitute the only accounts relevant under section 79F, the statutory requirements in respect of them are as follows.~~

~~(2) The accounts shall have been properly prepared in accordance with this Ordinance, or have been so prepared subject only to matters which are not material for determining, by reference to items mentioned in section 79F(2), whether the distribution would contravene that relevant section; and, without prejudice to the foregoing~~

~~(a) in the case of a company where the shareholders have agreed to apply the provisions of section 141D, so much of the accounts as consists of a balance sheet shall give a true and correct view of the state of~~

~~the company's affairs; and~~

~~(b) in the case of any other company—~~

~~(i) so much of the accounts as consists of a balance sheet shall give a true and fair view of the state of the company's affairs as at the balance sheet date; and~~

~~(ii) so much of the accounts as consists of a profit and loss account shall give a true and fair view of the company's profit or loss for the period in respect of which the accounts were prepared.~~

~~(3) The auditors shall have made their report on the accounts under section 141 or 141D as appropriate; and subsection (4) applies if the report is a qualified report, that is to say, it is not a report without qualification to the effect that in the auditors' opinion the accounts have been properly prepared in accordance with this Ordinance.~~

~~(4) The auditors shall in that case also have stated in writing (either at the time of their report or subsequently) whether, in their opinion, the matter in respect of which their report is qualified is material for determining, by reference to items mentioned in section 79F(2), whether the distribution would contravene the relevant section; and a copy of the statement shall have been laid before the company in general meeting.~~

~~(5) A statement under subsection (4) suffices for the purposes of a particular distribution not only if it relates to a distribution which has been proposed but also if it relates to distributions of any description which includes that particular distribution, notwithstanding that at the time of the statement it has not been proposed.~~

~~[cf. 1985 c. 6 s. 271 U.K.]~~

~~Section:~~	~~79H~~	~~Requirement for interim accounts~~		~~30/06/1997~~

~~(1) The following are the statutory requirements in respect of interim accounts prepared for a proposed distribution by a listed company.~~

~~(2) The accounts shall have been properly prepared, or have been so prepared subject only to matters which are not material for determining, by reference to items mentioned in section 79F(2), whether the proposed distribution would contravene the relevant section.~~

~~(3) "Properly prepared" (妥爲擬備) means that the accounts shall comply with section 123 (applying that section and the Tenth Schedule with such modifications as are necessary because the accounts are prepared otherwise than in respect of a financial year) and any balance sheet comprised in the accounts shall have been signed in accordance with section 129B; and, without prejudice to the foregoing—~~

~~(a) so much of the accounts as consists of a balance sheet shall give a true and fair view of the state of the company's affairs as at the balance sheet date; and~~

~~(b) so much of the accounts as consists of a profit and loss account shall give a true and fair view of the company's profit or loss for the period in respect of which the accounts were prepared.~~

~~(4) A copy of the accounts shall have been delivered to the Registrar.~~

~~(5) If the accounts are not in the English or Chinese language, a translation into English or Chinese of the accounts, certified in the prescribed manner to be a correct translation, shall also have been delivered to the Registrar. (Amended 83 of 1995 s. 10)~~

~~[cf. 1985 c. 6 s. 272 U.K.]~~

~~Section:~~	~~79I~~	~~Requirements for initial accounts~~		~~30/06/1997~~

~~(1) The following are the statutory requirements in respect of initial accounts prepared for a proposed distribution by a listed company.~~

~~(2) The accounts shall have been properly prepared, or they shall have been so prepared subject only to matters which are not material for determining, by reference to items mentioned in section 79F(2), whether the proposed distribution would contravene the relevant section.~~

~~(3) Section 79H(3) applies as respects the meaning of "properly prepared" (妥爲擬備).~~

~~(4) The company's auditors shall have made a report stating whether, in their opinion, the accounts have been properly prepared; and subsection (5) applies if their report is a qualified report, that is to say, it is not a report without qualification to the effect that in the auditors' opinion the accounts have been so prepared.~~

~~(5) The auditors shall in that case also have stated in writing whether, in their opinion, the matter in respect of which their report is qualified is material for determining, by reference to items mentioned in section 79F(2), whether the distribution would contravene the relevant section.~~

~~(6) A copy of the accounts, of the auditors' report under subsection (4) and of the auditors' statement (if any)~~

~~under subsection (5) shall have been delivered to the Registrar.~~

~~(7) If the accounts are, or the auditors' report under subsection (4) or the statement (if any) under subsection (5) is, in a language other than English or Chinese, a translation into English or Chinese of the accounts, the report or the statement (as the case may be) certified in the prescribed manner to be a correct translation, shall also have been delivered to the Registrar. (Amended 83 of 1995 s. 11)~~

~~[cf. 1985 c. 6 s. 273 U.K.]~~

~~Section:~~	~~79J~~	~~Method of applying section 79F to successive distributions~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~47A, 47B, 47C, 47D, 47E, 47F, 47G, 48~~

~~(1) For the purpose of determining by reference to particular accounts whether a proposed distribution may be made by a company, section 79F has effect, in a case where one or more distributions have already been made in pursuance of determinations made by reference to those same accounts, as if the amount of the proposed distribution was increased by the amount of the distributions so made.~~

~~(2) Subsection (1) applies (if it would not otherwise do so) to-~~

~~(a) financial assistance lawfully given by a listed company out of its distributable profits in a case where the assistance is required to be so given by section 47D;~~

~~(b) financial assistance lawfully given by an unlisted company out of its distributable profits in a case where the assistance is required to be so given by section 47E(2);~~

~~(c) financial assistance given by a company in contravention of section 47A, in a case where the giving of that assistance reduces the company's net assets or increases its net liabilities;~~

~~(d) a payment made by a company in respect of the purchase by it of shares in the company (except a payment lawfully made otherwise than out of distributable profits); and~~

~~(e) a payment of any description specified in section 49F (company's purchase of right to acquire its own shares, etc.),~~

~~being financial assistance given or payment made since the relevant accounts were prepared, as if any such financial assistance or payment were a distribution already made in pursuance of a determination made by reference to those accounts.~~

~~(3) In this section-~~

~~"financial assistance" (資助) has the same meaning as in sections 47A to 48; <* Note - Exp. X Ref.: Sections 47A, 47B, 47C, 47D, 47E, 47F, 47G, 48 *>~~

~~"net liabilities" (淨負債), in relation to the giving of financial assistance by a company, means the amount by which the aggregate amount of the company's liabilities (within the meaning of section 47D(2)(b)) exceeds the aggregate amount of its assets, taking the amount of the assets and liabilities to be as stated in the company's books of account immediately before the financial assistance is given.~~

~~[cf. 1985 c. 6 s. 274 U.K.]~~

~~Section:~~	~~79K~~	~~Treatment of assets in the relevant accounts~~		~~30/06/1997~~

~~(1) For the purposes of sections 79B and 79C, a provision of any kind mentioned in paragraph 30(1) of the Tenth Schedule, other than one in respect of a diminution in value of a fixed asset appearing on a revaluation of all the fixed assets of the company, or of all of its fixed assets other than goodwill, is treated as a realised loss.~~

~~(2) If, on the revaluation of a fixed asset, an unrealised profit is shown to have been made and, on or after the revaluation, a sum is written off or retained for depreciation of that asset over a period, then an amount equal to the amount by which that sum exceeds the sum which would have been so written off or retained for the depreciation of that asset over that period, if that profit had not been made, is treated for purposes of sections 79B and 79C as a realised profit made over that period.~~

~~(3) Where there is no record of the original cost of an asset, or a record cannot be obtained without unreasonable expense or delay, then for the purpose of determining whether the company has made a profit or loss in respect of that asset, its cost is taken to be the value ascribed to it in the earliest available record of its value made on or after its acquisition by the company.~~

~~(4) Subject to subsection (6), any consideration by the directors of the value at a particular time of a fixed asset is treated as a revaluation of the asset for the purposes of determining whether any such revaluation of the company's~~

~~fixed assets as is required for purposes of the exception from subsection (1) has taken place at that time.~~

~~(5) But where any such assets which have not actually been revalued are treated as revalued for those purposes under subsection (4), that exception applies only if the directors are satisfied that their aggregate value at the time in question is not less than the aggregate amount at which they are for the time being stated in the company's accounts.~~

~~(6) Where section 79G(2), 79H(2) or 79I(2) applies to the relevant accounts, subsections (4) and (5) do not apply for the purpose of determining whether a revaluation of the company's fixed assets affecting the amount of the relevant items (that is, the items mentioned in section 79F(2)) as stated in those accounts has taken place, unless it is stated in a note to the accounts-~~

~~(a) that the directors have considered the value at any time of any fixed assets of the company, without actually revaluing those assets;~~

~~(b) that they are satisfied that the aggregate value of those assets at the time in question is or was not less than the aggregate amount at which they are or were for the time being stated in the company's accounts; and~~

~~(c) that the relevant items in question are accordingly stated in the relevant accounts on the basis that a revaluation of the company's fixed assets which by virtue of subsections (4) and (5) included the assets in question took place at that time.~~

~~(7) For the purposes of this section, assets of a company are taken to be fixed assets if they are intended for use or otherwise to be held on a continuing basis in the company's activities.~~

~~[cf. 1985 c. 6 s. 275 U.K.]~~

~~Section:~~	~~79L~~	~~Distributions in kind~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~79F, 79G, 79H, 79I, 79J, 79K~~

~~Where a company makes a distribution of or including a non-cash asset, and any part of the amount at which that asset is stated in the accounts relevant for the purposes of the distribution in accordance with sections 79F to 79K represents an unrealised profit, that profit is to be treated as a realised profit for the purpose of determining the lawfulness of the distribution in accordance with this Part (whether before or after the distribution takes place). <* Note - Exp. X-Ref.: Sections 79F, 79G, 79H, 79I, 79J, 79K *>~~

~~[cf. 1985 c. 6 s. 276 U.K.]~~

~~Section:~~	~~79M~~	~~Consequences of unlawful distribution~~		~~30/06/1997~~

~~Supplementary~~

~~(1) Where a distribution, or part of one, made by a company to one of its members is made in contravention of this Part and, at the time of the distribution, he knows or has reasonable grounds for believing that it is so made, he is liable to repay it (or that part of it, as the case may be) to the company or (in the case of a distribution made otherwise than in cash) to pay the company a sum equal to the value of the distribution (or part) at that time.~~

~~(2) Subsection (1) is without prejudice to any obligation imposed apart from this section on a member of a company to repay a distribution unlawfully made to him; but this section does not apply in relation to-~~

~~(a) financial assistance given by a company in contravention of section 47A; or~~

~~(b) any payment made by a company in respect of the redemption or purchase by the company of shares in itself.~~

~~[cf. 1985 c. 6 s. 277 U.K.]~~

~~Section:~~	~~79N~~	~~Saving for provision in articles operative before the appointed day~~		~~30/06/1997~~

~~Where immediately before the appointed day a company was authorized by a provision of its articles to apply its unrealised profits in paying up in full or in part unissued shares to be allotted to members of the company as fully or partly paid bonus shares, that provision continues (subject to any alteration of the articles) as authority for those profits to be so applied after the date.~~

~~[cf. 1985 c. 6 s. 278 U.K.]~~

~~Section:~~	~~79O~~	~~Application to certain companies~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~79G, 79H, 79I, 79J, 79K~~

~~Where a company is -~~

~~(a) a banking company as defined in paragraph 26 of the Tenth Schedule;~~

~~(b) an insurance company authorized to carry on business under the Insurance Companies Ordinance (Cap 41); or~~

~~(c) a shipping company as defined in paragraph 28 of the Tenth Schedule,~~

~~section 79G to 79K shall apply with the following modifications -- <* Note - Exp. X-Ref.: Sections 79G, 79H, 79I, 79J, 79K *>~~

~~(i) section 79G applies as if in subsection 79G(2)(b), immediately after the words "in the case of any other company" there were inserted ", except where the company is entitled to avail itself, and has availed itself, of any of the provisions of Part III of the Tenth Schedule,";~~

~~(ii) sections 79H and 79I apply as if in section 79H(3), immediately after the words "without prejudice to the foregoing" there were inserted ", except where the company is entitled to avail itself, and has availed itself, of any of the provisions of Part III of the Tenth Schedule,".~~

~~[cf. 1985 c. 6 s. 279 U.K.]~~

~~Section:~~	~~79P~~	~~Saving for other restraints on distribution~~		~~30/06/1997~~

~~The provisions of this Part are without prejudice to any enactment or rule of law, or any provision of a company's memorandum or articles, restricting the sums out of which, or the cases in which, a distribution may be made.~~

~~[cf. 1985 c. 6 s. 281 U.K.]~~

~~Part:~~	~~III~~	~~REGISTRATION OF CHARGES~~		~~30/06/1997~~

~~Section:~~	~~80~~	~~Registration of charges created by companies~~		~~30/06/1997~~

~~Registration of Charges with Registrar of Companies~~

~~(1) Subject to the provisions of this Part of this Ordinance, every charge created after the fixed date by a company and being a charge to which this section applies shall, so far as any security on the company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the company, unless the particulars of the charge (which must include those specified in subsection (1A) and be in the specified form), together with the instrument, if any, by which the charge is created or evidenced, are delivered to or received by the Registrar for registration in manner required by this Ordinance within 5 weeks after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable. (Amended 6 of 1984 s. 46; 3 of 1997 s. 23)~~

~~(1A)The particulars referred to in subsection (1) are, the date and description of the instrument creating the charge, the amount secured, short particulars of the property mortgaged or charged, names, addresses and description of mortgagees or persons entitled to the charge, details of any commission, discount or allowance payable to any person in consideration of his agreeing to subscribe to any debenture. (Added 3 of 1997 s. 23)~~

~~(2) This section applies to the following charges -~~

~~(a) a charge for the purpose of securing any issue of debentures;~~

~~(b) a charge on uncalled share capital of the company;~~

~~(c) a charge created or evidenced by an instrument which, if executed by an individual, would require registration as a bill of sale;~~

~~(d) a charge on land, wherever situate, or any interest therein, but not including a charge for any rent or other periodical sum issuing out of land; (Replaced 6 of 1984 s. 46)~~

~~(e) a charge on book debts of the company;~~

(f) a floating charge on the undertaking or property of the company;

(g) a charge on calls made but not paid;

(h) a charge on a ship or any share in a ship;

(i) a charge on goodwill, on a patent or a licence under a patent, on a trademark or on a copyright or a licence under a copyright.

(3) In the case of a charge created out of Hong Kong comprising property situate outside Hong Kong the delivery to and the receipt by the Registrar of a copy verified in the prescribed manner of the instrument by which the charge is created or evidenced, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and 5 weeks after the date on which the instrument or copy could, in due course of post, and if dispatched with due diligence, have been received in Hong Kong shall be substituted for 5 weeks after the date of the creation of the charge, as the time within which the particulars and instrument or copy are to be delivered to the Registrar. (Amended 1 of 1949 s. 8; 6 of 1984 ss. 46 & 259; L.N. 283 of 1986)

(4) Where a charge is created in Hong Kong but comprises property outside Hong Kong the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate. (Amended 1 of 1949 s. 8; 6 of 1984 s. 259)

(5) Where a negotiable instrument has been given to secure the payment of any book debts of a company the deposit of the instrument for the purpose of securing an advance to the company shall not for the purposes of this section be treated as a charge on those book debts.

(6) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land. (Amended L.N. 153 of 1988)

(7) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled pari passu is created by a company, it shall for the purposes of this section be sufficient if there are delivered to or received by the Registrar within 5 weeks after the execution of the deed containing the charge or, if there is no such deed, after the execution of any debentures of the series, the following particulars—

(a) the total amount secured by the whole series; and

(b) the dates of the resolutions authorizing the issue of the series and the date of the covering deed, if any, by which the security is created or defined; and

(c) a general description of the property charged; and

(d) the names of the trustees, if any, for the debenture holders,

together with the deed containing the charge, or, if there is no such deed, one of the debentures of the series:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar for entry in the register particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(8) Where any commission, allowance, or discount has been paid or made either directly or indirectly by a company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent of the commission, discount, or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued: (Amended L.N. 153 of 1988)

Provided that the deposit of any debentures as security for any debt of the company shall not for the purposes of this subsection be treated as the issue of the debentures at a discount.

(9) In this Part—

"charge" (押記) includes mortgage;

"the fixed date" (訂定日期) means in relation to the charges specified in paragraphs (a) to (f), both inclusive, of subsection (2), 1 January 1912, and in relation to the charges specified in paragraphs (g) to (i), both inclusive, of the said subsection, the commencement of this Ordinance.

[cf. 1929 c. 23 s. 79 U.K.]

Section:	81	Duty of company to register charges created by company		30/06/1997

(1) It shall be the duty of a company to send to the Registrar for registration the particulars of every charge created by the company and of the issues of debentures of a series, requiring registration under section 80, but

~~registration of any such charge may be effected on the application of any person interested therein.~~

~~(2) Where registration is effected on the application of some person other than the company, that person shall be entitled to recover from the company the amount of any fees properly paid by him to the Registrar on the registration.~~

~~(3) If any company makes default in sending to the Registrar for registration the particulars of any charge created by the company, or of the issues of debentures of a series, requiring registration as aforesaid, then, unless the registration has been effected on the application of some other person, 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. (Amended 6 of 1984 s. 47; 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 80 U.K.]~~

~~Section:~~	~~82~~	~~Duty of company to register charges existing on property acquired~~		~~30/06/1997~~

~~(1) Where a company acquires any property which is subject to a charge of any such kind as would, if it had been created by the company after the acquisition of the property, have been required to be registered under this Part, the company shall cause the particulars of the charge (which must include those specified in section 80(1A) and be in the specified form), together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration in manner required by this Ordinance within 5 weeks after the date on which the acquisition is completed: (Amended 3 of 1997 s. 24)~~

~~Provided that, if the property is situate and the charge was created outside Hong Kong, 5 weeks after the date on which the copy of the instrument could in due course of post, and if dispatched with due diligence, have been received in Hong Kong shall be substituted for 5 weeks after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the Registrar. (Amended 1 of 1949 s. 9; 6 of 1984 ss. 48 & 259)~~

~~(1A) The requirement in subsection (1) to register a charge referred to in that subsection shall apply in relation to any property of an existing company acquired by the company before the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) as if that property was so acquired on that date, except that, for the purposes of this subsection-~~

~~(a) subsection (1) shall be read and construed as if for "5 weeks after the date on which the acquisition is completed" there were substituted "6 months after the date of commencement of the Companies (Amendment) Ordinance 1984 (6 of 1984), unless the property ceased to be so charged, or the charge was registered, prior to that date";~~

~~(b) the proviso to subsection (1) shall not apply. (Added 6 of 1984 s. 48)~~

~~(2) If default is made in complying with this section, 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. (Amended 6 of 1984 s. 48; 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 81 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~83~~	~~Register of charges to be kept by Registrar~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The Registrar of Companies shall keep, with respect to each company, a register in a form determined by him of all the charges requiring registration under this Part, and shall, on payment of the prescribed fee, enter in the register with respect to such charges the following particulars (Amended 3 of 1997 s. 25)~~

~~(a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in section 80(7);~~

~~(b) in the case of any other charge-~~

~~(i) if the charge is a charge created by the company, the date of its creation, and if the charge was a charge existing on property acquired by the company, the date of the acquisition of the property; and~~

~~(ii) the amount secured by the charge; and~~

~~(iii) short particulars of the property charged; and~~

~~(iv) the persons entitled to the charge.~~

~~(2) The Registrar shall issue a certificate, with his signature or printed signature, certifying the registration of any charge registered in pursuance of this Part, and the certificate shall be conclusive evidence that all the requirements of this Part with respect to registration have been complied with. (Replaced 28 of 2003 s. 34)~~

~~(3) The register kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee. (Amended 49 of 1975 s. 2)~~

~~(4) (Repealed 6 of 1984 s. 49)~~

~~[cf. 1929 c. 23 s. 82 U.K.]~~

~~Section:~~	~~84~~	~~(Repealed 6 of 1984 s. 50)~~		~~30/06/1997~~

~~Section:~~	~~85~~	~~Entries of satisfaction and release of property from charge~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) The Registrar may, on application under this section, where he is satisfied that the debt for which a registered charge was given has been paid or satisfied in whole or in part, enter on the register a memorandum of satisfaction in whole or in part.~~

~~(2) The Registrar may, on application under this section, where he is satisfied that the whole or any part of the property or undertaking subject to a registered charge has been released from the charge or has ceased to form part of the company's property or undertaking, enter on the register a memorandum of that fact.~~

~~(3) An application under this section shall be made in the specified form and be accompanied by such evidence as the Registrar may require.~~

~~(4) The specified form referred to in subsection (3) shall contain-~~

~~(a) such particulars with respect to the debt, charge, property or undertaking in question as may be specified by the Registrar; and~~

~~(b) a statement certifying the fact of payment, satisfaction, release or cessation, as the case may be.~~

~~(5) The specified form referred to in subsection (3) shall be signed by-~~

~~(a) where it is submitted to the Registrar on behalf of a company-~~

~~(i) a director or officer of the company;~~

~~(ii) a solicitor of the High Court acting on behalf of the company; or~~

~~(iii) in the case of a non-Hong Kong company, a person who is registered under section 333 as a person authorized to accept service of process and notices on its behalf; or (Replaced 30 of 2004 s. 2)~~

~~(b) in any other case, by the mortgagee or person entitled to the charge.~~

~~(6) Where the Registrar enters a memorandum of satisfaction in whole under subsection (1), he shall, if required and upon payment of the prescribed fee, endorse the words "satisfaction entered" or the expression in Chinese "已清償" upon the instrument creating the charge.~~

~~(Replaced 28 of 2003 s. 35)~~

~~Section:~~	~~86~~	~~Extension of time for registration, and rectification of register of charges~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The court, on being satisfied that the omission to register a charge within the time required by this Ordinance or that the omission or mis-statement of any particular with respect to any such charge or in a memorandum under section 85 was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the company, or that on other grounds it is just and equitable to grant relief, may, on the application of the company or any person interested, and on such terms and conditions as seem to the court just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or mis-statement shall be rectified. (Amended 28 of 2003 s. 36)~~

~~(2) The grant of relief by the court under this section shall, if the court so directs, not have the effect of relieving the company or its officers of any liability already incurred under section 81.~~

~~(Replaced 6 of 1984 s. 51)~~

~~[cf. 1948 c. 38 s. 101 U.K.]~~

~~Section:~~	~~87~~	~~Notice to Registrar of appointment of receiver or manager, or of mortgagee taking possession, etc.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) If any person appoints a receiver or manager of the property of a company under the powers contained in any instrument, or obtains an order for the appointment of such a receiver or manager, he shall, within 7 days after the date of the appointment, give notice of that fact to the Registrar, which notice shall include with respect to the person so appointed the following particulars—~~

~~(a) his name;~~

~~(b) his address; and~~

~~(c) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.~~

~~(2) If any person enters into possession of the property of a company as mortgagee, he shall, within 7 days after the date of his entering into possession, give notice of that fact to the Registrar, which notice shall include with respect to that person the following particulars—~~

~~(a) where that person is an individual, the particulars referred to in subsection (1); or~~

~~(b) where that person is a body corporate, its corporate name and the address of its registered or principal office.~~

~~(3) The Registrar shall, on payment of the prescribed fee, enter a notice given under subsection (1) or (2) in the register of charges.~~

~~(4) Where—~~

~~(a) any person appointed receiver or manager of the property of a company, and in respect of whom notice is required to be given under subsection (1), ceases to act as receiver or manager; or~~

~~(b) any person who has entered into possession of the property of a company as mortgagee, and in respect of whom notice is required to be given under subsection (2), goes out of possession of the property,~~

~~that person shall, within 7 days after ceasing to act as receiver or manager or after going out of possession, as the case may be, give notice of that fact to the Registrar, and the Registrar shall enter a notice given under this subsection in the register of charges.~~

~~(5) If any change occurs in the particulars given in a notice under subsection (1) or (2), the person in respect of whom that notice is given shall, within 14 days after the date of the change, give notice of that change to the Registrar, unless that person has previously given notice to the Registrar under subsection (4).~~

~~(6) Every notice given to the Registrar under this section shall be in the specified form.~~

~~(7) If any person makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine.~~

~~(8) In this section, "manager" (經理人) does not include a special manager of the estate or business of a company appointed under section 216.~~

~~(Replaced 28 of 2003 s. 37)~~

~~Section:~~	~~88~~	~~Copies of instruments creating charges to be kept by company~~		~~30/06/1997~~

~~Provisions as to Company's Register of Charges and as to Copies of Instruments creating Charges~~

~~(1) Every company shall cause a copy of every instrument creating any charge requiring registration under this Part to be kept—~~

~~(a) at the registered office of the company; or~~

~~(b) if the work in connexion with the keeping of copies of such instruments is done at an office of the company other than the registered office of the company, at that other office; or~~

~~(c) if the company arranges with some other person for the keeping of such copies to be undertaken on behalf of the company by that other person, at the office of that other person at which the work in connexion with the keeping thereof is done,~~

~~so, however, that such copies shall not be kept at a place outside Hong Kong.~~

~~(2) In the case of a series of uniform debentures, the keeping of a copy of one debenture of the series shall be sufficient for the purposes of subsection (1).~~

~~(3) Every company shall send notice to the Registrar in the specified form of the place where copies of instruments required to be kept under subsection (1) are so kept and of any change in that place: (Amended 3 of~~

~~1997 s. 27)~~

~~Provided that a company shall not be bound to send such notice where such copies have, at all times since they came into existence or, in the case of copies in existence at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), at all times since then, been kept at the registered office of the company.~~

~~(4) Where a company makes default in complying with subsection (1) or makes default for 14 days in complying with subsection (3), 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. (Amended 7 of 1990 s. 2)~~

~~(Replaced 6 of 1984 s. 53)~~

~~[cf. 1948 c. 38 s. 103 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~89~~	~~Company's register of charges~~		~~30/06/1997~~

~~(1) Every company shall keep a register of charges and enter therein all charges specifically affecting property of the company and all floating charges on the undertaking or any property of the company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.~~

~~(2) The register of charges of a company shall be kept—~~

~~(a) at the registered office of the company; or~~

~~(b) if the work of making it up is done at an office of the company other than the registered office of the company, at that other office; or~~

~~(c) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, at the office of that other person at which the work is done,~~

~~so, however, that it shall not be kept at a place outside Hong Kong.~~

~~(3) Every company shall send notice to the Registrar in the specified form of the place where its register of charges is kept and of any change in that place: (Amended 3 of 1997 s. 28)~~

~~Provided that a company shall not be bound to send such notice where the register has, at all times since it came into existence or, in the case of a register in existence at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), at all times since then, been kept at the registered office of the company.~~

~~(4) Where a company makes default in complying with subsection (1) or (2) or makes default for 14 days in complying with subsection (3), 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. (Amended 7 of 1990 s. 2)~~

~~(5) If any officer of the company knowingly and wilfully authorizes or permits the omission of any entry required to be made under this section, he shall be liable to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(Replaced 6 of 1984 s. 53)~~

~~[cf. 1948 c. 38 s. 104 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~90~~	~~Right to inspect copies of instruments creating mortgages and charges and company's register of charges~~		~~30/06/1997~~

~~(1) The copies of instruments creating any charge requiring registration under this Part with the Registrar, and the register of charges kept in pursuance of section 89, shall be open during business hours (but subject to such reasonable restrictions as the company in general meeting may impose, so that not less than 2 hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee, not exceeding $2 for each inspection, as the company may prescribe. (Amended 49 of 1975 s. 3)~~

~~(2) If inspection of the said copies or register is refused—~~

~~(a) every officer of the company who is in default shall be liable to a fine and, for continued default, to a daily default fine; (Amended 7 of 1990 s. 2)~~

~~(b) without prejudice to any proceedings under paragraph (a), the court may by order compel an~~

~~immediate inspection of the copies or register. (Replaced 6 of 1984 s. 54)~~

~~(3) (Repealed 6 of 1984 s. 54)~~

~~[cf. 1929 c. 23 s. 89 U.K.]~~

~~Section:~~	~~91~~	~~Application of Part III to non-Hong Kong companies~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~Application of Part III to Non-Hong Kong Companies~~

~~(Amended 30 of 2004 s. 2)~~

~~(1) This Part extends to charges on property in Hong Kong of a non-Hong Kong company registered under Part XI that are created, and to charges on property in Hong Kong that is acquired, by the company.~~

~~(2) Notwithstanding subsection (1), this Part does not extend to charges on property in Hong Kong of a non-Hong Kong company registered under Part XI if the relevant property was not in Hong Kong at the time the charge was created by the company, or at the time it was acquired by the company subsequent to the creation of the charge.~~

~~(3) In the application of sections 88 and 89 to a non-Hong Kong company registered under Part XI—~~

~~(a) references in those sections to the registered office of a company shall be construed as references to the principal place of business in Hong Kong of the non-Hong Kong company; and~~

~~(b) references in section 89 to charges shall be construed as references to charges of any kind mentioned in subsection (1).~~

~~(4) This Part does not apply to a non-Hong Kong company registered under Part XI if—~~

~~(a) the non-Hong Kong company sends a notice to the Registrar under section 339 of the fact that it has ceased to have a place of business in Hong Kong;~~

~~(b) the Registrar enters in the register of non-Hong Kong companies a statement under section 339AA that the company has been dissolved; or~~

~~(c) the name of the company is struck off from the register of non-Hong Kong companies under section 339A.~~

~~(5) Where a non-Hong Kong company that is registered under Part XI after the commencement* of section 15 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) has, on the date of such registration, any property in Hong Kong that is subject to a charge created by the company or subsisting when the property was acquired, being a charge of any such kind as would, if it had been created by the company or the property had been acquired after the company has been so registered, have been required to be registered under this Part, the company shall, within 5 weeks after it is so registered, deliver to the Registrar for registration the particulars in the specified form (including any instrument or its copy by which the charge was created or is evidenced) that are mentioned in this Part as requiring registration in respect of a charge of that kind.~~

~~(6) If default is made in complying with subsection (5), the non-Hong Kong 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.~~

~~(7) For the purposes of this section—~~

~~(a) a ship or aircraft that is registered in Hong Kong shall be treated as property in Hong Kong notwithstanding that the ship or aircraft is physically located outside Hong Kong; and~~

~~(b) a ship or aircraft that is registered in a place outside Hong Kong shall be treated as property outside Hong Kong notwithstanding that the ship or aircraft is physically located in Hong Kong.~~

~~(Replaced 30 of 2004 s. 2)~~

~~**Note:**~~

~~*** Commencement date: 14 December 2007.**~~

Part:	IV	MANAGEMENT AND ADMINISTRATION	L.N. 139 of 2008	11/07/2008

~~Section:~~	~~92~~	~~Registered office of company~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~Registered Office and Name~~

~~(1) A company shall have a registered office in Hong Kong to which all communications and notices may be~~

~~addressed.~~

~~(2) The intended address of a company's registered office stated in the incorporation form registered in respect of the company shall be the address of its registered office with effect from the date of its incorporation until a notice of change in respect of the address is sent to the Registrar under subsection (3).~~

~~(3) If the address of a company's registered office is changed, a notice of the change in the specified form shall be sent to the Registrar within 14 days after the date of the change, who shall record the same. The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by this subsection.~~

~~(4) If default is made in complying with this section, 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.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~93~~	~~Publication of name of company~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Every company—~~

~~(a) shall paint or affix, and keep painted or affixed, its name on the outside of every office or place in which its business is carried on, in a conspicuous position, in legible characters; (Amended 3 of 1997 s. 29)~~

~~(b) shall have as its common seal a metallic seal on which it shall have its name engraven in legible characters; (Replaced 6 of 1984 s. 57)~~

~~(c) shall have its name mentioned in legible characters in all business letters of the company and in all notices and other official publications of the company, and in all contracts, deeds, bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of the company, and in all consignment notes, invoices, receipts and letters of credit of the company; (Replaced 6 of 1984 s. 57)~~

~~(d) shall mention in legible characters in all documents in which the company is required under paragraph (c) to have its name mentioned—~~

~~(i) in the case of a limited company exempt from the obligation to use the word "Limited" or the expression in Chinese "有限公司" or both such word and expression, as the case may be, as part of its name, the fact that it is incorporated with limited liability; (Amended 3 of 1997 s. 29; 32 of 2000 s. 48)~~

~~(ii) in the case of an unlimited company, the fact that it is incorporated without limited liability. (Added 6 of 1984 s. 57)~~

~~(2) Every limited company registered by a name in English only (other than a company licensed to be registered without the addition of the word "Limited" to its name) (Amended 3 of 1997 s. 29)~~

~~(a) which exhibits outside or inside its registered office or outside or inside any office or place in which its business is carried on; or~~

~~(b) which uses on its seal; or~~

~~(c) which uses in any business letter of the company or in any notice or other official publication of the company, or in any contract, deed, bill of exchange, promissory note, endorsement, cheque, or order for money or goods purporting to be signed by or on behalf of the company, or in any consignment note, invoice, receipt or letter of credit of the company, (Replaced 6 of 1984 s. 57)~~

~~any name of or for the company in Chinese characters, whether such name be a transliteration or translation of its name in the memorandum or not, shall append to such name so used in Chinese characters the Chinese characters 有限公司: (Amended 24 of 1935 s. 2)~~

~~Provided that it shall be lawful for the Registrar by licence to direct that such company shall be exempted, wholly or in part, from the requirements of this subsection, and to revoke any such licence. (Amended 1 of 1949 s. 11)~~

~~(2A) Every limited company registered by a name in Chinese only (other than a company licensed to be registered without the addition of the expression in Chinese "有限公司" to its name)—~~

~~(a) which exhibits outside or inside its registered office or outside or inside any office or place in which its business is carried on; or~~

~~(b) which uses on its seal; or~~

~~(c) which uses in any business letter of the company or in any notice or other official publication of the~~

~~company, or in any contract, deed, bill of exchange, promissory note, endorsement, cheque, or order for money or goods purporting to be signed by or on behalf of the company, or in any consignment note, invoice, receipt or letter of credit of the company,~~

~~any name of or for the company in English, whether such name be a transliteration or translation of its name in the memorandum or not, shall append to such name so used in English the word "Limited". (Added 3 of 1997 s. 29)~~

~~(2B) Notwithstanding subsection (2A), it shall be lawful for the Registrar by licence to direct that such company shall be exempted, wholly or in part, from the requirements of that subsection, and to revoke any such licence. (Added 3 of 1997 s. 29)~~

~~(3) If a company does not paint or affix its name in manner directed by this Ordinance, the company and every officer of the company who is in default shall be liable to a fine and if a company does not keep its name painted or affixed in manner so directed, the company and every officer of the company who is in default shall be liable to a default fine. (Amended 7 of 1990 s. 2)~~

~~(4) If a company fails to comply with subsection (1)(b), (c) or (d), (2) or (2A), the company shall be liable to a fine. (Replaced 30 of 2004 s. 2)~~

~~(5) If any officer of a company, or any person on its behalf—~~

~~(a) uses or authorizes the use of any seal purporting to be a seal of the company which is not a metallic seal or whereon its name is not so engraven as aforesaid; or~~

~~(b) issues or authorizes the issue of any business letter of the company or any notice or other official publication of the company, or signs or authorizes to be signed on behalf of the company any contract, deed, bill of exchange, promissory note, endorsement, cheque or order for money or goods, wherein its name is not mentioned in manner aforesaid; or (Replaced 6 of 1984 s. 57)~~

~~(c) issues or authorizes the issue of any consignment note, invoice, receipt, or letter of credit of the company, wherein its name is not mentioned in manner aforesaid,~~

~~he shall be liable to a fine and shall further be personally liable to the holder of the bill of exchange, promissory note, cheque, or order for money or goods, for the amount thereof, unless it is duly paid by the company. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)~~

~~(6) Until the expiration of a period of 12 months from the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), subsections (1)(b) and (5)(a) as amended by that Ordinance shall have effect in relation to any company registered at that date as if—~~

~~(a) in subsection (1)(b), for the words "metallic seal" there were substituted the word "seal";~~

~~(b) in subsection (5)(a), the words "which is not a metallic seal or" were omitted. (Added 6 of 1984 s. 57)~~

~~(Amended 6 of 1984 s. 57)~~

~~[cf. 1929 c. 23 s. 93 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~94~~	~~Adequacy of certain descriptions of companies~~		~~30/06/1997~~

~~No description of a company shall be inadequate or incorrect by reason of the use of—~~

~~(a) the abbreviation "Co." or "Coy." in lieu of the word "Company" contained in the name of the company;~~

~~(b) the abbreviation "Ltd." in lieu of the word "Limited" contained in the name of the company;~~

~~(c) the abbreviation "HK" or "H.K." in lieu of the words "Hong Kong" contained in the name of the company;~~

~~(d) the symbol "&" in lieu of the word "and" contained in the name of the company;~~

~~(e) any of such words in lieu of the corresponding abbreviation or symbol contained in the name of the company;~~

~~(f) any type or case of letters, spaces between letters, accents or punctuation marks which are not the same as those appearing in the name of the company,~~

~~or by reason of the use or omission of the definite article as the first word in the description.~~

~~(Added 6 of 1984 s. 58)~~

~~Section:~~	~~95~~	~~Register of members~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Register of Members~~

~~(1) Every company shall keep in the English or Chinese language a register of its members, and enter therein the following particulars— (Amended 83 of 1995 s. 12)~~

~~(a) the names and addresses of the members, and in the case of a company having a share capital a statement of the shares held by each member, distinguishing each share by its number so long as the share has a number, and of the amount paid or agreed to be considered as paid on the shares of each member; (Amended 83 of 1995 s. 12; 28 of 2003 s. 39)~~

~~(b) the date at which each person was entered in the register as a member;~~

~~(c) the date at which any person ceased to be a member:~~

~~Provided that—~~

~~(i) where the company has converted any of its shares into stock and given notice of the conversion to the Registrar, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a);~~

~~(ii) in the case of a person referred to in paragraph (c), all entries in the register relating to such person at the date when he ceased to be a member may be destroyed after the expiry of a period of 30 years from that date.~~

~~(2) The register of members shall be kept at the registered office of the company and may be kept by the use of any method or means, mechanical or electrical or otherwise, which does not restrict the availability for public inspection in a legible form of the information contained in the register:~~

~~Provided that—~~

~~(a) if the work of making it up is done at an office of the company other than the registered office of the company, it may be kept at that other office; and~~

~~(b) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, it may be kept at the office of that other person at which the work is done,~~

~~so, however, that it shall not be kept at a place outside Hong Kong.~~

~~(3) Every company shall send notice to the Registrar in the specified form of the place where its register of members is kept and of any change in that place: (Amended 3 of 1997 s. 30)~~

~~Provided that a company shall not be bound to send such notice where the register has, at all times since it came into existence or, in the case of a register in existence at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), at all times since then, been kept at the registered office of the company.~~

~~(4) Where a company makes default in complying with subsection (1) or (2) or makes default for 14 days in complying with subsection (3), 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. (Amended 7 of 1990 s. 2)~~

~~(Replaced 6 of 1984 s. 59)~~

~~[cf. 1948 c. 38 s. 110 U.K.]~~

~~Note:~~

~~* Commencement date: 31 August 1984.~~

~~Section:~~	~~95A~~	~~Statement that company has only one member~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) If the number of members of a company falls to one, there shall upon the occurrence of that event be entered in the company's register of members—~~

~~(a) a statement that the company has only one member; and~~

~~(b) the date on which the company became a company having only one member.~~

~~(2) If the membership of a company increases from one to 2 or more members, there shall upon the occurrence of that event be entered in the company's register of members a statement that the company has ceased to have only one member, together with the date on which that event occurred.~~

~~(3) If a company makes default in complying with this section, the company and every officer of the company who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(Added 28 of 2003 s. 40)~~

~~Section:~~	~~96~~	~~Index of members of company~~		~~30/06/1997~~

~~(1) Every company having more than 50 members shall, unless the register of members is in such a form as to constitute in itself an index, keep an index of the names of the members of the company and shall, within 14 days after the date on which any alteration is made in the register of members, make any necessary alteration in the index.~~

~~(2) The index shall in respect of each member contain a sufficient indication to enable the account of that member in the register to be readily found. (Amended 6 of 1984 s. 60)~~

~~(2A)The index shall at all times be kept at the same place as the register of members. (Added 6 of 1984 s. 60)~~

~~(3) If default is made in complying with this section, 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. (Amended 7 of 1990 s.2)~~

~~[cf. 1929 c. 23 s. 96 U.K.]~~

~~Section:~~	~~97~~	~~Provisions as to entries in register in relation to share warrants~~		~~30/06/1997~~

~~(1) On the issue of a share warrant the company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely-~~

~~(a) the fact of the issue of the warrant;~~

~~(b) a statement of the shares included in the warrant, distinguishing each share by its number so long as the share has a number; and (Amended 4 of 1963 s. 7)~~

~~(c) the date of the issue of the warrant.~~

~~(2) The bearer of a share warrant shall, subject to the articles of the company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members. (Amended L.N. 283 of 1986)~~

~~(3) The company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled.~~

~~(4) Until the warrant is surrendered, the particulars specified in subsection (1) shall be deemed to be the particulars required by this Ordinance to be entered in the register of members, and, on the surrender, the date of the surrender must be entered.~~

~~(5) Subject to the provisions of this Ordinance, the bearer of a share warrant may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Ordinance, either to the full extent or for any purposes defined in the articles.~~

~~[cf. 1929 c. 23 s. 97 U.K.]~~

~~Section:~~	~~98~~	~~Inspection of register of members~~		~~30/06/1997~~

~~(1) Except when the register of members is closed under the provisions of this Ordinance, the register, and the index of names, of the members of a company shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than 2 hours in each day be allowed for inspection) be open to the inspection of any member without charge and of any other person on payment of the appropriate fee specified in the Fourteenth Schedule, or such less sum as the company may prescribe, for each inspection. (Replaced 6 of 1984 s. 61. Amended 75 of 1993 s. 3)~~

~~(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of the appropriate fee specified in the Fourteenth Schedule, or such less sum as the company may prescribe. The company shall cause any copy so required by any person to be sent to that person within a period of 10 days commencing on the day next after the day on which the requirement is received by the company. (Amended 75 of 1993 s. 3)~~

~~(3) If any inspection required under this section is refused of if any copy required under this section is not sent within the proper period, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine and, for continued default, to a daily default fine. (Amended 22 of 1950 Schedule; L.N.137 of 1981; 6 of 1984 s. 61; 7 of 1990 s. 2)~~

~~(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register and index or direct that the copies required shall be sent to the persons requiring them.~~

~~[cf. 1929 c. 23 s. 98 U.K.]~~

~~Section:~~	~~98A~~	~~Consequences of failure to comply with requirements as to register owing to agent's default~~		~~30/06/1997~~

~~Where, by virtue of proviso (b) to section 95(2), the register is kept at the office of some person other than the company, and by reason of any default of his the company fails to comply with subsection (3) of that section, section 96(2A) or section 98 or with any requirements of this Ordinance as to the production of the register, that other person shall be liable to the same penalties as if he were an officer of the company who was in default, and the power of the court under section 98(4) shall extend to the making of orders against that other person and his officers and servants.~~

~~(Added 6 of 1984 s. 62)~~

~~[cf. 1948 c. 38 s. 114 U.K.]~~

~~Section:~~	~~99~~	~~Power to close register of members and register of debenture holders~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) A company may, on giving notice in accordance with subsection (1A), close for any time or times not exceeding in the whole 30 days in each year. (Amended 12 of 2010 s. 57)~~

~~(a) the register of members of the company or the part thereof relating to members holding shares of any class;~~

~~(b) any register of debenture holders of the company.~~

~~(1A) A notice for the purposes of subsection (1)~~

~~(a) if the company is a listed company, is to be given~~

~~(i) in accordance with the listing rules applicable to the stock market; or~~

~~(ii) by advertisement in a newspaper circulating generally in Hong Kong; and~~

~~(b) in the case of any other company, is to be given by advertisement in a newspaper circulating generally in Hong Kong. (Added 12 of 2010 s. 57)~~

~~(2) The period of 30 days referred to in subsection (1) may be extended in respect of any year~~

~~(a) in relation to the register (or any part of the register) of members of a company, by an ordinary resolution passed at a general meeting of the company in that year; or~~

~~(b) in relation to the register of debenture holders of a company, by a resolution passed in that year by a majority in value of the debenture holders present in person or, where proxies are permitted, by proxy at a meeting summoned for the purpose or otherwise in accordance with the trust deed or other document securing the debentures:~~

~~Provided that the said period shall not be extended beyond 60 days in any year.~~

~~(3) A company shall, on demand, furnish any person seeking to inspect a register or part of a register which is closed by virtue of this section with a certificate under the hand of the secretary of the company stating the period for which, and by whose authority, it is closed.~~

~~(4) If a company makes default in complying with subsection (3), the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(5) In subsection (1A), "listing rules" (《上市規則》) means the rules made under section 23 of the Securities and Futures Ordinance (Cap 571) by a recognized exchange company that govern the listing of securities on a stock market it operates. (Added 12 of 2010 s. 57)~~

~~(Replaced 6 of 1984 s. 63)~~

~~[cf. 1948 c. 38 s. 115 U.K.]~~

~~Section:~~	~~100~~	~~Power of court to rectify register~~		~~30/06/1997~~

~~(1) If~~

~~(a) the name of any person is, without sufficient cause, entered in or omitted from the register of members of a company; or~~

~~(b) default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member;~~

~~the person aggrieved, or any member of the company, or the company, may apply to the court for rectification of the register.~~

~~(2) Where an application is made under this section, the court may either refuse the application or may, subject to section 71A, order rectification of the register and payment by the company of any damages sustained by any party~~

~~aggrieved. (Amended 69 of 1979 s. 3)~~

~~(3) Subject to section 71A, on an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register. (Amended 69 of 1979 s. 3)~~

~~(4) In the case of a company required by this Ordinance to send a list of its members to the Registrar, the court, when making an order for rectification of the register, shall by its order direct notice of the rectification to be given to the Registrar.~~

~~[cf. 1929 c. 23 s. 100 U.K.]~~

~~Section:~~	~~101~~	~~Trusts not to be entered on register~~		~~30/06/1997~~

~~No notice of any trust, expressed, implied, or constructive, shall be entered on the register, or be receivable by the Registrar.~~

~~(Amended 6 of 1984 s. 64)~~
~~[cf. 1929 c. 23 s. 101 U.K.]~~

Section:	102	Register to be proof*	L.N. 132 of 2010	10/12/2010

~~(1) In the absence of evidence to the contrary, the register of members is proof of any matters that are by this Ordinance directed or authorized to be inserted in it. (Replaced 12 of 2010 s. 58)~~

~~(2) Where in any proceedings under this Ordinance it is sought to challenge the accuracy of any entry in the register of members by evidence of any transaction, such evidence shall not be admissible for that purpose unless the transaction occurred not more than 30 years prior to the proceedings. (Added 6 of 1984 s. 65)~~

(2) If, in any proceedings to which this section applies, it is sought to challenge the accuracy of any entry in the register of members by evidence of any transaction, the evidence is not admissible for that purpose unless the transaction occurred not more than the specified number of years prior to the proceedings.

(3) This section applies to—

(a) any proceedings under this Ordinance; or

(b) any proceedings under the pre-amended Ordinance—

(i) that were instituted before the commencement date of section 1 of Schedule 9 to the Companies Ordinance (of 2011); and

(ii) that, immediately before that commencement date, were pending and had not been disposed of.

(4) In this section—

"***specified number***" (指明數目)—

(a) in relation to any proceedings specified in subsection (3)(a), means 20;

(b) in relation to any proceedings specified in subsection (3)(b), means 30.

[cf. 1929 c. 23 s. 102 U.K.]

Note:

*** (Amended 12 of 2010 s. 58)**

~~Section:~~	~~103~~	~~Power of company to keep branch register~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~Branch Register~~

~~(1) The Chief Executive may issue an annual licence to any company whose objects comprise the transaction of business outside Hong Kong, empowering such company, if it is authorized so to do by its articles, to keep a register of members in any place at or near which it transacts business:~~

~~Provided that~~

~~(a) a company wishing to apply for such a licence shall make an application in writing to the Chief Executive, to be filed with the Registrar, which application shall include sufficient evidence to satisfy the Chief Executive that a substantial part of the business of the company is transacted at or near the place where it desires to keep such register; (Replaced 28 of 2003 s. 41)~~

~~(b) every such licence shall be valid only until the 31 December next following the date on which it is issued. (Amended 23 of 1999 s. 3)~~

~~(2) There shall be paid to the Registrar in respect of a licence issued to a company under this section, prior to the issue thereof, a fee calculated at the rate of 4 cents for every $100 of the paid-up capital of such company or, in the case of a company whose share capital is expressed in any other currency, at the equivalent rate in that currency according to the rate of exchange prevailing at the date of the application for such licence:~~

~~Provided that where the period between the date of issue of the first licence issued to a company under this section and the 31 December next following is less than a year, a proportionate part only of such fee shall be charged.~~

~~(3) When the Registrar has reasonable cause to believe that a company is keeping a register of members at any place outside Hong Kong without having a valid licence under this Ordinance, he shall publish in the Gazette and send to the company by post a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.~~

~~(4) At the expiration of the time specified in the notice referred to in subsection (3) the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Gazette and, on the publication in the Gazette of this notice, the company shall be dissolved:~~

~~Provided that—~~

~~(a) the liability, if any, of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved; and~~

~~(b) nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.~~

~~(5) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the court on an application made by the company or member or creditor before the expiration of 20 years from the publication in the Gazette of the notice aforesaid may, if satisfied that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the Registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.~~

~~(6) A notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some officer of the company or, if there is no officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who signed the memorandum, addressed to him at the address mentioned in the memorandum. (Amended 30 of 2004 s. 2)~~

~~(7) No company shall keep a register of members at any place outside Hong Kong unless it is empowered to do so by virtue of a licence issued to the company under this section and, if default is made in complying with this subsection, 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. (Amended 7 of 1990 s. 2)~~

~~(Replaced 6 of 1984 s. 66)~~

~~Section:~~	~~104~~	~~Regulations as to branch register~~		~~30/06/1997~~

~~(1) A branch register shall be deemed to be part of the company's register of members (in this section called the principal register).~~

~~(2) It shall be kept in the same manner in which the principal register is by this Ordinance required to be kept, except that the advertisement before closing the register shall be inserted in some newspaper circulating in the district where the branch register is kept.~~

~~(3) The company shall—~~

~~(a) transmit to its registered office a copy of every entry in its branch register as soon as may be after the entry is made; and~~

~~(b) cause to be kept at the place where the company's principal register is kept a duplicate of its branch register duly entered up from time to time.~~

~~Every duplicate shall for all the purposes of this Ordinance be deemed to be part of the principal register. (Replaced 6 of 1984 s. 67)~~

~~(4) Subject to the provisions of this section with respect to the duplicate register, the shares registered in a branch register shall be distinguished from the shares registered in the principal register, and no transaction with~~

~~respect to any shares registered in a branch register shall, during the continuance of that registration, be registered in any other register.~~

~~(5) A company may discontinue to keep a branch register, and thereupon all entries in that register shall be transferred to some other branch register kept by the company or to the principal register.~~

~~(6) Subject to the provisions of this Ordinance, any company may, by its articles, make such provisions as it may think fit respecting the keeping of branch registers.~~

~~(7) If default is made in complying with subsection (3), 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; and where, by virtue of proviso (b) to section 95(2), the principal register is kept at the office of some person other than the company and by reason of any default of his the company fails to comply with subsection (3)(b), he shall be liable to the same penalty as if he were an officer of the company who was in default. (Replaced 6 of 1984 s. 67. Amended 7 of 1990 s. 2)~~

~~(Amended 6 of 1984 s. 67)~~

~~[cf. 1929 c. 23 s. 104 U.K.]~~

Section:	105	(Repealed 31 of 1981 s. 95)		30/06/1997

~~Section:~~	~~106~~	~~Provisions as to branch registers of oversea companies kept in Hong Kong~~	~~23 of 1999~~	~~01/07/1997~~

~~Remarks:~~

~~Adaptation amendments retroactively made - see 23 of 1999 s. 3~~

~~If by virtue of the law in force in any place outside Hong Kong companies incorporated under that law have power to keep in Hong Kong branch registers of their members resident in Hong Kong, the Chief Executive in Council may by order direct that (Amended 23 of 1999 s. 3)~~

~~(a) every such branch register shall be kept at such place in Hong Kong as may be specified in the order in respect thereof;~~

~~(b) sections 98 and 100 shall, subject to any modifications and adaptations specified in the order, apply to and in relation to any such branch registers kept in Hong Kong as they apply to and in relation to the registers of companies within the meaning of this Ordinance.~~

~~(Replaced 6 of 1984 s. 68)~~

~~[cf. 1948 c. 38 s. 123 U.K.]~~

~~Section:~~	~~107~~	~~Annual return to be made by company~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Annual Return~~

~~(1) Subject to this section and section 109, every company shall once in every year make a return, in the specified form, which shall contain, with respect to the company, such particulars as specified therein. (Amended 80 of 1997 s. 102)~~

~~(2) Without prejudice to the generality of subsection (1), a return under that subsection shall state -~~

~~(a) the company name, its registered number and business name (if any);~~

~~(b) the type of company;~~

~~(c) the address of the registered office of the company;~~

~~(d) the date of the return;~~

~~(e) particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Registrar under this Ordinance, or which would have been required so to be registered if created after 1 January 1912;~~

~~(f) in the case of a company having a share capital -~~

~~(i) particulars relating to members and share capital of the company; and~~

~~(ii) where the company has converted any of its shares into stock and given notice of it to the Registrar, the amount of stock held by each of the existing members;~~

~~(g) in the case of a company not having a share capital, except in the case of a company registered with an unlimited number of members, the number of members of the company;~~

~~(h) in a case in which the register of members is, under the provisions of this Ordinance, kept elsewhere than at the registered office, the address of the place where it is kept;~~

~~(i) all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is the secretary of the company or a reserve director of the company as are by this Ordinance required to be contained with respect to them in the register of directors and secretaries of a company; (Amended 28 of 2003 s. 42)~~

~~(j) if any register of holders of debentures or any duplicate of any such register or part of any such register is, under the provisions of this Ordinance, kept elsewhere than at the registered office of the company, the address of the place where it is kept.~~

~~(3) A company (not being a private company having a share capital) need not make a return under subsection (1) in the year of its incorporation or, if it is not required by section 111 to hold an annual general meeting during the following year, in that year. (Replaced 46 of 2000 s. 9)~~

~~(3A) A private company having a share capital need not make a return under subsection (1) in the year of its incorporation. (Added 46 of 2000 s. 9)~~

~~(3B) A private company having a share capital which was incorporated in any of the months from July to December inclusive in the year immediately preceding the year in which section 9 of the Companies (Amendment) Ordinance 2000 (46 of 2000) commenced need not make a return under subsection (1) in the year immediately following the year of its incorporation. (Added 46 of 2000 s. 9)~~

~~(4) In the case of a company which keeps a branch register, the particulars of the entries in that register shall, so far as they relate to matters which are required to be contained in the return, be included in the return made next after copies of those entries are received at the registered office of the company.~~

~~(5) In the case of a company having a share capital if there has been no change in the matters required to be contained in a return, since the date of the last return, the company may in lieu of the return required by subsection (1), make a return by certificate in the specified form, signed by a director or the secretary of the company stating (Amended 46 of 2000 s. 9)~~

~~(a) the date at which the last return under subsection (1) was made up; and~~

~~(b) that, as at the day of the annual general meeting for the year there has been no change since that date, in the information contained in that return.~~

~~(6) In the case of a private company having a share capital subsection (5)(b) shall be read as if "the most recent anniversary of the date of incorporation of the company" were substituted for "the annual general meeting for the year".~~

~~(7) Without affecting the generality of section 2A, the Registrar may, for the purposes of this section, specify different forms or particulars in relation to companies having a share capital, companies not having a share capital or companies which are private companies.~~

~~(Added 3 of 1997 s. 31)~~

Section:	108	(Repealed 3 of 1997 s. 31)		30/06/1997

~~Section:~~	~~109~~	~~General provisions as to annual returns~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Except where the company is a private company having a share capital, the annual return shall be completed within 42 days after the annual general meeting for the year, whether or not that meeting is the first or only ordinary general meeting, or the first or only general meeting, of the company in the year, and the company shall forthwith forward to the Registrar a copy of the return. (Replaced 75 of 1993 s. 5. Amended 46 of 2000 s. 10; 12 of 2010 s. 25)~~

~~(1A) In the case of a private company having a share capital, the annual return shall be completed within 42 days after the most recent anniversary of the date of incorporation of the company and the company shall forthwith forward to the Registrar a copy of the return. (Added 75 of 1993 s. 5. Amended 46 of 2000 s. 10; 12 of 2010 s. 25)~~

~~(1B) (Repealed 46 of 2000 s. 10)~~

~~(1C) A copy of an annual return forwarded for the purposes of subsection (1) or (1A) in relation to a company must—~~

~~(a) if forwarded in the form of an electronic record—~~

~~(i) be signed by a director or the secretary of the company; or~~

~~(ii) contain an acknowledgment, by a person who is authorized by the company to deliver any~~

~~document under this Ordinance on the company's behalf and whose authorization has been notified to the Registrar, to the effect that the person is authorized by a director or the secretary of the company to forward the copy; or~~

~~(b) if forwarded in paper form, be signed by a director or the secretary of the company. (Added 12 of 2010 s. 25)~~

~~(2) (Repealed 6 of 1984 s. 71)~~

~~(3) Except where the company is a private company, the annual return shall include-~~

~~(a) a copy, certified by a director or the manager or the secretary of the company to be a true copy, of every balance sheet laid before the company in general meeting during the period to which the return relates (including every document required by law to be annexed to the balance sheet); and~~

~~(b) a copy, certified as aforesaid, of the report of the auditors on, and of the report of the directors accompanying, each such balance sheet;~~

~~and where any such balance sheet, document or report is not in the English or Chinese language, there shall be annexed to that balance sheet a translation in English or Chinese of the balance sheet, document or report, certified in the prescribed manner to be a correct translation. (Replaced 80 of 1974 s. 11. Amended 83 of 1995 s. 13)~~

~~(3A)If any such balance sheet as aforesaid or document required by law to be annexed thereto did not comply with the requirements of the law as in force at the date of the audit with respect to the form of balance sheets or documents aforesaid, as the case may be, there shall be made such additions to and corrections in the copy as would have been required to be made in the balance sheet or document in order to make it comply with the said requirements, and the fact that the copy has been so amended shall be stated thereon. (Added 80 of 1974 s. 11)~~

~~(4) If a company fails to comply with this section or section 107, 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. (Amended 7 of 1990 s. 2; 3 of 1997 s. 32)~~

~~(5) For the purposes of subsection (4), the expression "officer" (高級人員), and for the purposes of section 107 the expression "director" (董事), shall include a shadow director. (Amended 3 of 1997 s. 32; 28 of 2003 s. 43)~~

~~[cf. 1929 c. 23 s. 110 U.K.]~~

~~Section:~~	~~110~~	~~Certificates to be sent by private company with annual return~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) A private company shall send with the annual return required by section 107 a certificate that the company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation of the company, issued any invitation to the public to subscribe for any shares or debentures of the company, and, where the annual return discloses the fact that the number of members of the company exceeds 50, also a certificate that the excess consists wholly of persons who, under section 29(1)(b), are not to be included in reckoning the number of 50. (Amended 6 of 1984 s. 72; 46 of 2000 s. 11; 12 of 2010 s. 26)~~

~~(2) A certificate sent for the purposes of subsection (1) in relation to a private company must-~~

~~(a) if sent in the form of an electronic record-~~

~~(i) be signed by a director or the secretary of the company; or~~

~~(ii) contain an acknowledgment, by a person who is authorized by the company to deliver any document under this Ordinance on the company's behalf and whose authorization has been notified to the Registrar, to the effect that the person is authorized by a director or the secretary of the company to send the certificate; or~~

~~(b) if sent in paper form, be signed by a director or the secretary of the company. (Added 12 of 2010 s. 26)~~

~~[cf. 1929 c. 23 s. 111 U.K.]~~

~~Section:~~	~~111~~	~~Annual general meeting~~	~~46 of 2000~~	~~01/07/2000~~

Meetings ~~and Proceedings~~

~~(1) Every company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months, or such longer period as the Registrar may in any particular case authorize in writing, shall elapse between the date of one annual general meeting of the company and the next:~~

~~Provided that, so long as the company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year.~~

~~(2) If default is made in holding a meeting of the company in accordance with subsection (1), the court may, on the application of any member of the company, call, or direct the calling of, a general meeting of the company and give such ancillary or consequential directions as the court thinks expedient, including directions modifying or supplementing, in relation to the calling, holding and conducting of the meeting, the operation of the company's articles, and including a direction that 1 member of the company present in person or by proxy shall be deemed to constitute a meeting.~~

~~(3) A general meeting held in pursuance of subsection (2) shall, subject to any directions of the court, be deemed to be an annual general meeting of the company; but, where a meeting so held is not held in the year in which the default in holding the company's annual general meeting occurred, the meeting so held shall not be treated as the annual general meeting for the year in which it is held unless at that meeting the company resolves that it shall be so treated.~~

~~(4) Where a company resolves that a meeting shall be so treated, a copy of the resolution shall, within 15 days after the passing thereof, be forwarded to the Registrar and recorded by him.~~

~~(5) If default is made in holding a meeting of the company in accordance with subsection (1), or in complying with any direction under subsection (2), the company and every officer of the company who is in default shall be liable to a fine; and if default is made in complying with subsection (4), 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. (Amended 7 of 1990 s. 2)~~

~~(6) A company is not required to hold a meeting in accordance with subsection (1) if~~

~~(a) everything that is required or intended to be done at the meeting (by resolution or otherwise) is done by a resolution or resolutions in accordance with section 116B; and~~

~~(b) a copy of each document (including any accounts or records) which under this Ordinance would be required to be laid before the company at the meeting or otherwise produced at the meeting is provided to each member of the company~~

~~(i) by whom or on whose behalf the resolution or resolutions, as the case may be, is or are required to be signed under that section; and~~

~~(ii) before or at the same time as the resolution or resolutions, as the case may be, is or are provided to the member. (Added 46 of 2000 s. 12)~~

~~(Replaced 6 of 1984 s. 73)~~

~~[cf. 1948 c. 38 s. 131 U.K.]~~

Section:	112	(Repealed 6 of 1984 s. 74)		30/06/1997

~~Section:~~	~~113~~	~~Convening of extraordinary general meeting on requisition~~	~~46 of 2000~~	~~01/07/2000~~

~~(1) The directors of a company, notwithstanding anything in its articles shall, on the requisition of members of the company holding at the date of the deposit of the requisition not less than one-twentieth of such of the paid-up capital of the company as at the date of the deposit carries the right of voting at general meetings of the company, or, in the case of a company not having a share capital, members of the company representing not less than one-twentieth of the total voting rights of all the members having at the said date a right to vote at general meetings of the company, forthwith proceed duly to convene an extraordinary general meeting of the company. (Amended 46 of 2000 s. 13)~~

~~(2) The requisition must state the objects of the meeting, and must be signed by the requisitionists and deposited at the registered office of the company, and may consist of several documents in like form, each signed by one or more requisitionists.~~

~~(3) If the directors do not within 21 days from the date of the deposit of the requisition proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of 3 months from the said date. (Amended 6 of 1984 s. 75)~~

~~(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.~~

~~(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to~~

~~convene a meeting shall be repaid to the requisitionists by the company, and any sum so repaid shall be retained by the company out of any sums due or to become due from the company by way of fees or other remuneration in respect of their services to such of the directors as were in default.~~

~~(6) For the purposes of this section, the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section 116.~~

~~[cf. 1929 c. 23 s. 114 U.K.]~~

~~Section:~~	~~114~~	~~Length of notice for calling meetings~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Any provision of a company's articles shall be void in so far as it provides for the calling of a meeting of the company (other than an adjourned meeting) by a shorter notice than—~~

~~(a) in the case of the annual general meeting, 21 days' notice in writing; and~~

~~(b) in the case of a meeting which is neither an annual general meeting nor a meeting for the passing of a special resolution, 14 days' notice in writing in the case of a company other than an unlimited company and 7 days' notice in writing in the case of an unlimited company. (Amended 30 of 1999 s. 6)~~

~~(2) Save in so far as the articles of a company make other provision in that behalf (not being a provision avoided by subsection (1)) a meeting of the company (other than an adjourned meeting) may be called—~~

~~(a) in the case of the annual general meeting, by 21 days' notice in writing; and~~

~~(b) in the case of a meeting which is neither an annual general meeting nor a meeting for the passing of a special resolution, by 14 days' notice in writing in the case of a company other than an unlimited company and by 7 days' notice in writing in the case of an unlimited company. (Amended 30 of 1999 s. 6)~~

~~(3) A meeting of a company shall, notwithstanding that it is called by shorter notice than that specified in subsection (2) or in the company's articles, as the case may be, be deemed to have been duly called if it is so agreed—~~

~~(a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and~~

~~(b) in the case of any other meeting, by a majority in number of the members having the right to attend and vote at the meeting, being a majority together holding not less than 95 per cent in nominal value of the shares giving a right to attend and vote at the meeting, or, in the case of a company not having a share capital, together representing not less than 95 per cent of the total voting rights at the meeting of all the members.~~

~~(Replaced 6 of 1984 s. 76)~~

~~[cf. 1948 c. 48 s. 133 U.K.]~~

~~Section:~~	~~114A~~	~~General provisions as to meetings and votes~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to sections 114AA, 155B and 163D, the following provisions shall have effect in so far as the articles of the company do not make other provision in that behalf. (Amended 28 of 2003 s. 44)~~

~~(a) notice of the meeting of a company shall be served on every member of the company in the manner in which notices are required to be served by Table A, and for the purpose of this paragraph the expression "Table A" (A表) means that Table as for the time being in force;~~

~~(b) 2 or more members holding not less than one-tenth in nominal value of the issued share capital or, if the company has not a share capital, not less than 5 per cent in number of the members of the company may call a meeting;~~

~~(c) 2 members personally present shall be a quorum;~~

~~(d) any member elected by the members present at a meeting may be chairman thereof;~~

~~(e) in the case of a company originally having a share capital; every member shall have 1 vote in respect of each share or each $100 of stock held by him, and in any other case every member shall have 1 vote.~~

~~(2) Notwithstanding anything to the contrary in the articles of a company—~~

~~(a) in the case of a company the capital of which is divided into shares which are listed on a recognized stock market, notice of every general meeting of the company shall be served on any member not entitled to vote thereat at the same time as notice of the meeting is served on members who are so entitled. (Amended 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~Provided that where a meeting is called at any time by shorter notice than that specified in~~

~~section 114(2) or in the company's articles, service of the notice required by this paragraph shall be deemed to be in compliance with this paragraph if such notice is served as soon as practicable after that time;~~

~~(b) where any shares in a company are held in trust for that company, such shares shall not, for so long as they are so held, confer any right to vote at meetings of the company.~~

~~(3) The articles of a company shall, if the articles so provide, apply in relation to the service by the company of notices under subsection (2)(a) and in determining the time at which such service shall be deemed to be effected.~~

~~(Added 6 of 1984 s. 77)~~

~~[cf. 1948 c. 38 s. 134 U.K.]~~

~~Section:~~	~~114AA~~	~~Quorum where company has only one member~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Notwithstanding any provision to the contrary in the articles of a company, if the company has only one member, one member present in person or by proxy shall be a quorum of a meeting of the company.~~

~~(Added 28 of 2003 s. 45)~~

~~Section:~~	~~114B~~	~~Power of court to order meeting~~		~~30/06/1997~~

~~(1) If for any reason it is impracticable to call a meeting of a company in any manner in which meetings of that company may be called, or to conduct the meeting of the company in manner prescribed by the articles or this Ordinance, the court may, either of its own motion or on the application of any director of the company or of any member of the company who would be entitled to vote at the meeting, order a meeting of the company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, including a direction that 1 member of the company present in person or by proxy shall be deemed to constitute a meeting.~~

~~(2) Any meeting called, held and conducted in accordance with an order under subsection (1) shall for all purposes be deemed to be a meeting of the company duly called, held and conducted.~~

~~(3) The legal personal representative of a deceased member of a company shall, for the purposes of this section, be treated in all respects as a member of the company having the same rights with respect to attending and voting at a meeting of the company as such deceased member would, if living, have had.~~

~~(Added 6 of 1984 s. 77)~~

~~[cf. 1948 c. 38 s. 135 U.K.]~~

~~Section:~~	~~114C~~	~~Proxies~~		~~30/06/1997~~

~~(1) Subject to subsection (1A), any member of a company entitled to attend and vote at a meeting of the company shall be entitled to appoint another person (whether a member or not) as his proxy to attend and vote instead of him, and a proxy so appointed shall also have the same right as the member to speak at the meeting. (Amended 75 of 1993 s. 6)~~

~~(1A) Unless the articles otherwise provide—~~

~~(a) a proxy shall not be entitled to vote except on a poll; and~~

~~(b) subsection (1) shall not apply in the case of a company not having a share capital. (Added 75 of 1993 s. 6)~~

~~(2) The right of a member of a company having a share capital to appoint a proxy shall include the right to appoint separate proxies to represent respectively such number of the shares held by him as may be specified in their instruments of appointment; but (without prejudice to the appointment of alternates) the number of proxies so appointed by any person to attend on the same occasion shall not, unless the articles otherwise provide, exceed 2.~~

~~(3) In every notice calling a meeting of a company having a share capital there shall appear with reasonable prominence a statement that a member entitled to attend and vote is entitled to appoint a proxy or, where that is allowed, 1 or more proxies to attend and vote instead of him, and that a proxy need not also be a member; and if default is made in complying with this subsection as respects any meeting, every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2; 75 of 1993 s. 6)~~

~~(4) Any provision contained in a company's articles shall be void in so far as it would have the effect of requiring the instrument appointing a proxy, or any other document necessary to show the validity or otherwise relating to the appointment of a proxy, to be received by the company or any other person more than 48 hours before a~~

~~meeting or adjourned meeting in order that the appointment may be effective thereat.~~

~~(5) If, for the purpose of any meeting of a company, invitations to appoint as proxy a person or 1 of a number of persons specified in the invitations are issued at the company's expense to some only of the members entitled to be sent a notice of the meeting and to vote thereat by proxy, every officer of the company who knowingly and wilfully authorizes or permits their issue as aforesaid shall be liable to a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that an officer shall not be liable under this subsection by reason only of the issue to a member at his request in writing of a form of appointment naming the proxy or of a list of persons willing to act as proxy if the form or list is available on request in writing to every member entitled to vote at the meeting by proxy.~~

~~(6) Notwithstanding anything to the contrary in the articles of a company, any form issued to a member of the company by the directors for use by him for appointing a proxy to attend and vote at a meeting of the company shall be such as to enable the member, according to his intention, to instruct the proxy to vote in favour of or against (or, in default of instructions, to exercise his discretion in respect of) each resolution dealing with any special business to be transacted at the meeting.~~

~~(7) In subsection (6) "special business" (特別事務) means-~~

~~(a) all business transacted at an extraordinary general meeting; and~~

~~(b) all business transacted at an annual general meeting except the declaration of a dividend, the consideration of the accounts and the reports of the directors and auditors, the election of directors in place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.~~

~~(8) This section shall apply to meetings of any class of members of a company as it applies to general meetings of the company.~~

~~(Added 6 of 1984 s. 77)~~
~~[cf. 1948 c. 38 s. 136 U.K.]~~

~~Section:~~	~~114D~~	~~Right to demand a poll~~		~~30/06/1997~~

~~(1) Any provision contained in a company's articles shall be void in so far as it would have the effect either-~~

~~(a) of excluding the right to demand a poll at a general meeting on any question other than the election of the chairman of the meeting or the adjournment of the meeting; or~~

~~(b) of making ineffective a demand for a poll on any such question which is made either-~~

~~(i) by not less than 5 members having the right to vote at the meeting; or~~

~~(ii) by a member or members representing not less than one tenth of the total voting rights of all the members having the right to vote at the meeting; or~~

~~(iii) by a member or members holding shares in the company conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to not less than one tenth of the total sum paid up on all the shares conferring that right.~~

~~(2) The instrument appointing a proxy to vote at a meeting of a company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purposes of subsection (1) a demand by a person as proxy for a member shall be the same as a demand by the member.~~

~~(Added 6 of 1984 s. 77)~~
~~[cf. 1948 c. 38 s. 137 U.K.]~~

~~Section:~~	~~114E~~	~~Voting on a poll~~		~~30/06/1997~~

~~On a poll taken at a meeting of a company or a meeting of any class of members of a company, a member entitled to more than 1 vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.~~

~~(Added 6 of 1984 s. 77)~~
~~[cf. 1948 c. 38 s. 138 U.K.]~~

Section:	115	Representation of companies at meetings ~~of other companies and~~ of creditors	L.N. 12 of 2003	01/04/2003

(1) A corporation may by resolution of its directors or other governing body-

~~(a) if it is a member of a company, authorize such person as it thinks fit to act as its representative at any meeting of the company or at any meeting of any class of members of the company;~~

(b) if it is a creditor (including a holder of debentures) of a company, authorize such person as it thinks fit

to act as its representative at any meeting of any creditors of the company held in pursuance of this Ordinance or of any rules made thereunder~~, or in pursuance of the provisions contained in any debenture or trust deed or other instrument, as the case may be~~. (Replaced 6 of 1984 s. 78)

~~(1A) A recognized clearing house within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571) may, if it or its nominee is a member of a company, authorize such person or persons as it thinks fit to act as its representative or representatives, as the case may be, at any meeting of the company or at any meeting of any class of members of the company provided that, if more than one person is so authorized, the authorization shall specify the number and class of shares in respect of which each such person is so authorized. (Added 68 of 1992 s. 20. Amended 62 of 1995 s. 12; 5 of 2002 s. 407)~~

(2) A person authorized under subsection (1) shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual ~~shareholder, creditor, or holder of debentures,~~ creditor of the company. (Amended 6 of 1984 s. 78; 68 of 1992 s. 20)

~~(3) A person authorized under subsection (1A) shall be entitled to exercise the same powers on behalf of the recognized clearing house (or its nominee) which he represents as that clearing house (or its nominee) could exercise if it were an individual shareholder of the company. (Added 68 of 1992 s. 20)~~

[cf. 1929 c. 23 s. 116 U.K.]

~~Section:~~	~~115A~~	~~Circulation of members' resolutions, etc.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to this section, it shall be the duty of a company, on the requisition in writing of such number of members as is hereinafter specified and (unless the company otherwise resolves) at the expense of the requisitionists—~~

~~(a) to give to members of the company entitled to receive notice of the next annual general meeting notice of any resolution which may properly be moved and is intended to be moved at that meeting;~~

~~(b) to circulate to members entitled to have notice of any general meeting sent to them any statement of not more than 1000 words with respect to the matter referred to in any proposed resolution or the business to be dealt with at that meeting.~~

~~(2) The number of members necessary for a requisition under subsection (1) shall be—~~

~~(a) any number of members representing not less than one-fortieth of the total voting rights of all members having at the date of the requisition a right to vote at the meeting to which the requisition relates; or (Amended 28 of 2003 s. 46)~~

~~(b) not less than 50 members holding shares in the company on which there has been paid up an average sum, per member, of not less than $2000. (Amended 28 of 2003 s. 46)~~

~~(3) Notice of any such resolution shall be given, and any such statement shall be circulated, to members of the company entitled to have notice of the meeting sent to them by serving a copy of the resolution or statement on each such member in any manner permitted for service of notice of the meeting, and notice of any such resolution shall be given to any other member of the company by giving notice of the general effect of the resolution in any manner permitted for giving him notice of meetings of the company:~~

~~Provided that the copy shall be served, or notice of the effect of the resolution shall be given, as the case may be, in the same manner and, so far as practicable, at the same time as notice of the meeting and, where it is not practicable for it to be served or given at that time, it shall be served or given as soon as practicable thereafter.~~

~~(4) A company shall not be bound under this section to give notice of any resolution or to circulate any statement unless—~~

~~(a) a copy of the requisition signed by the requisitionists (or 2 or more copies which between them contain the signatures of all the requisitionists) is deposited at the registered office of the company—~~

~~(i) in the case of a requisition requiring notice of a resolution, not less than 6 weeks before the meeting; and~~

~~(ii) in the case of any other requisition, not less than 1 week before the meeting; and~~

~~(b) there is deposited or tendered with the requisition a sum reasonably sufficient to meet the company's expenses in giving effect thereto:~~

~~Provided that if, after a copy of a requisition requiring notice of a resolution has been deposited at the registered office of the company, an annual general meeting is called for a date 6 weeks or less after the copy has been deposited, the copy though not deposited within the time required by this subsection shall be deemed to have been properly deposited for the purposes thereof.~~

~~(5) The company shall also not be bound under this section to circulate any statement if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred~~

~~by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this section to be paid in whole or in part by the requisitionists, notwithstanding that they are not parties to the application.~~

~~(6) Notwithstanding anything in the company's articles, the business which may be dealt with at an annual general meeting shall include any resolution of which notice is given in accordance with this section, and for the purposes of this subsection notice shall be deemed to have been so given notwithstanding the accidental omission, in giving it, of 1 or more members.~~

~~(7) In the event of any default in complying with the provisions of this section, every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 79)~~
~~[cf. 1948 c. 38 s. 140 U.K.]~~

~~Section:~~	~~116~~	~~Special resolutions~~		~~30/06/1997~~

~~(1) A resolution shall be a special resolution when it has been passed by not less than three-fourths of the votes cast by such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which not less than 21 days' notice, specifying the intention to propose the resolution as a special resolution, has been duly given:~~

~~Provided that, if it is so agreed by a majority in number of the members having the right to attend and vote at any such meeting, being a majority together holding not less than 95 per cent in nominal value of the shares giving that right, or, in the case of a company not having a share capital, together representing not less than 95 per cent of the total voting rights at that meeting of all the members, a resolution may be proposed and passed as a special resolution—~~

~~(a) in the case of a resolution for voluntary winding up pursuant to section 228(1)(b) in circumstances other than a members' voluntary winding up, at a meeting of which less than 21 days' notice but not less than 7 days' notice has been given;~~

~~(b) in any other case, at a meeting of which less than 21 days' notice has been given.~~

~~(2) At any meeting at which a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.~~

~~(3) In computing the majority on a poll demanded on the question that a special resolution be passed, reference shall be had to the number of votes cast for and against the resolution.~~

~~(4) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Ordinance or the articles.~~

~~(5) Any reference to an extraordinary resolution of a company or of a meeting of any class of members of a company contained in any Ordinance which was enacted or document which existed before the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) shall, in relation to a resolution passed or to be passed on or after that date, be deemed to be a reference to a special resolution of the company or meeting.~~

~~(6) Where before the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) a meeting had been convened for the purpose of passing a resolution as an extraordinary resolution, and at that meeting that resolution has after that date been passed in the manner required by the law in force before that date relating to the passing of an extraordinary resolution and such resolution would under that law have been effective for its purpose, such resolution shall be as effective as if it had been a special resolution.~~

~~(Replaced 6 of 1984 s. 80)~~
~~[cf. 1948 c. 38 s. 141 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~116A~~	~~Restriction on alteration of articles to improve director's emoluments~~		~~30/06/1997~~

~~(1) A company shall not at any meeting alter or add to its articles so as to provide emoluments or improved emoluments for a director of the company in respect of his office as such unless—~~

~~(a) there is set out in the notice convening the meeting or in a document attached thereto an adequate explanation of the provision; and~~

~~(b) the provision is approved by a resolution not relating also to other matters.~~

~~(2) In this section "emoluments" (薪酬), in relation to a director, includes fees and percentages, any sums paid by way of expenses allowance, any contribution paid in respect of him under any pension scheme and any benefits received by him otherwise than in cash in respect of his services as director.~~

~~(Added 6 of 1984 s. 81)~~

~~Section:~~	~~116B~~	~~Written resolutions of companies~~	~~46 of 2000~~	~~01/07/2000~~

~~(1) Anything which in the case of a company may be done—~~

~~(a) by resolution of the company in general meeting; or~~

~~(b) by resolution of a meeting of any class of members of the company,~~

~~may be done, without a meeting and without any previous notice being required, by resolution in writing signed by or on behalf of all the members of the company who at the date of the resolution would be entitled to attend and vote at such meeting.~~

~~(2) The signatures need not be on a single document provided each is on a document which accurately states the terms of the resolution.~~

~~(3) The date of the resolution means when the resolution is signed by or on behalf of the last member to sign.~~

~~(4) A resolution agreed to in accordance with this section has effect as if passed—~~

~~(a) by the company in general meeting; or~~

~~(b) by a meeting of the relevant class of members of the company,~~

~~as the case may be; and any reference in any enactment to a meeting at which a resolution is passed or to members voting in favour of a resolution shall be construed accordingly.~~

~~(5) Any reference in any enactment to—~~

~~(a) the date of passing of a resolution is, in relation to a resolution agreed to in accordance with this section, a reference to the date of the resolution;~~

~~(b) the date of a meeting is, in relation to a resolution agreed to in accordance with this section without the meeting, a reference to the date of the resolution.~~

~~(6) A resolution may be agreed to in accordance with this section which would otherwise be required to be passed as a special resolution; and any reference in any enactment to a special resolution includes such a resolution.~~

~~(7) A company shall cause a record of all 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.~~

~~(8) Where a record made in accordance with subsection (7) by a company purports to be signed by a director of the company or secretary of the company, then—~~

~~(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 have been complied with.~~

~~(9) Section 120 shall apply to a record made in accordance with subsection (7) as that section applies to the minutes of proceedings of any general meeting of a company.~~

~~(10) If a company fails to comply with subsection (7), 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.~~

~~(11) This section shall not apply to—~~

~~(a) a resolution under section 131 removing an auditor before the expiration of his term of office;~~

~~(b) a resolution under section 157B removing a director before the expiration of his period of office.~~

~~(Replaced 46 of 2000 s. 14)~~

~~[cf. 1985 c. 6 s. 381A U.K.]~~

~~Section:~~	~~116BA~~	~~Duty to notify auditors of proposed written resolution~~	~~46 of 2000~~	~~01/07/2000~~

~~(1) If a director or secretary of a company—~~

~~(a) knows that it is proposed to seek agreement to a resolution in accordance with section 116B; and~~

~~(b) knows the terms of the resolution,~~

~~he shall, if the company has auditors, secure that a copy of the resolution is sent to them, or that they are otherwise notified of its contents, at or before the time the resolution is supplied to a member for signature.~~

~~(2) A director or secretary who fails to comply with subsection (1) shall be liable to a fine.~~

~~(3) In any proceedings for an offence under this section it is a defence for the defendant to prove-~~

~~(a) that the circumstances were such that it was not practicable for him to comply with subsection (1);~~

~~(b) that he believed on reasonable grounds that a copy of the resolution had been sent to the company's auditors or that they had otherwise been informed of its contents; or~~

~~(c) that he had reasonable grounds to believe and did believe that a person was specifically 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.~~

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

~~(Added 46 of 2000 s. 14)~~

~~[cf. 1985 c. 6 s. 381B U.K.]~~

~~Section:~~	~~116BB~~	~~Written resolutions: supplementary provisions~~	~~46 of 2000~~	~~01/07/2000~~

~~(1) Sections 116B and 116BA shall have effect notwithstanding any provision of the company's memorandum or articles, but do not prejudice any power conferred by any such provision.~~

~~(2) Nothing in sections 116B and 116BA shall affect any enactment or rule of law as to-~~

~~(a) things done otherwise than by passing a resolution; or~~

~~(b) cases in which a resolution is treated as having been passed, or a person is precluded from alleging that a resolution has not been duly passed.~~

~~(Added 46 of 2000 s. 14)~~

~~[cf. 1985 c. 6 s. 381C U.K.]~~

~~Section:~~	~~116BC~~	~~Written record where company has only one member~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company has only one member and that member takes any decision that may be taken by the company in general meeting and that has effect as if agreed by the company in general meeting, he shall (unless that decision is taken by way of a written resolution agreed in accordance with section 116B) provide the company with a written record of that decision within 7 days after the decision is made.~~

~~(2) Where the member provides the company with a written record of a decision in accordance with subsection (1), that record shall be sufficient evidence of the decision having been taken by the member.~~

~~(3) A company shall cause a record of all written records provided to the company 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.~~

~~(4) Section 120 shall apply to a record made in accordance with subsection (3) as that section applies to the minutes of proceedings of any general meeting of a company.~~

~~(5) If the member fails to comply with subsection (1), he shall be liable to a fine and, for continued default, to a daily default fine.~~

~~(6) If a company fails to comply with subsection (3), 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.~~

~~(7) Failure by the member to comply with subsection (1) shall not affect the validity of any decision referred to in that subsection.~~

~~(Added 28 of 2003 s. 47)~~

~~Section:~~	~~116C~~	~~Resolutions requiring special notice~~		~~30/06/1997~~

~~Where by any provision hereafter contained in this Ordinance special notice is required of a resolution, the resolution shall not be effective unless notice of the intention to move it has been given to the company not less than 28 days before the meeting at which it is moved, and the company shall give its members notice of any such resolution at the same time and in the same manner as it gives notice of the meeting or, if that is not practicable, shall give them notice thereof, either by advertisement in a newspaper having an appropriate circulation or in any other mode allowed by the articles, not less than 21 days before the meeting:~~

~~Provided that if, after notice of the intention to move such a resolution has been given to the company, a meeting is called for a date 28 days or less after the notice has been given, the notice though not given within the time required by this section shall be deemed to have been properly given for the purposes thereof.~~

~~(Added 6 of 1984 s. 81)~~

~~[cf. 1948 c. 38 s. 142 U.K.]~~

~~Section:~~	~~117~~	~~Registration and copies of certain resolutions and agreements~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A printed copy of every resolution or agreement to which this section applies shall, within 15 days after the passing or making thereof, be forwarded to the Registrar and recorded by him.~~

~~(2) Where articles have been registered, a copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.~~

~~(3) Where articles have not been registered, a printed copy of every such resolution or agreement shall be forwarded to any member at his request, on payment of $1 or such less sum as the company may direct.~~

~~(4) This section shall apply to—~~

~~(a) special resolutions, other than special resolutions to change the name of a company passed under section 22(1); (Amended 28 of 2003 s. 48)~~

~~(b) (Repealed 6 of 1984 s. 82)~~

~~(c) resolutions which have been agreed to by all the members of a company, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed as special resolutions; (Replaced 6 of 1984 s. 82)~~

~~(d) resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;~~

~~(e) resolutions requiring a company to be wound up voluntarily, passed under section 228(1)(a); (Amended 6 of 1984 s. 82)~~

~~(f) resolutions varying any matter or provision in the articles of a company which is expressly authorized by the articles to be varied by ordinary resolution. (Added 6 of 1984 s. 82)~~

~~(5) If a company fails to comply with subsection (1), 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. (Amended 6 of 1984 s. 259; 7 of 1990 s. 2)~~

~~(6) If a company fails to comply with subsection (2) or (3), the company and every officer of the company who is in default shall be liable to a fine for each copy in respect of which default is made. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2)~~

~~(7) For the purposes of subsections (5) and (6), a liquidator of the company shall be deemed to be an officer of the company.~~

~~[cf. 1929 c. 23 s. 118 U.K.]~~

~~Section:~~	~~118~~	~~Resolutions passed at adjourned meetings~~		~~30/06/1997~~

~~Where a resolution is passed at an adjourned meeting of— (Amended 6 of 1984 s. 83)~~

~~(a) a company;~~

~~(b) the holders of any class of shares in a company;~~

~~(c) the directors of a company,~~

~~the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.~~

~~[cf. 1929 c. 23 s. 119 U.K.]~~

~~Section:~~	~~119~~	~~Minutes of proceedings of meetings and directors~~		~~30/06/1997~~

~~(1) Every company shall cause minutes of all proceedings at general meetings and at meetings of its directors to be entered in books kept for that purpose. (Replaced 6 of 1984 s. 84)~~

~~(2) Any such minute if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.~~

~~(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the company or meeting of directors or managers, then, until the contrary is proved, the meeting~~

~~shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors, managers, or liquidators, shall be deemed to be valid.~~

~~(4) If a company fails to comply with subsection (1), 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. (Added 6 of 1984 s. 84. Amended 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 120 U.K.]~~

~~Section:~~	~~119A~~	~~Place where minute book is to be kept and notice of change of place~~		~~30/06/1997~~

~~(1) The books containing the minutes of proceedings of any general meeting of a company, any meeting of directors or any meeting of managers, shall be kept at the registered office of the company:~~

~~Provided that~~

~~(a) if the work of making up the books is done at an office of the company other than the registered office of the company, they may be kept at that other office; and~~

~~(b) if the company arranges with some other person for the making up of the books to be undertaken on behalf of the company by that other person, they may be kept at the office of that other person at which the work is done,~~

~~so, however, that they shall not be kept at a place outside Hong Kong.~~

~~(2) Every company shall send notice to the Registrar in the specified form of the place where the books containing the minutes of proceedings of any meeting referred to in subsection (1) are kept and of any change in that place: (Amended 3 of 1997 s. 33)~~

~~Provided that a company shall not be bound to send such notice where the said books have, at all times since they came into existence or, in the case of any such books in existence at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), at all times since then, been kept at the registered office of the company.~~

~~(3) Where a company makes default in complying with subsection (1) or makes default for 14 days in complying with subsection (2), 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. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 85)~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~120~~	~~Inspection of minute books~~		~~30/06/1997~~

~~(1) The books containing the minutes of proceedings of any general meeting of a company shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that no less than 2 hours in each day be allowed for inspection) be open to the inspection of any member without charge.~~

~~(2) Any member shall be entitled to be furnished, within 7 days after he has made a request in that behalf to the company, with a copy of any such minutes as aforesaid at a charge not exceeding $1 for every 100 words.~~

~~(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the company and every officer of the company who is in default shall be liable in respect of each offence to a fine and, for continued default, to a daily default fine. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)~~

~~(4) In the case of any such refusal or default, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.~~

~~(Amended 6 of 1984 s. 86)~~

~~[cf. 1929 c. 23 s. 121 U.K.]~~

~~Section:~~	~~121~~	~~Keeping of books of account~~		~~30/06/1997~~

~~Accounts and Audit~~

~~(1) Every company shall cause to be kept proper books of account with respect to-~~

~~(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;~~

~~(b) all sales and purchases of goods by the company;~~

~~(c) the assets and liabilities of the company.~~

~~(2) For the purposes of subsection (1), proper books of account shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.~~

~~(3) The books of account shall be kept at the registered office of the company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors:~~

~~Provided that if books of account are kept at a place outside Hong Kong there shall be sent to, and kept at a place in, Hong Kong and be at all times open to inspection by the directors such accounts and returns with respect to the business dealt with in the books of account so kept as will disclose with reasonable accuracy the financial position of that business at intervals not exceeding 6 months and will enable to be prepared in accordance with this Ordinance the company's balance sheet, its profit and loss account or income and expenditure account, and any document annexed to any of those documents giving information which is required by this Ordinance and is thereby allowed to be so given.~~

~~(3A) Any books of account which a company is required by this section to keep shall be preserved by it for 7 years from the end of the financial year to which the last entry made or matter recorded therein relates. (Added 6 of 1984 s. 87)~~

~~(4) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that-~~

~~(a) in any proceedings against a person in respect of an offence under this section consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 147 U.K.]~~

~~Section:~~	~~122~~	~~Profit and loss account and balance sheet~~		~~30/06/1997~~

~~(1) Subject to subsection (1B), the directors of every company shall lay before the company at its annual general meeting a profit and loss account or, in the case of a company not trading for profit, an income and expenditure account for the period, in the case of the first account, since the incorporation of the company, and, in any other case, since the preceding accounts. (Replaced 10 of 1987 s. 4)~~

~~(1A) The accounts referred to in subsection (1) shall be made up to a date falling not more than 6 months, or, in the case of a private company (other than a private company which at any time during the period to which the said accounts relate was a member of a group of companies of which a company other than a private company was a member) and a company limited by guarantee not more than 9 months, before the date of the meeting. (Added 10 of 1987 s. 4. Amended L.N. 245 of 1987)~~

~~(1B) The court, if for any reason it thinks fit so to do, may in the case of any company and with respect to any year-~~

~~(a) substitute for the requirement in subsection (1) to lay a profit and loss account or (as the case may be) an income and expenditure account before the company at its annual general meeting a requirement to lay such account before the company at such other general meeting of the company as the court may specify; and~~

~~(b) extend the periods of 6 and 9 months referred to in subsection (1A). (Added 10 of 1987 s. 4)~~

~~(2) The directors shall cause to be made out in every calendar year, and to be laid before the company at its annual general meeting or at such other general meeting of the company as may be specified by the court under subsection (1B), a balance sheet as at the date to which the profit and loss account, or the income and expenditure~~

~~account, as the case may be, is made up. (Amended 10 of 1987 s. 4; L.N. 245 of 1987)~~

~~(3) If any person being a director of a company fails to take all reasonable steps to comply with the provisions of this section he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that-~~

~~(a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of this section were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(Replaced 80 of 1974 s. 12)~~

~~[cf. 1948 c. 38 s. 148 U.K.]~~

~~Section:~~	~~123~~	~~General provisions as to contents and form of accounts~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) Every balance sheet of a company shall give a true and fair view of the state of affairs of the company as at the end of its financial year, and every profit and loss account of a company shall give a true and fair view of the profit or loss of the company for the financial year.~~

~~(2) A company's balance sheet and profit and loss account shall comply with the requirements of the Tenth Schedule, so far as applicable thereto.~~

~~(3) Save as expressly provided in Part III of the Tenth Schedule, the requirements of subsection (2) and the said Schedule shall be without prejudice either to the general requirements of subsection (1) or to any other requirements of this Ordinance. (Amended 12 of 2005 s. 4)~~

~~(4) Where compliance with the requirements of the Tenth Schedule and other requirements of this Ordinance as to the matters to be included in a company's balance sheet and profit and loss account or in a statement annexed to those accounts-~~

~~(a) would not be sufficient to give a true and fair view of the state of affairs or the profit or loss of the company; or~~

~~(b) is inconsistent with the requirement to give a true and fair view of the state of affairs or the profit or loss of the company,~~

~~then-~~

~~(c) in the case of paragraph (a), additional information that is necessary to give a true and fair view thereof shall be given in the accounts or statement, as the case may require; and~~

~~(d) in the case of paragraph (b), the directors of the company shall depart from those requirements to the extent that is necessary to give a true and fair view thereof with the reasons for and particulars and effects of such departure to be given in the accounts or in a statement annexed to those accounts. (Replaced 12 of 2005 s. 4)~~

~~(5) Subsections (1) and (2) shall not apply to a company's profit and loss account if-~~

~~(a) the company has subsidiaries; and~~

~~(b) the profit and loss account is framed as a consolidated profit and loss account dealing with all or any of the company's subsidiaries as well as the company and-~~

~~(i) complies with the requirements of this Ordinance relating to consolidated profit and loss accounts; and~~

~~(ii) shows how much of the consolidated profit or loss for the financial year is dealt with in the accounts of the company.~~

~~(6) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects any accounts laid before the company in general meeting with the provisions of this section and with the other requirements of this Ordinance as to the matters to be stated in accounts, he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that-~~

~~(a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the said provisions or the said other requirements, as the case may be, were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the court~~

~~dealing with the case, the offence was committed wilfully.~~

~~(7) For the purposes of this section and the following provisions of this Ordinance, except where the context otherwise requires,~~

~~(a) any reference to a balance sheet or profit and loss account shall include any notes thereon or document annexed thereto giving information which is required by this Ordinance and is thereby allowed to be so given; and~~

~~(b) any reference to a profit and loss account shall be taken, in the case of a company not trading for profit, as referring to its income and expenditure account, and references to profit or to loss and, if the company has subsidiaries, references to a consolidated profit and loss account shall be construed accordingly.~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 149 U.K.]~~

~~Section:~~	~~124~~	~~Obligation to lay group accounts before holding company~~		~~30/06/1997~~

~~(1) Where at the end of its financial year a company has subsidiaries, accounts or statements (in this Ordinance referred to as "group accounts") dealing as hereinafter mentioned with the state of affairs and profit or loss of the company and the subsidiaries shall, subject to subsection (2), be laid before the company in general meeting when the company's own balance sheet and profit and loss account are so laid.~~

~~(2) Notwithstanding anything in subsection (1)~~

~~(a) group accounts shall not be required where the company is at the end of its financial year the wholly owned subsidiary of another body corporate; and (Amended 6 of 1984 s.88)~~

~~(b) group accounts need not deal with a subsidiary of the company if the company's directors are of opinion that~~

~~(i) it is impracticable, or would be of no real value to members of the company, in view of the insignificant amount involved, or would involve expense or delay out of proportion to the value to members of the company; or~~

~~(ii) the result would be misleading, or harmful to the business of the company or any of its subsidiaries; or~~

~~(iii) the business of the holding company and that of the subsidiary are so different that they cannot reasonably be treated as a single undertaking;~~

~~and, if the directors are of such an opinion about each of the company's subsidiaries, group accounts shall not be required:~~

~~Provided that the approval of the Financial Secretary shall be required for not dealing in group accounts with a subsidiary on the ground that the result would be harmful or on the ground of the difference between the business of the holding company and that of the subsidiary.~~

~~(3) If any person being a director of a company fails to take all reasonable steps to secure compliance as respects the company with the provisions of this section, he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that~~

~~(a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements of this section were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for an offence under this section unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(4) For the purposes of this section a body corporate shall be deemed to be the wholly owned subsidiary of another if it has no members except that other and that other's wholly owned subsidiaries and its or their nominees.~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 150 U.K.]~~

~~Section:~~	~~125~~	~~Form of group accounts~~		~~30/06/1997~~

~~(1) Subject to subsection (2), the group accounts laid before a holding company shall be consolidated accounts comprising~~

~~(a) a consolidated balance sheet dealing with the state of affairs of the company and all the subsidiaries to be dealt with in group accounts;~~

~~(b) a consolidated profit and loss account dealing with the profit or loss of the company and those subsidiaries.~~

~~(2) If the company's directors are of opinion that it is better for the purpose-~~

~~(a) of presenting the same or equivalent information about the state of affairs and profit or loss of the company and those subsidiaries; and~~

~~(b) of so presenting it that it may be readily appreciated by the company's members,~~

~~the group accounts may be prepared in a form other than that required by subsection (1), and in particular may consist of more than one set of consolidated accounts dealing respectively with the company and one group of subsidiaries and with other groups of subsidiaries, or of separate accounts dealing with each of the subsidiaries, or of statements expanding the information about the subsidiaries in the company's own accounts, or any combination of those forms.~~

~~(3) The group accounts may be wholly or partly incorporated in the company's own balance sheet and profit and loss account.~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 151 U.K.]~~

~~Section:~~	~~126~~	~~Contents of group accounts~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) The group accounts laid before a company shall give a true and fair view of the state of affairs and profit or loss of the company and the subsidiaries dealt with thereby as a whole, so far as concerns members of the company.~~

~~(2) Where the financial year of a subsidiary does not coincide with that of the holding company, the group accounts shall-~~

~~(a) deal with the subsidiary's state of affairs as at the end of its financial year ending with or last before that of the holding company, and with the subsidiary's profit or loss for that year; and~~

~~(b) state the reasons why the financial year of the subsidiary does not coincide with that of the holding company. (Amended 30 of 1999 s. 7)~~

~~(3) Without prejudice to subsection (1), the group accounts, if prepared as consolidated accounts, shall comply with the requirements of the Tenth Schedule, so far as applicable thereto, and if not so prepared shall give the same or equivalent information. (Amended 12 of 2005 s. 5)~~

~~(4) Where compliance with the requirements of the Tenth Schedule and other requirements of this Ordinance as to the matters to be included in a company's group accounts or in a statement annexed to the group accounts-~~

~~(a) would not be sufficient to give a true and fair view of the state of affairs or the profit or loss of the company and its subsidiaries; or~~

~~(b) is inconsistent with the requirement to give a true and fair view of the state of affairs or the profit or loss of the company and its subsidiaries,~~

~~then-~~

~~(c) in the case of paragraph (a), additional information that is necessary to give a true and fair view thereof shall be given in the group accounts or statement, as the case may require; and~~

~~(d) in the case of paragraph (b), the directors of the company shall depart from those requirements to the extent that is necessary to give a true and fair view thereof with the reasons for and particulars and effects of such departure to be given in a statement annexed to the company's group accounts. (Added 12 of 2005 s. 5)~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 152 U.K.]~~

~~Section:~~	~~127~~	~~Financial year of holding company and subsidiary~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) A holding company's directors shall secure that except where in their opinion there are good reasons against it, the financial year of each of its subsidiaries shall coincide with the company's own financial year.~~

~~(2) Where a holding company or a holding company's subsidiary which is a company for the purposes of this Ordinance wishes to extend its financial year so that the subsidiary's financial year may end with that of the holding company, and for that purpose to postpone the submission of the relevant accounts to a general meeting from one calendar year to the next, the Registrar may on the application of the directors of the company whose financial year is to be extended direct that, in the case of that company, the submission of accounts to a general meeting, the holding~~

~~of a general meeting in order to comply with section 111(1), or the making of an annual return shall not be required in the earlier of the said calendar years. (Amended 12 of 2005 s. 6)~~

~~(Replaced 80 of 1974 s. 12)~~
~~[cf. 1948 c. 38 s. 153 U.K.]~~

~~Section:~~	~~128~~	~~Particulars to be shown in company's accounts in relation to subsidiaries~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) Subject to the provisions of this section, where, at the end of its financial year, a company has subsidiaries, there shall be shown in the accounts of the company laid before it in general meeting, or in a statement annexed to those accounts, the following particulars with respect to each subsidiary—~~

~~(a) the subsidiary's name;~~

~~(b) where the subsidiary is a body corporate, the country in which it is incorporated; (Amended 12 of 2005 s. 7)~~

~~(ba) where the subsidiary is not a body corporate, the address of its principal place of business; (Added 12 of 2005 s. 7)~~

~~(c) in relation to shares of each class of the subsidiary held by the company, the identity of the class and the proportion of the nominal value of the issued shares of that class represented by the shares held; and~~

~~(d) with reference to the proportion of the nominal value of the issued shares of a class represented by the shares held by the company, the extent (if any) to which it consists of shares held by, or by a nominee for, a subsidiary of the company and the extent (if any) to which it consists of shares held by, or by a nominee for, the company itself. (Replaced 28 of 2003 s. 49)~~

~~(2) For the purposes of subsection (1)—~~

~~(a) shares of an undertaking which is a body corporate shall be treated as being held, or as not being held, by another undertaking if they would, by virtue of section 2(4), (5), (6) and (7), be treated as being held or, as the case may be, as not being held by that other undertaking for the purpose of determining whether the first-mentioned undertaking is its subsidiary; and (Replaced 12 of 2005 s. 7)~~

~~(b) the proportion of the nominal value of the issued shares of any class represented by the shares held by the company shall be stated by way of a percentage, and any such percentage may be stated to the nearest whole number per cent except where it is between 49% and 50% or between 50% and 51%, in either of which events it shall be stated to as many decimal places as would be required to indicate the percentage, to one significant figure, of the proportion of the nominal value of the issued shares of that class represented by one share. (Amended 28 of 2003 s. 49)~~

~~(c) (Repealed 28 of 2003 s. 49)~~

~~(3) Subsection (1) shall not require the disclosure of information with respect to an undertaking which—~~

~~(a) is the subsidiary of another undertaking; and~~

~~(b) is established under the laws of a place outside Hong Kong or carries on business outside Hong Kong, if—~~

~~(c) the disclosure would, in the opinion of the directors of that other undertaking, be harmful to the business of that other undertaking or of any of its subsidiaries; and~~

~~(d) the Financial Secretary agrees that the information need not be disclosed. (Replaced 12 of 2005 s. 7)~~

~~(4) If, in the opinion of the directors of a company having, at the end of its financial year, subsidiaries, the number of them is such that compliance with subsection (1) would result in particulars of excessive length being given, compliance with that subsection shall not be requisite except in the case of the subsidiaries carrying on the businesses the results of the carrying on of which, in the opinion of the directors, principally affected the amount of the profit or loss of the company and its subsidiaries or the amount of the assets of the company and its subsidiaries.~~

~~(5) Where, in the case of a company not being a private company having a share capital, advantage is taken of subsection (4), (Amended 75 of 1993 s. 7)~~

~~(a) there shall be added to the particulars, if any, given in compliance with subsection (1) the information that the particulars deal only with subsidiaries carrying on businesses of the kind referred to in subsection (4); and (Replaced 28 of 2003 s. 49)~~

~~(b) the particulars, if any, given in compliance with subsection (1), together with those which, but for the fact that advantage is so taken, would have to be so given, shall be set out in a statement in the specified form, which shall be sent to the Registrar at the same time as the annual return first made by~~

~~the company after its accounts have been laid before it in general meeting is sent to the Registrar. (Replaced 28 of 2003 s. 49)~~

~~(5A) Where, in the case of a private company having a share capital, advantage is taken of subsection (4)—~~

~~(a) there shall be added to the particulars, if any, given in compliance with subsection (1) the information that the particulars deal only with subsidiaries carrying on businesses of the kind referred to in subsection (4); and (Replaced 28 of 2003 s. 49)~~

~~(b) the particulars, if any, given in compliance with subsection (1), together with those which, but for the fact that advantage is so taken, would have to be so given, shall be set out in a statement in the specified form, which shall be sent to the Registrar within 42 days after its accounts have been laid before it in general meeting. (Replaced 28 of 2003 s. 49)~~

~~(Added 75 of 1993 s. 7)~~

~~(6) If a company fails to satisfy an obligation imposed on it by subsection (5) or (5A), 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. (Amended 7 of 1990 s. 2; 28 of 2003 s. 49)~~

~~(Replaced 80 of 1974 s. 12)~~

~~[cf. 1967 c. 81 s. 3 U.K.]~~

~~Section:~~	~~129~~	~~Particulars to be shown in company's accounts in relation to companies not being subsidiaries whose shares it holds~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to the provisions of this section, where, at the end of its financial year, a company holds shares of any class comprised in the equity share capital of another body corporate (not being its subsidiary) exceeding in nominal value one fifth of the nominal value of the issued shares of that class, there shall be shown in the accounts of the company laid before it in general meeting, or in a statement annexed to those accounts, the following particulars— (Amended 28 of 2003 s. 50)~~

~~(a) the name of that other body corporate;~~

~~(b) the country in which it is incorporated;~~

~~(c) the identity of the class and the proportion of the nominal value of the issued shares of that class represented by the shares held; and~~

~~(d) if the company also holds shares in that other body corporate of another class (whether or not comprised in its equity share capital), or of other classes (whether or not so comprised), the like particulars as respects that other class or, as the case may be, each of those other classes.~~

~~(2) If, at the end of its financial year, a company holds shares in another body corporate (not being its subsidiary) and the amount of all the shares therein which it holds (as stated in its accounts laid before it in general meeting) exceeds one tenth of the amount of its assets (as so stated), there shall be shown in those accounts, or in a statement annexed to those accounts, the following particulars— (Amended 28 of 2003 s. 50)~~

~~(a) the name of that other body corporate;~~

~~(b) the country in which it is incorporated; and~~

~~(c) in relation to shares in that other body corporate of each class held, the identity of the class and the proportion of the nominal value of the issued shares of that class represented by the shares held.~~

~~(3) Neither subsection (1) nor subsection (2) shall require the disclosure by a company of information with respect to another body corporate if that other body is incorporated outside Hong Kong or, being incorporated in Hong Kong, carries on business outside Hong Kong if the disclosure would, in the opinion of the directors of the company, be harmful to the business of the company or of that other body and the Financial Secretary agrees that the information need not be disclosed.~~

~~(4) If, at the end of its financial year, a company falls within subsection (1) or (2) in relation to more bodies corporate than one, and the number of them is such that, in the opinion of the directors, compliance with that subsection would result in particulars of excessive length being given, compliance with that subsection shall not be requisite except in the case of the bodies, carrying on the businesses the results of the carrying on of which, in the opinion of the directors, principally affected the amount of the profit or loss of the company or the amount of its assets. (Amended 28 of 2003 s. 50)~~

~~(5) Where, in the case of a company not being a private company having a share capital, advantage is taken of subsection (4)— (Amended 75 of 1993 s. 8)~~

~~(a) there shall be added to the particulars, if any, given in compliance with subsection (1) or (2) the information that the particulars deal only with bodies carrying on businesses of the kind referred to in~~

~~subsection (4); and (Replaced 28 of 2003 s. 50)~~

~~(b) the particulars, if any, given in compliance with subsection (1) or (2), together with those which, but for the fact that advantage is so taken, would have to be so given, shall be set out in a statement in the specified form, which shall be sent to the Registrar at the same time as the annual return first made by the company after its accounts have been laid before it in general meeting is sent to the Registrar. (Replaced 28 of 2003 s. 50)~~

~~(5A) Where, in the case of a private company having a share capital, advantage is taken of subsection (4)—~~

~~(a) there shall be added to the particulars, if any, given in compliance with subsection (1) or (2) the information that the particulars deal only with bodies carrying on businesses of the kind referred to in subsection (4); and (Replaced 28 of 2003 s. 50)~~

~~(b) the particulars, if any, given in compliance with subsection (1) or (2), together with those which, but for the fact that advantage is so taken, would have to be so given, shall be set out in a statement in the specified form, which shall be sent to the Registrar within 42 days after its accounts have been laid before it in general meeting. (Replaced 28 of 2003 s. 50)~~

~~(Added 75 of 1993 s. 7)~~

~~(6) If a company fails to satisfy an obligation imposed on it by subsection (5) or (5A), 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. (Amended 7 of 1990 s. 2; 28 of 2003 s. 50)~~

~~(7) For the purposes of this section—~~

~~(a) shares of a body corporate shall be treated as being held, or as not being held, by another such body if they would, by virtue of section 2(4) to (7) (but on the assumption that paragraph (b)(ii) of subsection (6) had been omitted therefrom), be treated as being held or, as the case may be, as not being held by that other body for the purpose of determining whether the first-mentioned body is its subsidiary; and~~

~~(b) the proportion of the nominal value of the issued shares of any class represented by the shares held by the company shall be stated by way of a percentage, and any such percentage may be stated to the nearest whole number per cent except where it is between 49% and 50%, in which event it shall be stated to as many decimal places as would be required to indicate the percentage, to one significant figure, of the proportion of the nominal value of the issued shares of that class represented by one share.~~

~~(8) In this section "equity share capital" (權益股本) means, in relation to a company, its issued share capital excluding any part thereof which does not, either as respects dividends or as respects capital, carry any right to participate beyond a specified amount in a distribution.~~

~~(Replaced 80 of 1974 s. 12)~~

~~[cf. 1967 c. 81 s. 4 U.K.]~~

~~Section:~~	~~129A~~	~~Particulars to be shown in subsidiary company's accounts in relation to its ultimate parent undertaking~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) Subject to subsection (2), where, at the end of its financial year, a company is the subsidiary of another undertaking, there shall be stated in, or in a note on, or statement annexed to, the company's accounts laid before it in general meeting—~~

~~(a) the name of the undertaking regarded by the directors as being the company's ultimate parent undertaking; and~~

~~(b) if known to them—~~

~~(i) where the undertaking is a body corporate, the country in which it is incorporated; and~~

~~(ii) where the undertaking is not a body corporate, the address of its principal place of business.~~

~~(2) Subsection (1) shall not require the disclosure by a company which carries on business outside Hong Kong of information with respect to the undertaking regarded by the directors as being the company's ultimate parent undertaking if—~~

~~(a) the disclosure would, in their opinion, be harmful to the business of that parent undertaking or of the company or any other of that parent undertaking's subsidiaries; and~~

~~(b) the Financial Secretary agrees that the information need not be disclosed.~~

~~(Replaced 12 of 2005 s. 8)~~

Section:	129B	Signing of balance sheet	L.N. 267 of 2003	13/02/2004

(1) Every balance sheet of a company shall be approved by the board of directors of the company and signed on behalf of the board by 2 of the directors or, in the case of a private company having only one director, by the sole director. (Amended 6 of 1984 s. 89; 28 of 2003 s. 52)

(2) In the case of a company carrying on banking business, the balance sheet shall be signed by the secretary or manager, if any, and where there are more than 3 directors of the company by at least 3 of those directors, and where there are not more than 3 directors by all the directors.

(3) If any copy of a balance sheet which has not been signed as required by this section is issued, circulated or published, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)

(Added 80 of 1974 s. 12)
[cf. 1948 c. 38 s. 155 U.K.]

Section:	129C	Accounts to be annexed, and auditors' report to be attached, to balance sheet	L.N. 298 of 2001	04/01/2002

(1) The profit and loss account and, so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before the company in general meeting, shall be annexed to the balance sheet, and the auditors' report shall be attached thereto.

(2) Any accounts so annexed shall be approved by the board of directors before the balance sheet is signed on their behalf.

(3) If any copy of a balance sheet is issued, circulated or published without having annexed thereto a copy of the profit and loss account or any group accounts required by this section to be so annexed, or without having attached thereto a copy of the auditors' report, the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)

(4) This section does not apply to a copy of a balance sheet incorporated into a summary financial report of a listed company and issued, circulated or published as part of the report. (Added 27 of 2001 s. 3)

(Added 80 of 1974 s. 12)
[cf. 1948 c. 38 s. 156 U.K.]

Section:	129D	Directors' report to be attached to balance sheet	L.N. 163 of 2005	01/12/2005

(1) There shall be attached to every balance sheet laid before a company in general meeting a report by the directors with respect to the profit or loss of the company for the financial year and the state of the company's affairs as at the end thereof.

(2) Every directors' report so attached shall be approved by the board of directors and signed on behalf of the board either by the chairman of the meeting at which it was approved or by the secretary of the company.

(3) The report shall—

(a) state the principal activities of the company and of its subsidiaries in the course of the financial year and any significant change in those activities in that year;

(b) state the amount, if any, which the directors recommend should be paid by way of dividend; (Amended L.N. 283 of 1986)

(c) state the amount, if any, which the directors propose to carry to reserves within the meaning of the Tenth Schedule;

(d) if the company (not being the wholly owned subsidiary of a company incorporated in Hong Kong) has no subsidiaries and has in the financial year made donations for charitable or other purposes to a total amount of not less than $10000, state the total amount of such donations; (Amended 3 of 1997 s. 34)

(e) if the company (not being the wholly owned subsidiary of a company incorporated in Hong Kong) has subsidiaries and the company and its subsidiaries have between them made donations for charitable or other purposes to a total amount of not less than $1000, state the total amount of such donations;

(f) if significant changes in the fixed assets of the company or of any of its subsidiaries have occurred in the financial year, contain particulars of the changes;

(g) if, in the financial year, the company has issued any shares, state the reason for making the issue, the classes of shares issued and, as respects each class of shares, the number issued and the consideration

~~received by the company for the issue;~~

~~(h) if, in the financial year, the company has issued any debentures, state the reason for making the issue, the classes of debentures issued and, as respects each class of debentures, the amount issued and the consideration received by the company for the issue; (Amended 12 of 2005 s. 9)~~

~~(i) state the names of the persons who, at any time during the financial year, were directors of the company;~~

~~(ia) contain in respect of any contract referred to in section 162A(1)(a) the information required to be included in the report by that section; (Added 6 of 1984 s. 90)~~

~~(j) if, at the end of the financial year, there subsists a contract with the company or the company's subsidiary or holding company or a subsidiary of the company's holding company in which a director of the company has, or at any time in that year had, in any way, whether directly or indirectly, an interest, or there has, at any time in that year, subsisted a contract with the company or the company's subsidiary or holding company or a subsidiary of the company's holding company in which a director of the company had, at any time in that year, in any way, whether directly or indirectly, an interest (being, in either case, in the opinion of the directors, a contract of significance in relation to the company's business and in which the director's interest is or was material), contain— (Amended 6 of 1984 s. 90)~~

~~(i) a statement of the fact of the contract's subsisting or, as the case may be, having subsisted;~~

~~(ii) the names of the parties to the contract (other than the company);~~

~~(iii) the name of the director (if not a party to the contract);~~

~~(iv) an indication of the nature of the contract; and~~

~~(v) an indication of the nature of the director's interest in the contract;~~

~~(k) if, at the end of the financial year, there subsist arrangements to which the company or the company's subsidiary or holding company or a subsidiary of the company's holding company is a party, being arrangements whose objects are, or one of whose objects is, to enable directors of the company to acquire benefits by means of the acquisition of shares in, or debentures of, the company or any other body corporate, or there have, at any time in that year, subsisted such arrangements as aforesaid to which the company or the company's subsidiary or holding company or a subsidiary of the company's holding company was a party, contain a statement explaining the effect of the arrangements and giving the names of the persons who at any time in that year were directors of the company and held, or whose nominees held, shares or debentures acquired in pursuance of the arrangements; (Amended 6 of 1984 s. 90)~~

~~(l) contain particulars of any other matters so far as they are material for the appreciation of the state of the company's affairs by its members, being matters the disclosure of which will not, in the opinion of the directors, be harmful to the business of the company or of any of its subsidiaries.~~

~~(4) As respect a company entitled to the benefit of any provision contained in Part III (exceptions for special classes of company) of the Tenth Schedule, subsection (3) shall have effect as if paragraph (f) were omitted.~~

~~(5) For the purposes of subsection (3)(d) and (e), "wholly owned subsidiary" (全資附屬公司) shall be construed in accordance with section 124(4).~~

~~(6) The references in subsection (3)(j) to a contract do not include references to a director's contract of service or to a contract between the company and another undertaking, being a contract in which a director of the company has or had an interest by virtue only of his being a director of that other undertaking. (Amended 12 of 2005 s. 9)~~

~~(Added 80 of 1974 s. 12)~~

~~Section:~~	~~129E~~	~~Directors' report to show, for items included under authority of proviso to section 141C corresponding amounts for preceding financial year~~		~~30/06/1997~~

~~Where advantage is taken of the proviso to section 141C to show an item in the directors' report instead of in the accounts, the report shall also show the corresponding amount of that item for (or, as the case may require, as at the end of) the immediately preceding financial year, except where that amount would not have had to be shown had the item been shown in the accounts.~~

~~(Added 80 of 1974 s. 12)~~

~~Section:~~	~~129F~~	~~Penalization of failure by directors to secure compliance with requirements of sections 129D and 129E~~	~~L.N. 307 of 1998~~	~~04/09/1998~~

~~If any person being a director of a company fails to take all reasonable steps to secure compliance with the requirements of sections 129D and 129E, he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that— (Amended L.N. 307 of 1998)~~

~~(a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the said sections were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(Added 80 of 1974 s. 12)~~

~~[cf. 1967 c. 81 s. 23 U.K.]~~

~~Section:~~	~~129G~~	~~Right to receive copies of balance sheets and directors' and auditors' reports~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) A copy of every balance sheet, including every document required by law to be annexed thereto, which is to be laid before a company in general meeting, together with a copy of the directors' report and a copy of the auditors' report, shall, not less than 21 days before the date of the meeting, be sent to every member of the company (whether he is or is not entitled to receive notices of general meetings of the company), every holder of debentures of the company (whether he is or is not so entitled) and all persons other than members or holders of debentures of the company, being persons so entitled: (Amended L.N. 283 of 1986)~~

~~Provided that—~~

~~(a) in the case of a company not having a share capital this subsection shall not require the sending of a copy of the documents aforesaid to a member of the company who is not entitled to receive notices of general meetings of the company or to a holder of debentures of the company who is not so entitled;~~

~~(b) this subsection shall not require a copy of those documents to be sent—~~

~~(i) to a member of the company or a holder of debentures of the company, being in either case a person who is not entitled to receive notices of general meetings of the company and of whose address the company is unaware;~~

~~(ii) to more than one of the joint holders of any shares or debentures none of whom are entitled to receive such notices; (Amended 27 of 2001 s. 4)~~

~~(iii) in the case of joint holders of any shares or debentures some of whom are and some of whom are not entitled to receive such notices, to those who are not so entitled; or (Amended 27 of 2001 s. 4)~~

~~(iv) subject to sections 141CA(1) and 141CE(1), to a member of a listed company, a holder of debentures of the company or any other person who is entitled to receive notices of general meetings of the company, if the company has, pursuant to a relevant notice of intent, duly sent to the member, holder or person a copy of a summary financial report in place of a copy of those documents from which the report is derived; and (Added 27 of 2001 s. 4)~~

~~(c) if the copies of the documents aforesaid are sent less than 21 days before the date of the meeting, they shall, notwithstanding that fact, be deemed to have been duly sent if it is so agreed by all the members entitled to attend and vote at the meeting. (Amended 6 of 1984 s. 91)~~

~~(1AA) For the purposes of section 168BAH(3)(c), a notification is to be sent not less than 21 days before the date of the general meeting concerned. (Added 12 of 2010 s. 32)~~

~~(1AB) The period specified for the purposes of section 168BAH(3)(d)(i) is the period beginning not less than 21 days before the date of the general meeting concerned and ending on the date of the following general meeting in which documents required to be sent under subsection (1) are required to be laid before the company under this Ordinance or in accordance with a direction of the court. (Added 12 of 2010 s. 32)~~

~~(1A) Subject to sections 141CC(1) and 141CE(1), for the purposes of proviso (b)(iv) to subsection (1), a copy of a summary financial report of a listed company shall be treated as having been duly sent if—~~

~~(a) subject to paragraph (b), it is sent not less than 21 days before the date of the general meeting~~

~~concerned;~~

~~(b) where proviso (c) to subsection (1) applies, it is sent not less than such number of days as agreed under that proviso by the members entitled to attend and vote at the meeting. (Added 27 of 2001 s. 4)~~

~~(2) Any member of a company, whether he is or is not entitled to have sent to him copies of the company's balance sheets, the personal representatives of any such member who has died, and any holder of debentures of the company, whether he is or is not so entitled, shall be entitled to be furnished on demand without charge with a copy of the last balance sheet of the company, including every document required by law to be annexed thereto, together with a copy of the directors' report and a copy of the auditors' report.~~

~~(2A) Any member of a company who is not entitled to vote at a general meeting of the company shall, notwithstanding subsection (1), be furnished with a copy of any statement issued by the company as a chairman's statement, and of any other document intended for the purpose of providing information about the affairs of the company, which is circulated by the company with the documents required to be sent to members under subsection (1). (Added 6 of 1984 s. 91)~~

~~(3) If default is made in complying with subsection (1) or (2A), the company and every officer of the company who is in default shall be liable to a fine, and if, when any person makes a demand for any document with which he is by virtue of subsection (2) entitled to be furnished, default is made in complying with the demand within 7 days after the making thereof, 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, unless it is proved that that person has already made a demand for and been furnished with a copy of the document. (Amended 6 of 1984 s. 91; 7 of 1990 s. 2)~~

~~(4) Subsections (1), (2) and (3) shall not have effect in relation to a balance sheet of a private company laid before it before 1 October 1975, but the provisions of this Ordinance which were in force immediately before the said date shall apply in relation to-~~

~~(a) the right of any person to be furnished with a copy of any such balance sheet, and~~

~~(b) the liability of the company and any officer thereof in respect of a failure to satisfy that right.~~

~~(5) For the purposes of proviso (b)(iv) to subsection (1), "relevant notice of intent" (有關意願通知書), in relation to a member of a listed company, a holder of debentures of the company or any other person who is entitled to receive notices of general meetings of the company, means a notice of intent sent by the member, holder or person to the company in accordance with regulations made under section 359A(2), or a notice of intent treated by virtue of section 141CB as having been sent by the member, holder or person to the company. (Added 27 of 2001 s. 4)~~

~~(Added 80 of 1974 s. 12)~~

~~[cf. 1948 c. 38 s. 158 U.K.]~~

Section:	130	(Repealed 6 of 1983 s. 60)		30/06/1997

~~Section:~~	~~131~~	~~Appointment and removal of auditors~~		~~30/06/1997~~

~~(1) Every company shall at each annual general meeting of the company appoint an auditor or auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting of the company.~~

~~(2) Where at an annual general meeting of a company no auditors are appointed or reappointed, the court may, on the application of any member of the company, appoint a person to fill the vacancy.~~

~~(3) The first auditors of a company may be appointed by the directors at any time before the first annual general meeting of the company, and auditors so appointed shall hold office until the conclusion of that meeting.~~

~~(4) If the directors fail to exercise their powers under subsection (3), those powers may be exercised by the company in general meeting.~~

~~(5) The directors, or the company in general meeting, may fill any casual vacancy in the office of auditor, but while any such vacancy continues, the surviving or continuing auditor or auditors, if any, may act.~~

~~(6) A company may by ordinary resolution remove an auditor before the expiration of his term of office, notwithstanding anything in any agreement between it and him; and, except in the case of a private company, where a resolution removing an auditor is passed at a general meeting of a company, the company shall within 14 days give notice of that fact in the specified form to the Registrar. (Amended 3 of 1997 s. 35)~~

~~(7) If a company fails to give notice as required by subsection (6), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)~~

~~(8) The remuneration of the auditor of a company-~~

(a) in the case of an auditor appointed by the directors or by the court, may be fixed by the directors or by the court, as the case may be;

(b) subject to paragraph (a), shall be fixed by the company in general meeting or in such manner as the company in general meeting may determine.

For the purpose of this subsection "remuneration" (酬金) includes any sums paid by the company in respect of the auditor's expenses.

(9) The appointment of a firm by its firm name to be the auditors of a company shall be deemed to be an appointment of those persons who shall from time to time during the currency of the appointment be the partners in that firm as from time to time constituted and who are qualified for appointment as auditors of that company:

Provided that any such appointment shall lapse, and thereby create a casual vacancy in the office of auditor, if all those persons who were partners in the firm and qualified as aforesaid at the date of the appointment cease to be partners or so qualified before the period of the appointment expires.

(10) Nothing in subsection (6) shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as auditor or of any appointment terminating with that as auditor.

(11) Where a company's auditor or auditors are holding office at the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), nothing in this section as amended by that Ordinance shall be taken as terminating their appointment, or as requiring either their reappointment or the appointment of other auditors, before the conclusion of the annual general meeting of the company held next after that date.

(Replaced 6 of 1984 s. 92)

[cf. 1976 c. 69 s. 14 U.K.]

Note:

*** Commencement date: 31 August 1984.**

Section:	132	Supplementary provisions relating to appointment and removal of auditors		30/06/1997

(1) Special notice shall be required for a resolution at a general meeting of a company -

(a) appointing as auditor a person other than a retiring auditor; or

(b) filling a casual vacancy in the office of auditor; or

(c) reappointing as auditor a retiring auditor who was appointed by the directors to fill a casual vacancy; or

(d) removing an auditor before the expiration of his term of office.

(2) On receipt of notice of such an intended resolution as aforesaid the company shall forthwith send a copy thereof -

(a) to the person proposed to be appointed or removed, as the case may be;

(b) in a case within subsection (1)(a), to the retiring auditor; and

(c) where, in a case within subsection (1)(b) or (c), the casual vacancy was caused by the resignation of an auditor, to the auditor who resigned.

(3) Where notice is given of such a resolution as is mentioned in subsection (1)(a) or (d) and the retiring auditor or, as the case may be, the auditor proposed to be removed makes with respect to the intended resolution representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall (unless the representations are received by it too late for it to do so) -

(a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and

(b) send a copy of the representations to every member of the company to whom notice of the meeting is or has been sent.

(4) If a copy of any such representations as are mentioned in subsection (3) is not sent out as required by that subsection because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.

(5) Copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this subsection to be paid in whole or in part by

~~the auditor, notwithstanding that he is not a party to the application.~~

~~(6) An auditor of a company who has been removed shall be entitled to attend—~~

~~(a) the general meeting at which his term of office would otherwise have expired; and~~

~~(b) any general meeting at which it is proposed to fill the vacancy caused by his removal,~~

~~and to receive all notices of, and other communications relating to, any such meeting which any member of the company is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the company.~~

~~(7) Where it is proposed to remove, in the manner described in subsection (1)(d), an auditor which is a corporate practice within the meaning of the Professional Accountants Ordinance (Cap 50) (which kind of practice is in this Part subsequently referred to as a "corporate practice"), the right to attend and to be heard described in subsection (6) is exercisable by an individual authorized by such auditor in writing to be its representative at the general meeting concerned. (Added 84 of 1995 s. 2)~~

~~(Added 6 of 1984 s. 93)~~

~~[cf. 1976 c. 69 s. 15 U.K.]~~

~~Section:~~	~~133~~	~~Powers of auditors in relation to subsidiaries~~		~~30/06/1997~~

~~(1) Where a company ("the holding company") has a subsidiary, then—~~

~~(a) if the subsidiary is a body corporate incorporated in Hong Kong, it shall be the duty of the subsidiary and its auditors to give to the auditors of the holding company such information and explanation as those auditors may reasonably require for the purposes of their duties as auditors of the holding company;~~

~~(b) in any other case, it shall be the duty of the holding company, if required by its auditors to do so, to take all such steps as are reasonably open to it to obtain from the subsidiary such information and explanation as aforesaid.~~

~~(2) If a subsidiary or holding company fails to comply with subsection (1) the subsidiary or holding company and every officer thereof who is in default shall be guilty of an offence; and if an auditor fails without reasonable excuse to comply with paragraph (a) of that subsection he shall be guilty of an offence.~~

~~(3) A person guilty of an offence under this section shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 93)~~

~~[cf. 1976 c. 69 s. 18 U.K.]~~

~~Section:~~	~~134~~	~~False statements etc. to auditors~~		~~30/06/1997~~

~~(1) An officer of a company who knowingly or recklessly makes a statement which—~~

~~(a) is misleading, false or deceptive in a material particular; and~~

~~(b) is a statement to which this section applies,~~

~~shall be guilty of an offence and liable to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(2) This section applies to any statement made to the auditors of the company (whether orally or in writing) which conveys, or purports to convey, any information or explanation which they require, or are entitled to require, as auditors of the company.~~

~~(Added 6 of 1984 s. 93)~~

~~[cf. 1976 c. 69 s. 19 U.K.]~~

Section:	135	(Repealed 68 of 1972 s. 52)		30/06/1997

Section:	136	(Repealed 68 of 1972 s. 52)		30/06/1997

Section:	137	(Repealed 68 of 1972 s. 52)		30/06/1997

Section:	138	(Repealed 68 of 1972 s. 52)		30/06/1997

Section:	139	(Repealed 68 of 1972 s. 52)		30/06/1997

~~Section:~~	~~140~~	~~Disqualifications for appointment as auditor~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) A person shall not be appointed as auditor of a company unless—~~

~~(a) he is qualified for appointment as such auditor under the Professional Accountants Ordinance (Cap 50); and~~

~~(b) he is not disqualified under subsection (2).~~

~~(2) None of the following persons shall be qualified for appointment as auditor of a company—~~

~~(a) an officer or servant of the company;~~

~~(b) a person who is a partner of or in the employment of an officer or servant of the company;~~

~~(c) (Repealed 84 of 1995 s. 3)~~

~~(d) a person who is, by virtue of paragraph (a) or (b), disqualified for appointment as auditor of any other undertaking which is—~~

~~(i) a subsidiary of the company;~~

~~(ii) a parent undertaking of the company; or~~

~~(iii) a subsidiary of the company's parent undertaking,~~

~~or would be so disqualified if the undertaking were a company. (Replaced 12 of 2005 s. 10)~~

~~and references in this subsection to an officer or servant shall be construed as not including references to an auditor.~~

~~(3) A person shall not be disqualified by virtue of subsection (2)(b) or (d) for appointment as auditor of a company at any time during the period of 3 years beginning on the day* on which the Companies (Amendment) Ordinance 1984 (6 of 1984) comes into operation if—~~

~~(a) on that day, the company is a private company and he is a duly appointed auditor thereof;~~

~~(b) at the time of his appointment, no shares or debentures of the company, or of a body corporate of which it is a subsidiary, have been listed on a stock exchange (whether in Hong Kong or elsewhere) or offered (whether in Hong Kong or elsewhere) to the public for subscription or purchase; and~~

~~(c) he would not, but for subsection (2)(b), be disqualified for appointment as such auditor by virtue of subsection (2)(d).~~

~~(4) Any person appointed as auditor of a company who ceases to be qualified, or who becomes disqualified, for appointment as auditor of the company before the period of his appointment expires shall forthwith vacate his office as such auditor.~~

~~(5) (Repealed 84 of 1995 s. 3)~~

~~(Replaced 6 of 1984 s. 94)~~

~~[cf. 1948 c. 38 s. 161 U.K.; 1967 c. 81 s. 13 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~140A~~	~~Resignation of auditor~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) An auditor of a company may resign his office by depositing a notice in writing to that effect at the registered office of the company; and any such notice shall operate to bring his term of office to an end on the date on which the notice is deposited or on such later date as may be specified therein.~~

~~(2) An auditor's notice of resignation shall not be effective unless— (Amended 84 of 1995 s. 4)~~

~~(a) it contains either—~~

~~(i) a statement to the effect that there are no circumstances connected with his resignation which he considers should be brought to the notice of the members or creditors of the company; or~~

~~(ii) a statement of any such circumstances as aforesaid; and (Replaced 84 of 1995 s. 4)~~

~~(b) it is signed—~~

~~(i) in the case of an auditor which is a corporate practice, by a director of that practice;~~

~~(ii) in the case of an auditor which is a partnership, by a partner of that partnership;~~

~~(iii) in the case of an auditor who is an individual, by that individual. (Replaced 84 of 1995 s. 4)~~

~~(3) Where a notice having effect under this section is deposited at a company's registered office the company shall within 14 days send a copy of the notice-~~

~~(a) to the Registrar; and (Amended 30 of 1999 s. 8)~~

~~(b) if the notice contained a statement under subsection (2)(a)(ii), to every person who under section 129G(1) as read with the proviso thereto is entitled to be sent copies of the documents there mentioned. (Amended 27 of 2001 s. 5; 28 of 2003 s. 53)~~

~~(4) The company or any person who claims to be aggrieved may, within 14 days of the receipt by the company of a notice containing a statement under subsection (2)(a)(ii), apply to the court for an order under subsection (5). (Amended 28 of 2003 s. 53)~~

~~(5) If the court, on an application under subsection (4), is satisfied that the auditor is using the notice to secure needless publicity for defamatory matter, it may by order direct that copies of the notice need not be sent out; and the court may further order the company's costs on the application to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.~~

~~(6) The company shall, within 14 days of the court's decision, send to the persons mentioned in subsection (3)-~~

~~(a) if the court makes an order under subsection (5), a statement setting out the effect of the order;~~

~~(b) if the court does not make an order under that subsection, a copy of the notice containing the statement under subsection (2)(a)(ii). (Amended 28 of 2003 s. 53)~~

~~(7) If default is made in complying with subsection (3) or (6), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine and in the case of an individual, to imprisonment. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 95)~~
~~[cf. 1976 c. 69 s. 16 U.K.]~~

~~Section:~~	~~140B~~	~~Right of auditor who resigns to requisition meeting of company, etc.~~		~~30/06/1997~~

~~(1) Where an auditor's notice of resignation contains a statement under section 140A(2)(b), there may be deposited with the notice a requisition signed by the auditor calling on the directors of the company forthwith duly to convene an extraordinary general meeting of the company for the purpose of receiving and considering such explanation of the circumstances connected with his resignation as he may wish to place before the meeting.~~

~~(2) Where an auditor's notice of resignation contains any such statement as aforesaid and the auditor requests the company to circulate to its members-~~

~~(a) before the general meeting at which his term of office would otherwise have expired; or~~

~~(b) before any general meeting at which it is proposed to fill the vacancy caused by his resignation or convened on his requisition,~~

~~a statement in writing (not exceeding a reasonable length) of the circumstances connected with his resignation, the company shall (unless the statement is received by it too late for it to do so)-~~

~~(i) in any notice of the meeting given to members of the company state the fact of the statement having been made; and~~

~~(ii) send a copy of the statement to every member of the company to whom notice of the meeting is or has been sent.~~

~~(3) If the directors do not within 21 days from the date of the deposit of a requisition under this section proceed duly to convene a meeting for a day not more than 28 days after the date on which the notice convening the meeting is given, every director who failed to take all reasonable steps to secure that a meeting was convened as mentioned above shall be guilty of an offence and liable to imprisonment and a fine, and if a copy of any such statement as is mentioned in subsection (2) is not sent out as required by that subsection because received too late or because of the company's default, the auditor may (without prejudice to his right to be heard orally) require that the statement shall be read out at the meeting. (Amended 7 of 1990 s. 2)~~

~~(4) Copies of a statement need not be sent out and the statement need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this subsection to be paid in whole or in part by the auditor, notwithstanding that he is not a party to the application.~~

~~(5) An auditor of a company who has resigned his office shall be entitled to attend any such meeting as is~~

~~mentioned in subsection (2)(a) or (b) and to receive all notices of, and other communications relating to, any such meeting which any member of the company is entitled to receive, and to be heard at any such meeting which he attends on any part of the business of the meeting which concerns him as former auditor of the company.~~

~~(6) Where an auditor who has resigned is a corporate practice, the right to attend and to be heard in the manner described in subsection (5) is exercisable by an individual authorized by such auditor in writing to be its representative at the general meeting concerned. (Added 84 of 1995 s. 5)~~

~~(Added 6 of 1984 s. 95)~~
~~[cf. 1976 c. 69 s. 17 U.K.]~~

~~Section:~~	~~141~~	~~Auditor's report and rights of access to books and to attend and be heard at meetings~~		~~30/06/1997~~

~~(1) The auditors of a company shall make a report to the members on the accounts examined by them, and on every balance sheet, every profit and loss account and all group accounts laid before the company in general meeting during their tenure of office.~~

~~(2) The auditors' report shall be read before the company in general meeting and shall be open to inspection by any member.~~

~~(3) The report shall-~~

~~(a) except in the case of a company that is entitled to avail itself, and has availed itself, of the benefit of any of the provisions of Part III of the Tenth Schedule, state whether in the auditors' opinion the company's balance sheet and profit and loss account and (if it is a holding company submitting group accounts) the group accounts have been properly prepared in accordance with the provisions of this Ordinance and whether in their opinion a true and fair view is given-~~

~~(i) in the case of the balance sheet, of the state of the company's affairs as at the end of its financial year;~~

~~(ii) in the case of the profit and loss account (if it is not framed as a consolidated profit and loss account), of the company's profit or loss for its financial year;~~

~~(iii) in the case of group accounts submitted by a holding company, of the state of affairs and profit or loss of the company and its subsidiaries dealt with thereby, so far as concerns members of the company;~~

~~(b) in the said excepted case, state whether in the auditors' opinion the company's balance sheet and profit and loss account and (if it is a holding company submitting group accounts) the group accounts have been properly prepared in accordance with the provisions of this Ordinance applicable to such companies and whether in their opinion, on the basis aforesaid, a true and fair view is given-~~

~~(i) in the case of the balance sheet, of the state of the company's affairs as at the end of its financial year;~~

~~(ii) in the case of the profit and loss account (if it is not framed as a consolidated profit and loss account), of the company's profit or loss for its financial year;~~

~~(iii) in the case of group accounts submitted by a holding company, of the state of affairs and profit or loss of the company and its subsidiaries dealt with thereby, so far as concerns members of the company.~~

~~(4) It shall be the duty of the auditors of a company, in preparing their report under this section, to carry out such investigations as will enable them to form an opinion as to the following matters, that is to say,-~~

~~(a) whether proper books of account have been kept by the company and proper returns adequate for their audit have been received from branches not visited by them; and~~

~~(b) whether the company's balance sheet and (unless it is framed as a consolidated profit and loss account) profit and loss account are in agreement with the books of account and returns;~~

~~and if the auditors are of opinion that proper books of account have not been kept by the company or that proper returns adequate for their audit have not been received from branches not visited by them, or if the balance sheet and (unless it is framed as a consolidated profit and loss account) profit and loss account are not in agreement with the books of account and returns, the auditors shall state that fact in their report.~~

~~(5) Every auditor of a company shall have a right of access at all times to the books and accounts and vouchers of the company, and shall be entitled to require from the officers of the company such information and explanations as he thinks necessary for the performance of the duties of the auditors:~~

~~Provided that, in the case of a banking company which has branch banks beyond the limits of Hong Kong, it~~

~~shall be sufficient (subject to the powers of the auditors under subsections (4) and (6)) if the auditor is allowed access to such copies and extracts from such books and accounts of any such branch as have been transmitted to the head office of the company in Hong Kong. (Amended 6 of 1984 s. 259)~~

~~(6) If the auditors fail to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit, they shall state that fact in their report.~~

~~(7) The auditors of a company shall be entitled to attend any general meeting of the company and to receive all notices of, and other communications relating to, any general meeting which any member of the company is entitled to receive, and to be heard at any general meeting which they attend on any part of the business of the meeting which concerns them as auditors.~~

~~(8) Where an auditor is a corporate practice, the right to attend and to be heard in the manner described in subsection (7) is exercisable by an individual authorized by such auditor in writing to be its representative at the general meeting concerned. (Added 84 of 1995 s. 6)~~

~~(Replaced 80 of 1974 s. 13)~~
~~[cf. 1967 c. 81 s. 14 U.K.]~~

Section:	141A	(Repealed 30 of 1999 s. 9)	L.N. 239 of 1999	11/11/1999

Section:	141B	(Repealed 30 of 1999 s. 9)	L.N. 239 of 1999	11/11/1999

~~Section:~~	~~141C~~	~~Construction of references to documents annexed to accounts~~		~~30/06/1997~~

~~References in this Ordinance to a document annexed or required to be annexed to a company's accounts or any of them shall not include the directors' report or the auditors' report:~~

~~Provided that any information which is required by this Ordinance to be given in accounts, and is thereby allowed to be given in a statement annexed, may be given in the directors' report instead of in the accounts and, if any such information is so given, the report shall be annexed to the accounts and this Ordinance shall apply in relation thereto accordingly, except that the auditors shall report thereon only so far as it gives the said information.~~

~~(Added 80 of 1974 s. 13)~~
~~[cf. 1948 c. 38 s. 163 U.K.]~~

~~Section:~~	~~141CA~~	~~Restrictions on sending of summary financial reports of listed companies~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~Summary Financial Reports of Listed Companies~~

~~(Added 27 of 2001 s. 6)~~

~~(1) A listed company shall not send to an entitled person of the company, for the purposes of its general meeting, a copy of a summary financial report in place of a copy of the relevant financial documents from which the report is derived, unless there is in force a notice of intent sent by the person to the company, notifying the company that the person agrees to be sent a copy of the summary financial report in place of a copy of the relevant financial documents.~~

~~(2) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CB~~	~~Circumstances where entitled persons are to be treated as having sent notices of intent to listed companies~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~Where an entitled person of a listed company does not send a notice of intent to the company within such period as is specified for the purposes of this section in regulations made under section 359A(2), then—~~

~~(a) the person shall be treated as having sent a notice of intent to the company within the specified period notifying the company that he agrees to be sent a copy of a summary financial report in place of a copy of the relevant financial documents from which the report is derived; and~~

~~(b) a reference in this Ordinance to a notice of intent sent shall, accordingly, be construed as including a reference to a notice of intent treated as having been sent by virtue of this section.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CC~~	~~Restrictions on sending of summary financial reports, etc. of listed companies where there are "relevant dates"~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~(1) Where there is a relevant date in respect of a general meeting of a listed company, the company shall not send to an entitled person of the company a copy of the summary financial report in relation to the meeting until the expiry of such period as may be specified by regulations made under section 359A(2).~~

~~(2) In addition, in the case mentioned in subsection (1), the company shall not send to such a person a copy of the relevant financial documents from which the summary financial report mentioned in that subsection is derived until the expiry of such period as may be specified by regulations made under section 359A(2).~~

~~(3) If default is made in complying with subsection (1) or (2), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine.~~

~~(4) For the purposes of this section—~~

~~"relevant date" (有關日期), in relation to a general meeting of a listed company, means the first day on which the company sends a relevant notification in respect of the meeting to an entitled person of the company;~~

~~"relevant notification" (有關通告), in relation to a general meeting of a listed company, means a notification referred to in regulations made under section 359A(2), being a notification which according to its contents, is intended to apply exclusively or first to the meeting.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CD~~	~~Duties of listed companies to comply with certain requests made by entitled persons~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~(1) Subject to subsection (2), if an entitled person of a listed company who has been sent a copy of a summary financial report in relation to a general meeting of the company makes a request under this section for a copy of the relevant financial documents from which the report is derived, then the company shall, subject to the provisions of this Ordinance, comply with the request within 14 days from the date of—~~

~~(a) its receipt; or~~

~~(b) the first day on which copies of those documents are sent to its entitled persons,~~

~~whichever is later.~~

~~(2) A listed company is not required to comply with a request made under subsection (1) unless the request is made—~~

~~(a) in writing; and~~

~~(b) before the relevant date.~~

~~(3) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine and, for continued default, to a daily default fine.~~

~~(4) It shall be a defence for a person charged under subsection (3) to prove that he could not, by the exercise of reasonable diligence, have prevented the commission of the offence.~~

~~(5) For the avoidance of doubt, it is declared that—~~

~~(a) the requirement to send a copy of a listed company's relevant financial documents to an entitled person of the company in compliance with section 129G(1) does not apply where the company sends a copy of those documents to the person in response to a request under this section; and~~

~~(b) a request under this section does not include a notice of intent except where the notice of intent is treated as such a request under the provisions of regulations made under section 359A(2).~~

~~(6) For the purposes of subsection (2), "relevant date" (有關日期), in relation to a listed company, means—~~

~~(a) subject to paragraph (b), the first day on which copies of the relevant financial documents required to be laid before the company in the following general meeting are sent to the entitled persons of the company;~~

~~(b) if no copies of those documents mentioned in paragraph (a) are required to be sent to the entitled persons of the company, the first day on which copies of the summary financial report in relation to that following meeting are sent to the entitled persons of the company.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CE~~	~~Certain circumstances in which no summary financial reports shall be sent in place of relevant financial documents~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~(1) A listed company shall not send any copy of a summary financial report to an entitled person of the company in place of a copy of the relevant financial documents—~~

~~(a) if the memorandum or articles of association of the company does not permit the company to do that;~~

~~(b) if the person is a holder of debentures of the company and the instrument that constitutes or governs the debentures does not permit the company to do that; or~~

~~(c) if an order under section 141CG would thereby be contravened.~~

~~(2) If default is made in complying with subsection (1), the company and every officer of the company who is in default shall be guilty of an offence and liable to a fine.~~

~~(3) For the avoidance of doubt, it is declared that—~~

~~(a) if there is an event mentioned in subsection (1)(a), (b) or (c), then any notice of intent sent to the company by the person concerned, which is in force immediately before the existence of that event, shall cease to have effect; and~~

~~(b) the cessation of any event mentioned in subsection (1)(a), (b) or (c) does not revive a notice of intent ceasing to have effect pursuant to paragraph (a), and the company in such case shall be treated as not having previously sent any notification referred to in regulations made under section 359A(2) to the person concerned.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CF~~	~~Form and contents, etc. of summary financial reports~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~(1) A summary financial report in relation to a general meeting of a listed company shall be—~~

~~(a) derived from the relevant financial documents required to be laid before the company in that meeting;~~

~~(b) in such form and contain such information and particulars as specified in regulations made under section 359A(2); and~~

~~(c) approved by the board of directors of the company.~~

~~(2) Nothing in subsection (1) shall be construed as prohibiting a listed company from including in a summary financial report any other information or particulars which—~~

~~(a) the company considers appropriate; and~~

~~(b) is not inconsistent with the relevant financial documents from which the summary financial report is derived.~~

~~(3) If a document, purporting to be a summary financial report of a listed company, does not comply with subsection (1) and is circulated, issued or published by the company to any other person, unless there is reasonable excuse—~~

~~(a) the company shall be guilty of an offence and liable to a fine; and~~

~~(b) every officer of the company shall be guilty of an offence and liable to a fine and imprisonment.~~

~~(Added 27 of 2001 s. 6)~~

~~Section:~~	~~141CG~~	~~Prohibition orders against circulation, etc. of summary financial reports~~	~~L.N. 298 of 2001~~	~~04/01/2002~~

~~Where there is a conviction of an offence under section 141CF(3), the court may—~~

~~(a) by order prohibit the company concerned and any other person from circulating, issuing or publishing any of the company's summary financial report to any person for such period as the court may specify; and~~

~~(b) in making the order impose such conditions as the court thinks appropriate.~~

~~(Added 27 of 2001 s. 6)~~

Section:	141CH	(Repealed 12 of 2010 s. 34)	L.N. 132 of 2010	10/12/2010

(Subheading repealed 12 of 2010 s. 33)

~~Section:~~	~~141D~~	~~Power of shareholders of certain private companies to waive compliance with requirements as to accounts~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~Accounts of certain private companies~~

~~(1) Where all the shareholders of a private company agree in writing that this section shall apply with respect to a financial year of that company—~~

~~(a) the following provisions of this Ordinance shall not apply with respect to that financial year, that is to say, sections 121(2), 123, 129, 129A, 129D, 129E and 141(3);~~

~~(b) the company's balance sheet as at the end of that financial year shall comply with the requirements of the Eleventh Schedule;~~

~~(c) there shall be attached to the balance sheet a report by the directors with respect to—~~

~~(i) the state of the company's affairs;~~

~~(ii) the amount (if any) which they recommend should be paid by way of dividend;~~

~~(iii) the amount of (if any) which they propose to carry to the reserve fund, general reserve or reserve account shown specifically on the balance sheet or to a reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet;~~

~~(d) the directors' report so attached shall be approved by the board of directors and signed on behalf of the board either by the chairman of the meeting at which it was approved or by the secretary of the company;~~

~~(e) the auditors' report shall state—~~

~~(i) whether or not the auditors have obtained all the information and explanations which they have required; and~~

~~(ii) whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the company.~~

~~(2) The shareholders shall not in any financial year of the company enter into an agreement for the purposes of subsection (1) with respect to more than one such financial year.~~

~~(3) This section does not apply to a private company which—~~

~~(a) has any subsidiary or is a subsidiary of another company formed and registered under this Ordinance or an existing company; or (Amended 6 of 1984 s. 96)~~

~~(b) carries on banking business and holds a valid banking licence granted under the Banking Ordinance (Cap 155); or (Amended 27 of 1986 s. 137)~~

~~(c) is a corporation licensed under Part V of the Securities and Futures Ordinance (Cap 571) to carry on a business in any regulated activity within the meaning of that Ordinance; or (Amended 5 of 2002 s. 407)~~

~~either solely or in common with any other business,~~

~~(d) carries on any insurance business otherwise than solely as an agent; or~~

~~(e) by way of trade or business, other than banking business, accepts loans of money at interest, or repayable at a premium, otherwise than on terms involving the issue of debentures or other securities; or~~

~~(f) owns and operates ships or aircraft engaged in the carriage of cargo between Hong Kong and places outside Hong Kong.~~

~~(4) Without prejudice to any other provision of this Ordinance, if any person being a director of a company fails to take all reasonable steps to secure compliance with the requirements of subsection (1)(c) and (d), he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that—~~

~~(a) in any proceedings against the person in respect of an offence under this subsection, it shall be a defence to prove that he had reasonable ground to believe, and did believe, that a competent and reliable person was charged with the duty of seeing that the said paragraphs were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(Added 80 of 1974 s. 13)~~

~~Section:~~	~~141E~~	~~Voluntary revision of accounts, summary financial reports or directors' reports~~	~~L.N. 27 of 2007~~	~~20/04/2007~~

~~Revision of accounts or reports~~

~~(1) If—~~

~~(a) a copy of any accounts of a company has been sent under section 129G to a person entitled to be sent the copy; and~~

~~(b) it appears to the directors of the company that the accounts did not comply with this Ordinance,~~

~~the directors may cause the accounts to be revised and make necessary consequential revisions to the summary financial report or directors' report concerned.~~

~~(2) Such revision of the accounts is to be confined to—~~

~~(a) those aspects in which the accounts did not comply with this Ordinance; and~~

~~(b) other necessary consequential revisions.~~

~~(3) If—~~

~~(a) the directors of a company decide to cause any accounts of the company to be revised under subsection (1); and~~

~~(b) a copy of the accounts has been forwarded to the Registrar under section 109,~~

~~the company shall, as soon as practicable after the decision, deliver to the Registrar for registration a warning statement, in the specified form, that the accounts will be so revised.~~

~~(4) If a company fails to comply with subsection (3), 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.~~

~~(Added 18 of 2006 s. 62)~~

~~Section:~~	~~142~~	~~Investigation of the affairs of a company on application of members~~		~~30/06/1997~~

~~Inspection~~

~~(1) The Financial Secretary may appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Financial Secretary may direct—~~

~~(a) in the case of a company having a share capital, on the application either of not less than 100 members or of members holding not less than one-tenth of the shares issued;~~

~~(b) in the case of a company not having a share capital, on the application of not less than one-tenth in number of the persons on the company's register of members.~~

~~(2) The application shall be supported by such evidence as the Financial Secretary may require for the purpose of showing that the applicants have good reason for requiring the investigation, and the Financial Secretary may, before appointing an inspector, require that applicants to give security in such amount as he may require for payment of the costs of the investigation. (Amended 6 of 1984 s. 97)~~

~~(Replaced 4 of 1963 s. 8)~~

~~[cf. 1948 c. 38 s. 164 U.K.]~~

~~Section:~~	~~143~~	~~Investigation of the affairs of a company in other cases~~		~~30/06/1997~~

~~(1) Without prejudice to his powers under section 142, the Financial Secretary—~~

~~(a) shall appoint one or more competent inspectors to investigate the affairs of a company and to report thereon in such manner as the Financial Secretary may direct, if the court by order declares that its affairs ought to be investigated by an inspector appointed by the Financial Secretary; and~~

~~(b) may do so if the company by special resolution declares that its affairs ought to be investigated by an inspector appointed by the Financial Secretary and the company gives security in such amount as the Financial Secretary may require; and (Amended 6 of 1984 s. 98)~~

~~(c) may also do so if it appears to the Financial Secretary that there are circumstances suggesting—~~

~~(i) that the business of the company has been or is being conducted with intent to defraud its creditors or the creditors of any other person or otherwise for a fraudulent or unlawful purpose or~~

~~in a manner oppressive of any part of its members or that it was formed for any fraudulent or unlawful purpose; or (Amended 78 of 1972 s. 16)~~

~~(ii) that persons concerned with its formation or the management of its affairs have in connexion therewith been guilty of fraud, misfeasance or other misconduct towards it or towards its members; or~~

~~(iii) that its members have not been given all the information with respect to its affairs that they might reasonably expect. (Added 4 of 1963 s. 8. Amended 6 of 1984 s. 98)~~

~~(2) The power of the Financial Secretary under subsection (1)(c) shall be exercisable with respect to a body corporate notwithstanding that it is in course of being voluntarily wound up. (Added 6 of 1984 s. 98)~~

~~[cf. 1948 c. 38 s. 165 U.K.]~~

~~Section:~~	~~144~~	~~Power of an inspector to investigate affairs of related company~~		~~30/06/1997~~

~~If an inspector appointed under section 142 or 143 to investigate the affairs of a company thinks it necessary for the purposes of his investigation to investigate also the affairs of any other body corporate that is or has at any relevant time been -~~

~~(a) a subsidiary or a holding company of the company,~~

~~(b) a subsidiary of its holding company,~~

~~(c) a holding company of its subsidiary, or~~

~~(d) substantially under the control of the same person as the first-mentioned company,~~

~~he shall have power so to do, and shall report on the affairs of the other body corporate so far as he thinks the results of his investigation thereof are relevant to the investigation of the affairs of the first-mentioned company.~~

~~(Added 4 of 1963 s. 8)~~

~~[cf. 1948 c. 38 s. 166 U.K.]~~

~~Section:~~	~~145~~	~~Production of documents, and evidence, on investigation~~		~~30/06/1997~~

~~(1) It shall be the duty of all officers and agents of the company and of all officers and agents of any other body corporate whose affairs are investigated by virtue of section 144 to produce to the inspector all books and documents of or relating to the company or, as the case may be, the other body corporate that are in their custody or power, to attend before the inspector when required so to do and otherwise to give to the inspector all assistance in connexion with the investigation that they are reasonably able to give. (Amended 6 of 1984 s. 99)~~

~~(1A) If an inspector considers that a person other than an officer or agent of the company or other body corporate is or may be in possession of any information concerning its affairs, he may require that person to produce to him any books or documents in his custody or power relating to the company or other body corporate, to attend before him and otherwise to give him all assistance in connexion with the investigation which he is reasonably able to give; and it shall be the duty of that person to comply with the requirement. (Added 10 of 1987 s. 5)~~

~~(2) An inspector may examine on oath the officers and agents of the company or other body corporate, and any such person as is mentioned in subsection (1A), in relation to the affairs of the company or other body, and may administer an oath accordingly. (Replaced 10 of 1987 s. 5)~~

~~(3) If any officer or agent of the company or other body corporate, or any such person as is mentioned in subsection (1A), refuses to produce to the inspector any book or document which it is his duty under this section so to produce, refuses to attend before the inspector when required so to do, or refuses to answer any question that is put to him by the inspector with respect to the affairs of the company or other body corporate, as the case may be, the inspector may certify the fact under his hand to the court, and the court may thereupon inquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement that may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court. (Amended 6 of 1984 s. 99; 10 of 1987 s. 5)~~

~~(3A) A person is not excused from answering a question put to him under this section by an inspector on the ground that the answer might tend to incriminate him but, where such person claims, before answering the question, that the answer might tend to incriminate him, neither the question nor the answer shall be admissible in evidence against him in criminal proceedings other than proceedings in relation to a charge of perjury or proceedings for an offence under section 36 of the Crimes Ordinance (Cap 200) in respect of the answer. (Added 6 of 1984 s. 99. Amended 72 of 1994 s. 2)~~

~~(3AA) If a claim of tendency to incriminate is not made in advance under subsection (3A), an answer given by a~~

~~person to a question put to him in exercise of powers conferred by this section may be used in evidence against him. (Added 72 of 1994 s. 2)~~

~~(3B) A person who complies with any requirement under this section of an inspector investigating the affairs of a company or other body corporate shall not incur any liability to any person by reason only of that compliance, and a certificate by the inspector under his hand stating that he is investigating the affairs of the company or other body corporate and that the person to whom the requirement is made is an officer or agent, as the case may be, of the company or other body corporate, or person whom he considers may be in possession of any information concerning its affairs, shall be conclusive evidence of those facts. (Added 6 of 1984 s. 99. Amended 10 of 1987 s. 5)~~

~~(4) (4A) (Repealed 10 of 1987 s. 5)~~

~~(5) In this section, any reference to officers or to agents shall include past, as well as present, officers or agents, as the case may be, and for the purposes of this section the expression "agents", in relation to a company or other body corporate, shall include the bankers and solicitors of the company or other body corporate and any person employed by the company or other body corporate as auditor, whether any such person is or is not an officer of the company or other body corporate.~~

~~(Replaced 4 of 1963 s. 8)~~
~~[cf. 1948 c. 38 s. 167 U.K.]~~

~~Section:~~	~~145A~~	~~Delegation of powers by inspector~~		~~30/06/1997~~

~~(1) An inspector appointed under section 142 or 143 to investigate the affairs of a company may, by instrument in writing, delegate to any person the powers conferred by section 145 and where he does so, references to an inspector in section 145 shall be deemed to include the person so delegated. (Amended 72 of 1994 s. 3)~~

~~(2) Where 2 or more inspectors are appointed as aforesaid in respect of the same investigation, the power conferred by this section may be exercised by any of them.~~

~~(Added 6 of 1984 s. 100)~~

~~Section:~~	~~145B~~	~~Power of inspector to call for director's accounts~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~If an inspector has reasonable grounds for believing that a director or past director of the company or other body corporate whose affairs he is investigating maintains or has maintained an account of any description with a bank, deposit-taking company or similar financial institution (whether alone or jointly with any other person and whether in Hong Kong or elsewhere), into or out of which there has been paid-~~

~~(a) any emolument, pension or compensation, or any part thereof, in respect of his office as such director particulars of which have not been shown in the accounts, or in any statement annexed thereto, of the company or other body corporate, contrary to section 161;~~

~~(b) any money which has resulted from or been used in the financing of any transaction particulars of which are not contained in the accounts of any company for any financial year, contrary to section 161B; (Amended 28 of 2003 s. 54)~~

~~(c) any money which has been in any way connected with an act or omission, or series of acts or omissions, which on the part of that director constituted misconduct (whether fraudulent or not) towards the company or body corporate or its members,~~

~~the inspector may require the director to produce to him all documents in the director's possession, or under his control, relating to that account.~~

~~(Added 10 of 1987 s. 6)~~

~~Section:~~	~~146~~	~~Inspector's report~~		~~30/06/1997~~

~~(1) The inspector may, and, if so directed by the Financial Secretary, shall, make interim reports to the Financial Secretary, and on the conclusion of the investigation shall make a final report to the Financial Secretary.~~

~~(2) Any such report shall be written or printed, as the Financial Secretary directs.~~

~~(3) The Financial Secretary-~~

~~(a) shall-~~

~~(i) forward a copy of any report made by the inspector to the company at its registered office;~~

~~(ii) if he thinks fit, furnish a copy thereof, on request and on payment of the fee appointed under section 305 for a certified copy of a document where the copy has been prepared in the office of~~

~~the Registrar, to any person who is a member of the company or of any other body corporate dealt with in the report by virtue of section 144 or whose interests as a creditor of the company or of any such other body corporate appear to the Financial Secretary to be affected; (Amended 6 of 1984 s. 101)~~

~~(iii) where the inspector is appointed under section 142, furnish, at the request of the applicants for the investigation, a copy to them; and (Amended 6 of 1984 s. 101)~~

~~(iv) where the inspector is appointed under section 143 in pursuance of an order of the court, file a copy in the court; (Added 6 of 1984 s. 101)~~

~~(b) may cause the report or any part thereof to be printed and published; (Replaced 6 of 1984 s. 101)~~

~~(c) may, or if such report or any part thereof is printed and published shall, cause a copy to be delivered to the Registrar. (Replaced 6 of 1984 s. 101)~~

~~(4) The inspector may at any time in the course of his investigation, without the necessity of making an interim report, inform the Financial Secretary of matters coming to his knowledge as a result of the investigation tending to show that an offence has been committed or that civil proceedings ought in the public interest to be brought by any body corporate. (Added 6 of 1984 s. 101. Amended 10 of 1987 s. 7)~~

~~[cf. 1948 c. 38 s. 168 U.K.]~~

~~Section:~~	~~146A~~	~~Extension of Financial Secretary's powers of investigation to certain bodies incorporated outside Hong Kong~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149~~

~~Sections 143 to 149 and section 150 shall apply to all bodies corporate incorporated outside Hong Kong which have a place of business in Hong Kong or have at any time had a place of business therein as if they were companies registered under this Ordinance, but subject to such (if any) adaptations and modifications as may be specified by regulations made by the Financial Secretary. <* Note - Exp. X-Ref.: Sections 143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149 *>~~

~~(Added 6 of 1984 s. 102)~~
~~[cf. 1967 c. 81 s. 42 U.K.]~~

~~Section:~~	~~147~~	~~Proceedings on inspector's report~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~(1) In relation to any prosecution arising from any report made or information supplied under section 146 or from any information or document obtained under section 152A or 152B, it shall be the duty of all officers and agents of the company or other body corporate whose affairs have been investigated by virtue of section 144, other than the defendant in the proceedings, to give to the Secretary for Justice all assistance in connexion with the prosecution that they are reasonably able to give, and section 145(5) shall apply for the purposes of this subsection as it applies for the purposes of that section. (Amended 10 of 1987 s. 8; L.N. 362 of 1997)~~

~~(2) If, in the case of any body corporate liable to be wound up under this Ordinance, it appears to the Financial Secretary from any report made under section 146 or from any information or document obtained under section 152A or 152B -~~

~~(a) that it is expedient in the public interest that the body should be wound up, he may present a petition for it to be wound up if the court thinks it just and equitable for it to be so wound up;~~

~~(b) where the body is a specified corporation, that the business of such specified corporation is being or has been conducted in a manner unfairly prejudicial to the interests of the members generally or of any part of its members, he may (in addition to, or instead of, presenting a petition under paragraph (a)) present a petition for an order under section 168A. (Amended 72 of 1994 s. 4; 30 of 2004 s. 2)~~

~~(3) If from any report made or information supplied under section 146 or from any information or document obtained under section 152A or 152B it appears to the Financial Secretary that any civil proceedings ought in the public interest to be brought by any body corporate, he may himself bring such proceedings in the name of and on behalf of the body corporate. (Added 10 of 1987 s. 8)~~

~~(4) The Government shall indemnify the body corporate against any costs or expenses incurred by it in or in connexion with any proceedings brought by virtue of subsection (3).~~

~~(Replaced 51 of 1978 s. 4. Amended 6 of 1984 s. 103)~~

~~[cf. 1967 c. 81 ss. 35 & 37 U.K.]~~

~~Section:~~	~~148~~	~~Expenses of investigation of the affairs of a company~~		~~30/06/1997~~

~~(1) The expenses of and incidental to an investigation by an inspector appointed by the Financial Secretary under section 142 or 143 shall be defrayed in the first instance out of the general revenue of Hong Kong, but the following persons shall, to the extent mentioned, be liable to repay such expenses to the Government. (Amended 6 of 1984 s. 259)~~

~~(a) any person who is convicted by a court or magistrate on a prosecution instituted as a result of the investigation, or who is ordered by a court or magistrate to pay damages or restore any property in proceedings brought by virtue of section 147(3) or to pay the whole or any part of the costs of any such proceedings, to such extent as may be ordered by such court or magistrate; (Replaced 6 of 1984 s. 104)~~

~~(b) any body corporate in whose name proceedings are brought as aforesaid, to the amount or value of any sums or property recovered by it as a result of those proceedings;~~

~~(c) any body corporate dealt with by the report, where the inspector was appointed otherwise than of the Financial Secretary's own motion, shall be liable, except so far as the Financial Secretary otherwise directs; and (Replaced 6 of 1984 s. 104)~~

~~(d) the applicants for the investigation, where the inspector was appointed under section 142, shall be liable to such extent (if any) as the Financial Secretary may direct; (Added 6 of 1984 s. 104)~~

~~and any amount for which a body corporate is liable by virtue of paragraph (b) shall be a first charge on the sums or property mentioned in that paragraph.~~

~~(2) The report of an inspector appointed otherwise than of the motion of the Financial Secretary may, if he thinks fit, and shall, if the Financial Secretary so directs, include a recommendation as to the directions, if any, that he thinks appropriate, in the light of his investigation, to be given under subsection (1)(c) and (d). (Amended 6 of 1984 s. 104)~~

~~(3) For the purposes of this section, any costs or expenses incurred by the Financial Secretary in or in connexion with proceeding brought by virtue of section 147(3), including expenses incurred by virtue of subsection (4) thereof, shall be treated as expenses of the investigation giving rise to the proceedings. (Amended 51 of 1978 s. 5)~~

~~(4) Any liability to repay the Government imposed by paragraphs (a) and (b) of subsection (1) shall, subject to the satisfaction of the right of Government to repayment, be a liability also to indemnify all persons against liability under paragraphs (c) and (d) thereof, and any such liability imposed by the said paragraph (a) shall, subject as aforesaid, be a liability also to indemnify all persons against liability under the said paragraph (b); and any person liable under any of the said paragraphs shall be entitled to contribution from any other person liable under the same paragraph, according to the amount of their respective liabilities thereunder. (Amended 6 of 1984 s. 104)~~

~~(Replaced 4 of 1963 s. 8)~~

~~[cf. 1948 c. 38 s. 170 U.K.]~~

~~Section:~~	~~149~~	~~Inspector's report to be evidence~~		~~30/06/1997~~

~~A copy of any report of an inspector appointed under section 142 or 143, signed by the inspector and counter-signed by the Financial Secretary, shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report and, in proceedings on an application under section 168J, as evidence of any fact stated therein.~~

~~(Added 4 of 1963 s. 8. Amended 30 of 1994 s. 2)~~

~~[cf. 1948 c. 38 s. 171 U.K.]~~

Section:	149A	(Repealed 72 of 1994 s. 5)		30/06/1997

~~Section:~~	~~150~~	~~Saving for solicitors and bankers~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~142, 143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149~~

~~Nothing in sections 142 to 149 shall require disclosure to the Financial Secretary or to an inspector appointed by him. <* Note - Exp. X-Ref.: Sections 142, 143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149 *>~~

~~(a) by a solicitor of any privileged communication made to him in that capacity, except as respects the name and address of his client; or~~

~~(b) by a body corporate's bankers as such of any information as to the affairs of any of their customers other than the body corporate. (Amended 6 of 1984 s. 105)~~

~~(Added 4 of 1963 s. 8)~~
~~[cf. 1948 c. 38 s. 175 U.K.]~~

~~Section:~~	~~151~~	~~Notice to Registrar~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Upon the appointment of an inspector under section 142 or 143 and upon the submission of his final report, the inspector shall forward to the Registrar a notice of such appointment or submission, as the case may be, in the specified form.~~

~~(Replaced 4 of 1963 s. 8. Amended 28 of 2003 s. 55)~~

~~Section:~~	~~152~~	~~Power of company to appoint inspector~~		~~30/06/1997~~

~~(1) A company may, by special resolution, appoint an inspector to investigate its affairs.~~

~~(2) It shall be the duty of all officers and agents of the company to produce to the inspector all books and documents in their custody or power.~~

~~(3) An inspector may examine on oath the officers and agents of the company in relation to its business, and may administer an oath accordingly.~~

~~(4) If any officer or agent of the company refuses to produce to the inspector any book or document which it is his duty under this section so to produce, refuses to attend before the inspector when required so to do, or refuses to answer any question that is put to him by the inspector with respect to the affairs of the company, the inspector may certify the fact under his hand to the court, and the court may thereupon inquire into the case, and, after hearing any witnesses who may be produced against or on behalf of the alleged offender and after hearing any statement that may be offered in defence, punish the offender in like manner as if he had been guilty of contempt of the court. (Amended 6 of 1984 s. 106)~~

~~(5) On the conclusion of the investigation the inspector shall report his opinion in such manner and to such persons as the company in general meeting may direct.~~

~~(6) A copy of the report of an inspector appointed under this section, signed by the inspector and sealed with the seal of the company to which the report relates, shall be admissible in any legal proceedings as evidence of the opinion of the inspector in relation to any matter contained in the report.~~

~~(Added 4 of 1963 s. 8)~~

~~Section:~~	~~152A~~	~~Power of Financial Secretary to require production of documents~~		~~30/06/1997~~

~~Inspection of Companies' Books and Papers~~

~~(1) Where~~

~~(a) an application is made to the Financial Secretary under section 142 to appoint an inspector to investigate the affairs of a company;~~

~~(b) in the case of any company, or in the case of any body corporate incorporated outside Hong Kong which is carrying on business in Hong Kong or has at any time carried on business therein, it appears to the Financial Secretary that there is good reason to do so,~~

~~the Financial Secretary may give directions to the company or body corporate, as the case may be, requiring it, at such time and place as may be specified in the directions, to produce such books or papers as may be so specified, or may at any time, if the Financial Secretary thinks there is good reason so to do, authorize any person, on producing (if required to do so) evidence of his authority, to require any such company or body corporate as aforesaid to produce to him forthwith any books or papers which the authorized person may specify. (Amended 72 of 1994 s. 6)~~

~~(2) Where by virtue of subsection (1) the Financial Secretary or any authorized person has power to require the~~

~~production of any books or papers from any company or body corporate, the Financial Secretary or authorized person shall have the like power to require production of those books or papers from any person who appears to the Financial Secretary or such authorized person to be in possession of them; but where any such person claims a lien on books or papers produced by him, the production shall be without prejudice to the lien. (Amended 72 of 1994 s. 6)~~

~~(3) Any power conferred by or by virtue of this section to require a company or body corporate or other person to produce books or papers shall include power-~~

~~(a) if the books or papers are produced-~~

~~(i) to take copies of them or extracts from them; and~~

~~(ii) to require that person, or any other person who is a present or past officer of, or is or was at any time employed by, the company or body corporate in question, to provide an explanation of any of them;~~

~~(b) if the books or papers are not produced, to require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.~~

~~(4) If a requirement to produce books or papers or provide an explanation or make a statement which is imposed by virtue of this section is not complied with, the company or body corporate or other person on whom the requirement was so imposed shall be guilty of an offence and liable to a fine and, in the case of an individual, to imprisonment; but where a person is charged with an offence under this subsection in respect of a requirement to produce any books or papers, it shall be a defence to prove that they were not in his possession or under his control and that it was not reasonably practicable for him to comply with the requirement. (Amended 7 of 1990 s. 2)~~

~~(5) A person is not excused from providing an explanation or making a statement under this section on the ground that providing the explanation or making the statement might tend to incriminate him but, where the person claims, before providing the explanation or making the statement that the explanation or statement might tend to incriminate him, neither the requirement to provide the explanation or make the statement nor the explanation or statement is admissible in evidence against him in criminal proceedings other than proceedings for an offence under section 36 of the Crimes Ordinance (Cap 200) in respect of the explanation or statement. (Replaced 72 of 1994 s. 6)~~

~~(6) If a claim of tendency to incriminate is not made in advance under subsection (5), an explanation provided or statement made by a person to an authorized person in exercise of powers conferred by this section may be used in evidence against him. (Added 72 of 1994 s. 6)~~

~~(Added 6 of 1984 s. 107)~~
~~[cf. 1967 c. 81 s. 109 U.K.]~~

~~Section:~~	~~152B~~	~~Entry and search of premises~~		~~30/06/1997~~

~~(1) If a magistrate is satisfied on information on oath laid by an inspector appointed by the Financial Secretary, or by any person acting under the authority of the Financial Secretary, that there are reasonable grounds for suspecting that there are on any premises any books or papers of which production ought to be made but has not been made under section 145 or of which production has been required by virtue of section 152A and which have not been produced in compliance with that requirement, the magistrate may issue a warrant authorizing any police officer, together with other persons named in the warrant and any other police officer, to enter the premises specified in the information (using such force as is reasonably necessary for the purpose) and to search the premises and take possession of any books or papers appearing to be such books or papers its aforesaid, or to take, in relation to any books or papers so appearing, any other steps which may appear necessary for preserving them and preventing interference with them. (Amended 72 of 1994 s. 7)~~

~~(2) Every warrant issued under this section shall continue in force until the end of the period of 1 month after the date on which it is issued.~~

~~(3) Any books or papers of which possession is taken under this section may be retained for a period of 3 months or, if within that period any criminal proceedings to which the books and papers are relevant are commenced, until the conclusion of those proceedings.~~

~~(4) A person who obstructs the exercise of a right of entry or search conferred by virtue of a warrant issued under this section, or who obstructs the exercise of a right so conferred to take possession of any books or papers, shall be guilty of an offence and liable on conviction to a fine and imprisonment. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 107)~~
~~[cf. 1967 c. 81 s. 110 U.K.]~~

~~Section:~~	~~152C~~	~~Provision for security of information~~		~~30/06/1997~~

~~(1) No information or document relating to a company or body corporate which has been obtained under section 152A or 152B shall, without the previous consent in writing of the company or body corporate, as the case may be, be published or disclosed, except to a competent authority, unless the publication or disclosure is required with a view to the institution of, or otherwise for the purposes of, any criminal proceedings.~~

~~(2) Any person who publishes or discloses any information or document in contravention of subsection (1) shall be guilty of an offence and liable to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(3) For the purposes of this section, "competent authority" (主管當局) means any of the following -~~

~~(a) the Financial Secretary;~~

~~(b) an inspector appointed under this Ordinance by the Financial Secretary;~~

~~(c) any person acting under the authority of the Financial Secretary. (Amended 72 of 1994 s. 7)~~

~~(Added 6 of 1984 s. 107)~~

~~[cf. 1967 c. 81 s. 111 U.K.]~~

~~Section:~~	~~152D~~	~~Penalization of destruction, mutilation, etc. of company documents~~		~~30/06/1997~~

~~Expanded Cross Reference:~~
~~142, 143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149, 149A, 150, 151, 152, 152A, 152B~~

~~(1) A person who -~~

~~(a) conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of a book or paper affecting or relating to the property or affairs of any company or body corporate mentioned in section 152A(1); or~~

~~(b) parts with, alters or makes an omission in any such book or paper, or who is privy to parting with, altering or making an omission in any such book or paper; or~~

~~(c) sends, causes to be sent or conspires with another person to send, out of Hong Kong such a book or paper or any property belonging to or under the control of the company,~~

~~shall be guilty of an offence and liable to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(2) In a prosecution for an offence under subsection (1), it shall be a defence if the person charged with the offence proves that he did not act with intent to defeat the purposes of sections 142 to 152B. <* Note - Exp. X-Ref.: Sections 142, 143, 144, 145, 145A, 145B, 146, 146A, 147, 148, 149, 149A, 150, 151, 152, 152A, 152B *>~~

~~(Added 6 of 1984 s. 107)~~

~~[cf. 1967 c. 81 s. 113 U.K.]~~

~~Section:~~	~~152E~~	~~Penalization of furnishing false information under section 152A~~		~~30/06/1997~~

~~A person who, in purported compliance with a requirement imposed under section 152A to provide an explanation or make a statement, provides or makes an explanation or statement which he knows to be false in a material particular or recklessly provides or makes an explanation or statement which is so false shall be guilty of an offence and liable to imprisonment and a fine.~~

~~(Added 6 of 1984 s. 107. Amended 7 of 1990 s. 2)~~

~~[cf. 1967 c. 81 s. 114 U.K.]~~

~~Section:~~	~~152F~~	~~Saving for solicitors and bankers~~		~~30/06/1997~~

~~(1) Nothing in section 152A, 152B, 152C, 152D or 152E shall compel the production by a solicitor of a document containing a privileged communication made by or to him in that capacity or authorize the taking of possession of any such document which is in his possession.~~

~~(2) The Financial Secretary shall not, under section 152A, require, or authorize any person to require, the production by a person carrying on the business of banking of a document relating to the affairs of a customer of his unless either it appears to the Financial Secretary that it is necessary so to do for the purpose of investigating the affairs of the first-mentioned person or the customer is a person on whom a requirement has been imposed by virtue of~~

~~that section. (Amended 72 of 1994 s. 7)~~

~~(Added 6 of 1984 s. 107)~~
~~[cf. 1967 c. 81 s. 116 U.K.]~~

~~Section:~~	~~152FA~~	~~Order for inspection~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~Inspection of Specified Corporations' Records by Members~~

~~(1) Subject to sections 152FD and 152FE, on application by such number of members of a specified corporation as is specified in subsection (2) (in this section referred to as "applicant"), the court may make an order—~~

~~(a) authorizing the applicant or any one or more of such members applying as applicant to inspect any records of the specified corporation; or~~

~~(b) authorizing a person (whether or not a member of the specified corporation) other than the applicant to inspect any such records on behalf of the applicant.~~

~~(2) For the purposes of subsection (1), an application may be made by—~~

~~(a) any number of members representing not less than one-fortieth of the total voting rights of all members having at the date of the application a right to vote at a general meeting of the specified corporation;~~

~~(b) any number of members holding shares in the specified corporation on which there has been paid up an aggregate sum of not less than $100000; or~~

~~(c) not less than 5 members.~~

~~(3) The court may only make an order under subsection (1) if it is satisfied that—~~

~~(a) the application is made in good faith; and~~

~~(b) the inspection applied for is for a proper purpose.~~

~~(4) Any person who is authorized by the court to inspect the records of a specified corporation may make copies of the records unless the court orders otherwise.~~

~~(5) A person who complies with an order made under this section or section 152FB to produce records for inspection shall not be liable for any civil liability or claim whatever to any person by reason only of that compliance.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~152FB~~	~~Ancillary orders~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~Subject to sections 152FD and 152FE, if the court makes an order under section 152FA, it may make any other orders it considers appropriate, including—~~

~~(a) an order requiring the specified corporation that is subject to the order made under section 152FA or any of its officers to produce any records to the person who is authorized to inspect the records;~~

~~(b) an order specifying the records that may be inspected by that person;~~

~~(c) an order requiring the applicant to pay the expenses reasonably incurred by the specified corporation in the inspection; and~~

~~(d) an order permitting the applicant or the person who is authorized to inspect the records of a specified corporation under section 152FA to disclose any information or document obtained as a result of an inspection under that section to such person as is specified in the order.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~152FC~~	~~Disclosure or use of information or document obtained as a result of inspection~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~(1) Subject to section 152FE, the applicant or the person who is authorized to inspect the records of a specified corporation under section 152FA shall not, without the previous consent in writing of the specified corporation, disclose any information or document obtained as a result of an inspection under section 152FA to any other person, except to the other members applying as applicant or to the applicant, unless the disclosure is—~~

~~(a) required with a view to the institution of, or otherwise for the purposes of, any criminal proceedings;~~

~~(b) permitted in accordance with an order made under section 152FA or 152FB; or~~

~~(c) permitted in accordance with law or a requirement made under law.~~

~~(2) Subject to subsection (1) and section 152FE, the applicant or the person who is authorized to inspect the~~

~~records of a specified corporation under section 152FA shall not, unless the court otherwise orders, use any information or document obtained as a result of an inspection under section 152FA for purposes other than the proper purpose referred to in section 152FA(3)(b).~~

~~(3) A person who contravenes this section shall be guilty of an offence and liable to imprisonment and a fine.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~152FD~~	~~Legal professional privilege~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~Nothing in sections 152FA and 152FB, or any order made under any of those sections, shall authorize a person to inspect any records containing information that is subject to legal professional privilege.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~152FE~~	~~Protection of personal data~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~Nothing in sections 152FA, 152FB and 152FC, or any order made under any of those sections, shall authorize the collection, retention or use of personal data in contravention of the Personal Data (Privacy) Ordinance (Cap 486).~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~153~~	~~Directors of companies other than private companies~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~Directors and other Officers~~

~~(1) Every company (not being a private company) shall have at least 2 directors.~~

~~(2) With effect from the date of incorporation of a company (not being a private company) mentioned in its certificate of incorporation, the first directors of the company are the persons named as the directors in the incorporation form submitted in respect of the company pursuant to section 14A. (Replaced 30 of 2004 s. 2)~~

~~(3) Subject to subsection (4), if any company (not being a private company) makes default in complying with subsection (1), 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.~~

~~(4) Where the number of directors of a company (not being a private company) is reduced below 2 by reason of the office of any director being vacated, the company or any officer of the company shall not be liable for any default in respect thereof under this section unless the default continues for a period of 2 months beginning on the day on which the office is vacated.~~

~~(5) Any power exercisable by a director under the articles of a company (not being a private company) in a case where the number of directors is reduced below the number fixed as the necessary quorum of directors, being a power to act for the purpose of increasing the number of directors or of summoning a general meeting of the company but not for any other purpose, shall be exercisable also in a case where the number of directors is reduced below the number required by subsection (1).~~

~~(6) A person who has been deemed to be a director of a company (not being a private company) under section 153(2) of the pre-amended Ordinance shall, until a notification under section 158(4AA) is sent to the Registrar, continue to be deemed as such as if section 19(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) had not been enacted. (Added 30 of 2004 s. 2)~~

~~(7) For the purpose of subsection (6), "pre-amended Ordinance" (修訂前的本條例) means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 19(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004). (Added 30 of 2004 s. 2)~~

~~(Replaced 28 of 2003 s. 56)~~

~~Section:~~	~~153A~~	~~Directors of private companies~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~(1) Every private company shall have at least one director.~~

~~(2) With effect from the date of incorporation of a private company mentioned in its certificate of incorporation, the first directors of the company are the persons named as the directors in the incorporation form submitted in respect of the company pursuant to section 14A. (Replaced 30 of 2004 s. 2)~~

~~(3) Subject to subsections (4) and (5), if any private company makes default in complying with subsection (1), 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.~~

~~(4) Subject to subsection (5), where the number of directors of a private company is reduced to zero by reason of the office of any director being vacated, the company or any officer of the company shall not be liable for any default in respect thereof under this section unless the default continues for a period of 2 months beginning on the day on which the office is vacated.~~

~~(5) Where the number of directors of a private company having only one director is reduced to zero by reason of the death of that director and the deceased director was, at the date of death, the sole member of the company, the company or any officer of the company shall not be liable for any default in respect thereof under this section unless the default continues for a period of 4 months beginning on the date of the grant of probate of the will, or of letters of administration of the estate, of the deceased director.~~

~~(6) Where a private company has only one member and that member is the sole director of the company, the company may in general meeting, notwithstanding anything in its articles, nominate a person (other than a body corporate) who has attained the age of 18 years as a reserve director of the company to act in the place of the sole director in the event of his death. Where the company nominates a reserve director, it shall send to the Registrar particulars of the nomination in accordance with section 158(4), (4A) and (4B).~~

~~(7) The nomination of a person as a reserve director of a private company ceases to be valid if—~~

~~(a) before the death of the director in respect of whom he was nominated—~~

~~(i) he resigns as reserve director in accordance with section 157D; or~~

~~(ii) the company in general meeting revokes the nomination; or~~

~~(b) the director in respect of whom he was nominated ceases to be the sole member and sole director of the company for any reason other than the death of that director.~~

~~(8) Subject to compliance with the conditions set out in subsection (9), in the event of the death of the director in respect of whom the reserve director is nominated, the reserve director shall be deemed to be a director of the company for all purposes until such time as—~~

~~(a) a person is appointed as a director of the company in accordance with its articles; or~~

~~(b) he resigns from his office of director in accordance with section 157D,~~

~~whichever is the earlier.~~

~~(9) The conditions referred to in subsection (8) are—~~

~~(a) the nomination of the reserve director has not ceased to be valid under subsection (7); and~~

~~(b) the reserve director is not prohibited by law from acting as a director of the company.~~

~~(10) A person who has been deemed to be a director of a private company under section 153A(2) of the pre-amended Ordinance shall, until a notification under section 158(4AA) is sent to the Registrar, continue to be deemed as such as if section 20(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) had not been enacted. (Added 30 of 2004 s. 2)~~

~~(11) For the purpose of subsection (10), "pre-amended Ordinance" (修訂前的本條例) means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 20(1) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004). (Added 30 of 2004 s. 2)~~

~~(Added 28 of 2003 s. 56)~~

~~Section:~~	~~153B~~	~~Directors vicariously liable for acts of alternates, etc.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where the articles of a company authorize a director to appoint an alternate director to act in his place, then, unless the articles contain any provision to the contrary, whether express or implied—~~

~~(a) an alternate director so appointed shall be deemed to be the agent of the director who appoints him; and~~

~~(b) a director who appoints an alternate director shall be vicariously liable for any tort committed by the alternate director while acting in the capacity of alternate director.~~

~~(2) Nothing in subsection (1)(b) affects the personal liability of an alternate director for any act or omission.~~

~~(Added 28 of 2003 s. 57)~~

~~Section:~~	~~153C~~	~~Written record of decision of sole director of private company~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a private company has only one director and that director takes any decision that may be taken in a meeting of the directors and that has effect as if agreed in a meeting of the directors, he shall (unless that decision is taken by way of a resolution in writing) provide the company with a written record of that decision within 7 days after~~

~~the decision is made.~~

~~(2) Where the director provides the company with a written record of a decision in accordance with subsection (1), that record shall be sufficient evidence of the decision having been taken by the director.~~

~~(3) A company shall cause a record of all written records provided to the company 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 meeting of the directors.~~

~~(4) If the director fails to comply with subsection (1), he shall be liable to a fine and, for continued default, to a daily default fine.~~

~~(5) If a company fails to comply with subsection (3), 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.~~

~~(6) Failure by the director to comply with subsection (1) shall not affect the validity of any decision referred to in that subsection.~~

~~(Added 28 of 2003 s. 58)~~

~~Section:~~	~~154~~	~~Secretary~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~(1) Every company shall have a secretary. (Amended 28 of 2003 s. 59)~~

~~(1AA) With effect from the date of incorporation of a company mentioned in its certificate of incorporation, the first secretary of the company is the person named as the secretary in the incorporation form submitted in respect of the company pursuant to section 14A. (Added 30 of 2004 s. 2)~~

~~(1AB) Where the name of a firm is contained in the incorporation form pursuant to section 14A(2)(i), all partners in the firm as at the date of the incorporation form are the first joint secretaries of the company. (Added 30 of 2004 s. 2)~~

~~(1A)Subject to subsections (1B) and (4), a director of a company may be the secretary of the company. (Added 28 of 2003 s. 59)~~

~~(1B)The director of a private company having only one director shall not also be the secretary of the company. (Added 28 of 2003 s. 59)~~

~~(2) The secretary of a company shall-~~

~~(a) if an individual, ordinarily reside in Hong Kong;~~

~~(b) if a body corporate, have its registered office or a place of business in Hong Kong.~~

~~(3) Anything required or authorized to be done by or to the secretary may, if the office is vacant or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to any officer of the company authorized generally or specially in that behalf by the directors.~~

~~(4) No private company having only one director shall have as secretary of the company a body corporate the sole director of which is the sole director of the private company. (Added 28 of 2003 s. 59)~~

~~(Replaced 6 of 1984 s. 109)~~

~~[cf. 1948 c. 38 s. 177 U.K.]~~

~~Section:~~	~~154A~~	~~Restriction on body corporate being director~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~(1) A company shall not, after the expiration of 6 months from the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), have as director of the company a body corporate.~~

~~(2) This section shall not apply to a private company excepted under subsection (3).~~

~~(3) A private company is excepted under this subsection if, but only if, it is not a member of a group of companies of which a listed company is a member; and for the purposes of this subsection "listed company" (上市公司) means a company in the case of which shares are listed on a recognized stock market. (Amended 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~(4) A body corporate which, at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), is a director of a company other than a private company excepted under subsection (3) shall, if it has not vacated its office as such director within a period of 6 months thereafter, be deemed to have done so upon the expiration of that period, and all acts or things purporting to be made or done after the expiration of that period by a body corporate as director of any such company shall be null and void.~~

~~(Added 6 of 1984 s. 110)~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~154B~~	~~Avoidance of acts done by person in dual capacity as director and secretary~~		~~30/06/1997~~

~~A provision requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.~~

~~(Added 6 of 1984 s. 110)~~

~~[cf. 1948 c. 38 s. 179 U.K.]~~

~~Section:~~	~~155~~	~~Qualification of director~~		~~30/06/1997~~

~~(1) It shall be the duty of every director who is by the articles of the company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within 2 months after his appointment, or such shorter time as may be fixed by the articles. (Amended 6 of 1984 s. 111)~~

~~(2) For the purpose of any provision in the articles requiring a director to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant. (Amended 6 of 1984 s. 111)~~

~~(3) The office of director of a company shall be vacated if the director does not within 2 months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.~~

~~(4) A person vacating office under this section shall be incapable of being re-appointed director of the company until he has obtained his qualification.~~

~~(5) If after the expiration of the said period or shorter time any unqualified person acts as a director of the company, he shall be liable to a fine, and a daily fine for every day between the expiration of the said period or shorter time or the day on which he ceased to be qualified, as the case may be, and the last day on which it is proved that he acted as a director. (Amended 6 of 1984 s. 111; 7 of 1990 s. 2)~~

~~[cf. 1929 c. 23 s. 141 U.K.]~~

~~Section:~~	~~155A~~	~~Approval of company required for disposal by directors of company's fixed assets~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~(1) Notwithstanding anything in the memorandum or articles of~~

~~(a) a company in the case of which shares are listed on a recognized stock market; or (Amended 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~(b) a company which is a member of a group of companies of which a company referred to in paragraph (a) is a member,~~

~~the directors of such a company shall not carry into effect any proposals to which this section applies unless those proposals have been approved by the company in general meeting.~~

~~(2) This section applies to proposals for disposing of any fixed assets of a company referred to in subsection (1)(a) or (b) if, but only if, the aggregate of~~

~~(a) the amount or value of the consideration for the proposed disposal; and~~

~~(b) where any fixed assets of the company have been disposed of in the period of 4 months immediately preceding the proposed disposal, the amount or value of the consideration for any such disposal in that period,~~

~~exceeds 33 per cent of the value of the company's fixed assets as shown in the latest balance sheet laid before the company in general meeting.~~

~~(3) The court may, on the application of any member or holder of debentures of a company referred to in subsection (1)(a) or (b), restrain the directors from entering into a transaction in contravention of subsection (1).~~

~~(4) A transaction entered into in contravention of subsection (1) shall be as valid as if that subsection had been complied with.~~

~~(5) If any person being a director of a company referred to in subsection (1)(a) or (b) fails to take all reasonable steps to comply with subsection (1) he shall, in respect of each offence, be liable to a fine and imprisonment.~~

~~(Amended 7 of 1990 s. 2)~~

~~(6) In this section a reference to proposals for disposing of any fixed assets does not include a reference to proposals for charging such fixed assets or granting any interest therein by way of security.~~

~~(Added 6 of 1984 s. 112)~~

~~Section:~~	~~155B~~	~~Notices of resolutions to contain explanation of their effect and particulars of relevant interests of directors~~		~~30/06/1997~~

~~(1) Subject to subsection (2), where a company (not being a company which is a wholly owned subsidiary) gives notice of the intention to move a resolution at a general meeting of the company or a meeting of any class of members of the company the notice shall include or be accompanied by a statement-~~

~~(a) containing such information and explanation, if any, as is reasonably necessary to indicate the purpose of the resolution; and~~

~~(b) disclosing any material interests of any director in the matter dealt with by the resolution so far as the resolution affects those interests differently from the interests of other members of the company.~~

~~(2) Subsection (1)(a) shall not apply in relation to any resolution of which notice is given by the company under section 115A.~~

~~(3) It shall be the duty of any director of the company to give notice to the company of such matters relating to himself as may be necessary for the purposes of this section; and any person who makes default in complying with this subsection shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(4) If a company makes default in complying with subsection (1) the company and every officer of the company who is in default shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(5) Nothing in this section shall affect the validity of a resolution passed at a general meeting of a company.~~

~~(6) For the purposes of this section "wholly owned subsidiary" (全資附屬公司) has the same meaning as it has for the purposes of section 124.~~

~~(Added 6 of 1984 s. 112)~~

~~Section:~~	~~155C~~	~~Directors' duty to shareholders regarding prospectus or statement in lieu~~	~~L.N. 154 of 2004~~	~~03/12/2004~~

~~(1) Subject to subsection (1A), where any company delivers a prospectus or statement in lieu of prospectus to the Registrar for registration, the company shall, at the same time or, if it is not practicable to do so at that time, as soon as practicable thereafter but not later than 3 weeks from the date of delivery of such prospectus or statement in lieu of prospectus, send a copy thereof to every person who is a member of the company. (Amended 30 of 2004 s. 2)~~

~~(1A)Subsection (1) does not apply to a company the shares of which are listed on a recognized stock market. (Added 30 of 2004 s. 2)~~

~~(2) The reference in subsection (1) to a member of a company is a reference to any person who is a member on the date referred to in that subsection or, if another date is specified in that respect in the prospectus or statement in lieu of prospectus, the date so specified.~~

~~(Added 6 of 1984 s. 112)~~

~~Section:~~	~~156~~	~~Provisions as to undischarged bankrupts acting as directors~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) If any person being an undischarged bankrupt acts as director of, or directly or indirectly takes part in or is concerned in the management of, any company except with the leave of the court by which he was adjudged bankrupt, he shall be guilty of an offence and liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that a person shall not be guilty of an offence under this section by reason that he, being an undischarged bankrupt, has acted as director of, or taken part or been concerned in the management of, a company, if at the commencement of this Ordinance he was acting as director of, or taking part or being concerned in the management of, that company and has continuously so acted, taken part, or been concerned since that date and the bankruptcy was prior to that date.~~

~~(2) The leave of the court for the purpose of this section shall not be given unless notice of intention to apply therefor has been served on the Official Receiver and it shall be the duty of the Official Receiver, if he is of opinion that it is contrary to the public interest that any such application should be granted, to attend on the hearing of and oppose the granting of the application.~~

~~(3) In this section, the expression "company" (公司) has the meaning assigned to it by section 168C. (Amended 6 of 1984 ss. 113 & 259; 3 of 1997 s. 36; 30 of 1999 s. 10)~~

~~[cf. 1929 c. 23 s. 142 U.K.]~~

~~Section:~~	~~157~~	~~Validity of acts of directors~~		~~30/06/1997~~

~~The acts of a director or manager shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.~~

~~[cf. 1929 c. 23 s. 143 U.K.]~~

~~Section:~~	~~157A~~	~~Appointment of directors to be voted on individually~~		~~30/06/1997~~

~~(1) At a general meeting of a company other than a private company or a company not having a share capital, a motion for the appointment of 2 or more persons as directors of the company by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it. (Amended 75 of 1993 s. 9)~~

~~(2) A resolution moved in contravention of this section shall be void, whether or not its being so moved was objected to at the time:~~

~~Provided that~~

~~(a) this subsection shall not be taken as excluding the operation of section 157; and~~

~~(b) where a resolution so moved is passed, no provision for the automatic reappointment of retiring directors in default of another appointment shall apply.~~

~~(3) For the purposes of this section, a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.~~

~~(4) Nothing in this section shall apply to a resolution altering the company's articles.~~

~~(Added 6 of 1984 s. 114)~~

~~[cf. 1948 c. 38 s. 183 U.K.]~~

~~Section:~~	~~157B~~	~~Removal of directors~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A company may by ordinary resolution remove a director before the expiration of his period of office, notwithstanding anything in its memorandum or articles or in any agreement between it and him: (Amended 28 of 2003 s. 60)~~

~~Provided that this subsection shall not, in the case of a private company, authorize the removal of a director holding office for life on the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).~~

~~(1A)Special notice is required of a resolution to remove a director or to appoint somebody in place of a director so removed at the meeting at which he is removed. (Added 28 of 2003 s. 60)~~

~~(2) On receipt of notice of an intended resolution to remove a director under this section the company shall forthwith send a copy thereof to the director concerned, and the director (whether or not he is a member of the company) shall be entitled to be heard on the resolution at the meeting.~~

~~(3) Where notice is given of an intended resolution to remove a director under this section and the director concerned makes with respect thereto representations in writing to the company (not exceeding a reasonable length) and requests their notification to members of the company, the company shall, unless the representations are received by it too late for it to do so~~

~~(a) in any notice of the resolution given to members of the company state the fact of the representations having been made; and~~

~~(b) send a copy of the representations to every member of the company to whom notice of the meeting is sent (whether before or after receipt of the representations by the company),~~

~~and if a copy of the representations is not sent as aforesaid because received too late or because of the company's default, the director may (without prejudice to his right to be heard orally) require that the representations shall be read out at the meeting.~~

~~(4) Copies of the representations need not be sent out and the representations need not be read out at the meeting if, on the application either of the company or of any other person who claims to be aggrieved, the court is satisfied that the rights conferred by this section are being abused to secure needless publicity for defamatory matter; and the court may order the company's costs on an application under this section to be paid in whole or in part by the~~

~~director, notwithstanding that he is not a party to the application.~~

~~(5) On a resolution to remove a director before the expiration of his period of office no share shall, on a poll, carry a greater number of votes than it would carry in relation to the generality of matters to be voted on at a general meeting; and where a share carries special voting rights (that is to say, rights different from those carried by other shares of the same nominal value) in relation to some matters but not others, the reference in this subsection to the generality of matters to be voted on at a general meeting of the company shall be construed as a reference to the matters in relation to which the share carries no special voting rights. (Amended 28 of 2003 s. 60)~~

~~(6) A vacancy created by the removal of a director under this section, if not filled at the meeting at which he is removed, may be filled as a casual vacancy.~~

~~(7) A person appointed director in place of a person removed under this section shall be treated, for the purpose of determining the time at which he or any other director is to retire, as if he had become director on the day on which the person in whose place he is appointed was last appointed a director.~~

~~(8) Nothing in this section shall be taken as depriving a person removed thereunder of compensation or damages payable to him in respect of the termination of his appointment as director or of any appointment terminating with that as director or as derogating from any power to remove a director which may exist apart from this section.~~

~~(Added 6 of 1984 s. 114)~~

~~[cf. 1948 c. 38 s. 184 U.K.]~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~157C~~	~~Minimum age limit for directors~~		~~30/06/1997~~

~~No person shall be capable of being appointed a director of a company on or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) unless at the time of his appointment he has attained the age of 18 years.~~

~~(Added 6 of 1984 s. 114. Amended 32 of 1990 s. 13)~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~157D~~	~~Resignation of director or secretary~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A director or secretary of a company may, unless it is otherwise provided in the articles of the company or by any agreement with the company, resign his office at any time.~~

~~(2) Notification of the resignation of a director or secretary of a company shall be given by the company to the Registrar in like manner as a notification of any change among its directors is required to be given by section 158(4). (Amended 46 of 2000 s. 15)~~

~~Provided that where there are reasonable grounds for believing that the company will not give such notification, such notification shall be given in the specified form by the person resigning and shall state whether the person resigning is required by the articles of the company or by any agreement with the company to give notice of his resignation to the company, and, if such notice is so required, whether such notice has been given in accordance with such requirement. (Amended 3 of 1997 s. 37)~~

~~(3) Where notice of the resignation of a director or secretary of a company is required to be given by the articles of the company or by any agreement with the company, the following shall apply to the person resigning—~~

~~(a) the resignation shall not have effect unless he gives notice in writing thereof either in accordance with such requirement or by sending it by post to, or by leaving it at, the registered office of the company;~~

~~(b) (c) (Repealed 46 of 2000 s. 15)~~

~~(4) In this section, "director" (董事) includes a reserve director and a person deemed to be a director under section 153A(8). (Added 28 of 2003 s. 61)~~

~~(Added 6 of 1984 s. 114)~~

Section:	157E	(Repealed 30 of 1994 s. 3)		30/06/1997

Section:	157F	(Repealed 30 of 1994 s. 3)		30/06/1997

Section:	157G	(Repealed 75 of 1993 s. 10)		30/06/1997

~~Section:~~	~~157H~~	~~Prohibition of loans, etc., to directors and other persons~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The prohibitions in this section are subject to the exceptions in section 157HA.~~

~~(2) A company shall not, directly or indirectly-~~

~~(a) make a loan to a director of the company or of its holding company;~~

~~(b) enter into a guarantee or provide any security in connection with a loan made by any other person to such a director; or~~

~~(c) if any one or more of the directors of the company holds (jointly or severally or directly or indirectly) a controlling interest in another company-~~

~~(i) make a loan to that other company; or~~

~~(ii) enter into a guarantee or provide any security in connection with a loan made by any person to that other company.~~

~~(3) A relevant company shall not-~~

~~(a) make a quasi-loan to a director of the company or of its holding company;~~

~~(b) enter into a guarantee or provide any security in connection with a quasi-loan made by any other person to such a director; or~~

~~(c) if any one or more of the directors of the company holds (jointly or severally or directly or indirectly) a controlling interest in another company-~~

~~(i) make a quasi-loan to that other company; or~~

~~(ii) enter into a guarantee or provide any security in connection with a quasi-loan made by any other person to that other company.~~

~~(4) A relevant company shall not-~~

~~(a) enter into a credit transaction as creditor for a director of the company or of its holding company;~~

~~(b) enter into a guarantee or provide any security in connection with a credit transaction entered into by any other person as creditor for such a director; or~~

~~(c) if any one or more of the directors of the company holds (jointly or severally or directly or indirectly) a controlling interest in another company-~~

~~(i) enter into a credit transaction as creditor for that other company; or~~

~~(ii) enter into a guarantee or provide any security in connection with a credit transaction entered into by any other person as creditor for that other company.~~

~~(5) A company shall not arrange for the assignment to it, or the assumption by it, of any rights, obligations or liabilities under a transaction that, if it had been entered into by the company, would have contravened subsection (2), (3) or (4).~~

~~(6) If a company enters into an arrangement in contravention of subsection (5), then for the purposes of this section the company is to be treated as having entered into the transaction in question on the date of that arrangement.~~

~~(7) A company shall not take part in any arrangement whereby-~~

~~(a) another person enters into a transaction or arrangement that, if it had been entered into by the company, would have contravened subsection (2), (3), (4) or (5); and~~

~~(b) that other person, in pursuance of the arrangement, has obtained or is to obtain any benefit from the company or its holding company or a subsidiary of the company or its holding company.~~

~~(8) In the application of subsections (2), (3) and (4) to-~~

~~(a) a company that has any of its shares listed on a recognized stock market; or~~

~~(b) a company that is a member of a group of companies of which a company referred to in paragraph (a) is a member,~~

~~references in that subsection to a director shall include references to-~~

~~(i) the spouse or any child or step-child of such director;~~

~~(ii) a person acting in his capacity as the trustee (other than as trustee under an employees' share scheme or a pension scheme) of any trust the beneficiaries of which include the director, his spouse or any of his children or step-children or the terms of which confer a power on the trustees that may be exercised for~~

~~the benefit of the director, his spouse or any of his children or step-children; and~~

~~(iii) a person acting in his capacity as partner of that director or of his spouse, child or step-child, or of any trustee referred to in paragraph (ii).~~

~~(9) References in subsection (8) to the child or step-child of any person shall include a reference to any illegitimate child of that person, but shall not include a reference to any person who has attained the age of 18 years.~~

~~(10) In this section-~~

~~"company" (公司) means-~~

~~(a) a company within the meaning of section 2; or~~

~~(b) any other body corporate that is incorporated in Hong Kong under an Ordinance and that has any of its shares listed on a recognized stock market,~~

~~but does not include an authorized financial institution;~~

~~"conditional sale agreement" (有條件售賣協議) means an agreement for the sale of goods or land under which-~~

~~(a) the purchase price or part of it is payable by instalments;~~

~~(b) the property in the goods or land is to remain in the seller until such conditions as to the payment of instalments or otherwise as may be specified in the agreement are fulfilled; and~~

~~(c) the buyer is (notwithstanding such reservation of property) to be in possession of the goods or land prior to the fulfilment of such conditions;~~

~~"credit transaction" (信貸交易) means a transaction between one party ("the creditor") and another party ("the borrower") under which the creditor-~~

~~(a) supplies goods to the borrower under a hire-purchase agreement;~~

~~(b) sells goods or land to the borrower under a conditional sale agreement;~~

~~(c) leases or hires goods or leases land to the borrower in return for periodical payments; or~~

~~(d) otherwise disposes of land or supplies goods or services to the borrower on the understanding that payment (whether in a lump sum or instalments or by way of periodical payments or otherwise) is to be deferred;~~

~~"director" (董事) includes a shadow director;~~

~~"guarantee" (擔保) includes indemnity, and cognate expressions are to be construed accordingly;~~

~~"hire-purchase agreement" (租購協議) means an agreement for the bailment of goods under which the bailee may buy the goods, or under which the property in the goods will or may pass to the bailee;~~

~~"land" (土地) includes any estate or interest in land, buildings, messuages and tenements of any nature or kind whatsoever;~~

~~"quasi-loan" (類似貸款) means-~~

~~(a) a transaction under which one party ("the creditor") agrees to pay, or pays otherwise than in pursuance of an agreement, a sum for another ("the borrower")-~~

~~(i) on terms that the borrower (or a person on his behalf) will reimburse the creditor; or~~

~~(ii) in circumstances giving rise to a liability on the borrower to reimburse the creditor; or~~

~~(b) a transaction under which one party ("the creditor") agrees to reimburse, or reimburses otherwise than in pursuance of an agreement, expenditure incurred by another for another ("the borrower")-~~

~~(i) on terms that the borrower (or a person on his behalf) will reimburse the creditor; or~~

~~(ii) in circumstances giving rise to a liability on the borrower to reimburse the creditor;~~

~~"relevant company" (有關公司) means a company within the meaning of this subsection but does not include a private company other than a relevant private company;~~

~~"relevant private company" (有關私人公司) means a private company that is a member of a group of companies of which a company that has any of its shares listed on a recognized stock market is a member;~~

~~"services" (服務) means anything other than goods or land.~~

~~(11) For the purposes of this section-~~

~~(a) a person "makes a quasi-loan to" or "enters into a credit transaction as creditor for" a person if the first-mentioned person is the creditor and the second-mentioned person is the borrower under the quasi-loan or credit transaction, as the case may be;~~

~~(b) the liabilities of a borrower under a quasi-loan include the liabilities of any person who has agreed to reimburse the creditor on behalf of the borrower; and~~

~~(c) a body corporate is not to be treated as a shadow director of any of its subsidiaries by reason only that~~

~~the directors or a majority of the directors of the subsidiary are accustomed to act in accordance with its directions or instructions.~~

~~(Replaced 28 of 2003 s. 62)~~

~~Section:~~	~~157HA~~	~~Excepted transactions~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Section 157H does not prohibit a company that is a member of a group of companies from—~~

~~(a) making a loan or quasi-loan to, or entering into a credit transaction as creditor for, a company that is a member of the same group of companies; or~~

~~(b) entering into a guarantee or providing any security in connection with—~~

~~(i) a loan or quasi-loan made by any person to a company that is a member of the same group of companies; or~~

~~(ii) a credit transaction entered into by any person as creditor for such a company.~~

~~(2) Section 157H does not prohibit a private company (not being a relevant private company) from doing anything that has been approved by the company in general meeting.~~

~~(3) Subject to this section, a company is not prohibited by section 157H from—~~

~~(a) entering into any transaction to provide any of its directors with funds to meet expenditure incurred or to be incurred by him for the purposes of the company or for the purpose of enabling him properly to perform his duties as an officer of the company;~~

~~(b) entering into any transaction—~~

~~(i) for the purpose of facilitating the purchase of the whole or part of any residential premises, together with any land to be occupied and enjoyed therewith, for use as the only or main residence of a director of the company;~~

~~(ii) for the purpose of improving any residential premises so used or any land occupied and enjoyed therewith; or~~

~~(iii) in substitution for any transaction entered into by any person for the benefit of a director of the company and falling within subparagraph (i) or (ii); or~~

~~(c) leasing or hiring goods or leasing land to a director of the company on terms not more favourable than the terms it is reasonable to expect the company to have offered, if the goods had been leased or hired or the land had been leased on the open market, to a person who is unconnected with the company.~~

~~(4) The exception specified in subsection (3)(a) operates in relation to a transaction described in that subsection only if either of the following conditions is satisfied—~~

~~(a) the transaction in question is entered into with the prior approval of the company given at a general meeting at which the purpose of the expenditure incurred or to be incurred by the director concerned and the amount of the transaction are disclosed; or~~

~~(b) the transaction is entered into on the condition that, if the approval of the company is not so given at or before the next following annual general meeting, any liability falling on any person in connection with the transaction shall be discharged within 6 months from the conclusion of that meeting.~~

~~(5) The exception specified in subsection (3)(b) operates in relation to a transaction described in that subsection only if the following conditions are satisfied—~~

~~(a) the company in question ordinarily enters into transactions of that description for its employees on terms no less favourable than those on which the transaction in question is entered into;~~

~~(b) the amount of the transaction does not exceed 80 per cent of the value of the residential premises, or the part thereof, in question and any land to be occupied and enjoyed therewith, as stated in a valuation report that complies with paragraph (c);~~

~~(c) the valuation report is made and signed by a professionally qualified valuation surveyor, who is subject to the discipline of a professional body, not earlier than 3 months prior to the date on which the transaction is entered into; and~~

~~(d) the transaction is secured by a legal mortgage on the land comprising the residential premises, or the part thereof, in question and any land to be occupied and enjoyed therewith.~~

~~(6) Subject to this section, a company is not prohibited by section 157H(2) from entering into a transaction described in that section if the ordinary business of that company includes the entering into of transactions of that description.~~

~~(7) Subject to this section, a relevant company is not prohibited by section 157H(3) or (4) from entering into a transaction described in that section if the ordinary business of that company includes the entering into of transactions~~

~~of that description.~~

~~(8) The exceptions specified in subsections (6) and (7) operate in relation to a transaction described in that subsection only if the following conditions are satisfied—~~

~~(a) the transaction in question is entered into by the company or relevant company, as the case may be, in the ordinary course of its business; and~~

~~(b) the amount of the transaction is not greater, and the terms of the transaction are not more favourable, in the case of the person with or in respect of whom the transaction is entered into, than that amount or those terms that it is reasonable to expect the company or relevant company, as the case may be, to have offered to or in respect of a person of the same financial standing as that person but who is unconnected with the company or relevant company.~~

~~(9) Subsections (6) and (7) do not authorize a company or relevant company, as the case may be, to enter into a transaction described in section 157H(2), (3) or (4) if, at the time the transaction is entered into, the relevant amount exceeds $750000.~~

~~(10) For the purpose of subsection (9), "relevant amount" (有關款額)—~~

~~(a) in relation to a company that at the time of the transaction in question is subject to the prohibition in section 157H(2) but is not subject to the prohibitions in section 157H(3) and (4), means the aggregate of the following amounts—~~

~~(i) the amount of the transaction in question;~~

~~(ii) the amount outstanding at that time in respect of principal on all loans made by the company by virtue of subsection (6) to the director or other company concerned (excluding the transaction in question); and~~

~~(iii) the amount representing the maximum liability of the company at that time under all guarantees and all security entered into or provided by the company by virtue of subsection (6) in connection with any loans made by any person to the director or other company concerned (excluding the transaction in question); and~~

~~(b) in relation to a company that at the time of the transaction in question is subject to the prohibitions in section 157H(2), (3) and (4), means the aggregate of the following amounts—~~

~~(i) the amount of the transaction in question;~~

~~(ii) the amount outstanding at that time in respect of principal on all loans and quasi-loans made by the company to, and all credit transactions entered into by the company as creditor for, the director or other company concerned by virtue of subsection (6) or (7) (excluding the transaction in question); and~~

~~(iii) the amount representing the maximum liability of the company at that time under all guarantees and all security entered into or provided by the company by virtue of subsection (6) or (7) in connection with any loans or quasi-loans made by any person to, or any credit transactions entered into by any person as creditor for, the director or other company concerned (excluding the transaction in question).~~

~~(11) Subsections (3), (6) and (7) do not authorize a company to enter into a transaction if, at the time the transaction is entered into, the relevant amount exceeds 5 per cent of the amount of the company's net assets as shown in the latest balance sheet laid before the company in general meeting.~~

~~(12) For the purpose of subsection (11), "relevant amount" (有關款額)—~~

~~(a) in relation to a company that at the time of the transaction in question is subject to the prohibition in section 157H(2) but is not subject to the prohibitions in section 157H(3) and (4), means the aggregate of the following amounts—~~

~~(i) the amount of the transaction in question;~~

~~(ii) the amount outstanding at that time, in respect of principal and interest or otherwise, on all loans made by the company to any of its directors (excluding the transaction in question and any loans made by virtue of subsection (1) or (2)); and~~

~~(iii) the amount representing the maximum liability of the company at that time under all guarantees entered into by the company, and in respect of all security provided by the company, in connection with any loans made by any person to any of its directors (excluding the transaction in question and any guarantees or security entered into or provided by virtue of subsection (1) or (2)); and~~

~~(b) in relation to a company that at the time of the transaction in question is subject to the prohibitions in~~

~~section 157H(2), (3) and (4), means the aggregate of the following amounts—~~

~~(i) the amount of the transaction in question;~~

~~(ii) the amount outstanding at that time, in respect of principal and interest or otherwise, on all loans and quasi-loans made by the company to, and all credit transactions entered into by the company as creditor for, any of its directors (excluding the transaction in question and any loans, quasi-loans or credit transactions made or entered into by virtue of subsection (1) or (2)); and~~

~~(iii) the amount representing the maximum liability of the company at that time under all guarantees entered into by the company, and in respect of all security provided by the company, in connection with any loans or quasi-loans made by any person to, or any credit transactions entered into by any person as creditor for, any of its directors (excluding the transaction in question and any guarantees or security entered into or provided by virtue of subsection (1) or (2)).~~

~~(13) A reference in this section to the amount of a transaction entered into by a company shall be construed as a reference to—~~

~~(a) where the transaction consists of a loan, quasi-loan or credit transaction, the principal amount of that loan, quasi-loan or credit transaction;~~

~~(b) where the transaction consists of a guarantee, the amount representing the maximum liability of the company under that guarantee; and~~

~~(c) where the transaction consists of the provision of any security, the amount representing the maximum liability of the company in respect of that security.~~

~~(14) A reference in this section to the principal amount of a quasi-loan or credit transaction shall be construed as a reference to the total amount payable by the borrower, excluding any amount payable as interest, as a penalty or as compensation or damages for a breach of the transaction.~~

~~(15) In this section, "net assets" (淨資產), in relation to a company, means the aggregate of the company's assets less the aggregate of its liabilities, and for the purposes of this definition, "liabilities" (負債) includes any provision within the meaning of the Tenth Schedule except to the extent that that provision is taken into account in calculating the value of any asset of the company.~~

~~(16) All other terms and expressions used in this section have the same meaning as in section 157H subject to the following exceptions—~~

~~(a) for the purposes of subsection (3) of this section, "director" (董事) does not include a shadow director; and~~

~~(b) section 157H(8) shall not apply in relation to the references to a director in subsection (3) of this section insofar as that subsection applies in respect of a director of—~~

~~(i) a company that has any of its shares listed on a recognized stock market; or~~

~~(ii) a company that is a member of a group of companies of which a company referred to in paragraph (a) is a member.~~

~~(Added 28 of 2003 s. 62)~~

~~Section:~~	~~157I~~	~~Civil consequences of transactions contravening section 157H~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A person who receives from a company a sum paid in pursuance of a transaction or arrangement entered into in contravention of section 157H shall be liable to repay that sum to the company forthwith, except where he is not a director of the company or of its holding company and he shows that, at the time the transaction or arrangement was entered into, he did not know the relevant circumstances. (Replaced 28 of 2003 s. 63)~~

~~(2) Subject to subsection (3), a guarantee entered into or any security provided by a company in contravention of section 157H shall be unenforceable against the company. (Amended 28 of 2003 s. 63)~~

~~(3) Subsection (2)—~~

~~(a) shall not apply to a guarantee entered into or any security provided by the company in connection with a loan or quasi-loan made by any person to, or a credit transaction entered into by any person as creditor for, a person who is not a director of the company or of its holding company if it is shown that, at the time the guarantee was entered into or the security provided, the person to whom the guarantee was given or the security provided, as the case may be, did not know the relevant circumstances; and~~

~~(b) shall not affect an interest in any property that has been passed by the company to any person by way of security provided in connection with any transaction or arrangement. (Replaced 28 of 2003 s. 63)~~

~~(4) Without prejudice to any liability imposed on directors of companies otherwise than by this subsection, a director of a company that has entered into a transaction or arrangement in contravention of section 157H shall be liable—~~

~~(a) to account to the company for any gain that he has made directly or indirectly by the transaction or arrangement; and~~

~~(b) jointly and severally with any other director liable under this subsection, to indemnify the company for any loss or damage resulting from that transaction or arrangement,~~

~~if—~~

~~(i) he knowingly and wilfully authorized or permitted the transaction or arrangement to be entered into;~~

~~(ii) the transaction or arrangement consists of the making of a loan or quasi-loan to, or the entering into of a credit transaction as creditor for, that director or a person connected with him; or~~

~~(iii) the transaction or arrangement consists in the giving of any guarantee or the provision of any security in connection with a loan or quasi-loan made by any person to, or a credit transaction entered into by any person as creditor for, that director or a person connected with him. (Replaced 28 of 2003 s. 63)~~

~~(5) Without prejudice to subsections (1) to (4), section 157H shall not of itself invalidate any transaction or arrangement entered into in contravention of that section. (Replaced 28 of 2003 s. 63)~~

~~(6) In this section—~~

~~"company" (公司) has the same meaning as in section 157H(10);~~

~~"director" (董事), except in subsection (3), includes a shadow director;~~

~~"the relevant circumstances" (有關情況), in relation to a contravention of section 157H, means all the facts and other circumstances constituting that contravention including, in the case of a transaction or arrangement which but for any fact or circumstance would be authorized by any provision of section 157HA, that fact or circumstance. (Replaced 28 of 2003 s. 63)~~

~~(7) For the purposes of this section a person is connected with a director of a company if, but only if, he is—~~

~~(a) the spouse, child or step-child of that director; or~~

~~(b) a person acting in his capacity as the trustee (other than as trustee under an employees' share scheme or a pension scheme) of any trust the beneficiaries of which include to director, his spouse or any of his children or step-children or the terms of which confer a power on the trustees the may be exercised for the benefit of the director, his spouse or any of his children or step-children; or~~

~~(c) a person acting in his capacity as partner of that director or of any person who by virtue of paragraph (a) or (b) is connected with that director; or~~

~~(d) a company in which that director or his spouse or any of his children or step-children, or any person to whom paragraph (b) or (c) applies, holds (jointly or severally or directly or indirectly) a controlling interest,~~

~~and in this subsection a reference to the child or step-child of any person shall include a reference to any illegitimate child of that person, but shall not include a reference to any person who has attained the age of 18 years. (Amended 32 of 1990 s. 13)~~

~~(Added 6 of 1984 s. 114)~~
~~[cf. 1980 c. 22 s. 52 U.K.]~~

~~Section:~~	~~157J~~	~~Criminal penalties for contravention of section 157H~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company enters into a transaction in contravention of section 157H(2), (3) or (4), the following persons shall, subject to subsection (2), be guilty of an offence—~~

~~(a) if the transaction is entered into in contravention of section 157H(2)(a) or (b), (3)(a) or (b) or (4)(a) or (b), the company;~~

~~(b) any director of the company who wilfully authorized or permitted the transaction to be entered into; and~~

~~(c) any person who knowingly procured the company to enter into the transaction.~~

~~(1A) Where a company enters into an arrangement in contravention of section 157H(5) or (7), the following persons shall, subject to subsection (2), be guilty of an offence—~~

~~(a) if the arrangement is entered into in connection with a transaction described in section 157H(2)(a) or (b), (3)(a) or (b) or (4)(a) or (b), the company;~~

~~(b) any director of the company who wilfully authorized or permitted the arrangement to be entered into;~~

~~and~~

~~(c) any person who knowingly procured the company to enter into the arrangement.~~

~~(2) A person shall not be guilty of an offence under this section if he shows that, at the time the transaction or arrangement was entered into, he did not know the relevant circumstances.~~

~~(3) A person guilty of an offence under this section shall be liable to imprisonment and a fine.~~

~~(4) In this section—~~

~~"company" (公司) has the same meaning as in section 157H(10);~~

~~"director" (董事) includes a shadow director;~~

~~"the relevant circumstances" (有關情況), in relation to a contravention of section 157H, means all the facts and other circumstances constituting that contravention including, in the case of a transaction or arrangement which but for any fact or circumstance would be authorized by any provision of section 157HA, that fact or circumstance.~~

~~(Replaced 28 of 2003 s. 64)~~

~~Section:~~	~~158~~	~~Register of directors and secretaries~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Every company shall keep in the English or Chinese language a register of its directors and secretaries. (Amended 83 of 1995 s. 15)~~

~~(2) Where the company is an unlisted company, the register shall contain the following particulars with respect to each director—~~

~~(a) in the case of an individual, his present forename and surname and any former forename or surname, any alias, his usual residential address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and (Amended 83 of 1995 s. 15; 30 of 1999 s. 11)~~

~~(b) in the case of a body corporate, its corporate name and registered or principal office. (Replaced 75 of 1993 s. 11)~~

~~(2A) Where the company is a listed company, the register shall contain the following particulars with respect to each director—~~

~~(a) his present forename and surname and any former forename or surname; (Amended 83 of 1995 s. 15)~~

~~(b) any alias;~~

~~(c) his usual residential address; and~~

~~(d) (Repealed 30 of 1999 s. 11)~~

~~(e) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him. (Amended 30 of 1999 s. 11)~~

~~(f) (Repealed 30 of 1999 s. 11)~~

~~(2B) Where the company is a private company having only one member and that member is the sole director of the company, the register shall contain the following particulars with respect to the reserve director of the company (if any)—~~

~~(a) his present forename and surname and any former forename or surname;~~

~~(b) any alias;~~

~~(c) his usual residential address; and~~

~~(d) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him. (Added 28 of 2003 s. 65)~~

~~(3) The said register shall contain the following particulars with respect to the secretary or, where there are joint secretaries, with respect to each of them—~~

~~(a) in the case of an individual, his present forename and surname and any former forename or surname, any alias, his usual residential address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and (Replaced 75 of 1993 s. 11. Amended 83 of 1995 s. 15; 30 of 1999 s. 11)~~

~~(b) in the case of a body corporate, its corporate name and registered or principal office:~~

~~Provided that, where all the partners in a firm are joint secretaries, the name and principal office of the firm may be stated instead of the said particulars.~~

~~(4) Where there is any change in the company's directors, reserve director (if any), secretary or joint secretaries (if any) or in any of their particulars contained in the register, the company shall, within 14 days from the change, send to the Registrar a notification in the specified form of the change and of the date on which it occurred, and such other~~

~~matters as may be specified in the form. (Replaced 30 of 2004 s. 2)~~

~~(4AA) On the appointment of a person as director of a company otherwise than by virtue of section 153(2) or (6) or section 153A(2) or (10), the company shall, within 14 days of the appointment, send to the Registrar a notification in the specified form containing the director's particulars specified in the register and a statement that the person has accepted the appointment and that the person has attained the age of 18 years. (Added 30 of 2004 s. 2. Amended 12 of 2010 s. 27)~~

~~(4AB) A statement sent for the purposes of subsection (4AA) in relation to a person appointed as a director of a company must—~~

~~(a) if sent in the form of an electronic record—~~

~~(i) be signed by the person; or~~

~~(ii) contain an acknowledgment, by another person who is authorized by the person to deliver any document under this Ordinance on the person's behalf and whose authorization has been notified to the Registrar, to the effect that that other person is authorized by the person to send the statement; or~~

~~(b) if sent in paper form, be signed by the person. (Added 12 of 2010 s. 27)~~

~~(4A) The company shall, within 14 days from the nomination of a person as a reserve director of the company, send to the Registrar a notification in the specified form containing all such particulars with respect to that person as are required to be contained in the register with respect to him. (Added 28 of 2003 s. 65. Amended 30 of 2004 s. 2)~~

~~(4B) Subsection (4A) does not apply to a nomination the relevant particulars of which have been stated in a notification sent to the Registrar under subsection (4). (Replaced 30 of 2004 s. 2)~~

~~(5) (Repealed 30 of 2004 s. 2)~~

~~(5A) Where a person is nominated as a reserve director of a private company, the company shall, within 14 days from the nomination, send to the Registrar a statement in the specified form that the person has accepted the nomination and that the person has attained the age of 18 years. (Added 28 of 2003 s. 65. Amended 12 of 2010 s. 27)~~

~~(5B) A statement sent for the purposes of subsection (5A) in relation to a person nominated as a reserve director of a private company must—~~

~~(a) if sent in the form of an electronic record—~~

~~(i) be signed by the person; or~~

~~(ii) contain an acknowledgment, by another person who is authorized by the person to deliver any document under this Ordinance on the person's behalf and whose authorization has been notified to the Registrar, to the effect that that other person is authorized by the person to send the statement; or~~

~~(b) if sent in paper form, be signed by the person. (Added 12 of 2010 s. 27)~~

~~(6) (Repealed 28 of 2003 s. 65)~~

~~(7) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) be open to the inspection of any member of the company without charge and of any other person on payment of $1, or such less sum as the company may prescribe, for each inspection.~~

~~(8) If any inspection required under this section is refused or if default is made in complying with subsection (1), (2), (2A), (2B), (3), (4), (4AA), (4AB), (4A), (5A) or (5B), 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. (Amended 7 of 1990 s. 2; 75 of 1993 s. 11; 30 of 1999 s. 11; 28 of 2003 s. 65; 30 of 2004 s. 2; 12 of 2010 s. 27)~~

~~(9) In the case of any such refusal, the court may by order compel an immediate inspection of the register.~~

~~(9A) Where a company was registered immediately before the commencement* of sections 19, 20 and 22 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) and has not complied with section 158(4)(a), (4A) and (5) of the pre-amended Ordinance before the expiry of the periods mentioned in that section 158(4)(a) and (4A), then sections 153, 153A and 158 of the pre-amended Ordinance shall continue to apply to the company as if sections 19, 20 and 22(1), (2), (3), (4) and (5) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) had not been enacted. (Added 30 of 2004 s. 2)~~

~~(10) For the purposes of this section—~~

~~(a) a shadow director shall be deemed to be a director and officer of the company; (Amended 28 of 2003 s. 65)~~

~~(b) the expression "forename" (名字) includes a Christian or given name;~~

~~(c) the expression "identity card" (身分證) means an identity card issued under the Registration of Persons Ordinance (Cap 177);~~

~~(ca) the expression "pre-amended Ordinance" (修訂前的本條例) means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by sections 19, 20 and 22 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004); (Added 30 of 2004 s. 2)~~

~~(d) the expression "residential address" (住址) does not include an address at a hotel unless the person to whom it relates is stated, for the purposes of this section, to have no other permanent address, nor does it include a post office box number unless coupled with a residential address;~~

~~(e) in the case of a person usually known by a title different from his surname, the expression "surname" (姓氏) means that title;~~

~~(f) references to a former forename or surname do not include-~~

~~(i) in the case of a person usually known by a title different from his surname, the name by which he was known previous to the adoption of or succession to the title; or~~

~~(ii) in the case of any person, a former forename or surname where that forename or surname was changed or disused before the person bearing the name attained the age of 18 years or has been changed or disused for a period of not less than 20 years; or~~

~~(iii) in the case of a married woman, the name or surname by which she was known previous to the marriage.~~

~~(Replaced 6 of 1984 s. 115)~~
~~[cf. 1948 c. 38 s. 200 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 11 July 2008.**~~

~~Section:~~	~~158A~~	~~Place where register of directors and secretaries is kept~~		~~30/06/1997~~

~~(1) The register of directors and secretaries of a company shall be kept at its registered office:~~
~~Provided that-~~

~~(a) if the work of making it up is done at an office of the company other than the registered office of the company, it may be kept at that other office; and~~

~~(b) if the company arranges with some other person for the making up of the register to be undertaken on behalf of the company by that other person, it may be kept at the office of that other person at which the work is done,~~

~~so, however, that it shall not be kept at a place outside Hong Kong.~~

~~(2) Every company shall send notice to the Registrar in the specified form of the place where its register of directors and secretaries is kept and of any change in that place: (Amended 3 of 1997 s. 39)~~

~~Provided that a company shall not be bound to send such notice where the register has, at all times since it came into existence or, in the case of a register in existence at the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), at all times since then, been kept at the registered office of the company.~~

~~(3) Where a company makes default in complying with subsection (1) or makes default for 14 days in complying with subsection (2), 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. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 116)~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~158B~~	~~Duty to make disclosure for purposes of section 158~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) It shall be the duty of any director, reserve director or secretary of a company to give notice to the company of such matters relating to himself as may be necessary for the purposes of section 158. (Amended 28 of 2003 s. 66)~~

~~(2) Any person who makes default in complying with subsection (1) shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 116)~~

Section:	158C	Registrar to keep an index of directors	L.N. 138 of 2008	11/07/2008

(1) (a) The Registrar shall keep and maintain an index of every person who is a director of a company or a reserve director of a private company. (Replaced 28 of 2003 s. 67)

(b) The particulars contained in the index shall, in respect of each director or reserve director, include his name and address and the latest particulars sent in respect of him to the Registrar, together with the name of each company of which he can be identified as a director or reserve director. (Amended 30 of 1999 s. 12; 28 of 2003 s. 67)

(2) The index kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee.

(Replaced 75 of 1993 s. 12)

Section:	159	Limited company may have directors with unlimited liability		30/06/1997

(1) In a limited company the liability of the directors or managers, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a limited company in which the liability of a director or manager is unlimited, the directors or managers of the company, if any, and the member who proposes a person for election or appointment to the office of director or manager, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the promoters, directors, managers, and secretary, if any, of the company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) If any director, manager, or proposer makes default in adding such a statement, or if any promoter, director, manager, or secretary makes default in giving such a notice, he shall be liable to a fine, and shall also be liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 146 U.K.]

Section:	160	Special resolution of limited company making liability of directors unlimited		30/06/1997

(1) A limited company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its directors, or managers, or of any managing director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

[cf. 1929 c. 23 s. 147 U.K.]

Section:	161	Particulars in accounts of directors' emoluments, pensions, etc.	L.N. 163 of 2005	01/12/2005

(1) In any accounts of a company laid before it in general meeting, or in statement annexed thereto, there shall, subject to and in accordance with the provisions of this section, be shown so far as the information is contained in the company's books and papers or the company has the right to obtain it from the persons concerned— (Amended L.N. 283 of 1986)

(a) the aggregate amount of the directors' emoluments;

(b) the aggregate amount of directors' or past directors' pensions; and

(c) the aggregate amount of any compensation to directors or past directors in respect of loss of office.

(2) The amount to be shown under subsection (1)(a)—

(a) shall include any emoluments paid to or receivable by any person in respect of his services as director of the company or in respect of his services, while director of the company, as director of any subsidiary thereof or otherwise in connexion with the management of the affairs of the company or any subsidiary thereof; and

(b) shall distinguish between emoluments in respect of services as director, whether of the company or its subsidiary, and other emoluments;

and for the purposes of this section the expression "emoluments" (薪酬), in relation to a director, includes fees and percentages, any sums paid by way of expenses allowance less amounts actually spent on the expenses for which the allowance was made, any contribution paid in respect of him under any pension scheme and the estimated money

~~value of any other benefits received by him otherwise than in cash.~~

~~(3) The amount to be shown under subsection (1)(b)~~

~~(a) shall not include any pension paid or receivable under a pension scheme if the scheme is such that the contributions thereunder are substantially adequate for the maintenance of the scheme, but save as aforesaid shall include any pension paid or receivable in respect of any such services of a director or past director of the company as are mentioned in subsection (1), whether to or by him or, on his nomination or by virtue of dependence on or other connexion with him, to or by any other person; and~~

~~(b) shall distinguish between pensions in respect of services as director, whether of the company or its subsidiary, and other pensions;~~

~~and for the purposes of this section the expression "pension" (退休金) includes any superannuation allowance, superannuation gratuity or similar payment, and the expression "pension scheme" (退休金計劃) means a scheme for the provision of pensions in respect of services as director or otherwise which is maintained in whole or in part by means of contributions, and the expression "contribution" (供款) in relation to a pension scheme means any payment (including an insurance premium) paid for the purposes of the scheme by or in respect of persons rendering services in respect of which pensions will or may become payable under the scheme, except that it does not include any payment in respect of 2 or more persons if the amount paid in respect of each of them is not ascertainable.~~

~~(4) The amount to be shown under subsection (1)(c)~~

~~(a) shall include any sums paid to or receivable by a director or past director by way of compensation for the loss of office as director of the company or for the loss, while director of the company or on or in connexion with his ceasing to be a director of the company, of any other office in connexion with the management of the company's affairs or of any office as director or otherwise in connexion with the management of the affairs of any subsidiary thereof; and~~

~~(b) shall distinguish between compensation in respect of the office of director, whether of the company or its subsidiary, and compensation in respect of other offices;~~

~~and for the purposes of this section references to compensation for loss of office shall include sums paid as consideration for or in connexion with a person's retirement from office.~~

~~(5) The amounts to be shown under each paragraph of subsection (1)~~

~~(a) shall include all relevant sums paid by or receivable from~~

~~(i) the company; and~~

~~(ii) the company's subsidiaries; and~~

~~(iii) any other person;~~

~~except sums to be accounted for to the company or any of its subsidiaries or, by virtue of section 163B(3), to past or present members of the company or any of its subsidiaries or any class of those members; and (Amended 79 of 1988 s. 5)~~

~~(b) shall distinguish, in the case of the amount to be shown under subsection (1)(c), between the sums respectively paid by or receivable from the company, the company's subsidiaries and persons other than the company and its subsidiaries.~~

~~(6) The amounts to be shown under this section for any financial year shall be the sum receivable in respect of that year, whenever paid, or, in the case of sums not receivable in respect of a period, the sums paid during that year, so, however, that where any sums are not shown in the accounts for the relevant financial year on the ground that the person receiving them is liable to account therefor as mentioned in subsection (5)(a), but the liability is thereafter wholly or partly released or is not enforced within a period of 2 years, those sums shall, to the extent to which the liability is released or not enforced, be shown in the first accounts in which it is practicable to show them or in a statement annexed thereto, and shall be distinguished from the amounts to be shown therein apart from this provision.~~

~~(7) Where it is necessary so to do for the purpose of making any distinction required by this section in any amount to be shown thereunder, the directors may apportion any payments between the matters in respect of which they have been paid or are receivable in such manner as they think appropriate~~

~~(8) If in the case of any accounts the requirements of this section are not complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report thereon, so far as they are reasonably able to do so, a statement giving the required particulars.~~

~~(9) In this section any reference to a company's subsidiary~~

~~(a) in relation to a person who is or was, while a director of the company, a director also, by virtue of the company's nomination, direct or indirect, of any other undertaking, shall, subject to paragraph (b), include that undertaking, whether or not it is or was in fact the company's subsidiary; and (Amended~~

~~12 of 2005 s. 11)~~

~~(b) shall for the purposes of subsections (2) and (3) be taken as referring to a subsidiary at the time the services were rendered, and for the purposes of subsection (4) be taken as referring to a subsidiary immediately before the loss of office as director of the company.~~

~~(Replaced 80 of 1974 s. 14)~~
~~[cf. 1948 c. 38 s. 196 U.K.]~~

~~Section:~~	~~161A~~	~~Statements annexed to accounts showing certain items to include corresponding amounts for preceding financial year~~		~~30/06/1997~~

~~(1) Where an item required by section 161 to be shown in a company's accounts or in a statement annexed is, in the case of a financial year, shown in such a statement, the corresponding amount for the immediately preceding financial year shall be included in that statement.~~

~~(2) If any person being a director of a company fails to take all reasonable steps to secure compliance with the provisions of subsection (1), he shall, in respect of each offence, be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that-~~

~~(a) in any proceedings against a person in respect of an offence under this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the provisions of subsection (1) were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for any such offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(Added 80 of 1974 s. 14)~~
~~[cf. 1967 c. 81 s. 11 U.K.]~~

~~Section:~~	~~161B~~	~~Particulars in accounts of loans to officers, etc.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The accounts that, under this Ordinance, are to be laid before a company in general meeting shall, subject to this section, contain the following particulars of every relevant transaction entered into by the company after the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003)-~~

~~(a) the name of the borrower;~~

~~(b) if this subsection applies to a relevant transaction-~~

~~(i) by reason of the fact that the borrower is connected with a director of the company or of its holding company; or~~

~~(ii) where the borrower is a body corporate, by reason of the fact that a director of the company or a person connected with him has held (jointly or severally or directly or indirectly) a controlling interest therein,~~

~~the name of that director;~~

~~(c) the terms of the relevant transaction, including the amounts payable thereunder (whether in a lump sum or instalments or by way of periodical payments or otherwise), the rate of interest, if any, and the security therefor, if any;~~

~~(d) the amount outstanding on the relevant transaction, in respect of principal and interest or otherwise, at the beginning and at the end of the company's financial year and the maximum amount so outstanding during that financial year; and~~

~~(e) the amount, if any, that, having fallen due, has not been paid and the amount of any provision (within the meaning of the Tenth Schedule) made in respect of any failure or anticipated failure by the borrower to pay the whole or any part of the principal amount of the relevant transaction or any other amount owing under that transaction.~~

~~(2) In the case of relevant transactions that consist of quasi-loans or credit transactions, there may be included in the accounts of the company, in lieu of the particulars required to be included under subsection (1), a statement showing, with respect to each borrower in relation to whom particulars are required to be given under that subsection-~~

~~(a) the name of that person;~~

~~(b) if subsection (1)(b) applies in respect of any such relevant transaction of which that person is the borrower, the name of the relevant director;~~

~~(c) the aggregate of the amounts outstanding on all such relevant transactions of which that person is the borrower, in respect of principal and interest or otherwise, at the beginning and at the end of the company's financial year; and~~

~~(d) the aggregate of the amounts, if any, that, having fallen due, have not been paid and the aggregate of the amounts of any provision (within the meaning of the Tenth Schedule) made in respect of any failure or anticipated failure by that person to pay the whole or any part of the principal amount of any such relevant transaction or any other amount owing under it.~~

~~(3) The accounts referred to in subsection (1) shall, subject to this section, contain the particulars specified in subsection (4) of every guarantee entered into and of every security provided by the company in respect of which the following conditions are satisfied—~~

~~(a) the guarantee was entered into, or the security provided, by the company in connection with a relevant transaction entered into by any person after the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003); and~~

~~(b) the liability of the company in respect of the guarantee or security has not been discharged before the beginning of the financial year.~~

~~(4) The particulars referred to in subsection (3) are—~~

~~(a) in respect of the relevant transaction in connection with which the guarantee is entered into or the security provided, the name of the borrower and, if subsection (3) applies to the guarantee or security—~~

~~(i) by reason of the fact that the borrower is connected with a director of the company or of its holding company; or~~

~~(ii) where the borrower is a body corporate, by reason of the fact that a director of the company or a person connected with him has held (jointly or severally or directly or indirectly) a controlling interest therein,~~

~~the name of that director;~~

~~(b) the maximum liability of the company under the guarantee or in respect of the security both at the beginning and at the end of the financial year; and~~

~~(c) any amount paid and any liability incurred by the company for the purpose of fulfilling the guarantee or discharging the security (including any loss incurred by the company by reason of the enforcement of the guarantee or security).~~

~~(5) In the case of guarantees entered into or security provided in connection with relevant transactions that consist of quasi-loans or credit transactions, there may be included in the accounts of the company, in lieu of the particulars required to be included under subsections (3) and (4), a statement showing, with respect to each borrower in relation to whom particulars are required to be given under those subsections—~~

~~(a) the name of that person;~~

~~(b) if subsection (3) applies to any such guarantee or security for a reason given in subsection (4)(a), the name of the relevant director;~~

~~(c) the maximum liability of the company, both at the beginning and at the end of the financial year, under all guarantees entered into, and in respect of all security provided, by the company in connection with all such relevant transactions of which that person is the borrower; and~~

~~(d) the aggregate of the amounts paid and of all liabilities incurred by the company for the purpose of fulfilling the guarantees or discharging the security referred to in paragraph (c) (including the aggregate of all losses incurred by the company by reason of the enforcement of such guarantees or security).~~

~~(6) As respects any transaction referred to in this subsection that is entered into after the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003) by a subsidiary of a company to which section 124 applies, group accounts prepared by the company under that section (or, where group accounts are not so prepared by virtue of subsection (2) of that section, the accounts of the company prepared under section 122) shall, subject to this section, contain particulars showing—~~

~~(a) the principal amount of any loan or quasi-loan made by the subsidiary to, or any credit transaction entered into by the subsidiary as creditor for, a director or other officer of the company (whether or not he was a director or other officer of the company at the time the loan, quasi-loan or credit transaction was made or entered into), and—~~

~~(i) the name of the director or officer;~~

~~(ii) the terms of the loan, quasi-loan or credit transaction, including the amounts payable thereunder (whether in a lump sum or instalments or by way of periodical payments or otherwise), the rate~~

~~of interest, if any, and the security therefor, if any;~~

~~(iii) the amount outstanding on the loan, quasi-loan or credit transaction, in respect of principal and interest or otherwise, at the beginning and at the end of the company's financial year and the maximum amount so outstanding during that financial year; and~~

~~(iv) the amount, if any, that, having fallen due, has not been paid and the amount of any provision (within the meaning of the Tenth Schedule) made in respect of any failure or anticipated failure by the director or officer to pay the whole or any part of the principal amount of the transaction in question or any other amount owing under that transaction; and~~

~~(b) the principal amount of any loan or quasi-loan made by any person to, or any credit transaction entered into by any person as creditor for, a director or other officer of the company (whether or not he was a director or other officer of the company at the time the loan, quasi-loan or credit transaction was made or entered into) under a guarantee entered into or on a security provided by the subsidiary and in respect of which the liability of the subsidiary has not been discharged before the beginning of the company's financial year, and~~

~~(i) the name of the director or officer;~~

~~(ii) the maximum liability of the subsidiary under the guarantee or in respect of the security both at the beginning and at the end of the financial year; and~~

~~(iii) any amount paid and any liability incurred by the subsidiary for the purpose of fulfilling the guarantee or discharging the security (including any loss incurred by the subsidiary by reason of the enforcement of the guarantee or security),~~

~~being a loan, quasi-loan or credit transaction that either is made or entered into during the company's financial year or, if made or entered into before it, is outstanding at any time during that financial year.~~

~~(7) In the case of quasi-loans and credit transactions, there may be included in the accounts or group accounts of the company, in lieu of the particulars required to be included under subsection (6), a statement showing, with respect to each director or other officer in relation to whom particulars are required to be given under that subsection—~~

~~(a) the name of that person;~~

~~(b) the aggregate of the principal amounts of all quasi-loans made by the subsidiary to, and all credit transactions entered into by the subsidiary as creditor for, that person;~~

~~(c) the aggregate of the amounts outstanding on all such quasi-loans and credit transactions, in respect of principal and interest or otherwise, at the beginning and at the end of the company's financial year;~~

~~(d) the aggregate of the amounts, if any, that, having fallen due, have not been paid and the aggregate of the amounts of any provision (within the meaning of the Tenth Schedule) made in respect of any failure or anticipated failure by that person to pay the whole or any part of the principal amount of any such quasi-loan or credit transaction or any other amount owing under it;~~

~~(e) the aggregate of the principal amounts of all quasi-loans made by any person to, and all credit transactions entered into by any person as creditor for, that person under all guarantees entered into and all security provided by the subsidiary and in respect of which the liability of the subsidiary has not been discharged before the beginning of the company's financial year;~~

~~(f) the maximum liability of the subsidiary, both at the beginning and at the end of the financial year, under the guarantees and security referred to in paragraph (e); and~~

~~(g) the aggregate of the amounts paid and of all liabilities incurred by the subsidiary for the purpose of fulfilling the guarantees or discharging the security referred to in paragraph (e) (including the aggregate of all losses incurred by the subsidiary by reason of the enforcement of such guarantees or security).~~

~~(8) Except as provided in subsections (9) and (10), this section shall not require the inclusion in accounts prepared by a company that is, or is the holding company of, an authorized financial institution of particulars of—~~

~~(a) any loan or quasi-loan made by the authorized financial institution to any person;~~

~~(b) any credit transaction entered into by the authorized financial institution as creditor for any person; or~~

~~(c) any guarantee entered into or security provided by the authorized financial institution in connection with a loan or quasi-loan made to, or a credit transaction entered into for, any person,~~

~~if, but only if, either of the following conditions is satisfied—~~

~~(i) the principal amount of the loan, quasi-loan or credit transaction or the amount guaranteed or secured is not greater, and the terms of the transaction in question are not more favourable, in the case of that person, than that amount or those terms that it is reasonable to expect the authorized financial institution to have offered to or in respect of a person of the same financial standing as that person but~~

who is unconnected with the authorized financial institution; or

(ii) where the transaction in question does not fall within paragraph (i), the aggregate of the following amounts does not exceed $10000000 or an amount equivalent to 10 per cent of the paid up capital and reserves of the authorized financial institution, whichever is the lower-

(A) the maximum amount outstanding, in respect of principal and interest or otherwise, during the financial year on all loans and quasi-loans made by the authorized financial institution to, and on all credit transactions entered into by the authorized financial institution as creditor for, that person (excluding loans, quasi-loans and credit transactions falling within paragraph (i)); and

(B) the amount representing the maximum liability of the authorized financial institution during the financial year under all guarantees entered into and in respect of all security provided by the authorized financial institution in connection with loans or quasi-loans made by any person to, or credit transactions entered into by any person as creditor for, that person (excluding guarantees and security falling within paragraph (i)).

(9) In the case of a company that is an authorized financial institution, the accounts of the company shall contain a statement showing-

(a) the aggregate of the following amounts as at the end of the financial year-

(i) the amount outstanding, in respect of principal and interest or otherwise, on every relevant transaction entered into by the company after the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003); and

(ii) the amount representing the maximum liability of the company under all guarantees entered into, and in respect of all security provided, by that company in connection with any relevant transaction entered into by any person after the commencement of that section; and

(b) the maximum aggregate of the amounts referred to in paragraph (a) that obtained at any time during the financial year.

(10) In the case of a company that is the holding company of an authorized financial institution, the accounts (or, if group accounts are required to be prepared under section 124 dealing with the authorized financial institution, the group accounts) of the company shall contain a statement showing-

(a) the aggregate of the following amounts as at the end of the financial year-

(i) the amount outstanding, in respect of principal and interest or otherwise, on every loan and quasi-loan made by the authorized financial institution to, and every credit transaction entered into by the authorized financial institution as creditor for, a director or other officer of the company (whether or not he was a director or other officer of the company at the time the loan, quasi-loan or credit transaction was made or entered into) after the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003); and

(ii) the amount representing the maximum liability of the authorized financial institution under all guarantees entered into, and in respect of all security provided, by that authorized financial institution in connection with any loan or quasi-loan made by any person to, or any credit transaction entered into by any person as creditor for, a director or other officer of the company (whether or not he was a director or other officer of the company at the time the loan, quasi-loan or credit transaction was made or entered into) after the commencement of that section; and

(b) the maximum aggregate of the amounts referred to in paragraph (a) that obtained at any time during the financial year.

(11) This section shall not require the inclusion in accounts of particulars of any loan or quasi-loan made by a company or a subsidiary thereof to, or any credit transaction entered into by a company or a subsidiary thereof as creditor for, an employee of the company or subsidiary, as the case may be, if-

(a) the principal amount of the loan, quasi-loan or credit transaction does not exceed $100000;

(b) the loan, quasi-loan or credit transaction is certified by the directors of the company or subsidiary, as the case may be, to have been made or entered into in accordance with any practice adopted or about to be adopted by the company or subsidiary with respect to such transactions;

(c) the loan, quasi-loan or credit transaction is not made or entered into by the company under a guarantee from or on a security provided by a subsidiary of the company; and

(d) the loan, quasi-loan or credit transaction is not made or entered into by a subsidiary of the company under a guarantee from or on a security provided by the company or any other subsidiary of the company.

(12) If in the case of any of the accounts referred to in this section the requirements of this section are not

~~complied with, it shall be the duty of the auditors of the company by whom the accounts are examined to include in their report thereon, so far as they are reasonably able to do so, a statement giving the required particulars.~~

~~(13) In this section and in sections 161BA, 161BB and 161C, "company" (公司) means-~~

~~(a) a company within the meaning of section 2; or~~

~~(b) any other body corporate incorporated in Hong Kong under an Ordinance.~~

~~(14) In this section, "relevant transaction" (有關交易), in relation to a company, means a loan or quasi-loan made to, or a credit transaction entered into for-~~

~~(a) a person who, whether or not he was a director or other officer of the company or a director of its holding company at the time the loan, quasi-loan or credit transaction was made or entered into, is such an officer or director at any time during the financial year in respect of which the accounts are made up; or~~

~~(b) a body corporate in which a director of the company, at any time during the financial year, held (jointly or severally or directly or indirectly) a controlling interest, whether or not such controlling interest was so held at the time the loan, quasi-loan or credit transaction was made or entered into,~~

~~being a loan, quasi-loan or credit transaction that either is made or entered into during that financial year or, if made or entered into before it, is outstanding at any time during that financial year.~~

~~(15) In this section, "relevant transaction" (有關交易), in relation to a company referred to in section 157H(8)(a) or (b), also includes a loan or quasi-loan made to, or a credit transaction entered into for-~~

~~(a) a person connected with a director of the company at any time during the financial year when the loan, quasi-loan or credit transaction is outstanding, whether or not he was such a person at the time the loan, quasi-loan or credit transaction was made or entered into;~~

~~(b) a person connected with a director of the company's holding company at any such time, whether or not he was such a person at the time the loan, quasi-loan or credit transaction was made or entered into; or~~

~~(c) a body corporate in which a person referred to in paragraph (a), at any time during the financial year, held (jointly or severally or directly or indirectly) a controlling interest, whether or not such controlling interest was so held at the time the loan, quasi-loan or credit transaction was made or entered into,~~

~~being a loan, quasi-loan or credit transaction that either is made or entered into during that financial year or, if made or entered into before it, is outstanding at any time during that financial year.~~

~~(16) For the purposes of this section, a person is connected with a director of a company if, but only if, he is-~~

~~(a) that director's spouse, child or step-child;~~

~~(b) a person acting in his capacity as the trustee (other than as trustee under an employees' share scheme or a pension scheme) of any trust the beneficiaries of which include the director, his spouse or any of his children or step-children or the terms of which confer a power on the trustees that may be exercised for the benefit of the director, his spouse or any of his children or step-children; or~~

~~(c) a person acting in his capacity as partner of that director or of any person who by virtue of paragraph (a) or (b) is connected with that director,~~

~~and in this subsection a reference to the child or step-child of any person shall include a reference to any illegitimate child of that person, but shall not include a reference to any person who has attained the age of 18 years.~~

~~(17) References in subsections (6), (7) and (11) to a subsidiary of a company shall be taken as referring to a subsidiary at the end of the company's financial year (whether or not it was a subsidiary at the date of the transaction in question).~~

~~(18) In the case of any loan made, guarantee entered into or security provided before the commencement* of section 68 of the Companies (Amendment) Ordinance 2003 (28 of 2003), the accounts for any financial year of a company shall contain in respect of-~~

~~(a) any such loan outstanding at the end of the financial year; or~~

~~(b) any such guarantee or security in respect of which the liability of the company or a subsidiary thereof has not been discharged before the beginning of the financial year,~~

~~the particulars that, but for that section, would have had to be contained in the accounts under the provisions of section 161B of this Ordinance in force immediately before the commencement of that section.~~

~~(19) Unless the context otherwise requires, the terms and expressions used in this section shall be construed in accordance with sections 157H and 157HA.~~

~~(Replaced 28 of 2003 s. 68)~~

~~**Note:**~~

~~*** Commencement date: 13 February 2004.**~~

~~Section:~~	~~161BA~~	~~Further provisions relating to loans to officers, etc. of authorized financial institutions~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) A company which is, or is the holding company of, an authorized financial institution shall maintain a register containing a copy of every agreement in writing relating to any transaction (or if no such document exists, a written memorandum setting out the terms of any transaction) of which particulars would, but for section 161B(8), be required by section 161B to be shown in the accounts of the company (including group accounts) in respect of each financial year, and such copies (or memoranda) shall be retained in the register for a period of 10 years. (Amended 28 of 2003 s. 69)~~

~~(2) A company which is an authorized financial institution shall before its annual general meeting make available, at the place where its register of members is kept, for a period of not less than 14 days ending on the date of the meeting and for a period of 7 days thereafter, for inspection by members of the public a statement containing the particulars of transactions which the company would, but for section 161B(8), be required by section 161B to include in its accounts for the financial year preceding that annual general meeting (or if there are no such transactions, a statement to that effect), and such a statement shall also be made available for inspection by members of the company at the annual general meeting. (Amended 28 of 2003 s. 69)~~

~~(3) It shall be the duty of the auditors of the company by whom the accounts are examined to examine the statement referred to in subsection (2) before it is made available for inspection and to make a report on the statement; and a copy of the report shall be annexed to the statement before it is so made available.~~

~~(4) A report under subsection (3) shall state whether in the opinion of the auditors the statement contains the particulars required by subsection (2) and where their opinion is that it does not, they shall include in the report, so far as they are reasonably able to do so, a statement giving the required particulars.~~

~~(5) A company which is an authorized financial institution shall give public notice of the date of its annual general meeting in, respectively, an English language newspaper and a Chinese language newspaper specified in a list of newspapers issued for the purposes of section 71A by the Chief Secretary for Administration and published in the Gazette. (Amended 30 of 1999 s. 13)~~

~~(6) The notice referred to in subsection (5) shall be published not less than 28 days before the date of the meeting.~~

~~(7) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall be liable on conviction to imprisonment and a fine. (Amended 7 of 1990 s. 2)~~

~~(8) As respects an offence under this section-~~

~~(a) in any proceedings against a person in respect of such an offence consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(9) The statement referred to in subsection (2) shall be made available for inspection during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) by any member of the company, without charge and by any other person on payment of $5, or such less sum as the company may prescribe, for each inspection.~~

~~(10) Any member of the company or other person may require a copy of the statement referred to in subsection (2), or any part thereof, on payment of 25 cents, or such less sum as the company may prescribe, for every 100 words or fractional part thereof required to be copied. The company shall cause any copy so required by any person to be sent to that person within a period of 10 days commencing on the day next after the day on which the requirement is received by the company.~~

~~(11) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, 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. (Amended 7 of 1990 s. 2)~~

~~(12) In the case of any such refusal or default, the court may by order compel an immediate inspection of the statement or direct that the copies required shall be sent to the person requiring them.~~

~~(Added 12 of 1988 s. 4)~~

~~Section:~~	~~161BB~~	~~Further provisions relating to quasi-loans and credit transactions, etc.~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a company includes in its accounts (including group accounts) in respect of a financial year a statement referred to in section 161B(2), (5) or (7), the company shall enter in a register to be maintained by it for the purpose of this section those particulars that would, but for section 161B(2), (5) or (7), be required by section 161B to be shown in its accounts in respect of that financial year, which particulars shall be retained in the register for a period of 10 years.~~

~~(2) The register referred to in subsection (1) shall be kept at the same place as the company's register of members.~~

~~(3) If any person being a director of a company fails to take all reasonable steps to secure compliance by the company with the requirements of this section, or has by his own wilful act been the cause of any default by the company thereunder, he shall be liable on conviction to imprisonment and a fine.~~

~~(4) As respects an offence under this section—~~

~~(a) in any proceedings against a person in respect of such an offence consisting of a failure to take reasonable steps to secure compliance by the company with the requirements of this section, it shall be a defence to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that those requirements were complied with and was in a position to discharge that duty; and~~

~~(b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court dealing with the case, the offence was committed wilfully.~~

~~(5) The register referred to in subsection (1) shall be made available for inspection during business hours (subject to such reasonable restrictions as the company may by its articles or in general meeting impose, so that not less than 2 hours in each day be allowed for inspection) by any member of the company, without charge.~~

~~(6) Any member of the company may require a copy of the register referred to in subsection (1), or any part thereof, on payment of 25 cents, or such less sum as the company may prescribe, for every 100 words or fractional part thereof required to be copied. The company shall cause any copy so required by any member to be sent to that member within a period of 10 days commencing on the day next after the day on which the requirement is received by the company.~~

~~(7) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, 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.~~

~~(8) In the case of any such refusal or default, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the member requiring them.~~

~~(Added 28 of 2003 s. 70)~~

~~Section:~~	~~161C~~	~~General duty to make disclosure for purposes of sections 161 and 161B~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) It shall be the duty of any director of a company to give notice in writing to the company of such matters relating to himself as may be necessary for the purposes of section 161 and of section 161B except so far as it relates to—~~

~~(a) loans or quasi-loans made, by the company or by any other person under a guarantee from or on a security provided by the company, to an officer of the company; or~~

~~(b) credit transactions entered into by the company as creditor for an officer of the company, or entered into by any other person as creditor for an officer of the company under a guarantee from or on a security provided by the company. (Replaced 28 of 2003 s. 71)~~

~~(2) Subsection (1) shall apply—~~

~~(a) for the purposes of section 161B, in relation to officers other than directors; and~~

~~(b) for the purposes of sections 161 and 161B, in relation to persons who are or have at any time during the preceding 5 years been officers,~~

~~as it applies in relation to directors.~~

~~(2A)It shall be the duty of any shadow director of a company and any person who has at any time during the~~

~~preceding 5 years been a shadow director of the company to give notice in writing to the company of such matters relating to himself as may be necessary for the purposes of section 161B. (Added 28 of 2003 s. 71)~~

~~(3) Any person who makes default in complying with this section shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(Added 80 of 1974 s. 14)~~
~~[cf. 1948 c. 38 s. 198 U.K.]~~

~~Section:~~	~~162~~	~~Disclosure by directors of material interests in contracts~~		~~30/06/1997~~

~~(1) Any director of a company who is in any way, directly or indirectly, interested in a contract or proposed contract with the company shall, if his interest in such contract or proposed contract is material, declare the nature of his interest at the earliest meeting of the directors at which it is practicable for him so to do notwithstanding that the question of entering into the contract is not taken into consideration at that meeting.~~

~~(2) Where a director gives to the directors of a company a general notice stating that, by reason of facts specified in the notice, he is to be regarded as interested in contracts of any description which may subsequently be made by the company, that notice shall be deemed for the purposes of this section to be a sufficient declaration of his interest, so far as attributable to those facts, in relation to any contract of that description which may subsequently be made by the company; but no such general notice shall have effect in relation to any contract unless it is given before the date on which the question of entering into the contract is first taken into consideration on behalf of the company.~~

~~(3) Any director who fails to comply with the provisions of this section shall be liable to a fine: (Amended 7 of 1990 s. 2)~~

~~Provided that in a prosecution for an offence under this section in relation to any contract, it shall be a defence if the person charged with the offence proves that he had no knowledge of the contract and that he could not reasonably have been expected to have had such knowledge.~~

~~(4) In the foregoing provisions of this section "contract" (合約), in relation to a company, means a contract which is of significance in relation to the company's business.~~

~~(5) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a company from having any interest in contracts with the company.~~

~~(Replaced 6 of 1984 s. 118)~~
~~[cf. 1948 c. 38 s. 199 U.K.]~~

~~Section:~~	~~162A~~	~~Special provision relating to management contracts~~		~~30/06/1997~~

~~(1) Where a company enters into any contract, other than a contract of service with any director or any person engaged in the full-time employment of the company, whereby any individual, firm or body corporate undertakes the management and administration of the whole or any substantial part of any business of the company—~~

~~(a) there shall be included in the directors' report for any year in which the contract is in force a statement of the existence and duration of the contract and the name of any director interested therein; and~~

~~(b) a copy of the contract shall be made available for inspection by the members of the company at each annual general meeting held during the period of the contract.~~

~~(2) If default is made in complying with this section, 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. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 119)~~

~~Section:~~	~~162B~~	~~Contracts with sole member who is also a director~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to subsection (2), where a company having only one member enters into a contract with that member and that member is also a director of the company, the company shall, unless the contract is in writing, ensure that the terms of the contract are set out in a written memorandum within 7 days after the contract is made, which memorandum shall be kept at the same place where the books containing the minutes of the meetings of the directors are kept.~~

~~(2) Subsection (1) does not apply to contracts entered into in the ordinary course of the company's business.~~

~~(3) If a company fails to comply with subsection (1), the company and every officer of the company who is in default is liable to a fine and, for continued default, to a daily default fine.~~

~~(4) Subject to subsection (5), nothing in this section shall be construed as excluding the operation of any other~~

~~enactment or rule of law applying to contracts between a company and a director of that company.~~

~~(5) Failure by the company to comply with subsection (1) shall not affect the validity of any contract.~~

~~(6) For the purposes of this section—~~

~~(a) subject to paragraph (b), where the sole member of a company is a shadow director, that member shall be treated as a director of the company;~~

~~(b) a body corporate is not to be treated as a shadow director of any of its subsidiaries by reason only that the directors or a majority of the directors of the subsidiary are accustomed to act in accordance with its directions or instructions.~~

~~(Added 28 of 2003 s. 72)~~

~~Section:~~	~~163~~	~~Approval of company requisite for payment by it to director or past director for loss of office etc.~~		~~30/06/1997~~

~~It shall not be lawful for a company to make to any director or past director of the company any payment by way of compensation for loss of office, or as consideration for or in connexion with his retirement from office, without particulars with respect to the proposed payment (including the amount thereof) being disclosed to the members of the company and the proposal being approved by the company.~~

~~(Replaced 6 of 1984 s. 120)~~

~~[cf. 1948 c. 38 s. 191 U.K.]~~

~~Section:~~	~~163A~~	~~Approval of company requisite for any payment, in connexion with transfer of its property, to director or past director for loss of office etc.~~		~~30/06/1997~~

~~(1) It is hereby declared that it is not lawful in connexion with the transfer of the whole or any part of the undertaking or property of a company for any payment to be made to any director or past director of the company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, without particulars with respect to the proposed payment (including the amount thereof) being disclosed to the members of the company and the proposal being approved by the company.~~

~~(2) Where a payment which is hereby declared to be illegal is made to a director or past director of the company, the amount received shall be deemed to have been received by him in trust for the company.~~

~~(Added 6 of 1984 s. 120)~~

~~[cf. 1948 c. 38 s. 192 U.K.]~~

~~Section:~~	~~163B~~	~~Duty of director or past director to disclose payment for loss of office, etc., made in connexion with transfer of shares in company~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~(1) Where, in connexion with the transfer to any persons of all or any of the shares in a company, being a transfer resulting from—~~

~~(a) an offer made to the general body of shareholders;~~

~~(b) an offer made by or on behalf of some other undertaking with a view to the company becoming its subsidiary or a subsidiary of its parent undertaking; (Replaced 12 of 2005 s. 12)~~

~~(c) an offer made by or on behalf of an individual with a view to his obtaining the right to exercise or control the exercise of not less than one-third of the voting power at any general meeting of the company; or~~

~~(d) any other offer which is conditional on acceptance to a given extent,~~

~~a payment is to be made to a director or past director of the company by way of compensation for loss of office, or as consideration for or in connexion with his retirement from office, it shall be the duty of that director or past director to take all reasonable steps to secure that particulars with respect to the proposed payment (including the amount thereof) shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.~~

~~(2) If—~~

~~(a) any such director or past director fails to take reasonable steps as aforesaid; or~~

~~(b) any person who has been properly required by any such director or past director to include the said particulars in or send them with any such notice as aforesaid fails so to do,~~

~~he shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(3) If~~

~~(a) the requirements of subsection (1) are not complied with in relation to any such payment as is therein mentioned; or~~

~~(b) the making of the proposed payment is not, before the transfer of any shares in pursuance of the offer, approved by a meeting summoned for the purpose of the holders of the shares to which the offer relates and of other holders of shares of the same class as any of the said shares,~~

~~any sum received by the director or past director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made, and the expenses incurred by him in distributing that sum amongst those persons shall be borne by him and not retained out of that sum.~~

~~(4) Subject to section 163D(4), where the shareholders referred to in subsection (3)(b) are not all the members of the company and no provision is made by the articles for summoning or regulating such a meeting as is mentioned in that paragraph, the provisions of this Ordinance and of the company's articles relating to general meetings of the company shall, for that purpose, apply to the meeting either without modification or with such modifications as the court on the application of any person concerned may direct for the purpose of adapting them to the circumstances of the meeting.~~

~~(5) If at a meeting summoned for the purpose of approving any payment as required by subsection (3)(b) a quorum is not present and, after the meeting has been adjourned to a later date, a quorum is again not present, the payment shall be deemed for the purposes of that subsection to have been approved.~~

~~(Added 6 of 1984 s. 120)~~

~~[cf. 1948 c. 38 s. 193 U.K.]~~

~~Section:~~	~~163C~~	~~Approval of company requisite for payment of damages or pension to director or past director in certain cases~~		~~30/06/1997~~

~~(1) It shall not be lawful for a company to make to any director or past director of the company any payment by way of damages or pension referred to in section 163D(3)(b) if the company makes or has made to that director any payment to which section 163, 163A or 163B applies, without particulars with respect to the proposed payment of damages or pension (including the amount thereof) being disclosed to the members of the company and the proposal being approved by the company; and for the purposes of this section "pension" (退休金) has the same meaning as it has for the purposes of section 163D(3)(b).~~

~~(2) Where a payment which is hereby declared to be illegal is made to a director or past director of the company, the amount received shall be deemed to have been received by him in trust for the company.~~

~~(Added 6 of 1984 s. 120)~~

~~Section:~~	~~163D~~	~~Provisions supplementary to sections 163, 163A, 163B and 163C~~		~~30/06/1997~~

~~(1) Where in proceedings for the recovery of any payment as having, by virtue of subsections (1) and (2) of section 163A or subsections (1) and (3) of section 163B, been received by any person in trust, it is shown that~~

~~(a) the payment was made in pursuance of any arrangement entered into as part of the agreement for the transfer in question or within 1 year before or 2 years after that agreement or the offer leading thereto; and~~

~~(b) the company or any person to whom the transfer was made was privy to that arrangement,~~

~~the payment shall be deemed, except in so far as the contrary is shown, to be one to which the subsections apply.~~

~~(2) If in connexion with any such transfer as is mentioned in section 163A or 163B~~

~~(a) the price to be paid to a director of the company whose office is to be abolished or who is to retire from office for any shares in the company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares; or~~

~~(b) any valuable consideration is given to any such director,~~

~~the excess or the money value of the consideration, as the case may be, shall, for the purposes of that section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connexion with his retirement from office.~~

~~(3) References in sections 163, 163A and 163B to payments to any director of a company by way of compensation for loss of office, or as consideration for or in connexion with his retirement from office~~

~~(a) include any such payments to him in respect of the loss of or retirement from his office as director of the company or in respect of the loss or retirement, while a director of the company or on or in connexion with his ceasing to be a director of the company, of or from-~~

~~(i) any other office in connexion with the management of the company's affairs; or~~

~~(ii) any office as director or otherwise in connexion with the management of the affairs of any subsidiary of the company; but~~

~~(b) do not include any bona fide payment by way of damages for breach of contract or by way of pension in respect of past services; and for the purposes of this paragraph "pension" (退休金) includes any superannuation allowance, superannuation gratuity or similar payment.~~

~~(4) The following provisions shall apply in relation to any meeting of a company and any meeting referred to in section 163B(3)(b) summoned for the purpose of approving any payment as required by section 163, 163A, 163B or 163C-~~

~~(a) the notice convening the meeting shall give full particulars with respect to such payment, including the amount thereof;~~

~~(b) the approval of the company for any such payment shall be given by ordinary resolution;~~

~~(c) any director to whom it is proposed to make any such payment, and any person who holds any shares in the company in trust for him, shall not be entitled to vote on any resolution to approve such payment or any other payment in respect of which approval is required by section 163, 163A, 163B or 163C, nor shall the director or such person, if any, be counted in determining whether a quorum is present at the meeting.~~

~~(5) Nothing in sections 163A, 163B and 163C shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are therein mentioned or with respect to any other like payments made or to be made to the directors of a company.~~

~~(6) References in this section to a director include references to a past director.~~

~~(Added 6 of 1984 s. 120)~~

~~[cf. 1948 c. 38 s. 194 U.K.]~~

~~Section:~~	~~164~~	~~Provisions as to assignment of office by directors~~		~~30/06/1997~~

~~(1) If in the case of any company provision is made by the articles or by any agreement entered into between any person and the company for empowering a director or managing agent of the company to assign his office as such to another person, any assignment of office made in pursuance of the said provision shall, notwithstanding anything to the contrary contained in the said provision, be of no effect unless and until it is approved by a special resolution of the company. (Amended 6 of 1984 s. 121)~~

~~(2) It shall be the duty of a company which is the managing agent of another company to notify forthwith to that other company-~~

~~(a) any change in the control of such first-mentioned company;~~

~~(b) any material change in the composition of the board of directors of such first-mentioned company. (Added 6 of 1984 s. 121)~~

~~(3) Notwithstanding anything in any agreement providing for the appointment of a company as the managing agent of another company, where that other company is notified under subsection (2)(a) that a change in the control of such first-mentioned company has occurred and, at the same time or thereafter, is notified under subsection (2)(b) that a material change in the composition of the board of directors of such first-mentioned company has also occurred, such agreement may be terminated by that other company at any time within 1 month after being so notified under subsection (2)(b). (Added 6 of 1984 s. 121)~~

~~(4) For the purposes of this section "material change" (重大改變), in relation to the composition of the board of directors of a company, means any change whereby more than half of the number of directors of the company cease to be directors. (Added 6 of 1984 s. 121)~~

~~[cf. 1929 c. 23 s. 151 U.K.]~~

~~Section:~~	~~165~~	~~Provisions as to liability of officers and auditors~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Avoidance of Provisions in Articles or Contracts relieving Officers from Liability~~

~~(1) Any provision, whether contained in the articles of a company or in any contract with a company or otherwise, for exempting any officer of the company or any person employed by the company as auditor from, or indemnifying him against, any liability to the company or a related company that by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the company or related company shall, subject to subsections (2) to (4), be void.~~

~~(2) A company may indemnify any officer of the company, or any person employed by the company as auditor, against any liability incurred by him-~~

~~(a) in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted; or~~

~~(b) in connection with any application under section 358 in which relief is granted to him by the court.~~

~~(3) A company may purchase and maintain for any officer of the company, or any person employed by the company as auditor-~~

~~(a) insurance against any liability to the company, a related company or any other party in respect of any negligence, default, breach of duty or breach of trust (save for fraud) of which he may be guilty in relation to the company or a related company; and~~

~~(b) insurance against any liability incurred by him in defending any proceedings, whether civil or criminal, taken against him for any negligence, default, breach of duty or breach of trust (including fraud) of which he may be guilty in relation to the company or a related company.~~

~~(4) Nothing in this section shall operate to deprive any person of any exemption or right to be indemnified in respect of anything done or omitted to be done by him while any such provision as is mentioned in subsection (1) was in force.~~

~~(5) In this section, "related company" (有關連的公司), in relation to a company, means any company that is the company's subsidiary or holding company or a subsidiary of that company's holding company.~~

~~(Replaced 28 of 2003 s. 73)~~

~~Section:~~	~~166~~	~~Power to compromise with creditors and members~~		~~30/06/1997~~

~~Arrangements and Reconstructions~~

~~(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, the court may, on the application in a summary way of the company or of any creditor or member of the company, or, in the case of a company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, to be summoned in such manner as the court directs.~~

~~(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or, in the case of a company in the course of being wound up, on the liquidator and contributories of the company.~~

~~(3) An order made under subsection (2) shall have no effect until an office copy of the order has been delivered to the Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.~~

~~(4) If a company makes default in complying with subsection (3), the company and every officer of the company who is in default shall be liable to a fine for each copy in respect of which default is made. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2)~~

~~(5) In this section and in section 166A, the expression "company" (公司) means any company liable to be wound up under this Ordinance, and the expression "arrangement" (債務償還安排) includes a re-organization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods. (Amended 6 of 1984 s. 123)~~

~~[cf. 1929 c. 23 s. 153 U.K.]~~

~~Section:~~	~~166A~~	~~Information as to compromises with creditors and members~~		~~30/06/1997~~

~~(1) Where a meeting of creditors or any class of creditors or of members or any class of members is summoned under section 166 there shall—~~

~~(a) with every notice summoning the meeting which is sent to a creditor or member, be sent also a statement explaining the effect of the compromise or arrangement and in particular stating any material interests of the directors of the company, whether as directors or as members or as creditors of the company or otherwise, and the effect thereon of the compromise or arrangement, in so far as it is different from the effect on the like interests of other persons; and~~

~~(b) in every notice summoning the meeting which is given by advertisement, be included either such a statement as aforesaid or a notification of the place at which and the manner in which creditors or members entitled to attend the meeting may obtain copies of such a statement as aforesaid.~~

~~(2) Where the compromise or arrangement affects the rights of debenture holders of the company, the said statement shall give the like explanation as respects the trustees of any deed for securing the issue of the debentures as it is required to give as respects the company's directors.~~

~~(3) Where a notice given by advertisement includes a notification that copies of a statement explaining the effect of the compromise or arrangement proposed can be obtained by creditors or members entitled to attend the meeting, every such creditor or member shall, on making application in the manner indicated by the notice, be furnished by the company free of charge with a copy of the statement.~~

~~(4) Where a company makes default in complying with any requirement of this section, the company and every officer of the company who is in default shall be liable to a fine, and for the purpose of this subsection any liquidator of the company and any trustee of a deed for securing the issue of debentures of the company shall be deemed to be an officer of the company: (Amended 7 of 1990 s. 2)~~

~~Provided that a person shall not be liable under this subsection if that person shows that the default was due to the refusal of any other person, being a director or trustee for debenture holders, to supply the necessary particulars as to his interests.~~

~~(5) It shall be the duty of any director of the company and of any trustee for debenture holders of the company to give notice to the company of such matters relating to himself as may be necessary for the purposes of this section, and any person who makes default in complying with this subsection shall be liable to a fine. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 124)~~
~~[cf. 1948 c. 38 s. 207 U.K.]~~

~~Section:~~	~~167~~	~~Provisions for facilitating reconstruction and amalgamation of companies~~		~~30/06/1997~~

~~(1) Where an application is made to the court under section 166 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connexion with a scheme for the reconstruction of any company or companies or the amalgamation of any 2 or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as a transferor company) is to be transferred to another company (in this section referred to as the transferee company), the court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters—~~

~~(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;~~

~~(b) the allotting or appropriation by the transferee company of any shares, debentures, policies, or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;~~

~~(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;~~

~~(d) the dissolution, without winding up, of any transferor company;~~

~~(e) the provision to be made for any persons, who within such time and in such manner as the court may direct, dissent from the compromise or arrangement;~~

~~(f) such incidental, consequential and supplemental matters as are necessary to secure that the~~

~~reconstruction or amalgamation shall be fully and effectively carried out.~~

~~(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.~~

~~(3) Where an order is made under this section, every company in relation to which the order is made shall cause an office copy thereof to be delivered to the Registrar for registration within 7 days after the making of the order, and if default is made in complying with this subsection, 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. (Amended 7 of 1990 s. 2)~~

~~(4) In this section, the expression "property" (財產) includes property, rights and powers of every description, and the expression "liabilities" (法律責任) includes duties.~~

~~(5) Notwithstanding the provisions of section 166(5), the expression company in this section does not include any company other than a company within the meaning of this Ordinance.~~

~~[cf. 1929 c. 23 s. 154 U.K.]~~

~~Section:~~	~~168~~	~~Rights of company and minority shareholders in case of successful take-over offer~~		~~30/06/1997~~

~~(1) This section and the Ninth Schedule shall apply where a company (in this section and the Ninth Schedule referred to as "the transferee company"), whether a company within the meaning of this Ordinance or not, makes an offer to acquire all the shares, or all the shares of any class or classes, not already held by it in another company (in the Ninth Schedule referred to as "the transferor company") on terms which are the same in relation to all the shares to which the offer relates or, where those shares include shares of different classes, in relation to all the shares of each class.~~

~~(2) This section and the Ninth Schedule shall apply in relation to debentures convertible into shares or any rights to subscribe for shares as if those debentures or rights were shares of a separate class, and references to shares, the shareholder and a share warrant shall be construed accordingly.~~

~~(3) For the purposes of this section and the Ninth Schedule-~~

~~(a) shares held or acquired-~~

~~(i) by a nominee on behalf of the transferee company; or~~

~~(ii) where the transferee company is a member of a group of companies, by, or by a nominee on behalf of, a company which is a member of the same group of companies,~~

~~shall be treated as held or acquired by the transferee company;~~

~~(b) where an offer referred to in subsection (1) relates to debentures convertible into shares, such debentures shall be treated as so convertible whether or not any rights of conversion thereunder are exercisable at the time of the offer or at any time thereafter, and whether or not they are contingent upon the happening of any event; and such debentures shall, if such rights are exercisable at the time of the offer, be treated as shares to which such rights relate;~~

~~(c) references to value are references to nominal value or, in relation to debentures convertible into shares, the amount payable on such debentures.~~

~~(4) In relation to a case where an offer in respect of any scheme or contract involving the transfer of shares in a company to another company was made before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), the provisions of this section in force immediately before the commencement of that Ordinance shall continue to have effect as if that Ordinance had not been enacted.~~

~~(Replaced 6 of 1984 s. 125)~~
~~[cf. 1948 c. 38 s. 209 U.K.]~~

~~**Note:**~~
~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~168A~~	~~Alternative remedy to winding up in cases of unfair prejudice~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~**Minorities**~~

~~(1) Any member of a specified corporation who complains that the affairs of the specified corporation are being~~

~~or have been conducted in a manner unfairly prejudicial to the interests of the members generally or of some part of the members (including himself) or, in a case falling within section 147(2)(b), the Financial Secretary, may make an application to the court by petition for an order under this section. (Amended 72 of 1994 s. 8)~~

~~(2) If on any petition under subsection (1) the court is of opinion that the specified corporation's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of the members generally or of some part of the members (including the member who presented the petition), whether or not such conduct consists of an isolated act or a series of acts—~~

~~(a) the court may, with a view to bringing to an end the matters complained of—~~

~~(i) make an order restraining the commission of any such act or the continuance of such conduct;~~

~~(ii) order that such proceedings as the court may think fit shall be brought in the name of the specified corporation against such person and on such terms as the court may so order;~~

~~(iii) appoint a receiver or manager of the whole or a part of a specified corporation's property or business and may specify the powers and duties of the receiver or manager and fix his remuneration; and~~

~~(iv) make such other order as it thinks fit, whether for regulating the conduct of the specified corporation's affairs in future, or for the purchase of the shares of any members of the specified corporation by other members of the specified corporation or by the specified corporation and, in the case of a purchase by the specified corporation, for the reduction accordingly of the specified corporation's capital, or otherwise; and~~

~~(b) the court may order payment by any person of such damages and interest on those damages as the court may think fit to any members (including the member who presented the petition) of the specified corporation, whose interests have been unfairly prejudiced by the act or conduct. (Replaced 30 of 2004 s. 2)~~

~~(2A) Any past member of a specified corporation who complains that the affairs of the specified corporation were, at the time when he was a member of the specified corporation, conducted in a manner unfairly prejudicial to the interests of the then members generally or of some part of the then members (including himself), may make an application to the court by petition for an order under this section. (Added 30 of 2004 s. 2)~~

~~(2B) If on any petition under subsection (2A) the court is of opinion that the specified corporation's affairs were conducted in a manner unfairly prejudicial to the interests of the then members generally or of some part of the then members (including the past member who presented the petition), whether or not such conduct consists of an isolated act or a series of acts, the court may order payment by any person of such damages and interest on those damages as the court may think fit to any then members (including the past member who presented the petition) of the specified corporation, whose interests were unfairly prejudiced by the act or conduct. (Added 30 of 2004 s. 2)~~

~~(2C) For the avoidance of doubt, the damages that may be ordered by the court under subsections (2)(b) and (2B) does not entitle a member, past member or then member of a specified corporation to recover by way of damages any loss that is solely reflective of the loss suffered by the specified corporation which only the specified corporation is entitled to recover under the common law. (Added 30 of 2004 s. 2)~~

~~(3) Where an order under this section makes any alteration in or addition to the memorandum or articles of a specified corporation, then, notwithstanding anything in any other provision of this Ordinance but subject to the provisions of the order, the specified corporation shall not have power without the leave of the court to make any further alteration in or addition to the memorandum or articles inconsistent with the provisions of the order; but, subject to the provisions of this subsection, the alterations or additions made by the order shall be of the same effect as if duly made by resolution of the specified corporation and the provisions of this Ordinance shall apply to the memorandum or articles as so altered or added to accordingly. (Amended 30 of 2004 s. 2)~~

~~(4) An office copy of any order under this section altering or adding to, or giving leave to alter or add to, a specified corporation's memorandum or articles shall, within 14 days after the making thereof, be delivered by the specified corporation to the Registrar for registration; and if a specified corporation makes default in complying with this subsection, the specified corporation and every officer of the specified corporation who is in default shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)~~

~~(5) The personal representative of a person who, at the date of his death, was a member of a specified corporation, or any trustee of, or person beneficially interested in, the shares of a specified corporation by virtue of the will or intestacy of any such person, may apply to the court under subsection (1) for an order under this section and, accordingly, any reference in that subsection to a member of a specified corporation shall be construed as including a reference to any such personal representative, trustee or person beneficially interested. (Amended 30 of 2004 s. 2)~~

~~(5A) The personal representative of a person who, at the date of the person's death, was a past member of a~~

~~specified corporation, may apply to the court under subsection (2A) for an order under this section and, accordingly, any reference in that subsection to a past member of a specified corporation shall be construed as including a reference to any such personal representative. (Added 30 of 2004 s. 2)~~

~~(5B) For the purposes of this section, a person shall not be treated as a past member of a specified corporation if he ceased to be a member of the specified corporation before the commencement* of section 4 of Schedule 3 to the Companies (Amendment) Ordinance 2004 (30 of 2004). (Added 30 of 2004 s. 2)~~

~~(6) Section 296 shall apply in relation to a petition under this section as it applies in relation to a winding up petition.~~

~~(7) Where before the commencement* of section 4 of Schedule 3 to the Companies (Amendment) Ordinance 2004 (30 of 2004), a petition has been presented for an order under section 168A of the pre-amended Ordinance, that section of the pre-amended Ordinance shall continue to apply in relation to such a petition as if section 4 of Schedule 3 to the Companies (Amendment) Ordinance 2004 (30 of 2004) had not been enacted. (Added 30 of 2004 s. 2)~~

~~(8) For the purpose of subsection (7), "pre-amended Ordinance" (修訂前的本條例) means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 4 of Schedule 3 to the Companies (Amendment) Ordinance 2004 (30 of 2004). (Added 30 of 2004 s. 2)~~

~~(Added 51 of 1978 s. 6)~~
~~[cf. 1948 c. 38 s. 210 U.K.]~~

~~*** Commencement date: 15 July 2005**~~

~~Section:~~	~~168B~~	~~Rights of company and minority shareholders in case of successful buy out by share repurchase~~		~~30/06/1997~~

~~The Thirteenth Schedule shall apply where a company (in that Schedule referred to as the "repurchasing company") makes a general offer to purchase all of its shares, or all of its shares of a particular class.~~

~~(Added 77 of 1991 s. 7)~~

~~Part:~~	~~IVAAA~~	~~COMMUNICATIONS BY COMPANY TO ANOTHER PERSON (OTHER THAN REGISTRAR)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(Part IVAAA added 12 of 2010 s. 35)~~

~~Section:~~	~~168BAA~~	~~Interpretation~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) In this Part—~~

~~"address" (地址) includes a number, or any sequence or combination of letters, characters, numbers or symbols of any language, used for the purpose of sending or receiving a document or information by electronic means;~~

~~"applicable provision" (適用條文) means a provision of this Ordinance that authorizes or requires the document or information to be sent or supplied, in writing or not, by a company to another person;~~

~~"business day" (營業日) means a day that is not—~~

~~(a) a general holiday; or~~

~~(b) a black rainstorm warning day or gale warning day as defined by section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1);~~

~~"document" (文件) excludes a document that is issued for the purpose of any legal proceedings;~~

~~"information system" (資訊系統) has the meaning given by section 2(1) of the Electronic Transactions Ordinance (Cap 553).~~

~~(2) In this Part—~~

~~(a) a reference to sending a document—~~

~~(i) includes supplying, delivering, forwarding or producing the document and, in the case of a notice, giving the document; and~~

~~(ii) excludes serving the document; and~~

~~(b) a reference to supplying information includes sending, delivering, forwarding or producing the information.~~

~~(3) For the purposes of this Part—~~

~~(a) a document or information is sent or supplied in hard copy form if it is sent or supplied—~~

~~(i) in paper form; or~~

~~(ii) in a similar form capable of being read;~~

~~(b) a document or information is sent or supplied in electronic form if it is sent or supplied—~~

~~(i) by electronic means; or~~

~~(ii) by any other means while in electronic form; and~~

~~(c) a document or information is sent or supplied by electronic means if it is sent or supplied in the form of an electronic record to an information system.~~

~~(4) For the purposes of this Part, a person sends a document, or supplies information, by post if the person posts a prepaid envelope containing the document or information.~~

~~Section:~~	~~168BAB~~	~~Minimum period specified for purposes of sections 168BAG(4) and 168BAH(6)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section specifies the minimum period of the notice of revocation, in relation to an agreement between a company and another person, for the purposes of sections 168BAG(4) and 168BAH(6).~~

~~(2) The minimum period is whichever is the longer of the following—~~

~~(a) a period of 7 days;~~

~~(b) the period set out in subsection (3) or (4).~~

~~(3) If that other person is not a company, the period set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the period specified for the purpose in the company's articles;~~

~~(b) where that other person is a debenture holder of the company, the period specified for the purpose in the instrument creating the debenture; or~~

~~(c) where that other person is not such a member or holder, the period specified for the purpose in any agreement between the person and the company.~~

~~(4) If that other person is a company, the period set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the period specified for the purpose in the company's articles;~~

~~(b) where the company is a member of that other person, the period specified for the purpose in the person's articles;~~

~~(c) where that other person is a debenture holder of the company or where the company is a debenture holder of that other person, the period specified for the purpose in the instrument creating the debenture; or~~

~~(d) where neither that other person nor the company is such a member or holder, the period specified for the purpose in any agreement between the person and the company.~~

~~Section:~~	~~168BAC~~	~~Period specified for purposes of sections 168BAG(7)(a) and 168BAH(10)(b)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section specifies the period, in relation to a document or information sent or supplied by a company to another person, for the purposes of sections 168BAG(7)(a) and 168BAH(10)(b).~~

~~(2) The period is whichever is the longer of the following—~~

~~(a) a period of 48 hours;~~

~~(b) the period set out in subsection (3) or (4).~~

~~(3) If that other person is not a company, the period set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the period specified for the purpose in the company's articles;~~

~~(b) where that other person is a debenture holder of the company, the period specified for the purpose in the instrument creating the debenture; or~~

~~(c) where that other person is not such a member or holder, the period specified for the purpose in any agreement between the person and the company.~~

~~(4) If that other person is a company, the period set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the period specified for the purpose in the~~

~~company's articles;~~

~~(b) where the company is a member of that other person, the period specified for the purpose in the person's articles;~~

~~(c) where that other person is a debenture holder of the company or where the company is a debenture holder of that other person, the period specified for the purpose in the instrument creating the debenture; or~~

~~(d) where neither that other person nor the company is such a member or holder, the period specified for the purpose in any agreement between the person and the company.~~

~~(5) In calculating a period of hours mentioned in subsection (2)(a), any part of a day that is not a business day is to be disregarded.~~

~~Section:~~	~~168BAD~~	~~Time specified for purposes of sections 168BAF(5)(a) and 168BAG(7)(b)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section specifies the time, in relation to a document or information sent or supplied by a company to another person, for the purposes of sections 168BAF(5)(a) and 168BAG(7)(b).~~

~~(2) The time is whichever is the later of the following—~~

~~(a) the time at which the document or information would be delivered in the ordinary course of post;~~

~~(b) the time set out in subsection (3) or (4).~~

~~(3) If that other person is not a company, the time set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the time specified for the purpose in the company's articles;~~

~~(b) where that other person is a debenture holder of the company, the time specified for the purpose in the instrument creating the debenture; or~~

~~(c) where that other person is not such a member or holder, the time specified for the purpose in any agreement between the person and the company.~~

~~(4) If that other person is a company, the time set out for the purposes of subsection (2)(b) is—~~

~~(a) where that other person is a member of the company, the time specified for the purpose in the company's articles;~~

~~(b) where the company is a member of that other person, the time specified for the purpose in the person's articles;~~

~~(c) where that other person is a debenture holder of the company or where the company is a debenture holder of that other person, the time specified for the purpose in the instrument creating the debenture; or~~

~~(d) where neither that other person nor the company is such a member or holder, the time specified for the purpose in any agreement between the person and the company.~~

~~Section:~~	~~168BAE~~	~~Address specified for purposes of sections 168BAF(2)(b) and 168BAG(3)(b)(iii)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section specifies the address, in relation to a document or information sent or supplied by a company to another person, for the purposes of sections 168BAF(2)(b) and 168BAG(3)(b)(iii).~~

~~(2) Subject to subsections (3) and (4), the address is—~~

~~(a) an address specified for the purpose by that other person generally or specifically; or~~

~~(b) an address to which a provision of this Ordinance authorizes or requires the document or information to be sent or supplied.~~

~~(3) If that other person (whether or not a company) is a member, debenture holder, director or secretary of the company, the address is—~~

~~(a) the address specified in subsection (2); or~~

~~(b) the person's address as shown in the company's register of members, register of holders of debentures, or register of directors and secretaries.~~

~~(4) If that other person is a company and is not a person covered by subsection (3), the address is—~~

~~(a) the address specified in subsection (2); or~~

~~(b) its registered office.~~

~~(5) If the company is unable to obtain an address specified in subsection (2), (3) or (4), the address is that other~~

~~person's address last known to the company.~~

~~Section:~~	~~168BAF~~	~~Communication in hard copy form~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section applies if a document or information is sent or supplied, in hard copy form, by a company to another person other than the Registrar.~~

~~(2) The document or information is sent or supplied to that other person for the purposes of an applicable provision if the document or information is sent or supplied—~~

~~(a) by hand to that other person; or~~

~~(b) by hand or by post to an address specified in section 168BAE.~~

~~(3) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if it is signed by a director or secretary of the company or by an officer of the company authorized for the purpose.~~

~~(4) If the document or information is sent or supplied by a person on behalf of the company to another company, subsection (3) does not affect any provision of that other company's articles under which that other company may require reasonable evidence of the person's authority to act on behalf of the company for which the document or information is sent or supplied.~~

~~(5) If the document or information is sent or supplied to that other person for the purposes of an applicable provision, it is to be regarded as being received by that other person—~~

~~(a) where the document or information is sent or supplied by post, at the time specified in section 168BAD; or~~

~~(b) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.~~

~~Section:~~	~~168BAG~~	~~Communication in electronic form~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) Subject to subsection (2), this section applies if a document or information is sent or supplied, in electronic form, by a company to another person other than the Registrar.~~

~~(2) This section does not apply if the document or information is sent or supplied by the company to that other person by making it available on a website.~~

~~(3) The document or information is sent or supplied to that other person for the purposes of an applicable provision if—~~

~~(a) that other person has agreed, generally or specifically, that the document or information may be sent or supplied to the person in electronic form and has not revoked the agreement;~~

~~(b) the document or information is sent or supplied—~~

~~(i) by electronic means to an address specified for the purpose by that other person generally or specifically;~~

~~(ii) by hand to that other person; or~~

~~(iii) by hand or by post to an address specified in section 168BAE; and~~

~~(c) the document or information is sent or supplied in a form, and by a means, that, in the company's reasonable opinion, will enable the recipient—~~

~~(i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with the eye with suitable corrective lens; and~~

~~(ii) to retain a copy of the document or information.~~

~~(4) That other person has not revoked the agreement for the purposes of subsection (3)(a) unless the person has given the company a notice of revocation of not less than the period specified in section 168BAB.~~

~~(5) For the purposes of an applicable provision that authorizes or requires the document or information to be authenticated, the document or information is sufficiently authenticated if—~~

~~(a) the company's identity is confirmed in a manner specified by that other person; or~~

~~(b) where no manner has been specified, the communication contains or is accompanied by a statement of the company's identity, and that other person has no reason to doubt the truth of the statement.~~

~~(6) If the document or information is sent or supplied by a person on behalf of the company to another company, subsection (5) does not affect any provision of that other company's articles under which that other company may require reasonable evidence of the person's authority to act on behalf of the company for which the document or information is sent or supplied.~~

~~(7) If the document or information is sent or supplied to that other person for the purposes of an applicable provision, it is to be regarded as being received by that other person—~~

~~(a) where the document or information is sent or supplied by electronic means, at the end of the period specified in section 168BAC after it is sent or supplied;~~

~~(b) where the document or information is sent or supplied by post, at the time specified in section 168BAD; or~~

~~(c) where the document or information is sent or supplied by hand, at the time when the document or information is delivered.~~

~~Section:~~	~~168BAH~~	~~Communication by means of website~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) Subject to subsection (2), this section applies if a document or information is sent or supplied by a company to another person other than the Registrar by making it available on a website.~~

~~(2) This section does not apply if the document or information is sent or supplied by a member of a company to the company.~~

~~(3) The document or information is sent or supplied to that other person for the purposes of an applicable provision if—~~

~~(a) that other person—~~

~~(i) has agreed, generally or specifically, that the document or information may be sent or supplied by the company to the person by making it available on a website, or is regarded under subsection (4) or (5) as having so agreed; and~~

~~(ii) has not revoked the agreement;~~

~~(b) the document or information is sent or supplied in a form, and by a means, that, in the company's reasonable opinion, will enable the recipient—~~

~~(i) to read the document or information, or, to the extent that it consists of images, to see the document or information, with the naked eye or with the eye with suitable corrective lens; and~~

~~(ii) to retain a copy of the document or information;~~

~~(c) the company has notified that other person of the matters specified in subsection (8); and~~

~~(d) the company has made the document or information available on the website throughout—~~

~~(i) the period specified by the applicable provision; or~~

~~(ii) where no period is specified, the period of 28 days beginning with the date on which the notification under paragraph (c) is sent to that other person.~~

~~(4) For the purposes of subsection (3)(a)(i), a person who is a member of the company is regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if—~~

~~(a) the company's members have resolved, or the company's articles contain a provision to the effect, that documents or information generally may be so sent or supplied by the company to its members;~~

~~(b) the company has individually requested the person to agree that documents or information generally, or the document or information, may be so sent or supplied by the company to the person and has not received a response to the request within 28 days beginning with the date on which the request was sent; and~~

~~(c) the request—~~

~~(i) stated clearly the effect of a failure to respond within those 28 days; and~~

~~(ii) was sent at least 12 months after any prior request made to the person for the purposes of paragraph (b) in respect of the same or a similar class of documents or information.~~

~~(5) For the purposes of subsection (3)(a)(i), a person who is a debenture holder of the company is regarded as having agreed that the document or information may be sent or supplied by the company to the person by making it available on a website if—~~

~~(a) the instrument creating the debenture contains a provision to the effect, or the equivalent debenture holders have resolved in accordance with the provisions of that instrument, that documents or information generally may be so sent or supplied by the company to those holders;~~

~~(b) the company has individually requested the person to agree that documents or information generally, or the document or information, may be so sent or supplied by the company to the person and has not received a response to the request within 28 days beginning with the date on which the request was sent; and~~

~~(c) the request—~~

~~(i) stated clearly the effect of a failure to respond within those 28 days; and~~

~~(ii) was sent at least 12 months after any prior request made to the person for the purposes of paragraph (b) in respect of the same or a similar class of documents or information.~~

~~(6) That other person has not revoked the agreement for the purposes of subsection (3)(a)(ii) unless the person has given the company a notice of revocation of not less than the period specified in section 168BAB.~~

~~(7) For the purposes of subsection (3)(c), if the applicable provision specifies the time by which or the period within which the notification is to be sent, the notification must be sent by that time or within that period.~~

~~(8) The matters specified for the purposes of subsection (3)(c) are—~~

~~(a) the presence of the document or information on the website;~~

~~(b) if the document or information is not available on the website on the date of the notification, the date on which it will be so available;~~

~~(c) the address of the website;~~

~~(d) the place on the website where the document or information may be accessed; and~~

~~(e) how to access the document or information.~~

~~(9) For the purposes of subsection (3)(d), a failure to make a document or information available on a website throughout the period mentioned in that subsection is to be disregarded if—~~

~~(a) the document or information is made available on the website for part of that period; and~~

~~(b) the failure is wholly attributable to circumstances that it would not be reasonable to have expected the company to prevent or avoid.~~

~~(10) If the document or information is sent or supplied to that other person for the purposes of an applicable provision—~~

~~(a) it is to be regarded as being sent or supplied on whichever is the later of the following—~~

~~(i) the date on which the document or information is first made available on the website;~~

~~(ii) the date on which a notification under subsection (3)(c) is sent; and~~

~~(b) it is to be regarded as being received by that other person at the end of the period specified in section 168BAC after whichever is the later of the following—~~

~~(i) the time when the document or information is first made available on the website;~~

~~(ii) the time when that other person receives a notification under subsection (3)(c).~~

~~(11) In subsection (5), "equivalent debenture holders" (相應債權證持有人), in relation to a person to whom a document or information is sent or supplied by a company, means the debenture holders of the company ranking equally for all purposes with the person.~~

~~Section:~~	~~168BAI~~	~~Member or debenture holder may require hard copy~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) A member or debenture holder of a company may, within 28 days after the date of receiving from the company a document or information, otherwise than in hard copy form, request the company to send or supply to the member or holder the document or information in hard copy form.~~

~~(2) The company must send or supply to the member or holder the document or information in hard copy form, free of charge—~~

~~(a) within 21 days after the date of receiving the request; or~~

~~(b) if the document or information requires an action to be taken by the member or holder, within 7 days after the date of receiving the request.~~

~~(3) If a company contravenes subsection (2), the company, and every officer of the company who is in default, commit an offence, and each is liable to a fine.~~

~~Part:~~	~~IVAA~~	~~STATUTORY DERIVATIVE ACTION~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~(Part IVAA added 30 of 2004 s. 2)~~

~~Section:~~	~~168BA~~	~~Definition~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~In this Part, unless the context otherwise requires— (Amended 12 of 2010 s. 17)~~

~~"proceedings" (法律程序) means any proceedings (other than criminal proceedings) within the jurisdiction of the~~

~~court; (Amended 12 of 2010 s. 17)~~

~~"related company" (有關連公司), in relation to a specified corporation, means—~~

~~(a) a subsidiary of the corporation;~~

~~(b) a holding company of the corporation; or~~

~~(c) a subsidiary of a holding company of the corporation. (Added 12 of 2010 s. 17)~~

~~Section:~~	~~168BB~~	~~Application~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~(1) This Part applies to—~~

~~(a) the bringing of proceedings in respect of misfeasance committed against a specified corporation;~~

~~(b) the bringing of proceedings in respect of any matter where a specified corporation fails to bring proceedings in respect of such matter by reason of misfeasance committed against the specified corporation; and~~

~~(c) the intervention in proceedings in respect of any matter where a specified corporation fails to diligently continue, discontinue or defend the proceedings in respect of such matter by reason of misfeasance committed against the specified corporation,~~

~~where in relation to the proceedings brought or intervened in, the cause of action or right to continue, discontinue or defend those proceedings, as the case may be, is vested in the specified corporation and relief, if any, is sought on behalf of the specified corporation.~~

~~(2) In this section, "misfeasance" (不當行爲) means fraud, negligence, default in compliance with any enactment or rule of law, or breach of duty.~~

~~Section:~~	~~168BC~~	~~Bringing or intervening in proceedings on behalf of specified corporation*~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) A member of a specified corporation or of a related company of a specified corporation may, with the leave of the court granted under subsection (3)— (Amended 12 of 2010 s. 18)~~

~~(a) bring proceedings before the court on behalf of the specified corporation; or~~

~~(b) intervene in any proceedings before the court to which the specified corporation is a party for the purposes of continuing, discontinuing or defending those proceedings on behalf of the specified corporation.~~

~~(2) Any proceedings brought under subsection (1)(a) on behalf of a specified corporation shall be brought in the name of the specified corporation.~~

~~(3) The court may, on the application of a member of a specified corporation or on the application of a member of a related company of a specified corporation, grant leave for the purpose of subsection (1) if the court is satisfied that— (Amended 12 of 2010 s. 18)~~

~~(a) it appears to be prima facie in the interest of the specified corporation that leave be granted to the applicant;~~

~~(b) if the applicant is applying for leave to bring proceedings under subsection (1)(a), there is a serious question to be tried and the specified corporation has not itself brought the proceedings;~~

~~(c) if the applicant is applying for leave to intervene in proceedings under subsection (1)(b), the specified corporation has not diligently continued, discontinued or defended those proceedings; and~~

~~(d) except where leave is granted by the court under section 168BD(4), the member has served a written notice on the specified corporation in accordance with section 168BD.~~

~~(4) Subject to other provisions in this Part, this Part shall not affect any common law right of a member of a specified corporation, or any common law right of a member of a related company of a specified corporation, to bring proceedings on behalf of the specified corporation, or intervene in any proceedings to which the specified corporation is a party. (Amended 12 of 2010 s. 18)~~

~~(5) The court may dismiss an application for leave under subsection (3) if the applicant has, in the exercise of any common law right—~~

~~(a) brought proceedings on behalf of the specified corporation in respect of the same cause or matter; or~~

~~(b) intervened in the proceedings in question to which the specified corporation is a party.~~

~~(6) For the avoidance of doubt, this section does not prevent a member of a specified corporation, or of a related company of a specified corporation, from bringing proceedings in respect of the specified corporation, or~~

~~intervening in any proceedings to which the specified corporation is a party, on his own behalf in respect of his personal right. (Amended 12 of 2010 s. 18)~~

~~**Note:**~~
~~*** (Amended 12 of 2010 s. 18)**~~

~~Section:~~	~~168BD~~	~~Service of written notice~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) Subject to subsection (4), a member of a specified corporation, or of a related company of a specified corporation, shall serve a written notice on the specified corporation at least 14 days before he applies for leave under section 168BC(3) in respect of the specified corporation. (Amended 12 of 2010 s. 19)~~

~~(2) Service of a written notice under this section shall be effected by leaving it at—~~

~~(a) in the case of a company, its registered office;~~

~~(b) in the case of a non-Hong Kong company, the address of its authorized representative that is registered under section 333.~~

~~(3) A written notice under this section shall state—~~

~~(a) the intention of the member to apply for leave under section 168BC(3) in respect of the specified corporation; and~~

~~(b) the reasons for his intention.~~

~~(4) The court may grant leave to dispense with the service of a written notice required by this section.~~

~~Section:~~	~~168BE~~	~~Court's power relating to proceedings brought or intervened in on behalf of specified corporation under common law*~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) Where leave has been granted to a member of a specified corporation, or of a related company of a specified corporation, under section 168BC(3) and the member, in the exercise of any common law right, subsequently brings proceedings on behalf of the specified corporation in respect of the same cause or matter, or subsequently intervenes in the proceedings in question to which the specified corporation is a party, the court may— (Amended 12 of 2010 s. 20)~~

~~(a) order to be struck out or amended any pleading or the indorsement of any writ in the proceedings brought under the common law, or the intervention under the common law, or anything in such pleading or indorsement; and~~

~~(b) order the proceedings brought under the common law, or the intervention under the common law, to be stayed or dismissed or judgment to be entered accordingly.~~

~~(2) This section is in addition to and does not derogate from any power of the court conferred by any enactment or rule of law.~~

~~**Note:**~~
~~*** (Replaced 12 of 2010 s. 20)**~~

~~Section:~~	~~168BF~~	~~Effect of approval or ratification~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) The approval or ratification by the members of a specified corporation of any conduct shall not have the effect of—~~

~~(a) preventing a member of the specified corporation, or of a related company of the specified corporation, from bringing or intervening in any proceedings under section 168BC(1), or from applying for leave under section 168BC(3); (Amended 12 of 2010 s. 21)~~

~~(b) requiring the court to refuse to grant leave under section 168BC(3); or~~

~~(c) requiring the court to determine the proceedings brought or intervened in by the member in favour of the defendant.~~

~~(2) Notwithstanding subsection (1), the court may, after having regard to the following matters in respect of the members of a specified corporation who approved or ratified the relevant conduct, take into account the approval or ratification in deciding what judgment or order (including any order as to damages) to make in respect of any proceedings brought or intervened in by a member of the specified corporation, or of a related company of the specified corporation, under section 168BC(1), or in respect of an application for leave made under section~~

~~168BC(3) (Amended 12 of 2010 s. 21)~~

~~(a) the extent of the members' independence of the conduct when they approved or ratified it;~~

~~(b) how well informed about the conduct they were when deciding whether or not to approve or ratify it; and~~

~~(c) whether or not they were acting for proper purposes having regard to the interests of the specified corporation when they approved or ratified it.~~

~~Section:~~	~~168BG~~	~~General powers of court~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) The court may, at any time, make any order and give any direction it considers appropriate in respect of any proceedings brought or intervened in by a member of a specified corporation, or of a related company of a specified corporation, under section 168BC(1), or in respect of an application for leave made under section 168BC(3), including (Amended 12 of 2010 s. 22)~~

~~(a) interim orders pending the determination of the proceedings or application;~~

~~(b) directions concerning the conduct of the proceedings or application;~~

~~(c) an order directing the specified corporation, or an officer of the specified corporation, to do, or not to do, any act (including the provision by the specified corporation or the officer of such information or assistance as the court may think fit for the purpose of the proceedings or application); and~~

~~(d) an order appointing an independent person to investigate and report to the court on—~~

~~(i) the financial position of the specified corporation;~~

~~(ii) the facts or circumstances that gave rise to the proceedings; or~~

~~(iii) the costs incurred by the parties to the proceedings, and by the member who brought or intervened in the proceedings, or made the application.~~

~~(2) Where the court makes an order under subsection (1)(d), it may make any other orders it considers appropriate for the purposes of that subsection.~~

~~(3) Where the court orders the appointment of an independent person under subsection (1)(d), the court may, at any time—~~

~~(a) order any or all of the following persons to be liable for any expenses arising out of the investigation—~~

~~(i) the specified corporation;~~

~~(ii) the parties to the proceedings or application;~~

~~(iii) the member who brought or intervened in the proceedings, or made the application; and~~

~~(b) review, vary or revoke an order made pursuant to paragraph (a).~~

~~(4) If an order made pursuant to subsection (3)(a), or the order as varied pursuant to subsection (3)(b), makes 2 or more persons liable for the relevant expenses, the court may also determine the nature and extent of the liability of each of those persons.~~

~~(5) The court may, at any time, make any order and give any direction it considers appropriate in relation to sections 168BC(5) and 168BE.~~

~~Section:~~	~~168BH~~	~~Protection of personal data~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~Nothing in section 168BG(1)(c) and (d) and (2) shall authorize the collection, retention or use of personal data in contravention of the Personal Data (Privacy) Ordinance (Cap 486).~~

~~Section:~~	~~168BI~~	~~Power of court to make orders about costs~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~(1) The court may, at any time (including on granting leave under section 168BC(3)), make any order it considers appropriate about the costs incurred or to be incurred by the following persons in relation to an application for leave made under section 168BC(3) or any proceedings brought or intervened in, or to be brought or intervened in, under section 168BC(1)—~~

~~(a) the member;~~

~~(b) the specified corporation; and~~

~~(c) any other parties to the application or proceedings.~~

~~(2) An order made under subsection (1) may require the specified corporation to indemnify out of its assets against the costs incurred or to be incurred by the member in making the application or in bringing or intervening in the proceedings.~~

~~(3) The court may only make an order about costs (including the requirement as to indemnification) under this section in favour of the member if it is satisfied that the member was acting in good faith in, and had reasonable grounds for, making the application, or bringing or intervening in the proceedings.~~

~~Section:~~	~~168BJ~~	~~Discontinuance or settlement~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~Proceedings brought or intervened in by a member of a specified corporation, or of a related company of a specified corporation, under section 168BC(1) shall not be discontinued or settled without the leave of the court.~~

~~(Amended 12 of 2010 s. 23)~~

~~Section:~~	~~168BK~~	~~Rules of court~~	~~L.N. 82 of 2005~~	~~15/07/2005~~

~~The Rules Committee constituted under section 55 of the High Court Ordinance (Cap 4) may make rules of court for giving effect to this Part as appears to the Committee to be necessary or expedient.~~

Part:	IVA	DISQUALIFICATION OF DIRECTORS	L.N. 187 of 2007	14/12/2007

(Part IVA added 30 of 1994 s. 5)

~~Section:~~	~~168C~~	~~Interpretation~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

(1) In this Part, "company" (公司) means-

(a) a company within the meaning of section 2; (Amended 30 of 2004 s. 2)

(b) an unregistered company within the meaning of Part X (other than a partnership, whether limited or not, or an association)-

(i) wherever incorporated;

(ii) carrying on business in Hong Kong or which has carried on business in Hong Kong; and

(iii) which is capable of being wound up under this Ordinance; or (Amended 30 of 2004 s. 2)

(c) a ~~non-Hong Kong company that is registered under Part XI~~registered non-Hong Kong company. (Added 30 of 2004 s. 2)

~~(2) In the application to this Part of the definition of "shadow director" in section 2(1), the word "company" (公司) in that definition has the same meaning as in subsection (1).~~

(Replaced 28 of 2003 s. 74)

Section:	168D	Disqualification orders: general		30/06/1997

(1) In the circumstances specified in this Part, a court may, and under section 168H shall, make against a person a disqualification order, that is to say an order that he shall not, without leave of the court-

(a) be a director of a company;

(b) be a liquidator of a company;

(c) be a receiver or manager of a company's property; or

(d) in any way, whether directly or indirectly, be concerned or take part in the promotion, formation or management of a company,

for a specified period beginning with the date of the order.

(2) In each section which gives to a court power or, as the case may be, imposes on it the duty to make a disqualification order there is specified the maximum (and, in section 168H, the minimum) period of disqualification which may or, as the case may be, shall be imposed by means of the order.

(3) Where a disqualification order is made against a person who is already subject to such an order, the periods specified in those orders shall run concurrently.

(4) A disqualification order may be made on grounds which are or include matters other than criminal convictions, notwithstanding that the person in respect of whom it is to be made may be criminally liable in respect of those matters.

Section:	168E	Disqualification on conviction of indictable offence	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) The court may make a disqualification order against a person where he is convicted of an indictable offence (whether on indictment or summarily)-

(a) in connection with the promotion, formation, management or liquidation of a company; or

(b) in connection with the receivership or management of a company's property,

or any other indictable offence his conviction for which necessarily involves a finding that he acted fraudulently or dishonestly.

(2) In subsection (1) "the court" (法院) means the Court of First Instance or the court by or before which the person is convicted of the offence.

(3) The maximum period of disqualification under this section is, where the disqualification order is made-

(a) by a judge of the Court of First Instance, 15 years;

(b) by a judge of the District Court, 10 years;

(c) by a magistrate, 5 years.

(4) Where a disqualification order is made by a magistrate and the Official Receiver or-

(a) the liquidator;

(b) a past or present member; or

(c) a creditor,

of the company affected believes that the facts would justify a disqualification order for a longer period, he may apply to the Court of First Instance for such a disqualification order and it may, if it considers it appropriate in the circumstances, make an order for such longer period as it determines.

(Amended 25 of 1998 s. 2)

Section:	168F	Disqualification for persistent breaches of ~~Ordinance~~ specified provisions		30/06/1997

(1) The court may make a disqualification order against a person where it appears to it that~~ he has been persistently in default in relation to provisions of this Ordinance requiring any return, account or other document to be filed with, delivered or sent, or notice of any matter to be given, to the Registrar~~ the person has been persistently in default in relation to the specified provisions.

(2) On an application to the court for an order to be made under this section, the fact that a person has been persistently in default in relation to~~ such provisions may (without prejudice to its proof in any other manner) be conclusively proved by showing that in the 5 years ending with the date of the application he has been adjudged guilty (whether or not on the same occasion) of 3 or more defaults in relation to those provisions~~ the specified provisions may (without prejudice to its proof in any other manner) be conclusively proved by showing that in the 5 years ending with the date of application the person has been adjudged guilty (whether or not on the same occasion) of 3 or more defaults in relation to the specified provisions.~~;~~

(3) A person is to be treated under subsection (2) as being adjudged guilty of a default in relation to ~~any provision if~~ a specified provision if—

~~(a) he is convicted of an offence consisting in a contravention of that provision (whether on his own part or on the part of any company); or~~

~~(b) an order of the court is made against him under section 279, 302 or 306.~~

(a) the person is convicted of an offence consisting in a contravention of a specified provision (whether on the person's own part or on the part of any company), or

(b) an order of the court is made against the person under—

(i) in the case of a specified provision of the pre-amended Ordinance or this Ordinance, section 279, 302 or 306, or

(ii) in the case of a specified provision of the Companies Ordinance (of 2011), section 886 of that Ordinance.

(4) For the purposes of this section, "court" (法院) includes a magistrate where the application under this section is made in the course of a prosecution in which the person is adjudged guilty of a default referred to in subsection (1) and, as a result, subsection (2) applies to ~~him~~the person.

(4A) In this section—

"***specified provision***" (指明條文) means a provision of the pre-amended Ordinance, this Ordinance, or the Companies Ordinance (of 2011), requiring—

(a) any return, accounts or other document to be filed with, or delivered or sent to, the Registrar; or

(b) notice of any matter to be given to the Registrar.

(5) The maximum period of disqualification under this section is 5 years.

Section:	168G	Disqualification for fraud, etc., in winding up		30/06/1997

(1) The court may make a disqualification order against a person if, in the course of the winding up of a company, it appears that he-

(a) has been guilty of an offence for which he is liable (whether he has been convicted or not) under section 275; or

(b) has otherwise been guilty, while an officer or liquidator of the company or receiver or manager of its property, of any fraud in relation to the company or of any breach of his duty as such officer, liquidator, receiver or manager.

(2) The maximum period of disqualification under this section is 15 years.

(3) In this section, "officer" (高級人員) includes a shadow director.

Section:	168H	Duty of court to disqualify unfit directors of insolvent companies		30/06/1997

(1) The court shall make a disqualification order against a person in any case where, on an application under this section, it is satisfied-

(a) that he is or has been a director of a company which has at any time become insolvent whether while he was a director or subsequently; and

(b) that his conduct as a director of that company, either taken alone or taken together with his conduct as a director of any other company or companies, makes him unfit to be concerned in the management of a company.

(2) For the purposes of this section, a company becomes insolvent if-

(a) the company goes into liquidation at a time when its assets are insufficient for the payment of its debts and other liabilities and the expenses of the winding up; or

(b) a receiver of the company is appointed,

and references to a person's conduct as a director of any company or companies include, where that company or any of those companies has become insolvent, that person's conduct in relation to any matter connected with or arising out of the insolvency of that company.

(3) In this section and section 168I, "director" (董事) includes a shadow director.

(4) Under this section the minimum period of disqualification is 1 year, and the maximum period is 15 years.

Section:	168I	Applications to court under section 168H: reporting provisions	46 of 2000	01/07/2000

(1) If it appears to-

(a) the Financial Secretary; or (Amended 46 of 2000 s. 16)

(b) the Official Receiver, (Amended 46 of 2000 s. 16)

that it is in the public interest that a disqualification order under section 168H should be made, an application for the making of such an order may be made by the Financial Secretary or the Official Receiver.

(2) Except with the leave of the court, an application for the making under section 168H of a disqualification order against any person shall not be made after the end of the period of 4 years beginning, in the case of a company-

(a) that is wound up, with the day on which the winding up of the company, of which that person is or has been a director, is deemed, under section 184, 228A or 230, as the case may be, to have commenced; or

(b) that goes into receivership, with the day on which the receiver vacated his office.

(3) If it appears to-

(a) the liquidator of a company that is being wound up by him; or

(b) the receiver in respect of a company for which he has been so appointed,

that the matters listed in section 168H(1)(a) and (b) may apply to a person who is or has been a director of that company, he shall forthwith report the matter to the Official Receiver who may report the matter to the Financial Secretary. (Amended 46 of 2000 s. 16)

(4) The Financial Secretary or the Official Receiver may require the liquidator or receiver of a company, or the former liquidator or receiver of a company-

(a) to furnish him with such information with respect to any person's conduct as a director of the company; and

(b) to produce and permit inspection of such books, papers and other records relevant to that person's conduct as such a director,

as the Financial Secretary or the Official Receiver, as the case may be, may reasonably require for the purpose of determining whether to exercise, or of exercising, any of his functions under this section.

Section:	168IA	Power to order public examination	46 of 2000	01/07/2000

(1) The court may, on the application of the Official Receiver by a report stating that in his opinion a prima facie case exists against any person that would render him liable to a disqualification order under this Part, direct that the person shall attend before the court on a day appointed by the court for that purpose and be publicly examined as to the conduct of the business of a company or as to his conduct and dealings as a director.

(2) The court may require a person referred to in subsection (1) to submit an affidavit to the court containing an account of the conduct of the business of the company or his conduct and dealings as a director of the company, or to produce any documents in his possession or under his control relating to the conduct of the business of the company or his conduct and dealings as a director of the company.

(3) Where an application has been made under subsection (1), the court may require any person, other than a person referred to in subsection (1), whom the court deems capable of giving information concerning the conduct of the business of the company concerned or as to the conduct and dealings of directors of the company to produce any documents in his possession or under his control relating to the conduct of the business of the company or as to the conduct and dealings of directors of the company.

(4) The Official Receiver shall take part in the examination, and for that purpose may employ a solicitor with or without counsel.

(5) The court may put such questions to the person examined as the court thinks fit.

(6) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him.

(7) A person ordered to be examined under this section shall, before his examination, be furnished with a copy of the Official Receiver's report, and may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him.

(8) There shall be made in writing such record of examination as the court thinks proper and the record shall be read over to or by the person examined, signed by him, and verified by affidavit at a venue fixed by the court.

(9) The verified notes of the examination of each person who was examined shall, subject to any order or direction of the court as to the manner and extent in and to which the notes shall be used, be admissible in evidence against any person against whom an order for examination has been made in any proceedings under this Part.

(Added 46 of 2000 s. 17)

Section:	168J	Disqualification after investigation of company		30/06/1997

~~(1) If it appears to the Financial Secretary from a report made by inspectors under section 146 or information or documents obtained under section 152A or 152B, that it is expedient in the public interest that a disqualification order should be made against any person who is or has been a director or shadow director of any company, he may apply to the court for such an order to be made against that person.~~

(2) The court may make a disqualification order against a person where, on an application under ~~this section~~ section 867(6) of the Companies Ordinance (of 2011), it is satisfied that his conduct in relation to the company makes him unfit to be concerned in the management of a company.

(3) The maximum period of disqualification under this section is 15 years.

Section:	168K	Matters for determining unfitness of directors		30/06/1997

(1) Where it falls to a court to determine whether a person's conduct as a director of any particular company or companies makes him unfit to be concerned in the management of a company, the court shall, as respects his conduct as a director of that company or, as the case may be, each of those companies, have regard in particular-

(a) to the matters mentioned in Part I of the Fifteenth Schedule; and

(b) where the company has become insolvent, to the matters mentioned in Part II of that Schedule,

and references in that Schedule to the director and the company are to be read accordingly.

(2) Section 168H(2) applies for the purposes of this section and the Fifteenth Schedule as it applies for the purposes of section 168H.

(3) The Financial Secretary may by order modify any of the provisions of the Fifteenth Schedule; and such an order may contain such transitional provisions as may appear to the Financial Secretary necessary or expedient.

(4) In this section and the Fifteenth Schedule, "director" (董事) includes a shadow director.

Section:	168L	Fraudulent trading		30/06/1997

(1) Where the court makes a declaration under section 275 that a person is liable for all or any of the debts or other liabilities of a company, the court may, if it thinks fit and whether or not any person applies for such an order, make a disqualification order against the person to whom the declaration relates.

(2) The maximum period of a disqualification order under this section is 15 years.

Section:	168M	Criminal penalties		30/06/1997

If a person acts in contravention of a disqualification order, he is guilty of an offence and is liable to imprisonment and a fine.

Section:	168N	Offences by body corporate		30/06/1997

(1) Where a body corporate is guilty of an offence of acting in contravention of a disqualification order, and it is proved that the offence occurred with the consent or connivance of, or was attributable to any neglect on the part of, any director, manager, ~~secretary~~ company secretary or other similar officer of the body corporate, or any person who was purporting to act in any such capacity he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

Section:	168O	Personal liability for company's debts where person acts while disqualified		30/06/1997

(1) A person is personally responsible for all the relevant debts of a company if at any time-

(a) in contravention of a disqualification order or of ~~section 156~~ section 471(1) of the Companies Ordinance (of 2011) he is involved in the management of the company; or

(b) as a person who is involved in the management of the company, he acts or is willing to act on instructions given without the leave of the court by a person whom he knows at that time to be the subject of a disqualification order or to be an undischarged bankrupt.

(2) Where a person is personally responsible under this section for the relevant debts of a company, he is jointly and severally liable in respect of those debts with the company and any other person who, whether under this section or otherwise, is so liable.

(3) For the purposes of this section the relevant debts of a company are-

(a) in relation to a person who is personally responsible under subsection (1)(a), such debts and other liabilities of the company as are incurred at a time when that person was involved in the management of the company; and

(b) in relation to a person who is personally responsible under subsection (1)(b), such debts and other liabilities of the company as are incurred at a time when that person was acting or was willing to act on

instructions given as mentioned in subsection (1)(b).

(4) For the purposes of this section, a person is involved in the management of a company if he is a director of the company or if he is concerned, whether directly or indirectly, or takes part, in the management of the company.

(5) For the purposes of this section a person who, as a person involved in the management of a company, has at any time acted on instructions given without the leave of the court by a person whom he knew at that time to be the subject of a disqualification order or to be an undischarged bankrupt is presumed, unless the contrary is shown, to have been willing at any time thereafter to act on any instructions given by that person.

Section:	168P	Application for disqualification order		30/06/1997

Expanded Cross Reference:
168E, 168F, 168G

(1) A person intending to apply for the making of a disqualification order by the court, other than an application made in the course of a proceeding for the prosecution of an offence, shall give not less than 10 days' notice of his intention to the person against whom the order is sought; and on the hearing of the application the last-mentioned person may appear and himself give evidence or call witnesses.

(2) An application to a court for the making against any person of a disqualification order under-

(a) section 168F may be made by the Registrar; and

(b) any of sections 168E to 168G may be made by the Official Receiver, the Financial Secretary or by the liquidator or any past or present member or creditor of any company in relation to which that person has committed or is alleged to have committed an offence or other default. <* Note - Exp. X-Ref.: Sections 168E, 168F, 168G *>

(3) On the hearing of any application under this Part made by the Registrar, the Official Receiver, the Financial Secretary or the liquidator, the applicant shall appear and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

(4) Where, under this Part, a court may make a disqualification order in the course of a proceeding for the prosecution of an offence, it may make such an order if it thinks fit and whether or not any person applies for such an order.

Section:	168Q	Application for leave under an order		30/06/1997

Where-

(a) a person who is the subject of a disqualification order made under this Part applies for leave of the court to participate in a company in one of the ways prohibited under section 168D(1); and

(b) the disqualification order to which the application relates was made as a result of an application by the Financial Secretary, the Registrar, the Official Receiver or a liquidator,

the Financial Secretary, Registrar, Official Receiver or liquidator, as the case may be, shall appear and call the attention of the court to any matters which seem to him to be relevant, and may himself give evidence or call witnesses.

Section:	168R	Register of disqualification orders	L.N. 12 of 2003	01/04/2003

(1) The Financial Secretary may make regulations requiring officers of courts to furnish the Registrar with such particulars as the regulations may specify of cases in which-

(a) a disqualification order is made; or

(b) any action is taken by a court in consequence of which such an order is varied or ceases to be in force; or

(c) leave is granted by a court for a person subject to such an order to do anything which otherwise the order prohibits him from doing,

and the regulations may specify the time within which, and the form and manner in which, such particulars are to be furnished.

(2) The Registrar shall, from the particulars so furnished, maintain a register of orders and of cases in which leave has been granted as mentioned in subsection (1)(c).

(3) When an order of which entry is made in the register ceases to be in force, the Registrar shall delete the

entry from the register and all particulars relating to it which have been furnished to him under this section.

(4) The register shall be open to inspection on payment of such fee as may be ~~specified in the Eighth Schedule~~ payable under a regulation made under section 25 of the Companies Ordinance (of 2011).

(5) For the purposes of this section-

"court" (法院) includes-

(a) a magistrate;

(b) a Tribunal within the meaning of section 2 of the repealed Ordinance; and

(c) the Market Misconduct Tribunal within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571);

"disqualification order" (取消資格令) means an order of the court under-

(a) section 168E, 168F, 168G, 168H, 168J or 168L;

(b) section 23(1)(a) or 24(1) of the repealed Ordinance; or

(c) section 214(2)(d), 257(1)(a), 258(1) or 303(2)(a) of the Securities and Futures Ordinance (Cap 571);

"repealed Ordinance" (已廢除條例) means the Securities (Insider Dealing) Ordinance (Cap 395) repealed under the Securities and Futures Ordinance (Cap 571). (Replaced 5 of 2002 s. 407)

Section:	168S	Regulations	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) The Chief Justice may make regulations respecting proceedings in the Court of First Instance for a disqualification order under this Part. (Amended 25 of 1998 s. 2)

(2) The Financial Secretary may make regulations respecting the reporting to the Official Receiver of the conduct of persons as directors under section 168I(3).

Section:	168T	Transitional		30/06/1997

(1) Sections 168E and 168G do not apply in relation to anything done before this Part comes into operation by a person in his capacity as liquidator of a company or as receiver or manager of a company's property.

(2) Subject to subsection (1), sections 168E and 168G apply in a case where a person is convicted of an offence, referred to in the relevant section, which he committed (and, in the case of a continuing offence, has ceased to commit) before this Part comes into operation; but in such a case a disqualification order under the relevant section shall not be made for a period in excess of 5 years.

(3) Section 168F applies in respect of matters that took place before or after this Part comes into operation.

Part:	V	WINDING UP		30/06/1997

Section:	169	Modes of winding up		30/06/1997

(i) PRELIMINARY

Modes of Winding Up

(1) The winding up of a company may be either-

(a) by the court; or

(b) voluntary. (Amended 6 of 1984 s. 126)

(2) The provisions of this Ordinance with respect to winding up apply, unless the contrary appears, to the winding up of a company in any of those modes.

[cf. 1929 c. 23 s. 156 U.K.]

Section:	170	Liability as contributories of present and past members		30/06/1997

Contributories

(1) In the event of a company being wound up, every present and past member shall be liable to contribute to the assets of the company to an amount sufficient for payment of its debts and liabilities, and the costs, charges, and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of subsection (2) and the following qualifications-

(a) a past member shall not be liable to contribute if he has ceased to be a member for 1 year or upwards before the commencement of the winding up;

(b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after he ceased to be a member;

(c) a past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contribution required to be made by them in pursuance of this Ordinance;

(d) in the case of a company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;

(e) in the case of a company limited by guarantee, no contribution shall, subject to the provisions of subsection (3), be required from any member exceeding the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up;

(f) nothing in ~~this Ordinance~~ this Ordinance or the Companies Ordinance (of 2011) shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of the policy or contract;

(g) a sum due to any member of a company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the company, payable to that member in a case of competition between himself and any other creditor not a member of the company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a limited company, any director, whether past or present, whose liability is, under the provisions of ~~this Ordinance~~ the pre-amended Ordinance, unlimited, shall, in addition to his liability (if any) to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of an unlimited company:

Provided that-

(a) a past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;

(b) a past director shall not be liable to make such further contribution in respect of any debt or liability of the company contracted after he ceased to hold office;

(c) subject to the articles of the company, a director shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of the winding up. (Amended 6 of 1984 s. 127)

(3) In the winding up of a company limited by guarantee which has a share capital, every member of the company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

[cf. 1929 c. 23 s. 157 U.K.]

Section:	171	Definition of contributory		30/06/1997

The term "contributory" (分擔人) means every person liable to contribute to the assets of a company in the event of its being wound up, and for the purposes of all proceedings for determining, and all proceedings prior to the final determination of, the persons who are to be deemed contributories, includes any person alleged to be a contributory.

[cf. 1929 c. 23 s. 158 U.K.]

Section:	172	Nature of liability of contributory		30/06/1997

The liability of a contributory shall create a debt of the nature of a specialty accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

[cf. 1929 c. 23 s. 159 U.K.]

Section:	173	Contributories in case of death of member		30/06/1997

(1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives shall be liable in due course of administration to contribute to the assets of the company in discharge of his liability and shall be contributories accordingly. (Amended 6 of 1984 s. 128)

(2) (Repealed 6 of 1984 s. 128)

(3) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereout of the money due.

[cf. 1929 c. 23 s. 160 U.K.]

Section:	174	Contributories in case of bankruptcy of member		30/06/1997

If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories-

(a) his trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the company; and

(b) there may be proved against the estate of the bankrupt the estimated value of his liability to future calls as well as calls already made.

[cf. 1929 c. 23 s. 161 U.K.]

Section:	175	(Repealed 27 of 1971 s. 15)		30/06/1997

Section:	176	Jurisdiction to wind up companies	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(ii) WINDING UP BY THE COURT

Jurisdiction

The Court of First Instance shall have jurisdiction to wind up any company.

(Replaced 6 of 1984 s. 129. Amended 25 of 1998 s. 2)

Section:	177	Circumstances in which company may be wound up by court	L.N. 267 of 2003	13/02/2004

Cases in which Company may be wound up by Court

(1) A company may be wound up by the court if-

(a) the company has by special resolution resolved that the company be wound up by the court;

(b) the company does not commence its business within a year from its incorporation, or suspends its business for a whole year;

(c) the company has no members; (Replaced 28 of 2003 s. 76)

(d) the company is unable to pay its debts;

(e) the event, if any, occurs on the occurrence of which the ~~memorandum or~~ articles provide that the company is to be dissolved;

(f) the court is of opinion that it is just and equitable that the company should be wound up.

(2) On the application of the Registrar for the winding up of a company, the company may be wound up by the court if it appears to the court-

(a) that the company is being carried on for an unlawful purpose or any purpose lawful in itself but one which cannot be carried out by a company; or

(b) that throughout a period of not less than 6 months ending on the date of the winding-up petition the company has not had-

(i) in the case of a private company, at least one director; or

(ii) in the case of a company not being a private company, at least 2 directors; or (Replaced 28 of 2003 s. 76)

(c) that throughout the period referred to in paragraph (b) the company has not had a ~~secretary~~ company secretary; or

(d) that the ~~company has failed to pay the annual registration fee payable under the Eighth Schedule~~ company—

(i) had failed to pay the annual registration fee payable under the Eighth Schedule of the pre-amended Ordinance; or

(ii) has failed to pay the annual registration fee payable under a regulation made under section 25 of the Companies Ordinance (of 2011)"; or

(e) without prejudice to paragraphs (a) to (d), that the company has been persistently in breach of its ~~obligations under this Ordinance~~ specified obligations.

(3) A company registered before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) may by special resolution alter the ~~conditions contained in its memorandum by adding a condition to the effect that the company shall be dissolved on the occurrence of a specified event, with or without a provision providing for or prohibiting the alteration of that condition~~ provisions contained in its articles by adding a provision to the effect that the company is to be dissolved on the occurrence of a specified event, with or without another provision providing for or prohibiting the alteration of the added provision:

Provided that, where a private company passes such a resolution, an application may be made to the court for the alteration to be cancelled, and if such an application is made, the alteration shall not have effect except in so far as it is confirmed by the court. (Amended 28 of 2003 s. 76)

(4) Where a private company passes a resolution under this section altering the ~~conditions contained in its memorandum, subsections (2)(a), (3), (4), (7) and (8) of section 8 shall apply in relation to the alteration and to any application made under this section in the same manner as they apply in relation to alterations and to applications made under section 8.~~ provisions contained in its articles, sections 85(5)(a), (5)(b) and (8) and 86(1)(a), (5) and (6) of the Companies Ordinance (of 2011) apply in relation to the alteration and to any application made under this section in the same manner as they apply in relation to alterations made under that section 85 and to applications made under that section 86. (Replaced 28 of 2003 s. 76)

(5) Where a company (not being a private company) passes a resolution under this section altering the ~~conditions contained in its memorandum, subsections (7A) and (8) of section 8 shall apply in relation to the alteration made under this section in the same manner as they apply in relation to alterations made under section 8.~~ provisions contained in its articles, section 85(5)(c), (6) and (8) of the Companies Ordinance (of 2011) applies in relation to the alteration made under this section in the same manner as it applies in relation to alterations made under that section 85. (Added 28 of 2003 s. 76)

(6) In relation to a resolution for altering the conditions of a company's memorandum that is passed by a company (whether a private company or not) under this section before the commencement+ of section 76 of the Companies (Amendment) Ordinance 2003 (28 of 2003), the provisions of this section in force immediately before that commencement shall continue to have effect as if section 76 of that Ordinance had not been enacted. (Added 28 of 2003 s. 76)

(7) In this section—

"***specified obligation***" (指明義務) means an obligation under the pre-amended Ordinance, this Ordinance or the Companies Ordinance (of 2011).

(Replaced 6 of 1984 s. 130)
[cf. 1948 c. 38 s. 222 U.K.]

Note:
*** Commencement date: 31 August 1984.**

+Commencement date: 13 February 2004.

Section:	178	Definition of inability to pay debts	L.N. 267 of 2003	13/02/2004

(1) A company shall be deemed to be unable to pay its debts-

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum then due equal to or exceeding the specified amount, has served on the company, by leaving it at the registered office of the company, a demand under his hand requiring the company to pay the sum so due, and the company has for 3 weeks thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or (Amended 81 of 1976 s. 2; 28 of 2003 s. 77)

(b) if execution or other process issued on a judgment, decree or order of any court in favour of a creditor of the company is returned unsatisfied in whole or in part; or

(c) if it is proved to the satisfaction of the court that the company is unable to pay its debts, and, in determining whether a company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the company.

(2) Subsection (1)(a) shall apply to 2 or more creditors to whom the company is indebted in respect of unpaid wages, wages in lieu of notice or severance payments, as the case may be, or all or any of them if the total of that indebtedness exceeds the sum referred to in that subsection, as if those creditors were a single creditor, and a demand under that subsection shall be valid if signed by any one ore more of those creditors. (Added 12 of 1985 s. 29(3). Amended 48 of 1987 s. 8; 38 of 1989 s. 7)

(3) For the purpose of subsection (1)(a), "specified amount" (指明款額) means the amount of $10000 or, where an amount is prescribed under subsection (4), the prescribed amount. (Added 28 of 2003 s. 77)

(4) The Financial Secretary may, by regulation, prescribe any amount for the purposes of subsection (3). (Added 28 of 2003 s. 77)

[cf. 1929 c. 23 s. 169 U.K.]

Section:	179	Provisions as to applications for winding up	L.N. 267 of 2003	13/02/2004

Petition for Winding Up and Effects thereof

(1) An application to the court for the winding up of a company shall be by petition, presented subject to the provisions of this section either by the company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories or the trustee in bankruptcy or the personal representative of a contributory, or by all or any of those parties, together or separately: (Amended 6 of 1984 s. 131)

Provided that-

(a) a contributory shall not be entitled to present a winding-up petition unless-

(i) the company has no members; or (Replaced 28 of 2003 s. 78)

(ii) the shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least 6 months during the 18 months before the commencement of the winding up, or have devolved on him through the death of a former holder; and

(b) (Repealed 6 of 1984 s. 131)

(c) the court shall not give a hearing to a winding-up petition presented by contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a prima facie case for winding up has been established to the satisfaction of the court; and

(d) in a case falling within ~~section 147(2)(a)~~ section 867(1) of the Companies Ordinance (of 2011), a winding-up petition may be presented by the Financial Secretary; and (Added 6 of 1984 s. 131)

(e) in a case referred to in section 177(1)(c) or (2), a winding-up petition may be presented by the Registrar. (Added 6 of 1984 s. 131)

(2) Where a company is being wound up voluntarily, a winding-up petition may be presented by the Official Receiver as well as by any other person authorized in that behalf under the other provisions of this section, but the court shall not make a winding-up order on the petition unless it is satisfied that the voluntary winding up cannot be continued with due regard to the interests of the creditors or contributories. (Amended 6 of 1984 s. 131)

(3) (Repealed 6 of 1984 s. 131)

[cf. 1929 c. 23 s. 170 U.K.]

Section:	179A	Appearance of Official Receiver		30/06/1997

On the hearing of a winding-up petition by the court, the Official Receiver may appear and call, examine and cross-examine any witness and, if he so thinks fit, support or oppose the making of a winding-up order.

(Added 69 of 1979 s. 4)

Section:	180	Powers of court on hearing petition		30/06/1997

(1) On hearing a winding-up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the court shall not refuse to make a winding-up order on the ground only that the assets of the company have been mortgaged to an amount equal to or in excess of those assets, or that the company has no assets.

(1A) Where the petition is presented by members of the company as contributories on the ground that it is just and equitable that the company should be wound up, the court shall not refuse to make a winding-up order on the ground only that some other remedy is available to the petitioners unless it is also of opinion that they are acting unreasonably in seeking to have the company wound up instead of pursuing that other remedy. (Added 51 of 1978 s. 7)

(2) (Repealed 6 of 1984 s. 132)

[cf. 1929 c. 23 s. 171 U.K.]

Section:	180A	Hearing of unopposed petition by Registrar of High Court	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) Subject to general rules limiting the power conferred by this section, the jurisdiction of the court under this Part may, in the case of an unopposed petition for winding-up by the court, be exercised by the Registrar of the High Court.

(2) Any hearing of a petition in pursuance of the jurisdiction conferred on the Registrar of the High Court by this section shall be in open court.

(Added 55 of 1988 s. 2. Amended 25 of 1998 s. 2)

Section:	181	Power to stay or restrain proceedings against company	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

At any time after the presentation of a winding-up petition and before a winding-up order has been made, the company or any creditor or contributory may-

(a) where any action or proceeding against the company is pending in the Court of First Instance or the Court of Appeal, apply to the court in which the action or proceeding is pending for a stay of proceedings therein;

(b) where any action or proceeding against the company is pending in any court or tribunal other than the Court of First Instance or the Court of Appeal, apply to the Court of First Instance to restrain further proceedings in the action or proceeding,

and the court to which application is so made may, as the case may be, stay or restrain the proceedings accordingly on such terms as it thinks fit.

(Replaced 6 of 1984 s. 133. Amended 25 of 1998 s. 2)

[cf. 1948 c. 38 s. 226 U.K.]

Section:	182	Avoidance of dispositions of property, &c. after commencement of winding up		30/06/1997

In a winding up by the court, any disposition of the property of the company, including things in action, and any

transfer of shares, or alteration in the status of the members of the company, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

[cf. 1929 c. 23 s. 173 U.K.]

Section:	183	Avoidance of attachments, &c.		30/06/1997

Where any company is being wound up by the court, any attachment, sequestration, distress, or execution put in force against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

[cf. 1929 c. 23 s. 174 U.K.]

Section:	184	Commencement of winding up by the court		30/06/1997

Commencement of Winding Up

(1) Where before the presentation of a petition for the winding up of a company by the court a resolution has been passed by the company for voluntary winding up, the winding up of the company shall be deemed to have commenced at the time of the passing of the resolution, and unless the court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

[cf. 1929 c. 23 s. 175 U.K.]

Section:	185	Copy of order to be delivered to Registrar		30/06/1997

Consequences of Winding-up Order

On the making of a winding-up order, a copy of the order shall forthwith be delivered by the company, or otherwise as may be prescribed, to the Registrar for registration.

(Replaced 6 of 1984 s. 133)
[cf. 1948 c. 38 s. 230 U.K.]

Section:	186	Actions stayed on winding-up order		30/06/1997

When a winding-up order has been made, or a provisional liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the company except by leave of the court, and subject to such terms as the court may impose.

[cf. 1929 c. 23 s. 177 U.K.]

Section:	187	Effect of winding-up order		30/06/1997

An order for winding up a company shall operate in favour of all the creditors and of all the contributories of the company as if made on the joint petition of a creditor and of a contributory.

[cf. 1929 c. 23 s. 178 U.K.]

Section:	188	(Repealed 30 of 1999 s. 15)	46 of 2000	01/07/2000

Official Receiver and Liquidators

(Amended 46 of 2000 s. 19)

Section:	189	(Repealed 6 of 1984 s. 136)		30/06/1997

Section:	190	Statement of company's affairs to be submitted to provisional liquidator or liquidator	46 of 2000	01/07/2000

(1) Where the court has made a winding-up order or appointed a provisional liquidator, there shall, unless the court thinks fit to order otherwise and so orders, be made out and submitted to the provisional liquidator or liquidator a statement as to the affairs of the company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts, and liabilities, the names, addresses, and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the provisional liquidator or liquidator may require. (Amended 6 of 1984 s. 137; 46 of 2000 s. 20)

(2) The statement shall be submitted and verified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the ~~secretary~~ company secretary of the company, or by such of the persons hereinafter in this subsection mentioned as the provisional liquidator or liquidator, subject to the direction of the court, may require to submit and verify the statement, that is to say, persons- (Amended 6 of 1984 s. 137; 46 of 2000 s. 20)

(a) who are or have been directors or officers of the company;

(b) who have taken part in the formation of the company at any time within 1 year before the relevant date;

(c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the provisional liquidator or liquidator capable of giving the information required; (Amended 46 of 2000 s. 20)

(d) who are or have been within the said year officers of or in the employment of a company, which is, or within the said year was, an officer of the company to which the statement relates.

(3) The statement shall be submitted within 28 days from the relevant date, or within such extended time as the provisional liquidator or liquidator or the court may for special reasons appoint. (Amended 46 of 2000 s. 20)

(4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the liquidator or provisional liquidator out of the assets of the company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the provisional liquidator or liquidator may consider reasonable, subject to an appeal to the court. (Amended 46 of 2000 s. 20)

(5) If any person, without reasonable excuse, makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 6 of 1984 s. 137; 7 of 1990 s. 2)

(5A) A statement required by this section may be used in evidence against any person making or concurring in making the statement. (Added 72 of 1994 s. 9)

(6) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled by himself or by his agent at all reasonable times, on payment of the prescribed fee, to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.

(7) Any person untruthfully so stating himself to be a creditor or contributory shall be guilty of a contempt of court and shall, on the application of the liquidator or of the Official Receiver, be punishable accordingly.

(8) In this section, the expression "the relevant date" (有關日期) means in a case where a provisional liquidator is appointed, the date of his appointment, and, in a case where no such appointment is made, the date of the winding-up order.

[cf. 1929 c. 23 s. 181 U.K.]

Section:	191	Report by Official Receiver or liquidator	46 of 2000	01/07/2000

(1) In a case where a winding-up order is made, the liquidator shall, as soon as practicable after receipt of the statement to be submitted under section 190, or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the court- (Amended L.N. 378 of 1989; 46 of 2000 s. 21)

(a) as to the amount of capital issued, subscribed, and paid up, and the estimated amount of assets and liabilities; and

(b) if the company has failed, as to the causes of the failure; and

(c) whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the company, or the conduct of the business thereof.

(2) The Official Receiver or liquidator may also, if he thinks fit, make a further report, or further reports,

stating the manner in which the company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any officer of the company in relation to the company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.

(3) If the Official Receiver or liquidator states in any such further report as aforesaid that in his opinion a fraud has been committed as aforesaid, the court shall have the further powers provided in section 222.

(Amended 6 of 1984 s. 138; 46 of 2000 s. 21)

[cf. 1929 c. 23 s. 182 U.K.]

Section:	192	Power of court to appoint liquidators	46 of 2000	01/07/2000

(Subheading repealed 46 of 2000 s. 22)

For the purpose of conducting the proceedings in winding up a company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators, provisionally or otherwise, in accordance with sections 193 and 194.

(Amended 6 of 1984 s. 139; 46 of 2000 s. 23)

[cf. 1929 c. 23 s. 183 U.K.]

Section:	193	Appointment and powers of provisional liquidator		30/06/1997

(1) Subject to the provisions of this section, the court may appoint a liquidator provisionally at any time after the presentation of a winding-up petition.

(2) The appointment of a provisional liquidator may be made at any time before the making of a winding-up order, and either the Official Receiver or any other fit person may be appointed.

(3) Where a liquidator is provisionally appointed by the court, the court may limit and restrict his powers by the order appointing him.

[cf. 1929 c. 23 s. 184 U.K.]

Section:	194	Appointment, style, etc. of liquidators	46 of 2000	01/07/2000

(1) The following provisions with respect to liquidators shall have effect on a winding-up order being made- (Amended 3 of 1997 s. 41)

(a) subject to paragraph (aa) and subsection (1A), the Official Receiver shall by virtue of his office become the provisional liquidator and shall continue to act as such until he or another person becomes liquidator and is capable of acting as such; (Amended 3 of 1997 s. 41; 46 of 2000 s. 24)

(aa) where under section 193 a person other than the Official Receiver is appointed as provisional liquidator, he shall continue to act as the provisional liquidator until he or another person becomes the liquidator and is capable of acting as such; (Added 3 of 1997 s. 41)

(b) the provisional liquidator shall summon separate meetings of the creditors and contributories of the company for the purpose of determining whether or not an application is to be made to the court for appointing a liquidator; (Amended 3 of 1997 s. 41; 46 of 2000 s. 24)

(c) the court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matter aforesaid, the court shall decide the difference and make such order thereon as the court may think fit;

(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; (Replaced 46 of 2000 s. 24)

(e) the Official Receiver shall by virtue of his office be the liquidator during any vacancy;

(f) a liquidator shall be described, where a person other than the Official Receiver is liquidator, by the style of the liquidator, and, where the Official Receiver is liquidator, by the style of the Official Receiver and liquidator, of the particular company in respect of which he is appointed, and not by his individual name.

(1A) Where the Official Receiver-

(a) is the provisional liquidator of the company by virtue of subsection (1)(a); and

(b) is of the opinion that the property of the company is not likely to exceed in value $200000,

he may, at any time, appoint 1 or more persons as provisional liquidator in his place. (Added 46 of 2000 s. 24)

(2) Where the Official Receiver is the liquidator of the company, he may, at any time, apply to the court for the appointment of a person as a liquidator in his place. (Added 3 of 1997 s. 41)

(3) On an application under subsection (2) the court shall either make an appointment or decline to make one. (Added 3 of 1997 s. 41)

(4) Where a liquidator is appointed by the court under subsection (3), the liquidator shall give notice of his appointment to the company's creditors and contributories in accordance with the directions of the court. (Added 3 of 1997 s. 41)

(5) In a notice under subsection (4), the liquidator shall state his intention to summon meetings of the company's creditors and contributories, in accordance with section 206, for the purpose of determining-

(a) whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator; and

(b) who are to be the members of the committee, if appointed. (Added 3 of 1997 s. 41)

[cf. 1929 c. 23 s. 185 U.K.]

Section:	195	Provisions where person other than Official Receiver is appointed liquidator	L.N. 267 of 2003	13/02/2004

Where in the winding up of a company by the court a person other than the Official Receiver is appointed provisional liquidator or liquidator under section 194, that person- (Amended 46 of 2000 s. 25)

(a) shall forthwith give notice of his appointment to the Registrar in the specified form and give security in the prescribed manner to the satisfaction of the Official Receiver; (Replaced 46 of 2000 s. 25. Amended 28 of 2003 s. 79)

(b) shall give the Official Receiver such information and such access to and facilities for inspecting the books and documents of the company, and generally such aid as may be requisite for enabling that officer to perform his duties under this Ordinance.

[cf. 1929 c. 23 s. 186 U.K.]

Section:	196	General provisions as to liquidators	46 of 2000	01/07/2000

(1) A provisional liquidator or liquidator appointed under section 193 or 194 may resign or, on cause shown, be removed by the court. (Replaced 46 of 2000 s. 26)

(1A) A provisional liquidator appointed under section 194(1A) shall be remunerated-

(a) in accordance with a scale of fees approved from time to time by the Official Receiver; or

(b) on such other basis as the Official Receiver approves in writing. (Added 46 of 2000 s. 26)

(2) Subject to subsection (1A), where a person other than the Official Receiver is appointed liquidator, he shall receive such remuneration by way of percentage or otherwise as is determined- (Amended 46 of 2000 s. 26)

(a) where there is a committee of inspection, by agreement between the liquidator and the committee of inspection; or

(b) where there is no committee of inspection or the liquidator and the committee of inspection fail to agree, by the court,

and if two or more persons are appointed liquidators, their remuneration shall be distributed among them in such proportions as may be determined by the committee of inspection or the court, as the case may be. (Replaced 25 of 1985 s. 3)

(2A) If the Official Receiver is of the opinion that the remuneration of a liquidator as determined under subsection (2)(a) should be reviewed the Official Receiver may apply to the court, and the court may make an order confirming, increasing or reducing the remuneration of the liquidator. (Added 25 of 1985 s. 3)

(3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court.

(4) If more than one liquidator is appointed by the court, the court shall declare whether any act by ~~this Ordinance~~ this Ordinance or the Companies Ordinance (of 2011) required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.

(5) Subject to the provisions of section 278, the acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

[cf. 1929 c. 23 s. 188 U.K.]

Section:	197	Custody of company's property		30/06/1997

Where a winding-up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the company is or appears to be entitled.

[cf. 1929 c. 23 s. 189 U.K.]

Section:	198	Vesting of property of company in liquidator		30/06/1997

Where a company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the company and recovering its property.

[cf. 1929 c. 23 s. 190 U.K.]

Section:	199	Powers of liquidator	L.N. 267 of 2003	13/02/2004

(1) Subject to section 193(3), the liquidator in a winding up by the court shall have power with the sanction either of the court or of the committee of inspection- (Amended 46 of 2000 s. 27)

(a) to bring or defend any action or other legal proceeding in the name and on behalf of the company;

(b) to carry on the business of the company, so far as may be necessary for the beneficial winding up thereof;

(c) to appoint a solicitor to assist him in the performance of his duties;

(d) to pay any classes of creditors in full;

(e) to make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable;

(f) to compromise all calls and liabilities to calls, debts, and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets or the winding up of the company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

(2) Subject to section 193(3), the liquidator in a winding up by the court shall have power- (Amended 46 of 2000 s. 27)

(a) to sell the real and personal property and things in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(b) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts, and other documents, and for that purpose to use, when necessary, the company's seal;

(c) to prove, rank, and claim in the bankruptcy, insolvency, or sequestration of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy, insolvency, or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and rateably with the other separate creditors;

(d) to draw, accept, make, and endorse any bill of exchange or promissory note in the name and on behalf of the company, with the same effect with respect to the liability of the company as if the bill or note had been drawn, accepted, made, or endorsed by or on behalf of the company in the course of its business;

(e) to raise on the security of the assets of the company any money requisite;

(f) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or

recover the money, be deemed to be due to the liquidator himself;

(g) to appoint an agent to do any business which the liquidator is unable to do himself;

(h) to do all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

(3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

(4) A provisional liquidator appointed under section 194(1A) shall have power-

(a) to take into his custody or under his control all the property to which the company concerned is or appears to be entitled;

(b) subject to subsection (6), to sell or dispose of perishable goods or other assets (but not including derivatives, warrants, options, shares or choses in action) the estimated value of which is less than $100000 and is likely to significantly diminish if they are not immediately sold or disposed of. (Added 46 of 2000 s. 27)

(5) A provisional liquidator appointed under section 194(1A) may, with the sanction of the court or the Official Receiver, exercise any power under subsection (1) or (2). (Added 46 of 2000 s. 27)

(6) No sale or disposal under subsection (4)(b) may be made to a person who is-

(a) a director or shadow director of the company concerned; or (Amended 28 of 2003 s. 80)

(b) an associate, within the meaning of section 51B of the Bankruptcy Ordinance (Cap 6), of the company or of any such director or shadow director,

unless the sale or disposal has the sanction of the court or of the Official Receiver. (Added 46 of 2000 s. 27)

(7) The Official Receiver shall not be personally liable for costs for any refusal to grant sanction under subsection (5) or (6). (Added 46 of 2000 s. 27)

[cf. 1929 c. 23 s. 191 U.K.]

Section:	200	Exercise and control of liquidator's powers		30/06/1997

(1) Subject to the provisions of this Ordinance, the liquidator of a company which is being wound up by the court shall, in the administration of the assets of the company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing the liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Ordinance, the liquidator shall use his own discretion in the administration of the assets and the distribution thereof among the creditors. (Amended 6 of 1984 s. 141)

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse, or modify the act or decision complained of, and make such order in the premises as it thinks just.

[cf. 1929 c. 23 s. 192 U.K.]

Section:	201	Books to be kept by liquidator		30/06/1997

Every liquidator of a company which is being wound up by the court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

[cf. 1929 c. 23 s. 193 U.K.]

Section:	202	Payments of liquidator into bank or Treasury	L.N. 239 of 1999	11/11/1999

(1) Every liquidator other than the Official Receiver of a company which is being wound up by the court shall, in such manner and at such times as the Official Receiver directs, pay the money received by him to the Companies Liquidation Account at the bank where such account is kept, and when the Official Receiver is the liquidator of such company he shall pay all moneys received by him in such capacity into the Companies Liquidation Account:

Provided that the Official Receiver may, on the application of the liquidator, authorize the liquidator to make his payments into and out of any other bank specified by the liquidator in such application, and thereupon those payments shall be made in the prescribed manner. (Amended 6 of 1984 s. 142; 30 of 1999 s. 16)

(2) Subject to the proviso to subsection (1), where any such liquidator (other than the Official Receiver) receives any money in such capacity, he shall-

(a) in the case of a sum not exceeding $50000, pay the money without any deductions therefrom to the Companies Liquidation Account not later than 14 days after its receipt;

(b) in the case of any other sum, forthwith pay the money without any deductions therefrom to the Companies Liquidation Account. (Replaced 30 of 1999 s. 16)

(2A) Where a liquidator retains any sum (including part of any sum) in contravention of subsection (2)(a) or (b), then, unless he explains the retention to the satisfaction of the court, he shall pay interest on the amount so retained at the rate of 20 per cent per annum, and shall be liable to disallowance of all or such part of his remuneration as the court may think just, and to be removed from his office by the court, and shall be liable to pay any expenses occasioned by reason of his default. (Added 30 of 1999 s. 16)

(3) A liquidator of a company which is being wound up by the court shall not pay any sums received by him as liquidator into his private banking account.

[cf. 1929 c. 23 s. 194 U.K.]

Section:	203	Audit of liquidator's accounts		30/06/1997

(1) Every liquidator (other than the Official Receiver) of a company which is being wound up by the court shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the Official Receiver, an account of his receipts and payments as liquidator. (Amended 38 of 1987 s. 2)

(2) The account shall be in a prescribed form and shall be made in duplicate. (Amended 30 of 1994 s. 6)

(3) The liquidator shall furnish the Official Receiver with such vouchers and information relating to the account as he requires, and the Official Receiver may at any time require the production of, and inspect, any books or accounts kept by the liquidator. (Replaced 38 of 1987 s. 2)

(3A) The Official Receiver may at any time cause the account to be audited. (Added 38 of 1987 s. 2)

(4) When the account has been audited (or, as the case may be, forthwith if the Official Receiver decides that the account need not be audited), one copy thereof shall be filed and kept by the Official Receiver, and the other copy shall be delivered to the court for filing, and each copy shall be open, upon payment of the prescribed fee, to the inspection of any creditor or any person having an interest. (Amended 6 of 1984 s. 143; 38 of 1987 s. 2)

(5) The liquidator shall, when the account has been audited or, when he has been notified that the Official Receiver has decided that the account need not be audited, cause the account or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory: (Amended 38 of 1987 s. 2)

Provided that the Official Receiver may in any case dispense with compliance with this subsection. (Replaced 6 of 1984 s. 143)

(6) Notwithstanding the fact that a liquidator has been notified that the Official Receiver has decided that the account need not be audited, the Official Receiver may subsequently cause the account to be audited, and in that event-

(a) a copy of the audited account shall be filed and kept by the Official Receiver, and a further copy shall be delivered to the court for filing, and each copy shall be open, upon payment of the prescribed fee, to the inspection of any creditor or any person having an interest; and

(b) the liquidator shall cause the audited account or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory:

Provided that the Official Receiver may in any case dispense with compliance with this paragraph. (Added 38 of 1987 s. 2)

[cf. 1929 c. 23 s. 195 U.K.]

Section:	204	Control of Official Receiver over liquidators		30/06/1997

(1) The Official Receiver shall take cognizance of the conduct of liquidators of companies which are being wound up by the court, and, if a liquidator does not faithfully perform his duties and duly observe all the requirements imposed on him by statute, rules, or otherwise with respect to the performance of his duties, or if any complaint is made to the Official Receiver by any creditor or contributory in regard thereto, the Official Receiver shall inquire into the matter, and take such action thereon as he may think expedient.

(2) The Official Receiver may at any time require any liquidator of a company which is being wound up by the court to answer any inquiry in relation to any winding up in which he is engaged, and may, if he thinks fit, apply to the court to examine him or any other person on oath concerning the winding up.

(3) The Official Receiver may also direct an investigation to be made of the books and vouchers of the liquidator. (Amended 6 of 1984 s. 144)

[cf. 1929 c. 23 s. 196 U.K.]

Section:	205	Release of liquidators		30/06/1997

(1) When the liquidator of a company which is being wound up by the court has realized all the property of the company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report, and any objection which may be urged by any creditor or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.

(2) Where the release of a liquidator is withheld, the court may, on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.

(3) An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.

(4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

[cf. 1929 c. 23 s. 197 U.K.]

Section:	206	Meetings of creditors and contributories to determine whether committee of inspection shall be appointed		30/06/1997

Committees of Inspection

(1) When a winding-up order has been made by the court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the court for appointing a liquidator in place of the provisional liquidator, to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed. (Amended 3 of 1997 s. 42)

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories in respect of the matters aforesaid the court shall decide the difference and make such order thereon as the court may think fit.

[cf. 1929 c. 23 s. 198 U.K.]

Section:	207	Constitution and proceedings of committee of inspection		30/06/1997

(1) A committee of inspection appointed in pursuance of this Ordinance shall consist of creditors and contributories of the company or persons holding general powers of attorney from creditors or contributories in such

proportions as may be agreed on by the meetings of creditors and contributories, or as, in case of difference, may be determined by the court.

(2) The committee shall meet at such times as they from time to time appoint, and, failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of their members present at a meeting, but shall not act unless a majority of the committee are present.

(4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from 5 consecutive meetings of the committee without the leave of those members who together with himself represent the creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which 7 days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall forthwith summon a meeting of creditors or of contributories, as the case may require, to fill the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy: (Amended 6 of 1984 s. 145)

Provided that if the liquidator, having regard to the position in the winding up, is of the opinion that it is unnecessary for the vacancy to be filled he may apply to the court and the court may make an order that the vacancy shall not be filled, or shall not be filled except in such circumstances as may be specified in the order. (Added 6 of 1984 s. 145)

(8) The continuing members of the committee, if not less than 2, may act notwithstanding any vacancy in the committee.

[cf. 1929 c. 23 s. 199 U.K.]

Section:	208	Powers of court where no committee of inspection		30/06/1997

Where in the case of a winding up there is no committee of inspection, the court may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Ordinance authorized or required to be done or given by the committee.

[cf. 1929 c. 23 s. 200 U.K.]

Section:	209	Power to stay winding up		30/06/1997

General Power of Court in case of Winding Up by Court

(1) The court may at any time after an order for winding up, on the application either of the liquidator, or the Official Receiver, or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

(2) On any application under this section the court may, before making an order, require the Official Receiver to furnish to the court a report with respect to any facts or matters which are in his opinion relevant to the application.

(3) A copy of every order made under this section shall forthwith be delivered by the company, or otherwise as may be prescribed, to the Registrar. (Added 6 of 1984 s. 146)

[cf. 1929 c. 23 s. 202 U.K.]

Section:	209A	Power of court to order winding up to be conducted as creditors' voluntary winding up	46 of 2000	01/07/2000

(1) The court may on the application of the liquidator or any creditor made-

(a) in the case of a company in respect of which an order has been made under section 227F, not later than 3 months from the date of such order; and

(b) in any other case, not later than 3 months from the date of a resolution to make such an application passed at any of the meetings (including an adjourned meeting) of creditors and of contributories held pursuant to section 194 or such further time as the court may permit,

order that the winding up of a company ordered to be wound up by the court shall, from the date of the order made on such application, be conducted as if the winding up were a creditors' voluntary winding up.

(2) Where an application is made under subsection (1), the court shall have regard to-

(a) the wishes of the creditors and contributories of the company, as proved to it by sufficient evidence;

(b) the progress of the winding up (including in particular assets realized, proofs of debts submitted by creditors and whether a statement of affairs has been submitted under section 190);

(c) whether any report has been made to the court under-

(i) section 191(1); or

(ii) section 191(2) that in the liquidator's opinion a fraud has been committed;

(d) whether any director, former director or other officer of the company has been convicted under the pre-amended Ordinance, this Ordinance or any other law for any offence involving fraud, dishonesty, fraudulent trading, misfeasance or breach of duty in relation to the affairs of the company;

(e) whether any criminal proceedings in respect of any offence referred to in paragraph (d) are contemplated or have been instituted against any person referred to in that paragraph;

(f) whether the company forms part of a group of companies the affairs of which are proposed to be investigated or are being investigated~~; under this Ordinance or any other law~~ under—

(i) a provision of the pre-amended Ordinance having a continuing effect under Schedule 10 to the Companies Ordinance (of 2011) or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1);

(ii) this Ordinance; or

(iii) any other law;

(g) whether there has been a failure on the part of the directors to provide a statement of affairs which the court considers satisfactory or to co-operate with the Official Receiver or liquidator or to comply with any requirement under this Ordinance in relation to the winding up of the company;

(h) whether any director or former director of any other company which has gone into liquidation within 5 years of the date when the company went into liquidation, has been directly or indirectly concerned in the management of the company;

(i) the fact that the insolvency of the company is a matter of public concern; and

(j) any other matter which the court considers appropriate in the particular circumstances.

(3) Where an application has been made under subsection (1) in relation to a company in respect of which an order had been made under section 227F then, without affecting the generality of subsection (2)(a) and subject to subsection (4), the court shall before hearing the application direct that meetings of the creditors and contributories be called, held and conducted in such manner as the court may direct for the purpose of ascertaining the wishes of the creditors and contributories and may appoint a person to act as the chairman of any such meeting and to report the result of the meeting to the court.

(4) Where the court is of the opinion that it is impractical to hold meetings of the creditors or of the contributories, the court may order that such other course of action as directed by the court be taken to ascertain the wishes of the creditors and contributories.

(5) In an order made under this section, notwithstanding any other provision of this Ordinance, the court may, after taking into consideration the wishes of the creditors and contributories, direct either that the liquidator of the winding up by the court appointed under section 192 continue to act as the liquidator or appoint any other person to act as the liquidator.

(6) Where an application is made under subsection (1)-

(a) the liquidator shall; and

(b) the Official Receiver may,

submit to the court a report with regard to the application. (Replaced 46 of 2000 s. 28)

(7) On the hearing of any application made under subsection (1), the Official Receiver may appear and call, examine or cross-examine any witness if he so thinks fit and may support or oppose the application.

(Added 59 of 1990 s. 2)

Section:	209B	Consequences of an order under section 209A		30/06/1997

Where an order is made under section 209A that the winding up of a company shall be conducted as if it were a creditors' voluntary winding up-

(a) the date of-

(i) the commencement of the winding up shall be the date deemed under section 184 to be the date of the commencement of the winding up by the court;

(ii) the appointment of the liquidator shall be the date of the appointment (or first appointment) of a provisional liquidator in the winding up by the court; and

(iii) the order for winding up shall be the date on which the order for winding up by the court is made,

for any purpose for which the date of the commencement of the winding up, the date of the appointment of a liquidator or the date of the winding-up order respectively is relevant under this Ordinance;

(b) sections 182, 183 and 186 shall continue to apply;

(c) the rights of a creditor or a contributory under section 257 shall not be affected;

(d) the fees of the liquidator and any charges or expenses due and payable under section 296 or under any other provision in this Ordinance up to the date of the order made under section 209A shall be paid forthwith out of the assets of the company in priority to all the other claims;

(e) the statement of the affairs of the company required to be submitted under section 190 and the accounts of the liquidator up to the date of the order made under section 209A may be inspected by the creditors;

(f) any creditor is entitled to have a copy of any document referred to in paragraph (e) on payment of reasonable photocopy charges (if any);

(g) the court shall make such other orders as it considers appropriate to safeguard the books, records and documents of the company in the custody of the liquidator or the Official Receiver, and notwithstanding section 283 or any other provision of ~~this Ordinance~~ this Ordinance or the Companies Ordinance (of 2011) they shall not be disposed of otherwise than as specified in such order.

(Added 59 of 1990 s. 2)

Section:	209C	Transitional		30/06/1997

(1) Any application for an order that the winding up of a company ordered to be wound up by the court be conducted as if it were a creditors' voluntary winding up made before the commencement of the Companies (Amendment) (No. 4) Ordinance 1990 (59 of 1990) (in this section referred to as "the amending Ordinance") shall be considered or continued with as if the amending Ordinance had not been enacted.

(2) The liquidator or any creditor of any company in respect of which an order for winding up by the court was made after 30 August 1984 and before the commencement of the amending Ordinance may, before the expiration of 3 months from that commencement, apply to the court for an order that such winding up be conducted as if it were a creditors' voluntary winding up and the provisions of section 209A in force immediately before the commencement of the amending Ordinance shall apply to that application as if the amending Ordinance had not been enacted.

(Added 59 of 1990 s. 2)

Section:	210	Settlement of list of contributories and application of assets		30/06/1997

(1) As soon as may be after making a winding-up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Ordinance, and shall cause the assets of the company to be collected, and applied in discharge of its liabilities:

Provided that, where it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

[cf. 1929 c. 23 s. 203 U.K.]

Section:	211	Delivery of property to liquidator		30/06/1997

The court may, at any time after making a winding-up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of the company to pay, deliver, convey, surrender, or transfer forthwith, or within such time as the court directs, to the liquidator any money, property, or books and papers in his hands to which the company is prima facie entitled.

[cf. 1929 c. 23 s. 204 U.K.]

Section:	212	Payment of debts due by contributory to company and extent to which set-off allowed		30/06/1997

(1) The court may, at any time after making a winding-up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Ordinance.

(2) The court in making such an order may-

(a) in the case of an unlimited company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the company on any independent dealing or contract with the company, but not any money due to him as a member of the company in respect of any dividend or profit; and

(b) in the case of a limited company, make to any director or manager whose liability is unlimited or to his estate the like allowance.

(3) In the case of any company, whether limited or unlimited, when all the creditors are paid in full, any money due on any account whatever to a contributory from the company may be allowed to him by way of set-off against any subsequent call.

[cf. 1929 c. 23 s. 205 U.K.]

Section:	213	Power of court to make calls		30/06/1997

(1) The court may, at any time after making a winding-up order, and either before or after it has ascertained the sufficiency of the assets of the company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the company, and the costs, charges, and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, and make an order for payment of any calls so made.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

[cf. 1929 c. 23 s. 206 U.K.]

Section:	214	Payment into bank of moneys due to company		30/06/1997

(1) The court may order any contributory, purchaser or other person from whom money is due to the company to pay the amount due into such bank as the court may direct to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into any bank pursuant to this Part in the event of a winding up by the court shall be subject in all respects to the orders of the court. (Amended 6 of 1984 s. 148)

[cf. 1929 c. 23 s. 207 U.K.]

Section:	215	Order on contributory conclusive evidence		30/06/1997

(1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.

(2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings.

[cf. 1929 c. 23 s. 208 U.K.]

Section:	216	Appointment of special manager	46 of 2000	01/07/2000

(1) Where the Official Receiver becomes the liquidator of a company, whether provisionally or otherwise, he may, if satisfied that the nature of the estate or business of the company, or the interests of the creditors or contributories generally, or there are other grounds therefor, require the appointment of a special manager of the estate or business of the company other than himself, apply to the court, and the court may on such application, appoint a

special manager of the said estate or business to act during such time as the court may direct, with such powers, including any of the powers of a receiver or manager, as may be entrusted to him by the court. (Amended 6 of 1984 s. 149; 46 of 2000 s. 29)

(2) The special manager shall give such security and account in such manner as the court may direct.

(3) The special manager shall receive such remuneration as may be fixed by the court.

[cf. 1929 c. 23 s. 209 U.K.]

Section:	217	Exclusion of creditors not proving in time		30/06/1997

(1) The court may fix a date on or before which creditors are to prove their debts or claims.

(2) Any creditor who has not proved his debt or claim on or before the date fixed under subsection (1) shall be excluded from the benefit of the distribution made next after that date and from the benefit of any previous distribution.

(Replaced 6 of 1984 s. 150)

[cf. 1948 c. 38 s. 264 U.K.]

Section:	218	Adjustment of rights of contributories		30/06/1997

The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

[cf. 1929 c. 23 s. 211 U.K.]

Section:	219	Inspection of books by creditors and contributories		30/06/1997

(1) The court may, at any time after making a winding-up order, make such order for inspection of the books and papers of the company by creditors and contributories as the court thinks just.~~, and any books and papers in the possession of the company may be inspected by creditors or contributories accordingly, but not further or otherwise.~~ (Amended 6 of 1984 s. 151)

(1A) Where an order for inspection is made under subsection (1), creditors or contributories may, in accordance with the order but not further or otherwise—

(a) inspect any books or papers in the possession of the company; or

(b) if the books or papers are kept by the company by recording the contents of the books or papers otherwise than in a legible form, inspect a reproduction of the recording or the relevant part of it in a legible form.

(2) Nothing in this section shall be taken as excluding or restricting any rights or powers conferred on a public officer by any enactment. (Added 6 of 1984 s. 151)

[cf. 1929 c. 23 s. 212 U.K.]

Section:	220	Power to order costs of winding up to be paid out of assets		30/06/1997

The court may, in the event of the assets being insufficient to meet the costs, charges and expenses incurred in the winding up, make an order as to the payment thereof out of the assets in such order of priority as the court thinks just.

(Replaced 6 of 1984 s. 152)

[cf. 1948 c. 38 s. 267 U.K.]

Section:	221	Power to summon persons suspected of having property of company		30/06/1997

(1) The court may, at any time after the appointment of a provisional liquidator or the making of a winding-up order, summon before it any officer of the company or person known or suspected to have in his possession any property of the company or supposed to be indebted to the company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs, or property of the company.

(2) The court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien. (Amended L.N. 235 of 1996)

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting, and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

[cf. 1929 c. 23 s. 214 U.K.]

Section:	222	Power to order public examination of promoters, directors, etc.	46 of 2000	01/07/2000

(1) Where an order has been made for winding up a company by the court, and the Official Receiver or liquidator has made a further report under this Ordinance stating that in his opinion- (Amended 46 of 2000 s. 30)

(a) a fraud has been committed by any person in the promotion or formation of the company or by any officer of the company in relation to the company since its formation; or

(b) (Repealed 46 of 2000 s. 30)

the court may, after consideration of the report, direct that that person or officer shall attend before the court on a day appointed by the court for that purpose and be publicly examined as to the promotion or formation or the conduct of the business of the company or as to his conduct and dealings as officer thereof. (Replaced 6 of 1984 s. 153)

(2) The Official Receiver or liquidator, as the case may be, shall take part in the examination, and for that purpose may, if specially authorized by the court in that behalf, employ a solicitor with or without counsel.

(3) The Official Receiver or the liquidator, where he is not the party making the further report, and any creditor or contributory, may also take part in the examination either personally or by solicitor or counsel.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall, before his examination, be furnished with a copy of the further report, and may at his own cost employ a solicitor with or without counsel, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him: (Amended 6 of 1984 s. 153)

Provided that, if any such person applies to the court to be exculpated from any charges made or suggested against him, it shall be the duty of the Official Receiver or liquidator, as the case may be, to appear on the hearing of the application and call the attention of the court to any matters which appear to the him to be relevant, and if the court, after hearing any evidence given or witnesses called by the Official Receiver or liquidator, as the case may be, grants the application, the court may allow the applicant such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing, and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

(Amended 46 of 2000 s. 30)

[cf. 1929 c. 23 s. 216 U.K.]

Section:	222A	Jurisdiction of Registrar	10 of 2005	08/07/2005

(1) Unless otherwise ordered by the court in a particular case, the Registrar may exercise and perform the powers and duties conferred or imposed upon the court by sections 221 and 222.

(2) The Registrar may, if he exercises the jurisdiction conferred on him by this section-

(a) refer any examination for hearing by a judge;

(b) at any time adjourn an examination for further hearing before a judge.

(3) A judge may, if an examination is referred to him under subsection (2)(a), hear it himself, or refer it back to the Registrar for hearing by him.

(4) A judge may, if an examination is adjourned under subsection (2)(b) for further hearing before a judge-

(a) continue the examination;

(b) at any time direct that the examination be continued before the Registrar; and

(c) make such other order or give such directions as he may consider proper. (Amended 80 of 1997 s. 102)

(5) Any reference in this Ordinance to the court shall include a reference to the Registrar exercising the jurisdiction conferred on him by this section.

(6) Notwithstanding subsection (5), the Registrar, when exercising the jurisdiction conferred by this section, shall not have power to make an order for the committal of a person for contempt of court.

(7) In this section-

"Registrar" (司法常務官) means-

(a) the registrar of the High Court;

(aa) any Senior Deputy Registrar of the High Court; (Added 10 of 2005 s. 172)

(b) any Deputy Registrar of the High Court; and

(c) any Assistant Registrar of the High Court appointed by the Chief Justice for the purposes of this section. (Amended 25 of 1998 s. 2)

(Added 49 of 1970 s. 2)

Section:	223	(Repealed 6 of 1984 s. 154)		30/06/1997

Section:	224	Power to arrest absconding contributory or officer		30/06/1997

The court, at any time either before or after making a winding-up order, on proof of probable cause for believing that a contributory or any past or present officer of the company has absconded or is about to quit Hong Kong or otherwise to abscond or to remove or conceal any of his property for the purpose of evading payment of calls or debts due to the company or of avoiding examination respecting the affairs of the company, may order that the contributory or officer be arrested and his books and papers and movable personal property seized and him and them safely kept until such time as the court may order.

(Replaced 6 of 1984 s. 155)

[cf. 1948 c. 38 s. 271 U.K.]

Section:	225	Powers of court cumulative		30/06/1997

Any powers by this Ordinance conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or officer or debtor of the company, or the estate of any contributory or officer or debtor, for the recovery of any call or other sums.

(Amended 6 of 1984 s. 156)

[cf. 1929 c. 23 s. 219 U.K.]

Section:	226	Delegation to liquidator of certain powers of court		30/06/1997

Provision may be made by general rules for enabling or requiring all or any of the powers and duties conferred and imposed on the court by this Ordinance in respect of the following matters-

(a) the holding and conducting of meetings to ascertain the wishes of creditors and contributories;

(b) the settling of lists of contributories and the rectifying of the register of members where required, and the collecting and applying of the assets;

(c) the paying, delivery, conveyance, surrender or transfer of money, property, books or papers to the liquidator;

(d) the making of calls;

(e) the fixing of a date on or before which creditors are to prove their debts or claims, (Replaced 6 of 1984 s. 157)

to be exercised or performed by the liquidator as an officer of the court, and subject to the control of the court:

Provided that the liquidator shall not, without the special leave of the court, rectify the register of members, and shall not make any call without either the special leave of the court or the sanction of the committee of inspection.

[cf. 1929 c. 23 s. 220 U.K.]

Section:	226A	Dissolution of company otherwise than by order of court	L.N. 267 of 2003	13/02/2004

(1) In the case of a company in respect of which the following conditions are satisfied-

(a) the affairs of the company have been completely wound up; and

(b) the liquidator has been granted his release by order of the court under section 205,

the Official Receiver or the liquidator may deliver to the Registrar a certificate in the specified form, signed by the Official Receiver or the liquidator, as the case may be, stating that the company is a company in respect of which those conditions are satisfied.

(2) The Registrar shall forthwith register any certificate delivered under subsection (1), and on the expiration of 2 years from the registration thereof the company shall be dissolved:

Provided that the court may, on the application of the Official Receiver or the liquidator, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court may think fit.

(3) The Official Receiver or the liquidator who has obtained an order under subsection (2) shall, within 7 days after the making of the order, deliver an office copy of the order to the Registrar for registration. (Replaced 28 of 2003 s. 81)

(Added 6 of 1984 s. 158. Amended 28 of 2003 s. 81)

Section:	227	Dissolution of company by order of court		30/06/1997

(1) When the affairs of a company have been completely wound up, the court, if the liquidator makes an application in that behalf, shall make an order that the company be dissolved from the date of the order, and the company shall be dissolved accordingly.

(2) A copy of the order shall within 14 days from the date thereof be delivered by the liquidator to the Registrar for registration.

(3) If the liquidator makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(Replaced 6 of 1984 s. 158)
[cf. 1948 c. 38 s. 274 U.K.]

Section:	227A	Court may make a regulating order		30/06/1997

Expanded Cross Reference:
227B, 227C, 227D, 227E

(iiA) WINDING UP BY COURT WITH A REGULATING ORDER

(1) Where it appears to the court on application being made by the Official Receiver, liquidator or by any creditor at any time after the presentation of a winding up petition that by reason of the large number of creditors or contributories or for any other reason the interest of the creditors so requires, it may, on or after the making of a winding-up order, order that the winding up of the company by the court shall be regulated specially by the court, and such order shall be known as a regulating order. (Amended 6 of 1984 s. 159)

(2) Where a regulating order is made it shall be published in such manner as the court may direct, and sections 227B to 227E inclusive shall apply to the winding up. <* Note - Exp. X-Ref.: Sections 227B, 227C, 227D, 227E *>

(3) Where a regulating order is made the Companies (Winding-up) Rules (Cap 32 sub. leg.H) shall apply mutatis mutandis to the Official Receiver, liquidator and committee of inspection appointed or acting after the making of a regulating order, and to the conduct of any ballot or other proceedings ordered by the court under section 227C or 227D.

(4) Where any order made under section 227B, 227C or 227D prescribes any procedure it shall be deemed to be in substitution for the procedure which would be required by this Ordinance but for the making of such order, and in particular where any such order prescribes a procedure for doing something which would otherwise be done at a meeting of creditors or contributories no such meeting shall be required to be held.

(Added 22 of 1965 s. 2)

Section:	227B	Appointment of liquidator and committee of inspection		30/06/1997

(1) The court may on the application of the Official Receiver by order-

(a) dispense with the summoning of first meetings of creditors and contributories as required under

sections 194 and 206 for the purpose of considering the appointment of a liquidator and a committee of inspection;

(b) appoint the Official Receiver or such other person or persons recommended by him as liquidator or liquidators; and

(c) appoint such qualified persons as it thinks fit as a committee of inspection, and may remove any member thereof and fill any vacancy therein.

(2) Where under subsection (1) the court makes any appointment of a liquidator or a committee of inspection, or where it removes any member of such committee of inspection or fills any vacancy therein, it shall not be necessary to ascertain the wishes of the creditors or contributories, and the provisions of section 194(b) or 206(1) and (2) or 207(6) and (7), as the case may be, shall cease to apply and any action taken under such provisions in respect of any appointment of a liquidator or committee of inspection or any removal therefrom or any filling of any vacancy therein shall cease to have effect.

(Added 22 of 1965 s. 2)

Section:	227C	Informing creditors and contributories and ascertaining their wishes and directions		30/06/1997

The court may vary the procedure for ascertaining the wishes and directions of creditors and contributories, and for keeping such creditors and contributories informed as to any matter relating to the winding up, and for such purposes the court may-

(a) order that the Official Receiver or liquidator inform the creditors and contributories of such matters in such manner as it may direct;

(b) for the purposes of sections 200 and 287 order that the wishes of creditors and contributories be ascertained by the Official Receiver or liquidator in such manner as it may direct;

(c) for the purposes of section 200 order that the wishes of the creditors and contributories ascertained pursuant to paragraph (b) be reported by the Official Receiver or liquidator to the court, which may thereupon give such directions as it sees fit, and that notwithstanding section 200(2) the liquidator shall not be required to summon any meetings of creditors or contributories:

Provided that nothing in section 227A(4) or in this paragraph shall operate to prevent any person making application to the court under section 200(5);

(d) order that instead of the same being sent by post as required under section 203(5) the account of the liquidator or a summary thereof be communicated by the Official Receiver to the creditors and contributories in such manner as it may direct.

(Added 22 of 1965 s. 2)

Section:	227D	Compromises and arrangements with creditors		30/06/1997

(1) ~~The court may for the purposes of section 166 and notwithstanding subsection (1) thereof~~ For the purposes of section 661 of the Companies Ordinance (of 2011), the court may despite subsection (1) of that section order that the wishes of creditors or contributories concerning agreement to or rejection of any compromise or arrangement be ascertained by the liquidator in such manner as it may direct including the conduct of a ballot and the use of voting letters and without holding meetings.

(2) Where a majority in number and three-fourths in value of the creditors, or a class of creditors, as the case may be, who have proved their debt, or who by virtue of section 227E are deemed for voting purposes to have proved a debt exceeding $250, agree to any compromise, such agreement shall, for the purposes of ~~section 166, have the same effect as if a meeting of the creditors or class of creditors had been summoned under section 166(1)~~ section 664 of the Companies Ordinance (of 2011), have the same effect as if a meeting of the creditors or class of creditors had been summoned under section 661(1) of that Ordinance and a majority in number representing three-fourths in value of the creditors or class of creditors, as the case may be, had been present and voted either in person or by proxy at the meeting and agreed to the compromise. (Amended 81 of 1976 s. 3)

(3) In the event of the court ordering the holding of any meetings it may order that the provisions of ~~this Ordinance~~ this Ordinance, or of the Companies Ordinance (of 2011), relating to the holding of meetings be varied, abrogated or added to for the purpose of such meetings.

(4) In subsection (1) "arrangement" ~~(債務償還安排) has the meaning assigned to it by section 166(5)~~ (安排) has the meaning given by section 659(1) of the Companies Ordinance (of 2011). (Replaced 79 of 1988 s. 6)

(Added 22 of 1965 s. 2)

Section:	227E	Proof of debts	11 of 2010	01/01/2011

(1) In the case of a bank, any creditor who is a depositor, whether on current, savings, deposit, fixed deposit or other account, shall, unless and until the Official Receiver or liquidator by notice in writing requires him to make a formal proof of debt, be deemed to have proved his debt-

(a) for voting purposes, for the net balance to his credit in the books of the bank on all his accounts taken together, at the relevant date,

(b) for dividend purposes, for the said balance plus or minus, as the case may be, the net amount of interest accrued due by or to the bank on the said accounts at the relevant date.

(2) Any debt which is deemed to have been proved by virtue of subsection (1) shall be treated as if a proof thereof had been duly lodged in due time with the Official Receiver or liquidator, and had been admitted for voting and dividend purposes respectively for the said amounts stated in subsection (1).

(3) In subsection (1), the expression "the relevant date" (有關日期) shall have the meaning assigned to it by section 265(6).

(4) In subsection (1), the expressions "deposit" (存款) and "depositor" (存款人) have the same meaning as in section 265(6). (Added 11 of 2010 s. 14)

(Added 22 of 1965 s. 2)

Section:	227F	Application of Ordinance to small winding up	46 of 2000	01/07/2000

(iiB) WINDING UP BY COURT BY WAY OF SUMMARY PROCEDURE

(1) Where after the presentation of a winding-up petition-

(a) the court is satisfied; or

(b) the Official Receiver or the provisional liquidator reports to the court,

that the property of the company is not likely to exceed in value $200000, the court may make an order that the company be wound up in a summary manner, and thereupon the provisions of this Ordinance shall apply subject to the following modifications- (Amended 25 of 1985 s. 4)

(i) the Official Receiver or the provisional liquidator, as the case may be, shall be the liquidator but there shall be no meetings of creditors and contributories under section 194 or 206; (Replaced 25 of 1985 s. 4)

(ii) there shall be no committee of inspection, and the liquidator may do all things which may be done by a liquidator with the sanction of a committee of inspection;

(iii) such other modifications as may be prescribed with a view to saving expense and simplifying procedure.

(2) The court may, upon the application of the liquidator, at any time before the dissolution of the company rescind an order made under subsection (1) and thereupon the winding up shall proceed as if the order had not been made.

(Added 81 of 1976 s. 4. Amended 46 of 2000 s. 31)

Section:	228	Circumstances in which company may be wound up voluntarily	L.N. 267 of 2003	13/02/2004

(iii) VOLUNTARY WINDING UP

Resolutions for, and commencement of Voluntary Winding Up

(1) A company may be wound up voluntarily-

(a) when the period, if any, fixed for the duration of the company by the articles expires, or the event, if any, occurs on the occurrence of which the ~~memorandum or~~ articles provide that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be

wound up voluntarily; (Replaced 6 of 1984 s. 160)

(b) if the company resolves by special resolution that the company be wound up voluntarily;

(c) if the company resolves by special resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up. (Amended 6 of 1984 s. 160)

(d) if the directors of the company or, in the case of a company having more than 2 directors, the majority of the directors, deliver to the Registrar a winding-up statement under section 228A(1). (Added 75 of 1993 s. 13. Amended 28 of 2003 s. 82)

(2) In this Ordinance, the expression "a resolution for voluntary winding up" (自動清盤決議) means a resolution passed under subsection (1)(a), (b) or (c). (Amended 75 of 1993 s. 13)

[cf. 1929 c. 23 s. 225 U.K.]

Section:	228A	Special procedure for voluntary winding up of company in case of inability to continue its business	23 of 2004	08/09/2004

Expanded Cross Reference:
241, 242, 243, 244, 245, 246, 247, 248

(1) The directors of a company or, in the case of a company having more than 2 directors, the majority of the directors, may, if they have formed the opinion that the company cannot by reason of its liabilities continue its business, resolve at a meeting of the directors and deliver to the Registrar a statement in the specified form (the "winding-up statement"), signed by one of the directors, certifying that a resolution has been passed to the effect that-

(a) the company cannot by reason of its liabilities continue its business;

(b) they consider it necessary that the company be wound up and that the winding up should be commenced under this section because it is not reasonably practicable for it to be commenced under another section of this Ordinance; and

(c) meetings of the company and of its creditors will be summoned for a date not later than 28 days after the delivery of the winding-up statement to the Registrar.

(2) The resolution referred to in subsection (1) and the winding-up statement shall specify the reasons in support of the consideration mentioned in paragraph (b) of that subsection.

(3) A winding-up statement shall have no effect for the purposes of this Ordinance unless it is delivered to the Registrar for registration within 7 days after the date on which it is made.

(4) Any director of a company signing a winding-up statement without having reasonable grounds-

(a) for the opinion that the company cannot by reason of its liabilities continue its business; or

(b) to consider that the winding up of the company should be commenced under this section because it is not reasonably practicable for it to be commenced under another section of this Ordinance,

shall be liable to a fine and imprisonment.

(5) Where a winding-up statement is delivered to the Registrar-

(a) the winding up of the company shall commence at the time of the delivery of that statement;

(b) the directors shall forthwith appoint a person to be provisional liquidator in the winding up; and

(c) the directors shall cause meetings of the company and of its creditors to be summoned for a date not later than 28 days after the delivery of that statement.

(6) A director who fails to comply with subsection (5)(b) or (c) shall be liable to a fine.

(7) Where the directors of a company fail to comply with subsection (5)(c), the provisional liquidator appointed under subsection (5)(b) may summon meetings of the company and of its creditors.

(8) No person shall be appointed as a provisional liquidator under subsection (5)(b) unless-

(a) he has consented in writing to such appointment; and

(b) he is a solicitor, or a certified public accountant under the Professional Accountants Ordinance (Cap 50). (Amended 23 of 2004 s. 56)

(9) Not later than 14 days after the appointment of a provisional liquidator under subsection (5)(b), the directors shall give notice in the Gazette of-

(a) the commencement of the winding up of the company by the delivery to the Registrar of the winding-up statement and the date of such delivery; and

(b) the appointment of the provisional liquidator and his name and address.

(10) A provisional liquidator appointed under subsection (5)(b) shall, within 14 days after the date of his appointment, deliver to the Registrar for registration a notice of his appointment in the specified form, which notice

shall include the following particulars-

(a) his name;

(b) his address; and

(c) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.

(11) A person appointed as a provisional liquidator under subsection (5)(b) who ceases to act as such shall, within 21 days after the date of his ceasing to act-

(a) publish in the Gazette a notice of that fact; and

(b) deliver to the Registrar for registration a notice of that fact in the specified form.

(12) If any change occurs in the particulars given in a notice delivered to the Registrar under subsection (10), the provisional liquidator shall, within 14 days after the date of the change, deliver to the Registrar for registration a notice of that change in the specified form, unless he has previously given notice to the Registrar under subsection (11).

(13) A person who fails to comply with subsection (10), (11) or (12) shall be liable to a fine and, for continued default, to a daily default fine.

(14) A provisional liquidator appointed under subsection (5)(b) shall-

(a) unless a liquidator is sooner appointed, hold office until a meeting of the creditors of the company summoned under this section or, if that meeting is adjourned, any adjourned meeting, may allow;

(b) take into his custody or under his control all the property and things in action to which the company is or appears to be entitled; and

(c) be entitled, out of the funds of the company, to such remuneration as the committee of inspection or, if there is no such committee, the creditors, may fix and to reimbursement of expenses properly incurred by him, but he shall not be liable, and no civil action or other proceedings shall lie against him, in respect of acts properly done by him.

(15) A provisional liquidator appointed under subsection (5)(b) shall, for the period of his appointment, have the like powers and be subject to the like duties as a liquidator in a creditors' voluntary winding up, and, accordingly, all the powers of the directors shall cease during that period except so far as may be necessary for the purpose of enabling the directors to comply with this section or where the provisional liquidator sanctions the continuance thereof for any other purpose.

(16) Notwithstanding subsection (15), a provisional liquidator appointed under subsection (5)(b) shall not have power to sell any property to which the company is or appears to be entitled, except where such sale is made in the course of carrying on business in accordance with section 231, unless-

(a) the property is of a perishable nature or likely to deteriorate if kept; or

(b) the court, on the application of the provisional liquidator, orders the sale of the property.

(17) In relation to every winding up commenced under this section-

(a) section 241 shall apply to a meeting of the creditors of the company summoned under this section as it applies to a meeting of the creditors of a company summoned under that section except that-

(i) for the words "at which the resolution for voluntary winding up is to be proposed" in subsection (1) of that section there shall be substituted the words "of the company";

(ii) the sending of the notices by post and the advertisement of the meeting of creditors required by subsections (1) and (2) of that section respectively shall occur at least 7 days before the meeting of creditors, and the requirement in subsection (1) of that section as to simultaneous sending of notices shall not apply; and

(iii) subsection (5) of that section shall be omitted;

(b) subject to paragraph (a), sections 241 to 248 shall apply as they apply in relation to a creditors' voluntary winding up. <* Note - Exp. X-Ref.: Sections 241, 242, 243, 244, 245, 246, 247, 248 *>

(18) In the case of a private company having only one director, the sole director may-

(a) pass the resolution referred to in subsection (1) and sign the record of it in the minute book; and

(b) make the winding-up statement required under subsection (1).

(19) In relation to a statutory declaration made under section 228A of this Ordinance before the commencement# of section 83 of the Companies (Amendment) Ordinance 2003 (28 of 2003), the provisions of section 228A of this Ordinance in force immediately before that commencement shall continue to have effect as if section 83 of that Ordinance had not been enacted.

(Replaced 28 of 2003 s. 83)

Note:

 # Commencement date: 13 February 2004.

Section:	229	Notice of resolution to wind up voluntarily		30/06/1997

(1) When a company has passed a resolution for voluntary winding up, it shall, within 14 days after the passing of the resolution, give notice of the resolution by advertisement in the Gazette. (Amended 1 of 1949 s. 16; 15 of 1955 s. 6)

(2) If default is made in complying with this section, 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, and for the purposes of this subsection the liquidator of the company shall be deemed to be an officer of the company. (Amended 7 of 1990 s. 2; L.N. 587 of 1995)

[cf. 1929 c. 23 s. 226 U.K.]

Section:	230	Commencement of voluntary winding up	L.N. 267 of 2003	13/02/2004

Except as provided in section 228A(5)(a), a voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

(Amended 75 of 1993 s. 15; 28 of 2003 s. 84)

[cf. 1929 c. 23 s. 227 U.K.]

Section:	231	Effect of voluntary winding up on business and status of company		30/06/1997

Consequences of Voluntary Winding Up

In case of a voluntary winding up, the company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

[cf. 1929 c. 23 s. 228 U.K.]

Section:	232	Avoidance of transfers, &c., after commencement of voluntary winding up		30/06/1997

Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the company, made after the commencement of a voluntary winding up, shall be void.

[cf. 1929 c. 23 s. 229 U.K.]

Section:	233	Certificate of solvency in case of proposal to wind up voluntarily	L.N. 267 of 2003	13/02/2004

Certificate of Solvency

(Amended 28 of 2003 s. 85)

(1) Subject to subsection (1A), where it is proposed to wind up a company voluntarily, the directors of the company or, in the case of a company having more than 2 directors, the majority of the directors, may at a meeting of the directors issue a certificate in the specified form (the "certificate of solvency"), signed by the directors, to the effect that they have made a full inquiry into the affairs of the company, and that, having so done, they have formed the opinion that the company will be able to pay its debts in full within such period not exceeding 12 months from the commencement of the winding up as may be specified in the certificate of solvency. (Amended 30 of 1999 s. 17)

(1A) A certificate of solvency may be issued by the directors of the company other than at a meeting of the directors if, but only if, before the certificate is issued, a resolution has been passed by the directors authorizing the certificate to be issued. (Replaced 28 of 2003 s. 86)

(2) A certificate of solvency shall have no effect for the purposes of this Ordinance unless- (Amended 28 of 2003 s. 86)

(a) it is issued within the 5 weeks immediately preceding the date of the passing of the resolution for winding up the company or on that date but before the passing of the resolution and is delivered to the Registrar for registration not later than the date of delivery to the Registrar of a copy of the resolution; and (Amended 79 of 1988 s. 7)

(b) it embodies a statement of the company's assets and liabilities as at the latest practicable date before the issuing of the certificate.

(3) Any director of a company signing a certificate of solvency under this section without having reasonable grounds for the opinion that the company will be able to pay its debts in full within the period specified in the certificate, shall be liable to a fine and imprisonment; and if the company is wound up in pursuance of a resolution passed within the period of 5 weeks after the issuing of the certificate, but its debts are not paid or provided for in full within the period stated in the certificate, it shall be presumed until the contrary is shown that the director did not have reasonable grounds for his opinion. (Amended 7 of 1990 s. 2)

(4) A winding up in the case of which a certificate of solvency has been issued and delivered under this section is in this Ordinance referred to as "a members' voluntary winding up", and a winding up in the case of which a certificate of solvency has not been issued and delivered as aforesaid is in this Ordinance referred to as "a creditors' voluntary winding up".

(5) Notwithstanding subsections (1) and (2), any declaration of solvency made in connexion with a winding up commenced but not completed before the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) shall, if it has been effective for the purposes of this Ordinance before that date, continue to have effect for those purposes on and after that date, and-

(a) such winding up shall be deemed to be a members' voluntary winding up within the meaning of this section;

(b) subsection (3) shall not apply in relation to any such declaration or winding up.

(6) In the case of a private company having only one director, the sole director may issue a certificate of solvency by recording the certificate and signing the record of it in the company's minute book; and recording and signing the certificate shall be deemed to satisfy the requirement under subsection (1) that the certificate be issued at a meeting of the directors. (Added 28 of 2003 s. 86)

(7) Notwithstanding subsections (1) and (2), any declaration of solvency made in connection with a winding up commenced on or after the date of commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) but not completed before the date of commencement** of section 86(6) of the Companies (Amendment) Ordinance 2003 (28 of 2003) shall, if it has been effective for the purposes of this Ordinance before the latter date, continue to have effect for those purposes on and after that date, and-

(a) such winding up shall be deemed to be a members' voluntary winding up within the meaning of this section; and

(b) subsection (3) shall apply in relation to any such declaration or winding up as if the declaration were a certificate of solvency. (Added 28 of 2003 s. 86)

(Replaced 6 of 1984 s. 162. Amended 28 of 2003 s. 86)
[cf. 1948 c. 38 s. 283 U.K.]

Note:
*** Commencement date: 31 August 1984.**
**** Commencement date: 13 February 2004.**

Section:	234	Provisions applicable to members' winding up		30/06/1997

Expanded Cross Reference:
235, 235A, 236, 237, 237A, 238, 239, 239A

Provisions applicable to a Members' Voluntary Winding Up

The provisions contained in sections 235 to 239A shall apply in relation to a members' voluntary winding up. <* Note - Exp. X-Ref.: Sections 235, 235A, 236, 237, 237A, 238, 239, 239A *>

(Amended 6 of 1984 s. 163)
[cf. 1929 c. 23 s. 231 U.K.]

Section:	235	Power of company to appoint and fix remuneration of liquidators		30/06/1997

(1) The company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the company in general meeting, or the liquidator, sanctions the continuance thereof.

[cf. 1929 c. 23 s. 232 U.K.]

Section:	235A	Power to remove liquidator		30/06/1997

(1) The company may by special resolution remove a liquidator from office at a general meeting of which notice specifying the intention to propose such resolution has been duly given to the creditors and the liquidator.

(2) The court may, on the application of any creditor or contributory, order that a liquidator whom it is proposed to remove from office under this section shall not be so removed.

(3) A general meeting for the purpose of this section may be convened by any contributory.

(Added 6 of 1984 s. 164)

Section:	236	Power to fill vacancy in office of liquidators		30/06/1997

(1) If a vacancy occurs by death, resignation, or otherwise in the office of liquidator appointed by the company, the company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by ~~this Ordinance~~ this Ordinance or the Companies Ordinance (of 2011) or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

[cf. 1929 c. 23 s. 233 U.K.]

Section:	237	Power of liquidator to accept shares, &c. as consideration for sale of property of company	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) Where a company is proposed to be, or is in course of being, wound up voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Ordinance or not (in this section called the transferee company) the liquidator of the first-mentioned company (in this section called the transferor company) may, with the sanction of a special resolution of that company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies, or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company, whether he voted in favour of the special resolution or not, expresses his dissent therefrom in writing addressed to the liquidator, and left at the registered office of the company within 7 days after the passing of the resolution, lie may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by arbitration. (Amended 25 of 1998 s. 2)

(4) If the liquidator elects to purchase the member's interest, the purchase money must be paid before the company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or

concurrently with a resolution for voluntary winding up or for appointing liquidators, but, if an order is made within a year for winding up the company by the court, the special resolution shall not be valid unless sanctioned by the court.

(6) (Repealed 25 of 1998 s. 2)

(Amended 6 of 1984 s. 165)
[cf. 1929 c. 23 s. 234 U.K.]

Section:	237A	Duty of liquidator to call creditors' meeting in case of insolvency	L.N. 267 of 2003	13/02/2004

(1) If, in the case of a winding up commenced after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), the liquidator is at any time of opinion that the company will not be able to pay its debts in full within the period stated in the certificate or declaration under section 233, he shall forthwith summon a meeting of the creditors, and shall lay before the meeting a statement of the assets and liabilities of the company. (Amended 28 of 2003 s. 87)

(2) The creditors may, at a meeting called by the liquidator under this section, appoint another liquidator in his place and fix the remuneration of the liquidator so appointed, and may, if they think fit, appoint a committee of inspection.

(3) If the liquidator fails to comply with subsection (1), he shall be liable to a fine. (Amended 7 of 1990 s. 2)

(Added 6 of 1984 s. 166)
[cf. 1948 c. 38 s. 288 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	238	Duty of liquidator to call general meeting at end of each year		30/06/1997

(1) Subject to section 239A, in the event of the winding up continuing for more than 1 year, the liquidator shall summon a general meeting of the company at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Official Receiver may allow, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)

(Amended 6 of 1984 s. 167)
[cf. 1929 c. 23 s. 235 U.K.]

Section:	239	Final meeting and dissolution		30/06/1997

(1) Subject to section 239A, as soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company for the purpose of laying before it the account, and giving any explanation thereof.

(2) The meeting shall be called by advertisement in the Gazette, specifying the time, place, and object thereof, and published 1 month at least before the meeting.

(3) Within 1 week after the meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine and, for continued default, to a daily default fine:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of the subsection as to the making of the return shall be deemed to have been complied with.

(4) The Registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of 3 months from the registration of the return the company shall be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court

to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within 7 days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine and, for continued default, to a daily default fine.

(6) If the liquidator fails to call a general meeting of the company as required by this section, he shall be liable to a fine. (Added 6 of 1984 s. 168)

(Amended 6 of 1984 s. 168; 7 of 1990 s. 2)
[cf. 1929 c. 23 s. 236 U.K.]

Section:	239A	Alternative provisions as to annual and final meetings in case of insolvency		30/06/1997

Where section 237A has effect, sections 247 and 248 shall apply to the winding up to the exclusion of sections 238 and 239, as if the winding up were a creditors' voluntary winding up and not a members' voluntary winding up:

Provided that the liquidator shall not be required to summon a meeting of creditors under section 247 at the end of the first year from the commencement of the winding up, unless the meeting held under section 237A is held more than 3 months before the end of that year.

(Added 6 of 1984 s. 169)
[cf. 1948 c. 38 s. 291 U.K.]

Section:	240	Provisions applicable to creditors' winding up		30/06/1997

Expanded Cross Reference:
241, 242, 243, 244, 245, 246, 247, 248

Provisions applicable to a Creditors' Voluntary Winding Up

The provisions contained in sections 241 to 248 shall apply in relation to a creditors' voluntary winding up. <* Note - Exp. X-Ref.: Sections 241, 242, 243, 244, 245, 246, 247, 248 *>

[cf. 1929 c. 23 s. 237 U.K.]

Section:	241	Meeting of creditors		30/06/1997

(1) The company shall cause a meeting of the creditors of the company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the said meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the said meeting of the company.

(2) The company shall cause notice of the meeting of the creditors to be advertised once in the Gazette and once at least in, respectively, an English language newspaper and a Chinese language newspaper circulating in Hong Kong. (Replaced 6 of 1984 s. 170)

(3) The directors of the company shall-

(a) cause a full statement of the position of the company's affairs together with a list of the creditors of the company and the estimated amount of their claims to be laid before the meeting of creditors to be held as aforesaid; and

(b) appoint one of their number to preside at the said meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of subsection (1) shall have effect as if it had been passed immediately after the passing of the resolution for winding up the company.

(6) If default is made-

(a) by the company in complying with subsections (1) and (2);

(b) by the directors of the company in complying with subsection (3);

(c) by any director of the company in complying with subsection (4),

the company, directors or director, as the case may be, shall be liable to a fine, and, in the case of default by the company, every officer of the company who is in default shall be liable to the like penalty. (Amended 22 of 1950 Schedule; 6 of 1984 s. 170; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 238 U.K.]

Section:	242	Appointment of liquidator		30/06/1997

The creditors and the company at their respective meetings mentioned in section 241 may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the company, and if the creditors and the company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the company shall be liquidator:

Provided that in the case of different persons being nominated any director, member, or creditor of the company may, within 7 days after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

[cf. 1929 c. 23 s. 239 U.K.]

Section:	243	Appointment of committee of inspection		30/06/1997

(1) The creditors at the meeting to be held in pursuance of section 241 or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not more than 5 persons, and if such a committee is appointed the company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding 5 in number:

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to general rules, section 207 (except subsection (1)) shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court.

[cf. 1929 c. 23 s. 240 U.K.]

Section:	244	Fixing of liquidators' remuneration and cesser of directors' powers		30/06/1997

(1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

[cf. 1929 c.23 s. 241 U.K.]

Section:	245	Power to fill vacancy in office of liquidator		30/06/1997

If a vacancy occurs, by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the court, the creditors may fill the vacancy.

[cf. 1929 c. 23 s. 242 U.K.]

Section:	246	Application of section 237 to a creditors' voluntary winding up		30/06/1997

Section 237 shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under the said section shall not be exercised except

with the sanction either of the court or of the committee of inspection.

[cf. 1929 c. 23 s. 243 U.K.]

Section:	247	Duty of liquidator to call meetings of company and of creditors at end of each year		30/06/1997

(1) In the event of the winding up continuing for more than 1 year, the liquidator shall summon a general meeting of the company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or at the first convenient date within 3 months from the end of the year or such longer period as the Official Receiver may allow, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

(2) If the liquidator fails to comply with this section, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 7 of 1990 s. 2)

(Amended 6 of 1984 s. 171)

[cf. 1929 c. 23 s. 244 U.K.]

Section:	248	Final meeting and dissolution		30/06/1997

(1) As soon as the affairs of the company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the company has been disposed of, and thereupon shall call a general meeting of the company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.

(2) Each such meeting shall be called by advertisement in the Gazette, specifying the time, place, and object thereof, and published 1 month at least before the meeting.

(3) Within 1 week after the date of the meetings, or, if the meetings are not held on the same date, after the date of the later meeting, the liquidator shall send to the Registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates, and if the copy is not sent or the return is not made in accordance with this subsection the liquidator shall be liable to a fine and, for continued default, to a daily default fine:

Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The Registrar on receiving the account and in respect of each such meeting either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of 3 months from the registration thereof the company shall be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within 7 days after the making of the order, to deliver to the Registrar an office copy of the order for registration, and if that person fails so to do he shall be liable to a fine and, for continued default, to a daily default fine.

(6) If the liquidator fails to call a general meeting of the company or a meeting of the creditors as required by this section, he shall be liable to a fine. (Added 6 of 1984 s. 172)

(Amended 6 of 1984 s. 172; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 245 U.K.]

Section:	249	Provisions applicable to every voluntary winding up		30/06/1997

Expanded Cross Reference:
250, 251, 252, 253, 254, 255, 255A, 256, 257

Provisions applicable to every Voluntary Winding Up

The provisions contained in sections 250 to 257 shall apply to every voluntary winding up. <* Note - Exp. X-Ref.: Sections 250, 251, 252, 253, 254, 255, 255A, 256, 257 *>

(Amended 6 of 1984 s. 173)
[cf. 1929 c. 23 s. 246 U.K.]

Section:	250	Distribution of property of company		30/06/1997

Subject to the provisions of this Ordinance as to preferential payments, the property of a company shall, on its winding up, be applied in satisfaction of its liabilities pari passu, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the company.

[cf. 1929 c. 23 s. 247 U.K.]

Section:	251	Powers and duties of liquidator in voluntary winding up		30/06/1997

(1) The liquidator may-

(a) in the case of a members' voluntary winding up, with the sanction of a special resolution of the company, and, in the case of a creditors' voluntary winding up, with the sanction of the court or the committee of inspection or (if there is no such committee) a meeting of the creditors, exercise any of the powers given by paragraphs (d), (e) and (f) of section 199(1) to a liquidator in a winding up by the court; (Replaced 6 of 1984 s. 174)

(b) without sanction, exercise any of the other powers by this Ordinance given to the liquidator in a winding up by the court;

(c) exercise the power of the court under this Ordinance of settling a list of contributories, and the list of contributories shall be prima facie evidence of the liability of the persons named therein to be contributories;

(d) exercise the power of the court of making calls;

(e) summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution or for any other purpose he may think fit. (Amended 6 of 1984 s. 174)

(2) The liquidator shall pay the debts of the company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Ordinance may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than 2.

[cf. 1929 c. 23 s. 248 U.K.]

Section:	252	Court may appoint and remove liquidator in voluntary winding up		30/06/1997

(1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.

(2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

[cf. 1929 c. 23 s. 249 U.K.]

Section:	253	Notice by liquidator of his appointment or ceasing to act	L.N. 267 of 2003	13/02/2004

(1) The liquidator shall, within 21 days after the date of his appointment-

(a) publish in the Gazette a notice of his appointment; and

(b) deliver to the Registrar for registration a notice of his appointment in the specified form, which notice shall include the following particulars-

(i) his name;

(ii) his address; and

(iii) the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.

(2) A person appointed as a liquidator who ceases to act as such shall, within 21 days after the date of his ceasing to act-

(a) publish in the Gazette a notice of that fact; and

(b) deliver to the Registrar for registration a notice of that fact in the specified form.

(3) If any change occurs in the particulars given in a notice delivered to the Registrar under subsection (1)(b),

the liquidator shall, within 14 days after the date of the change, deliver to the Registrar for registration a notice of that change in the specified form, unless he has previously given notice to the Registrar under subsection (2)(b).

(4) A person who fails to comply with subsection (1), (2) or (3) shall be liable to a fine and, for continued default, to a daily default fine.

(5) This section does not apply to a provisional liquidator appointed under section 228A(5)(b).

(Replaced 28 of 2003 s. 88)

Section:	254	Arrangement, when binding on creditors		30/06/1997

(1) Any arrangement entered into between a company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the company if sanctioned by a special resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors. (Amended 6 of 1984 s. 176)

(2) Any creditor or contributory may, within 3 weeks from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary, or confirm the arrangement.

[cf. 1929 c. 23 s. 251 U.K.]

Section:	255	Power to apply to court to have questions determined or powers exercised		30/06/1997

(1) The liquidator or any contributory or creditor may apply to the court to determine any question arising in the winding up of a company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

(3) A copy of an order made by virtue of this section staying the proceedings in the winding up shall forthwith be delivered by the company, or otherwise as may be prescribed, to the Registrar for registration. (Added 6 of 1984 s. 177)

[cf. 1929 c. 23 s. 252 U.K.]

Section:	255A	Audit of liquidator's accounts in voluntary winding up		30/06/1997

(1) The liquidator shall keep an account of his receipts and payments as liquidator and, subject to subsection (2), shall cause the account to be audited.

(2) An audit under this section shall not be required if the committee of inspection or, as the case may be, the company by ordinary resolution so determines.

(Added 6 of 1984 s. 178)

Section:	256	Costs of voluntary winding up		30/06/1997

All costs, charges, and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the company in priority to all other claims.

[cf. 1929 c. 23 s. 254 U.K.]

Section:	257	Saving for rights of creditors and contributories		30/06/1997

The winding up of a company shall not bar the right of any creditor or contributory to have it wound up by the court, but in the case of an application by a contributory, the court must be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

[cf. 1929 c. 23 s. 255 U.K.]

Section:	258	(Repealed 6 of 1984 s. 179)		30/06/1997

(iv) (Repealed 6 of 1984 s. 179)

Section:	259	(Repealed 6 of 1984 s. 179)		30/06/1997

Section:	260	(Repealed 6 of 1984 s. 179)		30/06/1997

Section:	261	(Repealed 6 of 1984 s. 179)		30/06/1997

Section:	262	(Repealed 6 of 1984 s. 179)		30/06/1997

Section:	263	Debts of all descriptions to be proved		30/06/1997

(v) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP

Proof and Ranking of Claims

In every winding up (subject in the case of insolvent companies to the application in accordance with the provisions of this Ordinance of the law of bankruptcy) all debts payable on a contingency, and all claims against the company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

[cf. 1929 c. 23 s. 261 U.K.]

Section:	264	Application of bankruptcy rules in winding up of insolvent companies		30/06/1997

In the winding up of an insolvent company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy with respect to the estates of persons adjudged bankrupt, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the company may come in under the winding up, and make such claims against the company as they respectively are entitled to by virtue of this section.

(Amended 6 of 1984 s. 180)
[cf. 1929 c. 23 s. 262 U.K.]

Section:	264A	Interest on debts	L.N. 267 of 2003	13/02/2004

(1) In the winding up of a company, not being an insolvent company, interest is payable in accordance with this section on the taxed costs of the petition and any debt proved in the winding up, including so much of any such debt as represents interest on the remainder. (Amended 46 of 2000 s. 33)

(2) Any surplus remaining after the payment of debts proved in a winding up referred to in subsection (1) shall, before being applied for any other purpose, be applied in paying interest on the taxed costs of the petition and those debts in respect of the period during which the taxed costs of the petition and the debt have been outstanding, in the case of- (Amended 46 of 2000 s. 33)

(a) a winding up by court-
  (i) where the company has by special resolution resolved that the company be wound up, since the date of the resolution; and
  (ii) in any other case, since the date of the winding-up order; and
(b) a voluntary winding up, since the commencement of the winding up (which must be construed having regard to section 228A(5)(a) or 230, as may be appropriate). (Amended 28 of 2003 s. 89)

(3) All interest under this section ranks equally, whether or not the debts on which it is payable rank equally.

(4) The rate of interest payable under this section in respect of any debt is whichever is the greater of the following-

(a) the rate specified under section 49(1)(b) of the High Court Ordinance (Cap 4); and (Amended 25 of 1998 s. 2)

(b) the rate applicable to that debt apart from the winding up.

(Added 3 of 1997 s. 43)
[cf. 1986 c. 45 s. 189 U.K.]

Section:	264B	Extortionate credit transactions	L.N. 267 of 2003	13/02/2004

(1) This section applies, in relation to a company being wound up where the company is, or has been, a party to a transaction for, or involving, the provision of credit to the company.

(2) The court may, on the application of the liquidator, make an order with respect to the transaction if the transaction is or was extortionate and was entered into in the period of 3 years ending on, in the case of-

(a) a winding up by court-

(i) where the company has by special resolution resolved that the company be wound up, the date of the resolution; and

(ii) in any other case, the date of the winding-up order; and

(b) a voluntary winding up, the commencement of the winding up (which must be construed having regard to section 228A(5)(a) or 230, as may be appropriate). (Amended 28 of 2003 s. 90)

(3) For the purposes of this section a transaction is extortionate if, having regard to the risk accepted by the person providing the credit-

(a) the terms of it are or were such as to require grossly exorbitant payments to be made (whether unconditionally or in certain contingencies) in respect of the provision of credit; or

(b) it otherwise grossly contravenes ordinary principles of fair dealing,

and it shall be presumed, unless the contrary is proved, that a transaction with respect to which an application is made under this section is or, as the case may be, was extortionate.

(4) An order under this section with respect to any transaction may contain such one or more of the following as the court thinks fit, that is to say-

(a) provision setting aside the whole or part of any obligation created by the transaction;

(b) provision otherwise varying the terms of the transaction or varying the terms on which any security for the purposes of the transaction is held;

(c) provision requiring any person who is or was a party to the transaction to pay to the liquidator any sums paid to that person, by virtue of the transaction, by the company;

(d) provision requiring any person to surrender to the liquidator any property held by him as security for the purposes of the transaction; or

(e) provision directing accounts to be taken between any persons.

(Added 3 of 1997 s. 43)
[cf. 1986 c. 45 s. 244 U.K.]

Section:	265	Preferential payments	11 of 2010	01/01/2011

(1) In a winding up there shall be paid in priority to all other debts-

(a) (Repealed 6 of 1984 s. 181)

(b) any-

(i) payment from the Protection of Wages on Insolvency Fund under section 18 of the Protection of Wages on Insolvency Ordinance (Cap 380) to any clerk or servant in respect of wages or salary or both in respect of services rendered to the company if such payment was made during a period of 4 months before the commencement of the winding up; and (Amended 48 of 1987 s. 8)

(ii) wages and salary (including commission provided that the amount thereof is fixed or ascertainable at the relevant date) of any clerk or servant in respect of services rendered to the company during the relevant period not exceeding, together with any payment under sub-paragraph (i), $3000; (Replaced 12 of 1985 s. 29)

(c) any-

(i) payment from the Protection of Wages on Insolvency Fund under section 18 of the Protection of

Wages on Insolvency Ordinance (Cap 380) to any labourer or workman in respect of wages, whether payable for time or for piece work, in respect of services rendered to the company if such payment was made during a period of 4 months before the commencement of the winding up; and (Amended 48 of 1987 s. 8)

(ii) wages of any labourer or workman, whether payable for time or for piece work, in respect of services rendered to the company during the relevant period not exceeding, together with any payment under sub-paragraph (i), $3000; (Replaced 12 of 1985 s. 29)

(ca) any severance payment payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee $6000; (Added 55 of 1974 s. 2)

(caa) any long service payment payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee $8000; (Added 77 of 1985 s. 2)

(cb) any amount due in respect of compensation or liability for compensation under the Employees' Compensation Ordinance (Cap 282) accrued before the relevant date and, where the compensation is a periodical payment, the amount due in respect thereof shall be taken to be the amount of the lump sum for which the periodical payment could, if redeemable, be redeemed on an application being made for that purpose under the Employees' Compensation Ordinance (Cap 282), but this paragraph shall not apply to any amount due in respect of compensation or liability for compensation where the company has entered into a contract with a person carrying on accident insurance business in Hong Kong in respect of its liability under the Employees' Compensation Ordinance (Cap 282) for personal injury by accident to the employee to whom the compensation or liability for compensation is due or where the company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company; (Added 4 of 1977 s. 2. Amended 6 of 1984 s. 259)

(cc) any wages in lieu of notice payable to an employee under the Employment Ordinance (Cap 57), not exceeding in respect of each employee one month's wages or $2000 whichever is the lesser; (Added 4 of 1977 s. 2)

(cd) all accrued holiday remuneration becoming payable to any clerk, servant, workman or labourer (or in the case of his death to any other person in his right) on the termination of his employment before or by the effect of the winding-up order or resolution; (Added 6 of 1984 s. 181)

(ce) any payment from the Employees Compensation Assistance Fund under Part IV of the Employees Compensation Assistance Ordinance (Cap 365) representing an amount due by the company in respect of compensation or liability for compensation under the Employees' Compensation Ordinance (Cap 282) accrued before the relevant date; (Added 54 of 1991 s. 47)

(cf) any amount of unpaid contribution or any amount deemed to be unpaid contribution calculated in accordance with rules made under section 73(1)(n) of the Occupational Retirement Schemes Ordinance (Cap 426) which should have been paid by the company being wound up in accordance with the terms of an occupational retirement scheme within the meaning of that Ordinance before the commencement of the winding up:

Provided that where such amount exceeds $50000 in respect of an employee, 50% of such part of the amount that exceeds $50000 shall not be paid in priority to all other debts under this subsection; (Added 88 of 1992 s. 84)

(cg) (without prejudice to any right or liability under a trust) any amount of salaries deducted by the company being wound up from its employees' salaries for the purpose of making contributions in respect of such employees to the funds of an occupational retirement scheme within the meaning of the Occupational Retirement Schemes Ordinance (Cap 426) which have not been paid into such funds; (Added 88 of 1992 s. 84)

(ch) any amount of unpaid contribution under, or any amount of unpaid contribution calculated in accordance with, the Mandatory Provident Fund Schemes Ordinance (Cap 485) which should have been paid by the company being wound up in accordance with the provisions of that Ordinance before the commencement of the winding up:

Provided that where such amount exceeds $50000 in respect of an employee, 50% of such part of the amount that exceeds $50000 shall not be paid in priority to all other debts under this subsection; (Added 80 of 1995 s. 49)

(ci) any amount deducted by the company being wound up from the relevant income of its relevant employees for the purpose of making contributions in respect of such relevant employees to the approved trustee of a registered scheme within the meaning of the Mandatory Provident Fund Schemes

Ordinance (Cap 485) which have not been paid to that approved trustee; (Added 80 of 1995 s. 49)

(cj) any sum and interest thereon payable to the Mandatory Provident Fund Schemes Authority under section 17(7) of the Mandatory Provident Fund Schemes Ordinance (Cap 485); (Added 80 of 1995 s. 49)

(d) all statutory debts due from the company to the Government at the relevant date and which became due and payable within 12 months next before that date. (Replaced 6 of 1984 s. 181. Amended 23 of 1999 s. 3)

(da) (Repealed 30 of 1999 s. 18)[++]

(db) where the company being wound up is or was a bank and, at the commencement of the winding up, held deposits, to each depositor- (Amended 7 of 2004 s. 55)

(i) in respect of the deposits, or portion thereof, that the depositor holds in his own right, the aggregate amount so held on deposit, up to the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits;

(ii) in respect of the deposits, or portion thereof, that the depositor holds as a bare trustee for each of the beneficiaries, the aggregate amount so held on deposit, up to, subject to subsection (5J), the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held for the beneficiary;

(iii) in respect of the deposits, or portion thereof, that the depositor holds in a client account for each of the clients, the aggregate amount so held on deposit, up to, subject to subsection (5J), the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held for the client; and

(iv) in respect of the deposits, or portion thereof, that the depositor holds as a trustee (but not a bare trustee) under each of the trusts, the aggregate amount so held on deposit, up to the limit on the total amount of compensation to which a depositor is entitled as prescribed in section 27(2) of the Deposit Protection Scheme Ordinance (Cap 581), regardless of the number of deposits so held under the trust; (Added 83 of 1995 s. 16. Amended 7 of 2004 s. 55; 11 of 2010 s. 14)

(e) where the company being wound up is an insurer, any sum payable to a person in respect of any claim (other than a claim for a refund of premium) made under or in accordance with a contract of insurance (but not a contract of reinsurance) effected by the insurer as part of its general business carried on in or from Hong Kong, unless-

(i) such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place; or

(ii) the person to whom the sum is payable is entitled with respect to the claim to claim compensation under any scheme designed to secure compensation to persons in circumstances where the insurer becomes insolvent; (Added 79 of 1988 s. 8)

(ea) where the company being wound up is an insurer, any payment from the Employees Compensation Assistance Fund under Part IV of the Employees Compensation Assistance Ordinance (Cap 365) representing a sum payable by the company to a person in respect of any claim (other than a claim for refund of premium) made under or in accordance with a contract of insurance issued for the purposes of Part IV of the Employees' Compensation Ordinance (Cap 282) effected by the insurer as part of its general business carried on in or from Hong Kong; unless such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place; (Added 54 of 1991 s. 47)

(f) where the company being wound up is an insurer, any sum payable (after offsetting the amount of any sums owing from the claimant) to a person in respect of any claim (other than a claim for a refund of premium) made under or in accordance with a contract of reinsurance effected by the insurer, as

reinsurer, as part of its general business carried on in or from Hong Kong, unless such sum is, under the contract or in the ordinary course of business, payable in a place outside Hong Kong where assets of the company are maintained and under the law of that place the claim in respect of which the sum is payable is, in the event of a winding up, accorded priority with respect to those assets over claims which under the contract or in the ordinary course of business are payable at any other place. (Added 79 of 1988 s. 8)

(1A) Where the relevant date is on or after 1 June 1970 but before 1 April 1977, the sum of $6000 shall be deemed to be substituted in each case for the sums of $3000 referred to in paragraphs (b) and (c) respectively of subsection (1). (Added 41 of 1970 s. 2. Amended 4 of 1977 s. 2)

(1B) Where the relevant date is on or after 1 April 1977, the sum of $8000 shall be deemed to be substituted in each case for the sums of $3000 referred to in paragraphs (b) and (c) respectively, and for the sum of $6000 referred to in paragraph (ca), of subsection (1). (Added 4 of 1977 s. 2)

(2) Subject to subsection (1)(b) and (c), where any payment on account of wages or salary, or severance payment, or long service payment or wages in lieu of notice payable under the Employment Ordinance (Cap 57), or accrued holiday remuneration, has been made to any clerk, servant, workman or labourer in the employment of a company out of money advanced by some person for that purpose, that person shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made. (Amended 6 of 1984 s. 181; 12 of 1985 s. 29(3); 77 of 1985 s. 2)

(3) The debts specified in subsection (1)(b), (c), (ca), (caa), (cb), (cc), (cd), (ce), (cf), (cg), (ch), (ci) and (cj)- (Amended 55 of 1974 s. 2; 4 of 1977 s. 2; 6 of 1984 s. 181; 77 of 1985 s. 2; 54 of 1991 s. 47; 88 of 1992 s. 84; 80 of 1995 s. 49)

(a) shall have priority over the debts specified in subsection (1)(d);
(b) shall rank equally among themselves; and
(c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Replaced 41 of 1970 s. 2)

(3A) The debts specified in subsection (1)(d) shall have priority over the debts specified in subsection (1)(da), (db), (e), (ea) and (f). (Added 79 of 1988 s. 8. Amended 54 of 1991 s. 47; 10 of 1993 s. 2; 83 of 1995 s. 16)

(3AAA) The debts specified in subsection (1)(da) shall have priority over the debts specified in subsection (1)(db), (e), (ea) and (f). (Added 10 of 1993 s. 2. Amended 83 of 1995 s. 16)

(3AAAA) The debts specified in subsection (1)(db)-

(a) shall have priority over the debts in subsection (1)(e), (ea) and (f);
(b) shall rank equally among themselves; and
(c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 83 of 1995 s. 16)

(3AA) The debts specified in subsection (1)(e) and (ea)-

(a) shall have priority over the debts specified in subsection (1)(f);
(b) shall rank equally among themselves; and
(c) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 79 of 1988 s. 8. Amended 54 of 1991 s. 47)

(3AB) The debts specified in subsection (1)(f)-

(a) shall rank equally among themselves; and
(b) shall be paid in full unless the assets are insufficient to meet them, in which case they shall abate in equal proportions among themselves. (Added 79 of 1988 s. 8)

(3B) The debts specified in subsection (1) shall, so far as the assets of the company available for payment of general creditors are insufficient to meet those debts, have priority over the claims of holders of debentures under any charge created as a floating charge by the company, and shall be paid accordingly out of any property comprised in or subject to the charge. (Added 41 of 1970 s. 2. Amended 10 of 1987 s. 9)

(4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within 3 months next before the date of a winding-up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof. (Amended 41 of 1970 s. 2)

(5A) Any money paid under a charge under subsection (5) shall be a debt due from the company to the landlord

or other person having distrained, and such debt shall be discharged so far as the assets are sufficient to meet it after payment of the debts specified in subsection (1) but before payment of the other debts proved in the winding up. (Added 41 of 1970 s. 2)

(5B) Where in any winding up assets have been recovered under an indemnity for costs of litigation given by certain creditors, or have been protected or preserved by the payment of moneys or the giving of indemnity by creditors, or where expenses in relation to which a creditor has indemnified a liquidator have been recovered, the court may, on the application of the Official Receiver or the liquidator or any such creditor, make such order as it deems just with respect to the distribution of those assets and the amount of those expenses so recovered with a view to giving those creditors an advantage over others in consideration of the risk run by them in so doing. (Added 6 of 1984 s. 181)

(5C) Any remuneration in respect of a period of holiday or of absence from work through sickness or other good cause shall be deemed to be wages in respect of services rendered to the company during that period. (Added 6 of 1984 s. 181)

(5D) The deposits given priority under subsection (1)(db) do not include the following-

(a) terms deposits where the current term agreed to by the depositor at the most recent time it was negotiated exceeds 5 years;

(b) deposits made after the date of publication of a notice in the Gazette under section 28(2)(b) of the Banking Ordinance (Cap 155) that the company has been removed from the register and has ceased to be a bank. (Added 83 of 1995 s. 16)

(5E) If-

(a) an arrangement has been entered into or carried out on or after the specified date in relation to a deposit with the company except where the arrangement is one in pursuance of a legally enforceable obligation incurred prior to that date;

(b) the arrangement has, or would have had but for this subsection, the effect of enabling a person to become entitled to priority under subsection (1)(db), to which the person would otherwise not be entitled; and

(c) it would be concluded, having regard to-

(i) the manner in which, and the circumstances under which, the arrangement was entered into or carried out;

(ii) the form and substance of the arrangement; and

(iii) the result in relation to the operation of this Ordinance that, but for this subsection, would have been achieved by the arrangement,

that the arrangement was entered into or carried out for the sole or dominant purpose of enabling the person, either alone or in conjunction with other persons, to become entitled to priority under subsection (1)(db), to which the person would otherwise not be entitled,

the priority given under subsection (1)(db) shall apply as if the arrangement or any part thereof had not been entered into or carried out. (Replaced 7 of 2004 s. 55)

(5F) Deposits given priority under subsection (1)(db) do not include-

(a) a deposit held for the account of the Exchange Fund established by the Exchange Fund Ordinance (Cap 66);

(b) a deposit held by an excluded person in his own right, or, in the case of a deposit held by an excluded person and a non-excluded person in their own right (except where those persons carry on business in partnership), the portion of the deposit attributable to the excluded person's share in the deposit;

(c) a deposit held by a depositor as a bare trustee for an excluded person, or in a client account for an excluded person as the depositor's client, or, in the case of a deposit so held for an excluded person and a non-excluded person (except where those persons carry on business in partnership), the portion of the deposit attributable to the excluded person's share in the deposit; and

(d) a deposit held by a depositor as a trustee (but not a bare trustee) for an excluded person only. (Replaced 7 of 2004 s. 55)

(5G) For the purposes of subsection (5F)(b) and (c), if a deposit is held by more than one person in their own right or held for more than one person, each of those persons is deemed to have an equal share in the deposit unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator. (Added 7 of 2004 s. 55)

(5H) For the purposes of paragraph (db) of subsection (1)-

(a) if the depositor referred to in subparagraph (i) of that paragraph consists of 2 or more persons-

(i) in the case where the persons carry on business in partnership, those persons are, for the purpose

of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the members of the partnership;

(ii) in any other case, each of those persons is deemed to have an equal share in the deposit, or the relevant portion thereof, unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator;

(b) if the beneficiary or client referred to in subparagraph (ii) or (iii) of that paragraph consists of 2 or more persons-

(i) in the case where the persons carry on business in partnership, those persons are, for the purpose of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the members of the partnership;

(ii) in any other case, each of those persons is deemed to have an equal share in the deposit, or the relevant portion thereof, unless the contrary is proved to the satisfaction of the liquidator or provisional liquidator; and

(c) if the depositor referred to in subparagraph (iv) of that paragraph consists of 2 or more persons, those persons are, for the purpose of priority given under that paragraph, a single and continuing body of persons as distinct from the persons who may from time to time be the trustees. (Added 7 of 2004 s. 55)

(5I) If a deposit, or portion thereof, held by a depositor in a client account for a client is also held by the depositor as a trustee (whether a bare trustee or not) under a trust (whether a bare trust or not), the deposit or portion is, for the purposes of this section, taken as being held by the depositor for the client and not as such trustee. (Added 7 of 2004 s. 55)

(5J) If-

(a) a person has more than one of the following capacities-

(i) a depositor holding one or more deposits, or portion thereof, in his own right;

(ii) a beneficiary for whom one or more deposits, or portion thereof, is or are held by a depositor as a bare trustee;

(iii) a client for whom one or more deposits, or portion thereof, is or are held by a depositor in a client account; and

(b) the aggregate of the amount that shall be paid in priority under subsection (1)(db)(i), (ii) or (iii) in respect of the relevant deposits or portions would, but for this subsection, have exceeded the limit on the total amount of compensation to which a person is entitled as prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581),

the amount that shall be paid in priority under subsection (1)(db)(ii) or (iii) shall abate in equal proportions among themselves so that the aggregate referred to in paragraph (b) shall be that limit prescribed in section 27(1) of the Deposit Protection Scheme Ordinance (Cap 581). (Added 7 of 2004 s. 55. Amended 11 of 2010 s. 14)

(6) In this section-

"accrued holiday remuneration" (累算的假日薪酬) includes, in relation to any person, all sums which, by virtue either of his contract of employment or of any enactment (including any order made or direction given under any Ordinance), are payable on account of the remuneration which would, in the ordinary course, have become payable to him in respect of a period of holiday had his employment with the company continued until he became entitled to be allowed the holiday;

"arrangement" (安排) includes an arrangement, transaction, operation or scheme whether or not such arrangement, transaction, operation or scheme is enforceable, or intended to be enforceable, by legal proceedings; (Added 7 of 2004 s. 55)

"bank" (銀行) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16)

"bare trustee" (被動受託人) has the same meaning as in the Deposit Protection Scheme Ordinance (Cap 581); (Added 7 of 2004 s. 55)

"chief executive" (行政總裁) has the same meaning as in the Banking Ordinance (Cap 155); (Added 7 of 2004 s. 55)

"client account" (客戶帳戶), in relation to a depositor, means an account maintained by the depositor with a bank for the purpose of holding money held by the depositor for a client of the depositor, whether or not other money may be held in the account; (Added 7 of 2004 s. 55)

"controller" (控權人) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16.

Amended 7 of 2004 s. 55)

"deposit" (存款) and "depositor" (存款人) have the same meaning as in the Deposit Protection Scheme Ordinance (Cap 581); (Added 83 of 1995 s. 16. Amended 7 of 2004 s. 55; 11 of 2010 s. 14)

"Employees Compensation Assistance Fund" (僱員補償援助基金) means the fund established by section 7 of the Employees Compensation Assistance Ordinance (Cap 365); (Added 54 of 1991 s. 47)

"excluded person" (豁除人士), in relation to a deposit maintained with the company being wound up, means-

(a) a related company of the company;

(b) an officer of the company being wound up or its related company on-

(i) the date immediately preceding the date on which a Manager within the meaning of section 2(1) of the Banking Ordinance (Cap 155) is appointed in respect of the company being wound up under section 52 of that Ordinance; or

(ii) the date on which the petition for the winding up of the company being wound up is presented, whichever is the earlier;

(c) a multilateral development bank as defined in section 2(1) of the Banking Ordinance (Cap 155); (Amended 19 of 2005 s. 7)

(d) an authorized financial institution; or

(e) a foreign bank; (Added 7 of 2004 s. 55)

"foreign bank" (外地銀行) means a company that-

(a) is incorporated outside Hong Kong;

(b) is not an authorized financial institution; and

(c) may, in or outside the place where it is incorporated, lawfully take deposits from the general public (whether or not on current account), or is authorized or recognized as a bank in that place; (Added 7 of 2004 s. 55)

"general business" (一般業務) means insurance business not being long term business as defined in section 2(1) of the Insurance Companies Ordinance (Cap 41); (Added 79 of 1988 s. 8)

"insurer" (保險人) means a person carrying on insurance business; (Added 79 of 1988 s. 8)

"manager" (經理) has the same meaning as in the Banking Ordinance (Cap 155); (Added 83 of 1995 s. 16)

"non-excluded person" (非豁除人士) means a person who is not an excluded person; (Added 7 of 2004 s. 55)

"officer" (人員), in relation to a company that is an authorized financial institution, means-

(a) a director of the company;

(b) a chief executive of the company;

(c) a controller of the company; or

(d) a manager of the company; (Added 7 of 2004 s. 55)

"Protection of Wages on Insolvency Fund" (破產欠薪保障基金) means the fund deemed to be established and continued in existence under section 6 of the Protection of Wages on Insolvency Ordinance (Cap 380); (Added 12 of 1985 s. 29(3))

"related company" (關連公司), in relation to a company, means-

(a) a subsidiary of the company;

(b) a holding company of the company; or

(c) a subsidiary of the holding company; (Added 7 of 2004 s. 55)

"the relevant date" (有關日期) means-

(a) in the case of a company ordered to be wound up compulsorily, the date of the appointment (or first appointment) of a provisional liquidator or, if no such appointment was made, the date of the winding-up order, unless in either case the company had commenced to be wound up voluntarily before that date; and

(b) in any case where paragraph (a) does not apply, the date of the commencement of the winding up;

"the relevant period" (有關期間) means-

(a) in a case where a company is being wound up by the court and the relevant date in the case of that company is a date other than the date of the commencement of the winding up, the period-

(i) beginning 4 months next before the commencement of the winding up and ending on the relevant date; or

(ii) beginning 4 months next before the last day of service within the meaning of section 16(4) of the

Protection of Wages on Insolvency Ordinance (Cap 380) of any clerk or servant or labourer or workman, as the case may be, who has made an application for an ex gratia payment under section 15(1) of that Ordinance, and ending on that last day of service, (Replaced 68 of 1996 s. 5)

whichever is the earlier;

(b) in any case where paragraph (a) does not apply, the period-

(i) of 4 months next before the relevant date; or

(ii) beginning 4 months next before the last day of service within the meaning of section 16(4) of the Protection of Wages on Insolvency Ordinance (Cap 380) of any clerk or servant or labourer or workman, as the case may be, who has made an application for an ex gratia payment under section 15(1) of that Ordinance, and ending on that last day of service, (Replaced 68 of 1996 s. 5)

whichever is the earlier; (Replaced 48 of 1987 s. 8)

"specified date" (指明日期), in relation to a company, means-

(a) the date on which a Manager within the meaning of section 2(1) of the Banking Ordinance (Cap 155) is appointed in respect of the company under section 52 of that Ordinance; or

(b) the date on which the petition for the winding up of the company is presented,

whichever is the earlier; (Added 7 of 2004 s. 55)

"statutory debt" (法定債項) means a debt the liability for which and the amount of which are determined by or under any provision in any Ordinance; (Amended 23 of 1999 s. 3)

"wages" (工資) includes, in relation to any person, any sum which, by virtue of his contract of employment, is payable to him as a Lunar New Year bonus, but does not include any accrued holiday remuneration. (Replaced 6 of 1984 s. 181)

(7) The Companies (Amendment) Ordinance 1984 (6 of 1984) shall not apply in the case of a winding up where the relevant date occurred before the commencement* of that Ordinance, and, in such a case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force. (Added 6 of 1984 s. 181)

(8) The Fourth Schedule to the Protection of Wages on Insolvency Ordinance 1985 (12 of 1985) shall not apply in the case of a winding up where the date of the commencement of the winding up occurred before the commencement+ of that Ordinance, and, in such case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force (Added 12 of 1985 s. 29(3))

(9) The Companies (Amendment) (No. 3) Ordinance 1988 (79 of 1988) shall not apply in the case of a winding up where the date of the commencement of the winding up occurred before the commencement of that Ordinance, and, in such a case, the provisions relating to preferential payments which would have applied if that Ordinance had not been enacted shall be deemed to remain in full force. (Added 79 of 1988 s. 8)

(10) Section 5(a) of the Protection of Wages on Insolvency (Amendment) Ordinance 1996 (68 of 1996) ("the amending Ordinance") shall not apply in the case of a winding up to which an application under section 15(1) of the Protection of Wages on Insolvency Ordinance (Cap 380) relates where such application is made before the commencement** of the amending Ordinance, and in such a case, the provisions relating to preferential payments which would have applied if the amending Ordinance had not been enacted shall be deemed to remain in full force. (Added 68 of 1996 s. 5)

(11) In the case of a winding up where the relevant date has occurred before the commencement*** of the Schedule to the Deposit Protection Scheme (Amendment) Ordinance 2010 (11 of 2010), that Schedule applies in relation to that winding up if the specified event within the meaning of section 22(1) of the Deposit Protection Scheme Ordinance (Cap 581) occurs on or after the commencement of that Schedule. (Added 11 of 2010 s. 14)

[cf. 1929 c. 23 s. 264 U.K.]

Note:

*** Commencement date: 31 August 1984.**

+ Commencement date: 19 April 1985.

**** Commencement date: 6 December 1996.**

***** Commencement date: 1 January 2011.**

++ Sections 265(1)(da) was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed.".

Section:	266	Fraudulent preference		30/06/1997

Effect of Winding Up on antecedent and other Transactions

(1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property made or done by or against a company within 6 months before the commencement of its winding up which, had it been made or done by or against an individual within 6 months before the presentation of a bankruptcy petition on which he is adjudged bankrupt, would be deemed in his bankruptcy a fraudulent preference, shall in the event of the company being wound up be deemed a fraudulent preference of its creditors and be invalid accordingly:

Provided that, in relation to things made or done before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), this subsection shall have effect with the substitution, for references to 6 months, of references to 3 months.

(2) Any conveyance or assignment by a company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

(Replaced 6 of 1984 s. 182)
[cf. 1948 c. 38 s. 320 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	266A	Liabilities and rights of certain fraudulently preferred persons		30/06/1997

(1) Where anything made or done after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) is void under section 266 as a fraudulent preference of a person interested in property mortgaged or charged to secure the company's debt, then (without prejudice to any rights or liabilities arising apart from this provision) the person preferred shall be subject to the same liabilities, and shall have the same rights, as if he had undertaken to be personally liable as surety for the debt to the extent of the charge on the property or the value of his interest, whichever is the less.

(2) The value of the said person's interest shall be determined as at the date of the transaction constituting the fraudulent preference, and shall be determined as if the interest were free of all incumbrances other than those to which the charge for the company's debt was then subject.

(3) On any application made to the court with respect to any payment on the ground that the payment was a fraudulent preference of a surety or guarantor, the court shall have jurisdiction to determine any questions with respect to the payment arising between the person to whom payment was made and the surety or guarantor and to grant relief in respect thereof, notwithstanding that it is not necessary so to do for the purposes of the winding up and for that purpose may give leave to bring in the surety or guarantor as a third party as in the case of an action for the recovery of the sum paid.

(4) Subsection (3) shall apply, with the necessary modifications, in relation to transactions other than the payment of money as it applies in relation to payments.

(Added 6 of 1984 s. 183)
[cf. 1948 c. 38 s. 321 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	266B	Fraudulent preference deemed to be an unfair preference	L.N. 158 of 1998	01/04/1998

(1) On and after the day section 36 of the Bankruptcy (Amendment) Ordinance 1996 (76 of 1996) (the "amending Ordinance") comes into operation, where the winding up of a company commences on or after that date-

(a) a reference in section 266 or 266A of this Ordinance to a fraudulent preference shall be deemed to be a reference to an unfair preference as provided for in section 50; and

(b) a reference in section 266 of this Ordinance to a period of 6 months shall be deemed to be a reference to a period of-

(i) 6 months; or

(ii) 2 years in the case of a person who is an associate as provided for in section 51B,

of the Bankruptcy Ordinance (Cap 6) (the "principal Ordinance").

(2) Where the winding up of a company commences before the amending Ordinance comes into operation, the provisions of the principal Ordinance as it existed before being amended by the amending Ordinance apply in respect of sections 266 and 266A of this Ordinance.

(Added 76 of 1996 s. 76)

Section:	267	Effect of floating charge		30/06/1997

Where a company is being wound up, a charge which, when created, was a floating charge on the undertaking or property of the company and which was also created within 12 months of the commencement of the winding up shall, unless it is proved that the company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate specified in the charge or at the rate 12 per cent per annum whichever is the less.

(Amended 81 of 1976 s. 5; 84 of 1995 s. 7)

[cf. 1929 c. 23 s. 266 U.K.]

Section:	268	Disclaimer of onerous property in case of company wound up		30/06/1997

(1) Where any part of the property of a company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the company, notwithstanding that he has endeavoured to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by writing signed by him, at any time within 12 months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the liquidator within 1 month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within 12 months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest, and liabilities of the company, and the property of the company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the company and the property of the company from liability, affect the rights or liabilities of any other person.

(3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of 28 days after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for leave to disclaim, and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the company shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Ordinance in respect of any disclaimed property and on hearing any

such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any persons entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf without any conveyance or assignment for the purpose:

Provided that, where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favour of any person claiming under the company, whether as under-lessee or as a person entitled to a mortgage or charge, except upon the terms of making that person-

(a) subject to the same liabilities and obligations as those to which the company was subject under the lease in respect of the property at the commencement of the winding up; or

(b) if the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event (if the case so requires) as if the lease had comprised only the property comprised in the vesting order, and any under-lessee or person entitled to a mortgage or charge who declines to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the company in the property in any person liable either personally or in a representative character, and either alone or jointly with the company to perform the lessee's covenants in the lease, freed and discharged from all estates, incumbrances and interests created therein by the company. (Amended 6 of 1984 s. 184)

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

[cf. 1929 c. 23 s. 267 U.K.]

Section:	269	Restriction of rights of creditor as to execution or attachment in case of company being wound up	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) Where a creditor has issued execution against the goods or lands of a company or has attached any debt due to the company, and the company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that-

(a) where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding up; and

(b) a person who purchases in good faith under a sale by the bailiff any goods of a company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator; and (Amended 6 of 1984 s. 185)

(c) the rights conferred by this subsection on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court may think fit. (Added 6 of 1984 s. 185)

(2) For the purposes of this Ordinance-

(a) an execution against goods is completed by seizure and sale or by the making of a charging order under section 20 of the High Court Ordinance (Cap 4); (Amended 25 of 1998 s. 2)

(b) an attachment of a debt is completed by the receipt of the debt; and

(c) an execution against land is completed by seizure, by the appointment of a receiver, or by the making of a charging order under the said section 20. (Replaced 52 of 1987 s. 44)

(3) In this section, "goods" (貨品) includes all chattels personal, and "bailiff" (執達主任) includes any officer charged with the execution of a writ or other process.

[cf. 1929 c. 23 s. 268 U.K.]

Section:	270	Duties of bailiff as to goods taken in execution		30/06/1997

(1) Subject to subsection (2A), where any goods of a company are taken in execution, and, before the sale

thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the bailiff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding up has been passed, the bailiff shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.

(2) Subject to subsection (2A), where under an execution the goods of a company are sold or money is paid in order to avoid sale, the bailiff shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for 14 days, and if within that time notice is served on him of a petition for the winding up of the company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company and an order is made or a resolution is passed, as the case may be, for the winding up of the company, the bailiff shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

(2A)The rights conferred by this section on the liquidator may be set aside by the court in favour of the creditor to such extent and subject to such terms as the court thinks fit. (Added 6 1984 s. 186)

(3) In this section, "goods" (貨品) includes all chattels personal, and "bailiff" (執達主任) includes any officer charged with the execution of a writ or other process.

(Amended 6 of 1984 s. 186)
[cf. 1929 c. 23 s. 269 U.K.]

Section:	271	Offences by officers of companies in liquidation	L.N. 267 of 2003	13/02/2004

Offences antecedent to or in course of Winding Up

(1) If any person, being a past or present officer of a company which is at the time of the commission of the alleged offence being wound up, whether by the court or voluntarily, or which, subsequently to that time, is ordered to be wound up by the court or passes a resolution for voluntary winding up-

(a) does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the company, and how and to whom and for what consideration and when the company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the company; or

(b) does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the company as is in his custody or under his control, and which he is required by law to deliver up; or

(c) does not deliver up to the liquidator, or as he directs, all books and papers in his custody or under his control belonging to the company and which he is required by law to deliver up; or

(d) within 12 months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the company to the value of $100 or upwards, or conceals any debt due to or from the company; or

(e) within 12 months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the company to the value of $100 or upwards; or

(f) makes any material omission in any statement relating to the affairs of the company; or

(g) knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or

(h) after the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the company; or

(i) within 12 months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates, or falsifies, or is privy to the concealment, destruction, mutilation, or falsification of, any book or paper affecting or relating to the property or affairs of the company; or

(j) within 12 months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the company; or

(k) within 12 months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters, or makes any omission in, or is privy to the fraudulent parting with, altering, or making any omission in, any document affecting or relating to the property or affairs of the company; or

(l) after the commencement of the winding up or at any meeting of the creditors of the company within 12 months next before the commencement of the winding up attempts to account for any part of the property of the company by fictitious losses or expenses; or

(m)-(n) (Repealed 21 of 1970 s. 35)

(o) within 12 months next before the commencement of the winding up or at any time thereafter pawns, pledges, or disposes of any property of the company which has been obtained on credit and has not been paid for, unless such pawning, pledging, or disposing is in the ordinary way of the business of the company; or

(p) is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the company or any of them to an agreement with reference to the affairs of the company or to the winding up,

he shall, in the case of the offence mentioned in paragraph (o), be liable to imprisonment, and in the case of any other offence shall be liable to imprisonment and a fine: (Amended 7 of 1990 s. 2)

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f) and (o), if the accused proves that he had no intent to defraud, and to a charge under any of paragraphs (h), (i) and (j), if he proves that he had no intent to conceal the state of affairs of the company or to defeat the law. (Amended 21 of 1970 s. 35)

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under subsection (1)(o), any person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged, or disposed of in such circumstances as aforesaid shall be guilty of an offence, and on conviction thereof liable to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to an offence.

(3) For the purposes of this section, "officer" (高級人員) includes a shadow director. (Amended 28 of 2003 s. 91)

(Amended 6 of 1984 s. 187)
[cf. 1929 c. 23 s. 271 U.K.]

Section:	272	Penalty for falsification of books		30/06/1997

If any person, being a past or present officer or a contributory of any company being wound up, before or after the commencement of the winding up destroys, mutilates, alters or falsifies any books, papers or securities, or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the company with intent to defraud or deceive any person, he shall be guilty of an offence and liable to imprisonment and a fine.

(Replaced 6 of 1984 s. 188. Amended 7 of 1990 s. 2)
[cf. 1948 c. 38 s. 329 U.K.]

Section:	273	Frauds by officers of companies which have gone into liquidation		30/06/1997

If any person, being at the time of the commission of the alleged offence an officer of a company which is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up-

(a) (Repealed 21 of 1970 s. 35)

(b) with intent to defraud creditors of the company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the company;

(c) with intent to defraud creditors of the company, has concealed or removed any part of the property of the company since, or within 2 months before, the date of any unsatisfied judgment or order for payment of money obtained against the company,

he shall be guilty of an offence and liable to imprisonment and a fine.

(Amended 22 of 1950 s. 3; 6 of 1984 s. 189; 7 of 1990 s. 2)
[cf. 1929 c. 23 s. 273 U.K.]

Section:	274	Liability where proper accounts not kept		30/06/1997

(1) If where a company is wound up it is shown that proper books of account were not kept by the company

throughout the period of 2 years immediately preceding the commencement of the winding up, or the period between the incorporation of the company and the commencement of the winding up, whichever is the shorter, every officer of the company who is in default shall, unless he shows that he acted honestly and that in the circumstances in which the business of the company was carried on the default was excusable, be guilty of an offence and liable to imprisonment and a fine. (Replaced 6 of 1984 s. 190. Amended 7 of 1990 s. 2)

(2) For the purposes of this section, proper books of account shall be deemed not to have been kept in the case of any company if there have not been kept such books or accounts as are necessary, to exhibit and explain the transactions and financial position of the trade or business of the company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

[cf. 1929 c. 23 s. 274 U.K.]

Section:	275	Responsibility of directors for fraudulent trading	L.N. 158 of 1998	01/04/1998

(1) If in the course of the winding up of a company it appears that any business of the company has been carried on with intent to defraud creditors of the company or creditors of any other person or for any fraudulent purpose, the court, on the application of the Official Receiver, or the liquidator or any creditor or contributory of the company, may, if it thinks proper so to do, declare that any persons who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of the debts or other liabilities of the company as the court may direct.

(1A) On the hearing of an application under subsection (1) the Official Receiver or the liquidator, as the case may be, may himself give evidence or call witnesses. (Added 6 of 1984 s. 191)

(2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any person under the declaration a charge on any debt or obligation due from the company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the person liable or any such company or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.

For the purpose of this subsection, "assignee" (承讓人) includes any person to whom or in whose favour, by the directions of the person liable under the declaration, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(3) Where any business of a company is carried on with such intent or for such purpose as is mentioned in subsection (1), every person who was knowingly a party to the carrying on of the business in manner aforesaid shall, whether or not the company has been or is in course of being wound up, be guilty of an offence and liable to imprisonment and a fine. (Replaced 6 of 1984 s. 191. Amended 7 of 1990 s. 2)

(4)-(5) (Repealed 6 of 1984 s. 191)

(6) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made. (Amended 76 of 1996 s. 77)

(7) (Repealed 6 of 1984 s. 191)

(Amended 6 of 1984 s. 191)
[cf. 1929 c. 23 s. 275 U.K.]

Section:	276	Power of court to assess damages against delinquent officer, etc.	L.N. 158 of 1998	01/04/1998

(1) If in the course of winding up a company it appears that any person who has taken part in the formation or promotion of the company, or any past or present officer or liquidator or receiver of the company, has misapplied or retained or become liable or accountable for any money or property of the company, or been guilty of any misfeasance or breach of duty in relation to the company which is actionable at the suit of the company, the court may, on the

application of the Official Receiver, or of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, officer, liquidator or receiver, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the company by way of compensation in respect of the misapplication, retainer, misfeasance, or breach of trust as the court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

(3) (Repealed 76 of 1996 s. 78)

(Amended 6 of 1984 s. 192)
[cf. 1929 c. 23 s. 276 U.K.]

Section:	277	Prosecution of delinquent officers and members of company	L.N. 362 of 1997	01/07/1997

(1) If it appears to the court in the course of a winding up by the court that any past or present officer or member of the company has been guilty of any offence in relation to the company for which he is criminally liable, the court may, either on the application of any person interested in the winding up or of its own motion, direct the liquidator to refer the matter to the Secretary for Justice. (Amended 6 of 1984 s. 193)

(2) If it appears to the liquidator in the course of a voluntary winding up that any past or present officer or member of the company has been guilty of any offence in relation to the company for which he is criminally liable, he shall forthwith report the matter to the Secretary for Justice, and shall furnish to the Secretary for Justice such information and give to him such access to and facilities for inspecting and taking copies of any documents, being information or documents in the possession or under the control of the liquidator and relating to the matter in question, as he may require. (Amended 6 of 1984 s. 193)

(3) If it appears to the court in the course of a voluntary winding up that any past or present officer or member of the company has been guilty as aforesaid, and that no report with respect to the matter has been made by the liquidator to the Secretary for Justice under subsection (2), the court may, on the application of any person interested in the winding up or of its own motion, direct the liquidator to make such a report, and on a report being made accordingly the provisions of this section shall have effect as though the report had been made in pursuance of the provisions of subsection (2). (Amended 6 of 1984 s. 193)

(4) If, where any matter is reported or referred to the Secretary for Justice under this section, he considers that the case is one in which a prosecution ought to be instituted, he shall institute proceedings accordingly, and it shall be the duty of the liquidator and of every officer and agent of the company past and present (other than the defendant in the proceedings) to give him all assistance in connexion with the prosecution which he is reasonably able to give.

For the purposes of this subsection, the expression "agent" (代理人) in relation to a company shall be deemed to include any banker or solicitor of the company and any person employed by the company as auditor, whether that person is or is not an officer of the company.

(5) If any person fails or neglects to give assistance in manner required by subsection (4), the court may, on the application of the Secretary for Justice, direct that person to comply with the requirements of the said subsection, and where any such application is made with respect to a liquidator the court may, unless it appears that the failure or neglect to comply was due to the liquidator not having in his hands sufficient assets of the company to enable him so to do, direct that costs of the application shall be borne by the liquidator personally.

(Replaced 78 of 1972 s. 17. Amended L.N. 362 of 1997)
[cf. 1948 c. 38 s. 334 U.K.]

Section:	278	Disqualification for appointment as liquidator		30/06/1997

Supplement Provisions as to Winding Up

No person being an undischarged bankrupt and no body corporate shall be qualified for appointment as liquidator of a company, whether in a winding up by the court or in a voluntary winding up, and-

(a) any appointment made in contravention of this section shall be void; and

(b) where any such person or any body corporate acts as a liquidator of a company, such person or body corporate shall be liable to a fine. (Amended 7 of 1990 s. 2)

(Replaced 6 of 1984 s. 194)
[cf. 1948 c. 38 s. 335 U.K.]

Section:	278A	Corrupt inducement affecting appointment as liquidator		30/06/1997

Any person who gives or agrees or offers to give to any member or creditor of a company any valuable consideration with a view to securing his own appointment or nomination, or to securing or preventing the appointment or nomination of some person other than himself, as the company's liquidator shall be liable to a fine.

(Added 6 of 1984 s. 195. Amended 7 of 1990 s. 2)

[cf. 1948 c. 38 s. 336 U.K.]

Section:	279	Enforcement of duty of liquidator to make returns, &c.		30/06/1997

(1) If any liquidator, who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within 14 days after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the company or by the Registrar, make an order directing the liquidator to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default as aforesaid.

[cf. 1929 c. 23 s. 279 U.K.]

Section:	280	Notification that a company is in liquidation		30/06/1997

(1) Where a company is being wound up, whether by the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the company or a liquidator of the company, or a receiver or manager of the property of the company, being a document on or in which the name of the company appears, shall contain a statement that the company is being wound up. (Amended 6 of 1984 s. 196)

(2) If default is made in complying with this section, the company and any of the following persons who knowingly and wilfully authorizes or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, shall be liable to a fine. (Replaced 6 of 1984 s. 196. Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 280 U.K.]

Section:	281	Exemption of certain documents from stamp duty on winding up of companies		30/06/1997

(1) In the case of a winding up by the court or a creditors' voluntary winding up of a company, stamp duty shall not be payable in respect of- (Amended 6 of 1984 s. 197)

(a) any assurance relating solely to immovable property or personal property which forms part of the assets of the company and which, after the execution of the assurance, either at law or in equity, is or remains part of the assets of the company; or

(b) any other instrument relating solely to the property of any company which is being so wound up. (Replaced 31 of 1981 s. 65)

(2) In this section, "assurance" (轉易書) includes deed, conveyance, assignment and surrender.

[cf. 1929 c. 23 s. 281 U.K.]

Section:	282	Books of company to be evidence		30/06/1997

Where a company is being wound up, all books and papers of the company and of the liquidators shall, as between the contributories of the company, be prima facie evidence of the truth of all matters purporting to be therein recorded.

[cf. 1929 c. 23 s. 282 U.K.]

Section:	283	Disposal of books and papers of company		30/06/1997

(1) When a company has been wound up and is about to be dissolved, the books and papers of the company and of the liquidators may be disposed of as follows, that is to say-

(a) in the case of a winding up by the court in such way as the court directs;

(b) in the case of a members' voluntary winding up, in such way as the company by special resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the company, may direct. (Amended 6 of 1984 s. 198)

(2) After 5 years from the dissolution of the company no responsibility shall rest on the company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) Provision may be made by general rules for enabling the Official Receiver to prevent, for such period (not exceeding 5 years from the dissolution of the company) as he thinks proper, the destruction of the books and papers of a company which has been wound up, and for enabling any creditor or contributory of the company to make representations to him, and to appeal to the court from any direction which may be given by him in the matter.

(4) If any person acts in contravention of any general rules made for the purposes of this section or of any direction of the Official Receiver thereunder, he shall be liable to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 198; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 283 U.K.]

Section:	284	Information as to pending liquidations		30/06/1997

(1) If where a company is being wound up the winding up is not concluded within 1 year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the company shall be entitled, by himself or by his agent, at all reasonable times, on payment of the prescribed fee, to inspect the statement, and to receive a copy thereof or extract therefrom.

(3) If a liquidator fails to comply with this section, he shall be liable to a fine and, for continued default, to a daily default fine, and any person untruthfully stating himself as aforesaid to be a creditor or contributory shall be guilty of a contempt of court, and shall, on the application of the liquidator or of the Official Receiver, be punishable accordingly. (Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 284 U.K.]

Section:	285	Unclaimed assets to be paid to companies liquidation account		30/06/1997

(1) If it appears either from any statement sent to the Registrar under section 284 or otherwise that a liquidator has in his hands or under his control any money representing unclaimed or undistributed assets of the company which have remained unclaimed or undistributed for 6 months after the date of their receipt, or any money held by the company in trust in respect of dividends or other sums due to any person as a member of the company, the liquidator shall forthwith pay the said money to the companies liquidation account, and shall be entitled to the prescribed certificate of receipt for the money so paid, and that certificate shall be an effectual discharge to him in respect thereof.

(2) (Repealed 6 of 1984 s. 199)

(3) Any person claiming to be entitled to any money paid in pursuance of this section may, within 5 years of the date when the money was so paid, apply to the Official Receiver for payment thereof, and the Official Receiver may, on a certificate by the liquidator that the person claiming is entitled, make an order for the payment to that person of the sum due. (Amended 71 of 1971 s. 3)

(4) Any person dissatisfied with the decision of the Official Receiver in respect of a claim made in pursuance of this section may appeal to the court.

(5) Any money paid in pursuance of this section which remains unclaimed for a period of 5 years shall be transferred to the general revenue of Hong Kong. (Added 71 of 1971 s. 3. Amended 6 of 1984 s. 259)

(Amended 6 of 1984 s. 199)

[cf. 1929 c. 23 s. 285 U.K.]

Section:	286	Resolutions passed at adjourned meetings of creditors and contributories		30/06/1997

Where a resolution is passed at an adjourned meeting of any creditors or contributories of a company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

(Amended 6 of 1984 s. 200)
[cf. 1929 . 23 s. 287 U.K.]

Section:	287	Meetings to ascertain wishes of creditors or contributories		30/06/1997

Supplementary Powers of Court

(1) The court may, as to all matters relating to the winding up of a company, have regard to the wishes of the creditors or contributories of the company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held, and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by ~~this Ordinance or~~ this Ordinance or the Companies Ordinance (of 2011) or by the articles.

[cf. 1929 c. 23 s. 288 U.K.]

Section:	288	(Repealed 6 of 1984 s. 201)		30/06/1997

Section:	289	Affidavits, &c.	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) Any affidavit required to be sworn under the provisions or for the purposes of this Part may be sworn in Hong Kong, or in any jurisdiction before any court, judge or person authorized under the law of that jurisdiction to take and receive affidavits in that jurisdiction. (Amended 1 of 1949 s. 18; 6 of 1984 ss. 202 & 259)

(2) All courts, judges, commissioners, and persons acting judicially shall take judicial notice of the seal or stamp or signature, as the case may be, of any such court, judge or person attached, appended, or subscribed to any such affidavit, or to any other document to be used for the purposes of this Part. (Amended 47 of 1997 s. 10)

(Amended 25 of 1998 s. 2)
[cf. 1929 c. 23 s. 293 U.K.]

Section:	290	Power of court to declare dissolution of company void		30/06/1997

Provisions as to Dissolution

(1) Subject to subsection (1A), in the case of a company which has been dissolved under section 226A, 227, 239 or 248, the court may at any time within 2 years of the date of the dissolution, on an application being made for the purpose by the liquidator of the company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the company had not been dissolved. (Amended 75 of 1993 s. 17)

(1A)The liquidator of the company or any other person who appears to the court to be interested may at any time apply to extend the period of 2 years referred to in subsection (1) and the court may so extend, on such terms and conditions as seem to it just and expedient, if it is satisfied that there are exceptional circumstances justifying the

extension. (Added 75 of 1993 s. 17)

(2) It shall be the duty of the person on whose application the order was made, within 7 days after the making of the order, or such further time as the court may allow, to deliver to the Registrar for registration an office copy of the order, and if that person fails so to do he shall be liable to a fine and, for continued default, to daily default fine. (Amended 7 of 1990 s. 2)

(Amended 6 of 1984 s. 203)
[cf. 1929 c. 23 s. 294 U.K.]

Section:	290A	(Repealed 30 of 1999 s. 18)	L.N. 239 of 1999	11/11/1999

(Repealed 30 of 1999 s. 18)

Note:
Section 290A was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed.".

Section:	290B	(Repealed 30 of 1999 s. 18)	L.N. 239 of 1999	11/11/1999

(Repealed 30 of 1999 s. 18)

Note:
Section 290B was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed.".

~~Section:~~	~~290C~~	~~Government disclaimer of property other than immovable property vesting as bona vacantia~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Where any property other than immovable property vests in the Government as bona vacantia under section 292, the Government's title to it may be disclaimed by a notice signed by the Registrar. (Amended 23 of 1999 s. 3; 30 of 1999 s. 19)~~

~~(2) The right to execute a notice of disclaimer under this section may be waived by or on behalf of the Government either expressly, or by taking possession or other act evincing that intention. (Amended 23 of 1999 s. 3)~~

~~(3) A notice of disclaimer under this section is of no effect unless it is executed within 12 months from the date on which the vesting of the property under section 292 came to the Registrar's notice, or, if an application in writing is made to him by any person interested in the property requiring him to decide whether or not he will disclaim, within 3 months after the receipt of the application. (Amended 30 of 1999 s. 19)~~

~~(4) A statement in a notice of disclaimer under this section that the vesting of the property came to the Registrar's notice on a specified date, or that no such application under subsection (3) was received by him with respect to the property before a specified date, is sufficient evidence of the fact stated, until the contrary is proved.~~

~~(5) A notice of disclaimer under this section shall be registered by the Registrar; and copies of it shall be published in the Gazette and sent to any persons who have given the Registrar notice that they claim to be interested in the property.~~

~~(Added 10 of 1993 s. 3)~~

~~Section:~~	~~290D~~	~~Effect of Government disclaimer under section 290C~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Where notice of disclaimer is executed under section 290C as respects any property, that property is deemed not to have vested in the Government under section 292. (Amended 23 of 1999 s. 3; 30 of 1999 s. 20)~~

~~(2) A disclaimer under section 290C—~~

~~(a) operates so as to determine, as from the date of the disclaimer, the rights, interests and liabilities of the company in or in respect of the property disclaimed; but~~

~~(b) does not, except so far as is necessary for the purpose of releasing the company from any liability, affect the rights, interests or liabilities of any other person.~~

~~(Added 10 of 1993 s. 3)~~

Section:	290E	(Repealed 30 of 1999 s. 21)	L.N. 239 of 1999	11/11/1999

(Repealed 30 of 1999 s. 21)

Note:
Section 290E was repealed by the Companies (Amendment) Ordinance 1999 (30 of 1999). Section 43 of that Ordinance provides as follows-

"43. Savings

Despite the repeal of sections 265(1)(da), 290A, 290B and 290E of the principal Ordinance, those sections are to continue to have effect in relation to a company that has been struck off under section 290A of the principal Ordinance as if those sections had not been repealed.".

~~Section:~~	~~291~~	~~Registrar may strike defunct company off register~~	~~L.N. 139 of 2008~~	~~11/07/2008~~

~~(1) Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.~~

~~(2) If the Registrar does not within 1 month of sending the letter receive any answer thereto, he shall within 14 days after the expiration of the month send to the company by post a registered letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within 1 month from the date thereof, a notice will be published in the Gazette with a view to striking the name of the company off the register. (Amended 1 of 1949 s. 19)~~

~~(3) If the Registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within 1 month after sending the second letter receive any answer, he may publish in the Gazette and send to the company by post, a notice that at the expiration of 3 months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved. (Amended 1 of 1949 s. 19)~~

~~(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of 6 consecutive months, the Registrar shall publish in the Gazette and send to the company or the liquidator, if any, a like notice as is provided in subsection (3). (Amended 1 of 1949 s. 19)~~

~~(5) Where the Registrar is of the opinion that the registered office of a company or the name and address of a liquidator or founder member of a company cannot be ascertained, or the Registrar is of the opinion that a letter or notice to be sent under subsection (1), (2), (3) or (4) is unlikely to be received by the person to whom it would be directed, it shall be sufficient compliance with the provisions of the said subsections if the Registrar shall publish in the Gazette a notice stating that at the expiration of 3 months from the date of the publication of such notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved. (Added 15 of 1955 s. 8. Amended 30 of 2004 s. 2)~~

~~(6) At the expiration of the time specified in any notice referred to in subsection (3), (4) or (5) the Registrar may, unless cause to the contrary is previously shown, strike its name off the register, and shall publish notice thereof in the Gazette and on the publication in the Gazette of this notice the company shall be dissolved: (Amended 1 of 1949 s. 19; 15 of 1955 s. 8)~~

~~Provided that—~~

~~(a) the liability, if any, of every director, managing officer, and member of the company shall continue and may be enforced as if the company had not been dissolved; and~~

~~(b) nothing in this subsection shall affect the power of the court to wind up a company the name of which has been struck off the register.~~

~~(7) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the court on an application made by the company or member or creditor before the expiration of 20 years from the publication in the Gazette of the notice aforesaid may, if satisfied that the company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and upon an office copy of the order being delivered to the Registrar for registration the company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.~~

~~(8) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section to a company may be addressed to the company at its registered office, or, if no office has been registered, to the care of some officer of the company or, if there is no officer of the company whose name and address are known to the Registrar, may be sent to each of the persons who signed the memorandum, addressed to him at the address mentioned in the memorandum. (Amended 6 of 1984 s. 204; 30 of 2004 s. 2)~~

~~(Amended 15 of 1955 s. 8)~~
~~[cf. 1929 c. 23 s. 295 U.K.]~~

~~Section:~~	~~291A~~	~~Power of court to order company to be struck off and dissolved~~		~~30/06/1997~~

~~(1) If, on the application of the Registrar, it appears to the court that, having regard to the assets (if any) of a company or for other reason, it would not be appropriate to wind up the company, the court may order that the company be struck off the register and dissolved, and the company shall, as from the date of the order, be dissolved accordingly.~~

~~(2) Section 291(7) shall apply in relation to a company dissolved under this section as it applies to a company dissolved under that section.~~

~~(Added 6 of 1984 s. 205)~~

~~Section:~~	~~291AA~~	~~Application to Registrar for deregistration of defunct private company~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Any of the following persons may apply to the Registrar for the deregistration of a private company—~~

~~(a) the company;~~

~~(b) a director or member of the company.~~

~~(2) An application to deregister a private company can only be made if—~~

~~(a) all the members of the company agree to the deregistration;~~

~~(b) the company has never commenced business or operation, or has ceased to carry on business or ceased operation for more than 3 months immediately before the application; and~~

~~(c) the company has no outstanding liabilities.~~

~~(3) An application made under this section—~~

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

~~(b) must be accompanied by a written notice from the Commissioner of Inland Revenue stating that the Commissioner has no objection to the company being deregistered.~~

~~(4) If the applicant is a company, it must nominate a person to be given notice of the deregistration.~~

~~(5) The applicant must give the Registrar any further information that the Registrar may request in connection with the application.~~

~~(6) The Registrar may assume without inquiry that the information given in connection with the application is true unless the contrary is proved.~~

~~(7) If the Registrar is not aware of a failure to comply with any requirements under subsections (2) to (5), the~~

~~Registrar must publish a notice of the proposed deregistration in the Gazette.~~

~~(8) The notice must state that unless an objection is received within 3 months after the date of publication of the notice, the Registrar may deregister the company and dissolve it.~~

~~(9) At the end of that 3 months, if the Registrar has not received any objection to the deregistration, the Registrar may deregister the company by publishing another notice in the Gazette declaring it to be deregistered upon the date of publication of the notice.~~

~~(10) On deregistering the company, the Registrar must also give notice of the deregistration to the applicant, or to the person nominated in the application to be given the notice.~~

~~(11) A company is dissolved on deregistration.~~

~~(12) Despite subsection (11), the liability (if any) of the officers and members of the company is to continue and may be enforced as if the company had not been dissolved.~~

~~(13) This section does not affect the power of the court to wind up a deregistered company.~~

~~(14) A person who, in connection with an application made under this section, knowingly or recklessly gives any information to the Registrar that is false or misleading in a material particular is liable to a fine and to imprisonment.~~

~~(15) In this section, "private company" (私人公司) includes a company deemed to be a dormant company under section 344A.~~

~~(16) This section does not apply to a company specified in the Sixteenth Schedule as a company to which this section does not apply.~~

~~(Added 30 of 1999 s. 22)~~

~~Section:~~	~~291AB~~	~~Reinstatement of deregistered company~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) If the Registrar is satisfied that a company was deregistered under section 291AA as a result of a mistake on the part of the Registrar, the Registrar may reinstate the registration of the company by publishing a notice in the Gazette declaring its registration to be reinstated upon the date of publication of the notice.~~

~~(2) The court may order that the Registrar reinstate the registration of a company that was deregistered under section 291AA if—~~

~~(a) an application for reinstatement is made to the court within 20 years of the deregistration by a person who feels aggrieved by the deregistration; and~~

~~(b) the court is satisfied that it is just that the registration of the company be reinstated.~~

~~(3) If the court makes an order under subsection (2), it may—~~

~~(a) validate anything done between the deregistration of the company and its reinstatement; and~~

~~(b) make any other order it considers appropriate.~~

~~(4) On the delivery of an office copy of an order under subsection (2) to the Registrar for registration, the Registrar must publish a notice in the Gazette to the effect that the registration of the company was reinstated on the date of the making of the order.~~

~~(5) A company reinstated under subsection (1) or (2) is taken to have continued in existence as if it had not been deregistered.~~

~~(Added 30 of 1999 s. 22)~~

~~Section:~~	~~291B~~	~~Registrar to act as representative of defunct company in certain events~~		~~30/06/1997~~

~~(1) Where after a company has been dissolved it is proved to the satisfaction of the Registrar—~~

~~(a) that the company if still existing would be legally or equitably bound to carry out, complete or give effect to some dealing, transaction or matter; and~~

~~(b) that in order to carry out, complete or give effect thereto, some purely administrative act, not discretionary, should have been done by or on behalf of the company, or should be done by or on behalf of the company if still existing,~~

~~the Registrar may, as representing the company or its liquidator under this section, do or cause to be done any such act.~~

~~(2) The Registrar may execute or sign any relevant instrument or document, adding a memorandum stating that he has done so in pursuance of this section, and such execution or signature shall have the same force, validity and effect as if the company, if existing, had duly executed such instrument or document.~~

~~(3) In the exercise of his functions under this section, the Registrar shall not be liable, and no civil action or other proceedings shall lie against him, in respect of acts properly done by him.~~

~~(Added 6 of 1984 s. 205)~~

~~Section:~~	~~292~~	~~Property and books etc. of dissolved company~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Where a company is dissolved, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any other person) shall be deemed to be bona vacantia and shall accordingly belong to the Government, and shall vest and may be dealt with in the same manner as other bona vacantia accruing to the Government. (Amended 10 of 1993 s. 4; 29 of 1998 s. 105; 30 of 1999 s. 23)~~

~~(2) Subsection (1) is subject and without prejudice to the following—~~

~~(a) any order that may at any time be made by the court under section 290 or 291;~~

~~(b) a reinstatement that may be made under section 291AB. (Added 30 of 1999 s. 23)~~

~~(3) A person who was a director of a company immediately before its dissolution must ensure that all the books and papers of the company are kept for not less than 5 years after the dissolution. (Added 30 of 1999 s. 23)~~

~~(4) Subsection (3) does not apply in relation to the books and papers of the company that are required to be kept by another person under other requirements in this Ordinance or under any other Ordinance. (Added 30 of 1999 s. 23)~~

~~(5) A person who fails to comply with subsection (3) is liable to a fine. (Added 30 of 1999 s. 23)~~

~~[cf. 1929 c. 23 s. 296 U.K.]~~

~~Section:~~	~~292A~~	~~Effect on section 292 of company's revival after dissolution~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Where any property or right is vested in the Government by section 292, the Registrar may dispose of, or of an interest in, that property or right notwithstanding that an order may be made under section 290 or 291(7), or a reinstatement may be made under section 291AB. (Amended 29 of 1998 s. 105)~~

~~(2) Where such an order or reinstatement is made—~~

~~(a) it does not affect the disposition (but without prejudice to the order or reinstatement so far as it relates to any other property or right previously vested in or held on trust for the company); and~~

~~(b) the Registrar shall pay to the company an amount equal to—~~

~~(i) the amount of any consideration received for the property or right, or interest therein; or~~

~~(ii) the value of any such consideration at the time of the disposition,—~~

~~or, if no consideration was received, an amount equal to the value of the property, right or interest disposed of, as at the date of the disposition.~~

~~(Added 10 of 1993 s. 5. Amended 30 of 1999 s. 24)~~

Section:	293	Companies liquidation account	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

Central Accounts

(1) An account, to be called the Companies Liquidation Account, shall be kept by the Official Receiver at such bank as the Chief Executive may from time to time direct, and all moneys received by the Official Receiver in respect of proceedings under this Ordinance in connexion with the winding up of companies shall be paid to that account. (Amended 1 of 1949 s. 20; 24 of 1950 Schedule; 23 of 1999 s. 3)

(2) All payments out of money standing to the credit of the Official Receiver in the Companies Liquidation Account shall be made in the prescribed manner.

[cf. 1929 c. 23 s. 300 U.K.]

Section:	294	Investment of surplus funds on general account	23 of 1999	01/07/1997

Remarks:

Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) Whenever the cash balance standing to the credit of the Companies Liquidation Account is in excess of the amount which in the opinion of the Official Receiver is required for the time being to answer demands in respect of companies' estates, he may invest in his name the whole or any part of such excess on fixed deposit or deposit at call with such bank as he thinks fit or in Government securities. (Replaced 79 of 1988 s. 9. Amended 23 of 1999 s. 3)

(2) When any part of the money placed on deposit or otherwise invested under subsection (1) is, in the opinion of the Official Receiver, required to answer any demands in respect of companies' estates, he shall raise such sum as may be required by the withdrawal of such part of any money placed on deposit or by sale of such part of the securities referred to in subsection (1), as may be necessary. (Replaced 79 of 1988 s. 9)

(3) The interest on investments or deposits made under this section, any profits realized on the sale of such investments and any bank interest received shall be paid into the Companies Liquidation Account, and the Official Receiver shall on or before 31 March in each year transfer to the general revenue the accumulated balance of such income, profits and bank interest, after deducting therefrom any losses on the realization of such investments. (Replaced 15 of 1955 s. 9. Amended 6 of 1984 s. 206)

Section:	295	Separate accounts of particular estates	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) The Official Receiver shall keep an account of the receipts and payments in the winding up of each company.

(2) When the cash balance standing to the credit of the account of any company exceeds by $100000 or more the amount which, in the opinion of the committee of inspection or where there is no committee of inspection in the opinion of the liquidator, is required for the time being to answer demands in respect of the company's estate, the Official Receiver shall, on the request of the committee of inspection or where there is no committee of inspection on the request of the liquidator, invest the amount of such excess on fixed deposit or on deposit at call with such bank as the Official Receiver thinks fit or in Government securities, to be placed to the credit of the account of the company. (Amended 23 of 1999 s. 3)

(3) When any part of the money so invested is, in the opinion of the committee of inspection or where there is no committee of inspection in the opinion of the liquidator, required to answer any demands in respect of the estate of the company, the Official Receiver shall, on the request of the committee of inspection or where there is no committee of inspection on the request of the liquidator, raise such sum as may be required by the withdrawal of such part of any money placed on deposit or by the sale of such part of the securities referred to in subsection (2), as may be necessary.

(4) Out of the interest paid on the investments made under this section, an amount equal to 1 1/2% per annum (or such other rate as may be fixed by the Financial Secretary for the purposes of this section by notice published in the Gazette) of the money invested shall be paid to the credit of the Official Receiver and the balance shall be paid to the credit of the company.

(5) The Official Receiver shall on or before 31 March in each year transfer to the general revenue the accumulated amount paid to his credit under subsection (4).

(Replaced 38 of 1987 s. 4)

Section:	296	General rules and fees		30/06/1997

Rules and Fees

(1) The Chief Justice may, with the approval of the Legislative Council, make general rules for carrying into effect the objects of ~~this Ordinance~~ this Ordinance and the Companies Ordinance (of 2011) so far as relates to the winding up of companies.

(2) All rules and orders made under this section shall be judicially noticed, and shall have effect as if enacted by this Ordinance.

(2A) An answer given by a person to a question put to him in exercise of powers conferred by rules made under this section may be used in evidence against him. (Added 72 of 1994 s. 10)

(3) There shall be paid in respect of ~~proceedings under this Ordinance~~ the relevant proceedings, where no fee is

otherwise fixed, such fees as the Chief Justice may, with the approval of the Legislative Council by order, direct, and he may direct by whom and in what manner the same are to be collected and accounted for.

(3A) In subsection (3)—

"***relevant proceedings***" (有關法律程序) means—

(a) proceedings under this Ordinance (other than winding up proceedings); or

(b) proceedings in the winding up of companies, including those where proceedings under this Ordinance or the Companies Ordinance (of 2011) are taken with respect to a company which is being wound up.

(4) The amount of any fees prescribed under this section shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred by the Official Receiver in the winding up of companies or of any particular company. (Added 38 of 1987 s. 5)

(5) Without prejudice to the generality of subsection (4), fees referred to in that subsection may be fixed by reference to a scale of fees and percentages. (Added 38 of 1987 s. 5)

(6) Rules or orders made under this section may authorize the court to fix any fee or to vary the amount of any fee otherwise prescribed. (Added 38 of 1987 s. 5)

(7) No fee prescribed under this section shall be invalid by reason only of the amount of that fee. (Added 38 of 1987 s. 5)

(8) Fees required to be paid under rules or orders made under this section shall be recoverable as debt. (Added 38 of 1987 s. 5. Amended L.N. 587 of 1995)

(9) Rules or orders made under this section before the commencement of the Companies (Amendment)(No. 2) Ordinance 1987 (38 of 1987) and in force immediately before such commencement shall have effect as from the commencement of that Ordinance as if made under this section as amended by that Ordinance. (Added 38 of 1987 s. 5)

(Amended 6 of 1984 s. 208; 38 of 1987 s. 5)

[cf. 1929 c. 23 s. 305 U.K.]

Part:	VI	RECEIVERS AND MANAGERS		30/06/1997

Section:	297	Disqualification for appointment as receiver		30/06/1997

(1) A body corporate shall not be qualified for appointment as receiver of the property of a company.

(2) Any body corporate which acts as receiver as aforesaid shall be liable to a fine. (Amended 22 of 1950 Schedule; 6 of 1984 s. 259; 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 306 U.K.]

Section:	297A	Disqualification of undischarged bankrupts		30/06/1997

No person being an undischarged bankrupt shall be qualified for appointment as receiver or manager of the property of a company on behalf of debenture holders, and if such person acts as such receiver or manager, he shall be guilty of an offence and liable to imprisonment and a fine.

(Added 6 of 1984 s. 209. Amended 7 of 1990 s. 2)

[cf. 1948 c. 38 s. 367 U.K.]

Section:	298	Power to appoint Official Receiver as receiver for debenture holders or creditors		30/06/1997

Where an application is made to the court to appoint a receiver on behalf of the debenture holders or other creditors of a company which is being wound up by the court, the Official Receiver may be so appointed.

[cf. 1929 c. 23 s. 307 U.K.]

Section:	298A	Receivers and managers appointed out of court		30/06/1997

(1) A receiver or manager of the property of a company appointed under the powers contained in any instrument, or a holder of debentures of the company, may apply to the court for directions in relation to any particular

matter arising in connexion with the performance of the functions of such receiver or manager, and on any such application the court may give such directions, or may make such order declaring the rights of persons before the court or otherwise, as the court thinks just.

(2) A receiver or manager of the property of a company appointed as aforesaid shall, to the same extent as if he had been appointed by order of a court, be personally liable on any contract entered into by him in the performance of his functions, except in so far as the contract otherwise provides, and entitled in respect of that liability to indemnity out of the assets; but nothing in this subsection shall be taken as limiting any right to indemnity which he would have apart from this subsection, or as limiting his liability on contracts entered into without authority or as conferring any right to indemnity in respect of that liability.

(3) This section shall apply whether the receiver or manager was appointed before or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984) but subsection (2) shall not apply to contracts entered into before the commencement of that Ordinance.

(Added 6 of 1984 s. 210)
[cf. 1948 c. 38 s. 369 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	299	Notification that receiver or manager appointed		30/06/1997

(1) Where a receiver or manager of the property of a company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the company or the receiver or manager or the liquidator of the company, being a document on or in which the name of the company appears, shall contain a statement that a receiver or manager has been appointed.

(2) If default is made in complying with the requirements of this section, the company and any of the following persons who knowingly and wilfully authorizes or permits the default, namely, any officer of the company, any liquidator of the company and any receiver or manager, shall be liable to a fine. (Replaced 6 of 1984 s. 211. Amended 7 of 1990 s. 2)

[cf. 1929 c. 23 s. 308 U.K.]

Section:	300	Power of court to fix remuneration on application of liquidator		30/06/1997

(1) The court may, on an application made to the court by the liquidator of a company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the company, and may from time to time, on an application made either by the liquidator, or by the receiver or manager, vary or amend any order so made. (Amended 6 of 1984 s. 212)

(2) The power of the court under subsection (1) shall, where no previous order has been made with respect thereto under that subsection,-

(a) extend to fixing the remuneration for any period before the making of the order or the application therefor; and

(b) be exercisable notwithstanding that the receiver or manager has died or ceased to act before the making of the order or the application therefor; and

(c) where the receiver or manager has been paid or has retained for his remuneration for any period before the making of the order any amount in excess of that so fixed for that period, extend to requiring him or his personal representatives to account for the excess or such part thereof as may be specified in the order:

Provided that the power conferred by paragraph (c) shall not be exercised as respects any period before the making of the application for the order unless in the opinion of the court there are special circumstances making it proper for the power to be so exercised. (Added 6 of 1984 s. 212)

(3) This section shall apply whether the receiver or manager was appointed before or after the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984), and to periods before, as well as to periods after, the commencement of that Ordinance. (Added 6 of 1984 s. 212)

[cf. 1929 c. 23 s. 309 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	300A	Provisions as to information where receiver or manager is appointed	L.N. 267 of 2003	13/02/2004

(1) Where a receiver or manager of the whole or substantially the whole of the property of the company (in this section and in section 300B referred to as "the receiver") is appointed on behalf of the holders of any debentures of the company secured by a floating charge, then subject to the provisions of this section and section 300B-

(a) the receiver shall forthwith send to the company notice of his appointment in the specified form; and (Amended 3 of 1997 s. 44)

(b) there shall, within 14 days after receipt of the notice, or such longer period as may be allowed by the court or by the receiver, be made out and submitted to the receiver in accordance with section 300B a statement in the specified form as to the affairs of the company (the "statement of affairs"); and (Amended 3 of 1997 s. 44; 28 of 2003 s. 92)

(c) the receiver shall within 2 months after receipt of the statement of affairs send- (Amended 28 of 2003 s. 92)

(i) to the Registrar and to the court, a copy of the statement and of any comments he sees fit to make thereon and in the case of the Registrar also a summary of the statement and of his comments (if any) thereon; and

(ii) to the company, a copy of any such comments as aforesaid or, if he does not see fit to make any comment, a notice to that effect; and

(iii) to any trustees for the debenture holders on whose behalf he was appointed and, so far as he is aware of their addresses, to all such debenture holders a copy of the said summary.

(2) The receiver shall within 2 months, or such longer period as the court may allow after the expiration of the period of 12 months from the date of his appointment and of every subsequent period of 12 months, and within 2 months or such longer period as the court may allow after he ceases to act as receiver or manager of the property of the company, send to the Registrar, to any trustees for the debenture holders of the company on whose behalf he was appointed, to the company and (so far as he is aware of their addresses) to all such debenture holders an abstract in the specified form showing his receipts and payments during that period of 12 months or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amounts of his receipts and of his payments during all preceding periods since his appointment. (Amended 3 of 1997 s. 44)

(3) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect-

(a) with the omission of the references to the court in subsection (1); and

(b) with the substitution for the references to the court in subsection (2) of references to the Official Receiver.

(4) Subsection (1) shall not apply in relation to the appointment of a receiver or manager to act with an existing receiver or manager or in place of a receiver or manager dying or ceasing to act, except that, where that subsection applies to a receiver or manager who dies or ceases to act before it has been fully complied with, the references in paragraphs (h) and (c) thereof to the receiver shall, subject to subsection (5), include references to his successor and to any continuing receiver or manager.

Nothing in this subsection shall be taken as limiting the meaning of the expression "the receiver" where used in, or in relation to, subsection (2).

(5) This section and section 300B, where the company is being wound up, shall apply notwithstanding that the receiver or manager and the liquidator are the same person, but with any necessary modifications arising from that fact.

(6) Nothing in subsection (2) shall be taken to prejudice the duty of the receiver to render proper accounts of his receipts and payments to the persons to whom, and at the times at which, he may be required to do so apart from that subsection.

(7) If the receiver makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(8) This section shall not apply where the receiver or manager was appointed before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).

(Added 6 of 1984 s. 213)
[cf. 1948 c. 38 s. 372 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	300B	Special provisions as to statement submitted to receiver	L.N. 267 of 2003	13/02/2004

(1) The statement of affairs required by section 300A to be submitted to the receiver (or his successor) shall show as at the date of the receiver's appointment the particulars of the company's assets, debts and liabilities, the names, addresses and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given and such further or other information as may be prescribed. (Amended 28 of 2003 s. 93)

(2) The statement of affairs required by section 300A shall be submitted by, and be verified by statement in writing signed by, one or more of the persons who are at the date of the receiver's appointment the directors and by the person who is at that date the ~~secretary~~ company secretary of the company, or by such of the persons hereafter in this subsection mentioned as the receiver (or his successor), subject to the direction of the court, may require to submit and verify the statement of affairs, that is to say, persons- (Amended 28 of 2003 s. 93)

(a) who are or have been officers of the company;

(b) who have taken part in the formation of the company at any time within 1 year before the date of the receiver's appointment;

(c) who are in the employment of the company, or have been in the employment of the company within the said year, and are in the opinion of the receiver capable of giving the information required;

(d) who are or have been within the said year officers of or in the employment of a company which is, or within the said year was, an officer of the company to which the statement of affairs relates. (Amended 28 of 2003 s. 93)

(3) Any person making the statement of affairs required by section 300A or the written statement required by subsection (2) shall be allowed, and shall be paid by the receiver (or his successor) out of his receipts, such costs and expenses incurred in and about the preparation and making of the statement of affairs or written statement as the receiver (or his successor) may consider reasonable, subject to an appeal to the court. (Amended 28 of 2003 s. 93)

(4) Where the receiver is appointed under the powers contained in any instrument, this section shall have effect with the substitution for references to the court of references to the Official Receiver. (Amended 28 of 2003 s. 93)

(5) If any person without reasonable excuse makes default in complying with the requirements of this section, he shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(6) References in this section to a receiver's successor shall include a continuing receiver or manager.

(7) This section shall not apply where the receiver or manager was appointed before the commencement* of the Companies (Amendment) Ordinance 1984 (6 of 1984).

(Added 6 of 1984 s. 213)
[cf. 1948 c. 38 s. 373 U.K.]

Note:
*** Commencement date: 31 August 1984.**

Section:	301	Delivery to Registrar of accounts of receivers and managers		30/06/1997

(1) Except where section 300A(2) applies, every receiver or manager of the property of a company who has been appointed under the powers contained in any instrument shall, within 1 month, or such longer period as the Registrar may allow, after the expiration of the period of 6 months from the date of his appointment and of every subsequent period of 6 months and within 1 month after he ceases to act as receiver or manager, deliver to the Registrar for registration an abstract in the specified form showing his receipts and his payments during that period of 6 months, or, where he ceases to act as aforesaid, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amount of his receipts and of his payments during all preceding periods since his appointment. (Amended 3 of 1997 s. 45)

(2) Any receiver or manager who makes default in complying with the provisions of this section shall be liable to a fine and, for continued default, to a daily default fine. (Amended 7 of 1990 s. 2)

(Amended 6 of 1984 s. 214)
[cf. 1929 c. 23 s. 310 U.K.]

Section:	302	Enforcement of duty of receiver to make returns, &c.		30/06/1997

(1) If-

(a) any receiver or manager of the property of a company, who has made default in filing, delivering or making any return, account or other document or in giving any notice, which a receiver or manager is by law required to file, deliver, make or give, fails to make good the default within 14 days after the service on him of a notice requiring him to do so; or

(b) any receiver or manager of the property of a company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the company so to do, failed to render proper accounts of his receipts and payments and to vouch the same and to pay over to the liquidator the amount properly payable to him;

the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order. (Amended 6 of 1984 s. 215)

(2) In the case of any such default as is mentioned in subsection (1)(a), an application for the purposes of this section may be made by any member or creditor of the company or by the Registrar, and in the case of any such default as is mentioned in subsection (1)(b), the application shall be made by the liquidator, and in either case the order may provide that all costs of and incidental to the application shall be borne by the receiver or manager, as the case may be. (Replaced 6 of 1984 s. 215)

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on receivers or managers in respect of such default as is mentioned in subsection (1). (Replaced 6 of 1984 s. 215)

[cf. 1929 c. 23 s. 311 U.K.]

Section:	302A	Construction of references to receivers and managers		30/06/1997

Except where the context otherwise requires-

(a) any reference in this Ordinance to a receiver or manager of the property of a company, or to a receiver thereof, includes a reference to a receiver or manager, or (as the case may be) to a receiver, of part only of that property and to a receiver only of the income arising from that property or from part thereof; and

(b) any reference in this Ordinance to the appointment of a receiver or manager under powers contained in any instrument includes a reference to an appointment made under powers conferred by any enactment including powers which, by virtue of any enactment, are implied in and have effect as if contained in an instrument.

(Added 6 of 1984 s. 216)
[cf. 1948 c. 38 s. 376 U.K.]

Part:	VII	GENERAL PROVISIONS AS TO REGISTRATION	23 of 1999	01/07/1997

~~Section:~~	~~303~~	~~Registration offices and appointment of officers for purposes of this Ordinance~~	~~23 of 1999~~	~~01/07/1997~~

~~Remarks:~~
~~Adaptation amendments retroactively made - see 23 of 1999 s. 3~~

~~(1) For the purposes of the registration of companies under this Ordinance, there shall be an office at such place as the Chief Executive directs. (Amended 6 of 1984 s. 217)~~

~~(2) The Chief Executive may appoint a Registrar of Companies and such other officers as he may think necessary for the purposes of this Ordinance, and may make regulations with respect to their duties, and may remove any persons so appointed. (Amended 6 of 1984 s. 217)~~

~~(3) (Repealed 6 of 1984 s. 217)~~

~~(4) The Chief Executive may direct a seal or seals to be prepared for the authentication of documents required~~

~~for or connected with the registration of companies.~~

~~(5) (Repealed 6 of 1984 s. 217)~~

~~(Amended 23 of 1999 s. 3)~~

~~[cf. 1929 c. 23 s. 312 U.K.]~~

Section:	303A	(Repealed 28 of 2003 s. 94)	L.N. 267 of 2003	13/02/2004

~~Section:~~	~~303B~~	~~Protection of Registrar etc. where computerized information etc. is used~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) Where for the purposes of this Ordinance the Registrar provides a service or information involving computerized information or by means of magnetic tapes or any electronic modes, a relevant person shall not be personally liable for any loss or damage suffered by a user of the service or information by reason of an error or omission of whatever nature appearing therein or however caused if the error or omission, as the case may be, was made in good faith and in the ordinary course of the discharge of the duties of the relevant person.~~

~~(2) The protection conferred on a relevant person by subsection (1) in respect of an error or omission shall not in any way affect any liability of the Government in tort for the error or omission.~~

~~(3) In this section, "relevant person" (有關人士) means-~~

~~(a) the Registrar;~~

~~(b) any other person appointed under section 303(2);~~

~~(c) a person supplying information falling within subsection (1).~~

~~(Added 30 of 1999 s. 25)~~

~~Section:~~	~~304~~	~~Fees~~		~~30/06/1997~~

~~(1) There shall be paid to the Registrar in respect of the several matters mentioned in the table set out in the Eighth Schedule the several fees therein specified.~~

~~(1A)(Repealed 41 of 1989 s. 2)~~

~~(2) All fees paid to the Registrar in pursuance of this Ordinance shall be paid into the general revenue. (Amended 6 of 1984 s. 218)~~

~~(3) (Repealed 86 of 1992 s. 11)~~

~~(4) The Registrar may charge in respect of any service provided by him under this Ordinance otherwise than in pursuance of an obligation imposed by this Ordinance and for which a fee is not specified under this Ordinance such reasonable fee as the Financial Secretary may approve. (Added 60 of 1990 s. 7)~~

~~[cf. 1929 c. 23 s. 313 U.K.]~~

Section:	305	Inspection, production and evidence of documents kept by Registrar	L.N. 187 of 2007	14/12/2007

(1A) Any document kept or maintained by the Registrar pursuant to any requirement of this Ordinance shall be made available for public inspection at all reasonable times for the purposes of enabling any member of the public to-

(a) ascertain whether he is dealing with-

(i) a specified corporation, or its directors or other officers, in matters of or connected with any act of such specified corporation;

(ii) a director or other officers of a specified corporation in matters of or connected with the administration of the specified corporation, or of its property;

(iii) a former director of a specified corporation against whom a disqualification order referred to in section 168D(1) has been made by the court;

(iv) a person who has entered into possession of the property of a specified corporation as mortgagee;

(v) a person who is appointed as the provisional liquidator or liquidator in the winding up of a specified corporation; or

(vi) a person who is appointed as the receiver or manager of the property of a specified corporation; and

(b) ascertain the particulars of that specified corporation, its directors or other officers, or former directors

(if any), or the particulars of that mortgagee, provisional liquidator, liquidator, receiver or manager, as the case may be, for the purposes of paragraph (a). (Added 30 of 2004 s. 2)

(1) Subject to subsection (1A), any person may, on payment of the fee required to be paid under section 304(1)- (Amended 41 of 1989 s. 3; 30 of 2004 s. 2)

(a) inspect-

(i) a copy, in such form as the Registrar considers appropriate, of any document kept by the Registrar; or (Amended 28 of 2003 s. 95)

(ii) the document itself if a copy is unavailable; or (Replaced 17 of 1990 s. 2)

(b) require-

(i) a certificate of the incorporation of any company; (Replaced 28 of 2003 s. 95)

(ii) a certificate of the change of name of any company; (Replaced 28 of 2003 s. 95)

(iia) a certificate certifying that a non-Hong Kong company is registered under Part XI; (Added 30 of 2004 s. 2)

(iib) where a non-Hong Kong company has changed its name, a fresh certificate certifying that the company is registered under Part XI with the new name; (Added 30 of 2004 s. 2)

(iii) a copy of or extract from any document kept by the Registrar; or (Added 28 of 2003 s. 95)

(iv) a copy, in such form as the Registrar considers appropriate, of any information contained in any record kept by the Registrar. (Added 28 of 2003 s. 95)

(2) No process for compelling the production of any document kept by the Registrar shall issue from any court except with the leave of that court, and any such process if issued shall bear thereon a statement that it is issued with the leave of the court.

(3) A copy of or extract from any document kept and registered at the office for the registration of companies, certified to be a true copy by the Registrar (whose official position it shall not be necessary to prove), shall in all legal proceedings be admissible in evidence- (Amended 28 of 2003 s. 95)

(a) as of equal validity with the original document; and

(b) on its production without further proof,

and, until the contrary is proved, the court before which such copy or extract is produced shall presume-

(i) that the document is certified by the Registrar; and

(ii) that the document is a true copy of or extract from the original document. (Amended 79 of 1988 s. 10)

(3A) The Registrar may, on payment of the fee required to be paid under section 304(1), certify any copy of or extract from a document, or any copy of information contained in a record, that is furnished to any person under this section. (Added 28 of 2003 s. 95)

(3B) Anything that is authorized to be certified by the Registrar under this Ordinance or any other Ordinance may be certified by him in such manner as he considers appropriate. (Added 28 of 2003 s. 95)

(4) For the purpose of this section-

(a) a copy of a document, notwithstanding that it is taken from a copy or other reproduction of the original document, shall be treated for all purposes as a copy of the original document; and

(b) a copy of a document includes a copy of part of the document. (Added 17 of 1990 s. 2)

(5) In this section, "document" (文件) includes information in a form accepted by the Registrar under section 347(1). (Added 28 of 2003 s. 95. Amended 30 of 2004 s. 2)

[cf. 1929 c. 23 s. 314 U.K.]

~~Section:~~	~~305A~~	~~Authentication of documents by the Registrar~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Where any document is required by this Ordinance to be signed by the Registrar or to have his printed signature, it may instead be authenticated in such manner as may be determined by him.~~

~~(Added 28 of 2003 s. 96)~~

Section:	306	Enforcement of duties under Ordinance by court order		30/06/1997

(1) If a company or any officer of a company, having made default in complying with any requirement of this Ordinance, fails to make good the default within 14 days after the service of a notice on the company or officer requiring the company or officer to comply with that requirement, the court may, on an application made to it by any member or creditor of the company or by the Registrar, make an order-

(a) where the default was that of the company, directing the company and any officer thereof;

(b) where the default was that of an officer, directing that officer,

to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne-

(a) where the default was that of a company, by the company or by any officer of the company responsible for the default;

(b) where the default was that of an officer, by that officer.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a company or any officer of a company in respect of any such default as aforesaid.

(Replaced 6 of 1984 s. 219)

[cf. 1948 c. 38 s. 428 U.K.]

Part:	VIII	APPLICATION OF ORDINANCE TO COMPANIES FORMED OR REGISTERED UNDER ~~FORMER~~ COMPANIES ORDINANCES		30/06/1997

Section:	307	Application of Ordinance to companies formed under former Companies Ordinance		30/06/1997

In the application of this Ordinance to existing companies, it shall apply in the same manner-

(a) in the case of a limited company, other than a company limited by guarantee, as if the company had been formed and registered under ~~this Ordinance~~ the Companies Ordinance (of 2011) as a company limited by shares;

(b) in the case of a company limited by guarantee, as if the company had been formed and registered under the Companies Ordinance (of 2011) ~~this Ordinance~~ as a company limited by guarantee; and

(c) in the case of a company other than a limited company, as if the company had been formed and registered under ~~this Ordinance~~ the Companies Ordinance (of 2011) as an unlimited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under ~~the Companies Ordinance 1865 (1 of 1865), or the Companies Ordinance 1911 (58 of 1911), as the case may be~~ a former Companies Ordinance.

[cf. 1929 c. 23 s. 316 U.K.]

Section:	308	~~Application of Ordinance to companies registered under former Companies Ordinances~~ Application of Ordinance to companies registered under Companies Ordinances		30/06/1997

~~This Ordinance shall apply to every company registered but not formed under the Companies Ordinance 1865 (1 of 1865), or the Companies Ordinance 1911 (58 of 1911), in the same manner as it is in Part IX of this Ordinance declared to apply to companies registered but not formed under this Ordinance:~~

~~Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered under the Companies Ordinance 1865 (1 of 1865), or the Companies Ordinance 1911 (58 of 1911), as the case may be.~~

~~[cf. 1929 c. 23 s. 317 U.K.]~~

(1) Subject to section 308A, this Ordinance applies to a company registered but not formed under the Companies Ordinance (of 2011) and its officers, members, contributories and creditors in the same manner in all respects as if the company had been formed under that Ordinance.

(2) This Ordinance applies to a company registered but not formed under a former Companies Ordinance and its officers, members, contributories and creditors in the same manner as it applies to a company registered but not formed under the Companies Ordinance (of 2011).

(3) For the purposes of applying this Ordinance to a company registered but not formed under a former Companies Ordinance or the Companies Ordinance (of 2011), a reference in this Ordinance to the date of registration is to be read as the date on which the company was registered under the former Companies Ordinance or the Companies Ordinance (of 2011), as the case may be.

Section:	308A	Exceptions to section 308		

(1) If a company registered but not formed under the Companies Ordinance (of 2011) is wound up, a person specified in subsection (3) 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).

(2) In the event of the death or bankruptcy of such a contributory, the provisions of this Ordinance with respect to personal representatives, and to the trustees of bankrupt contributories, apply.

(3) The person specified for the purposes of subsection (1) is a person who is liable to pay or contribute to the payment of that company's debts and liabilities contracted before the registration.

Section:	309	Application of Ordinance to companies re-registered under ~~former Companies Ordinance~~ Companies Ordinances		30/06/1997

The Ordinance shall apply to every unlimited company registered as a limited company in pursuance of section 58 of the Companies Ordinance 1911 (58 of 1911)~~, in the same manner as it applies to an unlimited company registered in pursuance of this Ordinance~~ or section 19 of the pre-amended Ordinance, in the same manner as it applies to an unlimited company registered under the Companies Ordinance (of 2011) as a limited company:

Provided that reference, express or implied, to the date of registration shall be construed as a reference to the date at which the company was registered as a limited company under ~~the said section of the Companies Ordinance 1911 (58 of 1911)~~ section 58 of the Companies Ordinance 1911 (58 of 1911) or section 19 of the pre-amended Ordinance, as the case may be.

[cf. 1929 c. 23 s. 318 U.K.]

Part:	IX	COMPANIES NOT FORMED UNDER THIS ORDINANCE AUTHORIZED TO REGISTER UNDER THIS ORDINANCE	L.N. 267 of 2003	13/02/2004

~~Section:~~	~~310~~	~~Companies capable of being registered~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) With the exceptions and subject to the provisions contained in this section, any company formed whether before or after the commencement of this Ordinance, in pursuance of any Ordinance other than this Ordinance, or being otherwise duly constituted according to law, and consisting of one or more members, may at any time register under this Ordinance as an unlimited company, or as a company limited by shares, or as a company limited by guarantee; and the registration shall not be invalid by reason that it has taken place with a view to the company being wound up: (Amended 6 of 1984 s. 220; 25 of 1998 s. 2; 28 of 2003 s. 97)~~

~~Provided that~~

~~(a) a company registered under the Companies Ordinance 1865 (1 of 1865), or the Companies Ordinance 1911 (58 of 1911), shall not register in pursuance of this section;~~

~~(b) a company having the liability of its members limited by Ordinance and not being a joint stock company as hereinafter defined, shall not register in pursuance of this section; (Amended 25 of 1998 s. 2)~~

~~(c) a company having the liability of its members limited by Ordinance shall not register in pursuance of this section as an unlimited company or as a company limited by guarantee; (Amended 25 of 1998 s. 2)~~

~~(d) a company that is not a joint stock company as hereinafter defined shall not register in pursuance of~~

~~this section as a company limited by shares;~~

~~(e) a company shall not register in pursuance of this section without the assent of a majority of such of its members as are present in person or by proxy (in cases where proxies are allowed by the regulations of the company) at a general meeting summoned for the purpose;~~

~~(f) where a company not having the liability of its members limited by Ordinance is about to register as a limited company, the majority required to assent as aforesaid shall consist of not less than three-fourths of the members present in person or by proxy at the meeting; (Amended 25 of 1998 s. 2)~~

~~(g) where a company is about to register as a company limited by guarantee, the assent to its being so registered shall be accompanied by a resolution declaring that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member, or within 1 year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceased to be a member, and of the costs and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.~~

~~(2) In computing any majority under this section when a poll is demanded regard shall be had to the number of votes to which each member is entitled according to the regulations of the company.~~

~~[cf. 1929 c. 23 s. 321 U.K.]~~

~~Section:~~	~~311~~	~~Definition of joint stock company~~		~~30/06/1997~~

~~For the purposes of this Part, as far as relates to registration of companies as companies limited by shares, a joint stock company means a company having a permanent paid-up or nominal share capital of fixed amount divided into shares, also of fixed amount, or held and transferable as stock, or divided and held partly in one way and partly in the other, and formed on the principle of having for its members the holders of those shares or that stock, and no other persons, and such a company when registered with limited liability under this Ordinance shall be deemed to be a company limited by shares.~~

~~[cf. 1929 c. 23 s. 322 U.K.]~~

~~Section:~~	~~312~~	~~Requirements for registration by joint stock companies~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Before the registration in pursuance of this Part of a joint stock company, there shall be delivered to the Registrar the following documents-~~

~~(a) a list showing the names and addresses of all persons who on a day named in the list, not being more than 6 clear days before the day of registration, were members of the company, with the addition of the shares or stock held by them respectively, distinguishing, in cases where the shares are numbered, each share by its number; (Amended 28 of 2003 s. 98)~~

~~(b) a copy of any Ordinance, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company; and (Amended 25 of 1998 s. 2)~~

~~(c) if the company is intended to be registered as a limited company, a statement specifying the following particulars-~~

~~(i) the nominal share capital of the company and the number of shares into which it is divided, or the amount of stock of which it consists;~~

~~(ii) the number of shares taken and the amount paid on each share;~~

~~(iii) the name of the company and-~~

~~(A) if the name is in English, with the addition of the word "Limited" as the last word thereof;~~

~~(B) if the name is in Chinese, with the addition of "有限公司" as the last 4 Chinese characters thereof; and~~

~~(C) if the name is both in English and Chinese, with the addition of the word "Limited" as the last word of the name in English and of "有限公司" as the last 4 Chinese characters of the name in Chinese respectively; and (Replaced 3 of 1997 s. 46)~~

~~(iv) in the case of a company intended to be registered as a company limited by guarantee, the resolution declaring the amount of the guarantee.~~

~~[cf. 1929 c. 23 s. 323 U.K.]~~

~~Section:~~	~~313~~	~~Requirements for registration by other than joint stock-~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

		companies		

Before the registration in pursuance of this Part of any company not being a joint stock company, there shall be delivered to the Registrar
(a) a list showing the names and addresses of the directors or other managers (if any) of the company; and (Amended 28 of 2003 s. 99)
(b) a copy of any Ordinance, deed of settlement, contract of copartnery, cost book regulations, or other instrument constituting or regulating the company; and (Amended 25 of 1998 s. 2)
(c) in the case of a company intended to be registered as a company limited by guarantee, a copy of the resolution declaring the amount of the guarantee.
[cf. 1929 c. 23 s. 324 U.K.]

Section:	314	Authentication of statements of existing companies	L.N. 267 of 2003	13/02/2004

The lists of members and directors and any other particulars relating to the company required to be delivered to the Registrar shall be verified by a statement in writing signed by
(a) in the case of a company having only one director, the sole director or a principal officer of the company; and
(b) in any other case, any 2 or more directors or other principal officers of the company.
(Replaced 28 of 2003 s. 100)

Section:	315	Registrar may require evidence as to nature of company		30/06/1997

The Registrar may require such evidence as he thinks necessary for the purpose of satisfying himself whether any company proposing to be registered is or is not a joint stock company as hereinbefore defined.
[cf. 1929 c. 23 s. 326 U.K.]

Section:	316	Exemption of certain companies from payment of fees	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

No fees shall be charged in respect of the registration in pursuance of this Part of a company if it is not registered as a limited company, or if before its registration as a limited company the liability of the shareholders was limited by some other Ordinance.
(Amended 25 of 1998 s. 2)
[cf. 1929 c. 23 s. 327 U.K.]

Section:	317	Addition of "Limited" etc., to name		30/06/1997

When a company registers in pursuance of this Part with limited liability
(a) if the name of the company is in English, the word "Limited" shall form, and be registered as, part of its name and any Chinese equivalent of its name which the company may use shall contain the expression in Chinese "有限公司";
(b) if the name of the company is in Chinese, the expression in Chinese "有限公司" shall form, and be registered as, part of its name and any English equivalent of its name which the company may use shall contain the word "Limited"; and
(c) if the name of the company is both in English and Chinese, the word "Limited" and the expression in Chinese "有限公司" shall form, and be registered as, part of its name in English and Chinese respectively.
(Replaced 3 of 1997 s. 47)

Section:	318	Certificate of registration of existing companies	L.N. 267 of 2003	13/02/2004

On compliance with the requirements of this Part with respect to registration, and on payment of such fees, if any, as are payable under the Eighth Schedule the Registrar shall issue a certificate, with his signature or printed signature,

~~certifying that the company applying for registration is incorporated as a company under this Ordinance, and in the case of a limited company that it is limited, and thereupon the company shall be so incorporated.~~
~~(Amended 28 of 2003 s. 101)~~
~~[cf. 1929 c. 23 s. 329 U.K.]~~

~~Section:~~	~~319~~	~~Vesting of property on registration~~		~~30/06/1997~~

~~All property, real and personal (including things in action), belonging to or vested in a company at the date of its registration in pursuance of this Part shall on registration pass to and vest in the company as incorporated under this Ordinance for all the estate and interest of the company therein.~~
~~[cf. 1929 c. 23 s. 330 U.K.]~~

~~Section:~~	~~320~~	~~Saving for existing liabilities~~		~~30/06/1997~~

~~Registration of a company in pursuance of this Part shall not affect the rights or liabilities of the company in respect of any debt or obligation incurred, or any contract entered into, by, to, with, or on behalf of, the company before registration.~~
~~[cf. 1929 c. 23 s. 331 U.K.]~~

~~Section:~~	~~321~~	~~Continuation of existing actions~~		~~30/06/1997~~

~~All actions and other legal proceedings which at the time of the registration of a company in pursuance of this Part are pending by or against the company, or the public officer or any member thereof, may be continued in the same manner as if the registration had not taken place:~~

~~Provided that execution shall not issue against the effects of any individual member of the company on any judgment, decree, or order obtained in any such action or proceeding, but, in the event of the property and effects of the company being insufficient to satisfy the judgment, decree, or order, an order may be obtained for winding up the company.~~

~~[cf. 1929 c. 23 s. 332 U.K.]~~

~~Section:~~	~~322~~	~~Effect of registration under Ordinance~~	~~L.N. 239 of 1999~~	~~11/11/1999~~

~~(1) When a company is registered in pursuance of this Part the following provisions of this section shall have effect.~~

~~(2) All provisions contained in any Ordinance or other instrument constituting or regulating the company, including, in the case of a company registered as a company limited by guarantee, the resolution declaring the amount of the guarantee, shall be deemed to be conditions and regulations of the company, in the same manner and with the same incidents as if so much thereof as would, if the company had been formed under this Ordinance, have been required to be inserted in the memorandum, were contained in a registered memorandum, and the residue thereof were contained in registered articles.~~

~~(3) All the provisions of this Ordinance shall apply to the company, and the members, contributories, and creditors thereof, in the same manner in all respects as if it had been formed under this Ordinance, subject as follows—~~

~~(a) Table A shall not apply unless adopted by special resolution;~~

~~(b) the provisions of this Ordinance relating to the numbering of shares shall not apply to any joint stock company whose shares are not numbered;~~

~~(c) subject to the provisions of this section the company shall not have power to alter any provision contained in any Ordinance relating to the company;~~

~~(d)-(e) (Repealed 25 of 1998 s. 2)~~

~~(f) in the event of the company being wound up, every person shall be a contributory, in respect of the debts and liabilities of the company contracted before registration, who is liable to pay or contribute to the payment of any debt or liability of the company contracted before registration, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves in respect of any such debt or liability, or to pay or contribute to the payment of the costs and expenses of winding up the company, so far as relates to such debts or liabilities as aforesaid;~~

~~(g) in the event of the company being wound up, every contributory shall be liable to contribute to the~~

~~assets of the company, in the course of the winding up, all sums due from him in respect of any such liability as aforesaid, and, in the event of the death, bankruptcy, or insolvency, of any contributory, the provisions of this Ordinance with respect to the personal representatives and to the trustees of bankrupt or insolvent contributories shall apply. (Amended 30 of 1999 s. 26)~~

~~(4) The provisions of this Ordinance with respect to—~~

~~(a) the registration of an unlimited company as limited;~~

~~(b) the powers of an unlimited company on registration as a limited company to increase the nominal amount of its share capital and to provide that a portion of its share capital shall not be capable of being called up except in the event of winding up;~~

~~(c) the power of a limited company to determine that a portion of its share capital shall not be capable of being called up except in the event of winding up,~~

~~shall apply notwithstanding any provisions contained in any Ordinance or other instrument constituting or regulating the company.~~

~~(5) Nothing in this section shall authorize the company to alter any such provisions contained in any instrument constituting or regulating the company, as would, if the company had originally been formed under this Ordinance, have been required to be contained in the memorandum and are not authorized to be altered by this Ordinance.~~

~~(6) Nothing in this Ordinance shall derogate from any power of altering its constitution or regulations which may, by virtue of any Ordinance or other instrument constituting or regulating the company, be vested in the company.~~

~~(7) In this section, "instrument" (文書) includes deed of settlement, contract of copartnery and cost book regulations.~~

~~(Amended 25 of 1998 s. 2)~~

~~[cf. 1929 c. 23 s. 333 U.K.]~~

~~Section:~~	~~323~~	~~Power to substitute memorandum and articles for deed of settlement~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Subject to the provisions of this section, a company registered in pursuance of this Part may by special resolution alter the form of its constitution by substituting a memorandum and articles for a deed of settlement.~~

~~(2) The provisions of section 8 with respect to applications to the court for the cancellation of alterations to the objects of a private company and matters consequential on the passing of resolutions for such alterations shall, so far as applicable, apply to an alteration made under this section by a company that, had it been formed under this Ordinance, would be a private company, subject to the following modifications—~~

~~(a) there shall be substituted for the printed copy of the altered memorandum required to be delivered to the Registrar a printed copy of the substituted memorandum and articles; and~~

~~(b) on the delivery to the Registrar of a printed copy of the substituted memorandum and articles or on the date when the alteration is no longer liable to be cancelled by order of the court, whichever last occurs, the substituted memorandum and articles shall apply to the company in the same manner as if it were a private company registered under this Ordinance with that memorandum and those articles, and the company's deed of settlement shall cease to apply to the company. (Replaced 28 of 2003 s. 102)~~

~~(3) An alteration under this section may be made either with or without any alteration of the objects of the company under this Ordinance.~~

~~(4) In this section, "deed of settlement" (組織安排契據) includes any contract of copartnery or other instrument constituting or regulating the company, not being an Ordinance. (Amended 25 of 1998 s. 2)~~

~~[cf. 1929 c. 23 s. 334 U.K.]~~

Section:	324	Power of court to stay or restrain proceedings		30/06/1997

The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of a company registered in pursuance of ~~this Part~~ Part IX of the pre-amended Ordinance, or Part 17 of the Companies Ordinance (of 2011), where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

[cf. 1929 c. 23 s. 335 U.K.]

Section:	325	Actions stayed on winding-up order		30/06/1997

Where an order has been made for winding up a company registered in pursuance of ~~this Part~~ Part IX of the pre-amended Ordinance, or Part 17 of the Companies Ordinance (of 2011), no action or proceeding shall be commenced or proceeded with against the company or any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

[cf. 1929 c. 23 s. 336 U.K.]

Part:	X	WINDING UP OF UNREGISTERED COMPANIES	L.N. 187 of 2007	14/12/2007

Section:	326	Meaning of unregistered companies	L.N. 187 of 2007	14/12/2007

(1) For the purposes of this Part, "unregistered company" (非註冊公司) includes any partnership, whether limited or not, any association and any company with the following exceptions- (Amended 3 of 1997 s. 48)

(a) a company registered under the Companies Ordinance 1865 (1 of 1865), or under the Companies Ordinance 1911 (58 of 1911), or under ~~this Ordinance~~ the pre-amended Ordinance, or under the Companies Ordinance (of 2011);

(b) a partnership, association or company which consists of less than 8 members and is not formed or established outside Hong Kong; (Amended 23 of 1998 s. 2)

(c) a partnership registered in Hong Kong under the Limited Partnerships Ordinance (Cap 37). (Amended 6 of 1984 s. 259)

(2) For the avoidance of doubt, it is declared that in subsection (1), "unregistered company" includes a ~~non-Hong Kong company that is registered under Part XI~~ registered non-Hong Kong company. (Replaced 30 of 2004 s. 2)

[cf. 1929 c. 23 s. 337 U.K.]

Section:	327	Winding up of unregistered companies	L.N. 267 of 2003	13/02/2004

(1) Subject to the provisions of this Part, any unregistered company may be wound up under this Ordinance, and all the provisions of this Ordinance with respect to winding up shall apply to an unregistered company, with the exceptions and additions mentioned in this section.

(2) No unregistered company shall be wound up voluntarily under this Ordinance.

(3) The circumstances in which an unregistered company may be wound up are as follows-

(a) if the company is dissolved, or has ceased to carry on business, or is carrying on business only for the purpose of winding up its affairs;

(b) if the company is unable to pay its debts;

(c) if the court is of opinion that it is just and equitable that the company should be wound up.

(4) An unregistered company shall, for the purposes of this Ordinance, be deemed to be unable to pay its debts-

(a) if a creditor, by assignment or otherwise, to whom the company is indebted in a sum then due equal to or exceeding the specified amount, has served on the company, by leaving at its principal place of business, or by delivering to any officer of the company, or by otherwise serving in such manner as the court may approve or direct, a demand under his hand requiring the company to pay the sum so due, and the company has for 3 weeks after the service of the demand neglected to pay the sum or to secure or compound for it to the satisfaction of the creditor; (Amended 28 of 2003 s. 103)

(b) if any action or other proceeding has been instituted against any member for any debt or demand due, or claimed to be due, from the company, or from him in his character of member, and notice in writing of the institution of the action or proceeding having been served on the company by leaving the same at its principal place of business, or by delivering it to any officer of the company, or by otherwise serving the same in such manner as the court may approve or direct, the company has not within 10 days after service of the notice paid, secured or compounded for the debt or demand, or procured the action or proceeding to be stayed, or indemnified the defendant to his reasonable satisfaction against the action or proceeding, and against all costs, damages and expenses to be incurred by him by reason of the same;

(c) if execution or other process issued on a judgment, decree or order obtained in any court in favour of a

creditor against the company, or any member thereof as such, or any person authorized to be sued as nominal defendant on behalf of the company, is returned unsatisfied;

(d) if it is otherwise proved to the satisfaction of the court that the company is unable to pay its debts.

(5) For the purpose of subsection (4)(a), "specified amount" (指明款額) means the amount of $10000 or, where an amount is prescribed under subsection (6), the prescribed amount. (Added 28 of 2003 s. 103)

(6) The Financial Secretary may, by regulation, prescribe any amount for the purposes of subsection (5). (Added 28 of 2003 s. 103)

(Replaced 6 of 1984 s. 222)
[cf. 1948 c. 38 s. 399 U.K.]

Section:	327A	Oversea companies may be wound up although dissolved		30/06/1997

Where a company incorporated outside Hong Kong which has been carrying on business in Hong Kong ceases to carry on business in Hong Kong, it may be wound up as an unregistered company under this Part, notwithstanding that it has been dissolved or otherwise ceased to exist as a company under or by virtue of the laws of the place of its incorporation.

(Added 6 of 1984 s. 223)
[cf. 1948 c. 38 s. 400 U.K.]

Section:	328	Contributories in winding up of unregistered company	L.N. 239 of 1999	11/11/1999

(1) In the event of an unregistered company being wound up, every person shall be deemed to be a contributory who is liable to pay or contribute to the payment of any debt or liability of the company, or to pay or contribute to the payment of any sum for the adjustment of the rights of the members among themselves, or to pay or contribute to the payment of the costs and expenses of winding up the company, and every contributory shall be liable to contribute to the assets of the company all sums due from him in respect of any such liability as aforesaid.

(2) In the event of the death, bankruptcy, or insolvency, of any contributory, the provisions of this Ordinance with respect to the personal representatives of deceased contributories and to the trustees of bankrupt or insolvent contributories shall apply. (Amended 6 of 1984 s. 224; 30 of 1999 s. 27)

[cf. 1929 c. 23 s. 339 U.K.]

Section:	329	Power of court to stay or restrain proceeding		30/06/1997

The provisions of this Ordinance with respect to staying and restraining actions and proceedings against a company at any time after the presentation of a petition for winding up and before the making of a winding-up order shall, in the case of an unregistered company, where the application to stay or restrain is by a creditor, extend to actions and proceedings against any contributory of the company.

[cf. 1929 c. 23 s. 340 U.K.]

Section:	330	Actions stayed on winding-up order		30/06/1997

Where an order has been made for winding up an unregistered company, no action or proceeding shall be proceeded with or commenced against any contributory of the company in respect of any debt of the company, except by leave of the court, and subject to such terms as the court may impose.

[cf. 1929 c. 23 s. 341 U.K.]

Section:	331	Provisions of Part X cumulative		30/06/1997

The provisions of this Part with respect to unregistered companies shall be in addition to and not in restriction of any provisions hereinbefore in this Ordinance contained with respect to winding up companies by the court, and the court or liquidator may exercise any powers or do any act in the case of unregistered companies which might be exercised or done by it or him in winding up companies formed and ~~registered under this Ordinance~~ registered under the Companies Ordinance (of 2011):

Provided that an unregistered company shall not, except in the event of its being wound up, be deemed to be a company under this Ordinance, and then only to the extent provided by this Part.

[cf. 1929 c. 23 s. 342 U.K.]

Section:	331A	Saving for enactments providing for winding up under former Companies Ordinances		30/06/1997

Nothing in this Part shall affect the operation of any enactment which provides for any partnership, association or company being wound up, or being wound up as a company or as an unregistered company, under any enactment repealed by ~~this Ordinance~~ the pre-amended Ordinance.

(Added 6 of 1984 s. 225)
[cf. 1948 c. 38 s. 405 U.K.]

~~Part:~~	~~XI~~	~~COMPANIES INCORPORATED OUTSIDE HONG KONG~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~Section:~~	~~332~~	~~Application of Part XI~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~Provisions as to Establishment of Place of Business in Hong Kong~~

~~(Replaced 6 of 1984 s. 226)~~

~~This Part shall apply to all non-Hong Kong companies, that is to say, companies incorporated outside Hong Kong which, after the commencement of this Ordinance, establish a place of business in Hong Kong, and companies incorporated outside Hong Kong which have, before the commencement of this Ordinance, established a place of business in Hong Kong and continue to have a place of business in Hong Kong at the commencement of this Ordinance.~~

~~(Replaced 6 of 1984 s. 227. Amended 30 of 2004 s. 2)~~

~~[cf. 1948 c. 38 s. 406 U.K.]~~

~~Section:~~	~~333~~	~~Documents, etc. to be delivered to Registrar by companies that establish places of business in Hong Kong~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) A non-Hong Kong company that establishes a place of business in Hong Kong on or after the commencement* of section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) shall, within 1 month of the establishment of that place of business, apply to the Registrar for registration by delivering to the Registrar a specified form containing such particulars as are specified in the form.~~

~~(2) Without prejudice to the generality of subsection (1), the specified form shall contain—~~

~~(a) the name of the company;~~

~~(b) the place of incorporation of the company;~~

~~(c) the date when the company established its place of business in Hong Kong;~~

~~(d) with respect to each director and the secretary of the company (or, where there are joint secretaries, with respect to each of them)—~~

~~(i) his date of appointment;~~

~~(ii) in the case of an individual, his present forename and surname and any former forename or surname, any alias, his usual residential address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and~~

~~(iii) in the case of a body corporate, its corporate name, registered number in Hong Kong and the address of its registered or principal office;~~

~~(e) the name and address in Hong Kong of at least one person resident in Hong Kong who is authorized to accept on behalf of the company service of process and any notices required to be served on the company, together with the date when each such person was so authorized, and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him; and~~

~~(f) the address of the principal place of business of the company in Hong Kong and the respective addresses of the principal place of business (if any) and the registered office (or its equivalent) of the company in the place of its incorporation.~~

~~(3) The following documents shall be delivered to the Registrar together with the specified form under subsection (1)—~~

~~(a) a certified copy of the charter, statutes or memorandum (including articles, if any) of the company or other instrument defining the constitution of the company or, if the instrument is in a language other than English or Chinese, a certified translation of the instrument in English or Chinese;~~

~~(b) a certified copy of the company's certificate of incorporation, together with a certified translation of the certificate in English or Chinese if the certificate is in a language other than English or Chinese;~~

~~(c) where the law of the place of incorporation of the company requires the company to publish its accounts or to deliver copies of its accounts to any person in whose office they may be inspected as of right by members of the public, a certified copy of the latest published accounts of the company that comply with that law;~~

~~(d) where the law of the place of incorporation of the company does not impose the requirement referred to in paragraph (c), but the laws of any other jurisdictions where the company is registered as a company, or the rules of any stock exchange or similar regulatory bodies in those jurisdictions impose that requirement, a certified copy of any of the latest published accounts of the company that comply with any of those laws or rules as may be chosen by the company; and~~

~~(e) where neither the law of the place of incorporation of the company, the laws of any other jurisdictions where the company is registered as a company, nor the rules of the stock exchange or similar regulatory bodies in any of those jurisdictions impose the requirement referred to in paragraph (c), a statement in the specified form stating that fact.~~

~~(4) For the purpose of subsection (2)(d), where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be substituted for the particulars mentioned in that subsection (2)(d).~~

~~(5) For the purpose of subsection (2)(e), a body corporate or a firm shall not be authorized to accept on behalf of the company service of process and any notices required to be served on the company unless—~~

~~(a) it is a solicitor corporation;~~

~~(b) it is a corporate practice within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); or~~

~~(c) it is a firm of solicitors or certified public accountants (practising). (Amended 10 of 2005 s. 225)~~

~~and where any of the above is so authorized, its name and business address in Hong Kong shall be delivered to the Registrar for registration.~~

~~(6) For the purpose of subsection (3)(b), if it is shown to the satisfaction of the Registrar that it is not the practice under the law of the place where the company claims to be incorporated to issue a certificate of incorporation, the company shall deliver to the Registrar such other evidence of incorporation as the Registrar deems sufficient.~~

~~(7) For the purposes of subsection (3)(c) and (d), if the accounts required to be provided are in a language other than English or Chinese, the company shall deliver to the Registrar a certified translation of the accounts in English or Chinese in lieu of the certified copy of the accounts in the original language.~~

~~(8) For the purposes of subsection (3)(c) and (d), if—~~

~~(a) the non-Hong Kong company has been incorporated for less than 18 months prior to the date of delivery of the specified form required under subsection (1); and~~

~~(b) the accounts that it is required to publish have not been made up,~~

~~a statement in the specified form containing that fact shall be delivered to the Registrar for registration in lieu of the certified copy of the latest published accounts of the company.~~

~~(9) This section shall apply to a non-Hong Kong company that—~~

~~(a) at the commencement of section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), has a place of business in Hong Kong established within 1 month before such commencement; and~~

~~(b) had not complied with the provisions of section 333 of the pre-amended Ordinance,~~

~~as it applies to a non-Hong Kong company referred to in subsection (1) with the substitution for "1 month of the establishment of that place of business" in that subsection of "1 month after the commencement of section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004)".~~

~~(10) A non-Hong Kong company that had, before the commencement of section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), complied with the provisions of section 333 of the pre-amended Ordinance shall be deemed to be a non-Hong Kong company complying with section 333 as enacted by section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004).~~

~~(Replaced 30 of 2004 s. 2)~~

~~**Note:**~~

~~*** Commencement date: 14 December 2007.**~~

~~Section:~~	~~333AA~~	~~Registrar to keep register of non-Hong Kong companies~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) The Registrar shall keep a register of non-Hong Kong companies that have complied with section 333.~~

~~(2) Upon receipt of the documents required to be delivered by a non-Hong Kong company under section 333, the Registrar shall—~~

~~(a) retain and register the documents;~~

~~(b) enter the name of the company in the register; and~~

~~(c) issue a certificate, with the Registrar's signature or printed signature, to the company certifying that it is a company registered under this Part.~~

~~(3) The register kept by the Registrar under section 333(3) of the pre-amended Ordinance shall be deemed to be the register kept under this section.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~333A~~	~~Continuing obligation in respect of authorized representative~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Any non-Hong Kong company registered under this Part shall at all times, until the expiration of a period of 1 year from the date on which it ceases to have a place of business in Hong Kong, keep registered under section 333(2)(e) the name, address and, in the case of an individual, number of the identity card (if any) or, in the absence of such number, the number and issuing country of any passport, of at least one authorized representative of the company.~~

~~(2) Where one person only is registered as an authorized representative of a non-Hong Kong company and he ceases to be such representative, the company shall be deemed to comply with this section if, within 1 month after he ceases to be such representative, it delivers to the Registrar for registration a return under section 335(1)(b) in respect of some other person so authorized.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~333B~~	~~Termination of registration of authorized representative~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Where the name of a person is registered under section 333 as a person authorized to accept service of process and notices on behalf of a non-Hong Kong company—~~

~~(a) that person may terminate the authorization by sending a notice in writing stating the date of termination of the authorization to the company's registered office (or its equivalent) in its place of incorporation; and~~

~~(b) the company may terminate the authorization by sending a notice in writing stating the date of termination of the authorization to that person's address as registered under section 333.~~

~~(2) Within 1 month after the date of the notice of termination referred to in subsection (1), the person or company, as the case may be, shall send a notice to the Registrar in the specified form informing him of the date of termination of the authorization together with a copy of the notice of termination, or a certified translation of the notice of termination in English or Chinese if it is in a language other than English or Chinese.~~

~~(3) The specified form referred to in subsection (2) shall contain a statement made by the person or company, as the case may be, stating that the company or person, as the case may be, has been notified of the termination of authorization in accordance with subsection (1).~~

~~(4) The person named in the notice sent under subsection (1) shall cease to be a person authorized to accept service of process and notices on behalf of the company on the later of—~~

~~(a) the date of termination of the authorization stated in the notice; and~~

~~(b) the expiration of 21 days from the date of compliance with subsection (2).~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~333C~~	~~Registrar to keep an index of directors of non-Hong Kong companies~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) (a) The Registrar shall keep and maintain an index of every person who is a director of a non-Hong Kong company registered under this Part. (Replaced 30 of 2004 s. 2)~~

~~(b) The particulars contained in the index shall, in respect of each director, include his name and address and the latest particulars delivered in respect of him to the Registrar, together with the name of each company of which he can be identified as a director. (Amended 30 of 1999 s. 29)~~

~~(2) The index kept in pursuance of this section shall be open to inspection by any person on payment of the prescribed fee.~~

~~(3) The index of directors kept and maintained by the Registrar under section 333C of the pre-amended Ordinance shall be deemed to be the index under this section. (Added 30 of 2004 s. 2)~~

~~(Added 75 of 1993 s. 19)~~

~~Section:~~	~~334~~	~~Annual return to be made by non-Hong Kong company~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Every non-Hong Kong company registered under this Part shall, within 42 days after each anniversary of the date of registration of the company under this Part, deliver a return to the Registrar for registration.~~

~~(2) The return in subsection (1) shall be in the specified form, which shall contain, with respect to the company, such particulars as are specified in the form.~~

~~(3) Without prejudice to the generality of subsection (2), the return in subsection (1) shall state—~~

~~(a) the date of the return, which shall be the date of the most recent anniversary of the date of registration of the company under this Part;~~

~~(b) the place of incorporation of the company;~~

~~(c) the name of the company and its registered number in Hong Kong;~~

~~(d) the date of registration of the company under this Part;~~

~~(e) the address of the principal place of business of the company in Hong Kong;~~

~~(f) the respective addresses of the principal place of business (if any) and the registered office (or its equivalent) of the company in the place of its incorporation;~~

~~(g) all such particulars with respect to each person who, at the date of the return, is a director, the secretary (or, where there are joint secretaries, with respect to each of them) or an authorized representative of the company as are required by this Ordinance to be delivered to the Registrar for registration;~~

~~(h) in the case of a company to which section 336 applies, a statement indicating that the latest published accounts of the company are delivered to the Registrar under that section together with the return;~~

~~(i) in the case of a company to which section 336 does not apply, a statement of that fact;~~

~~(j) where the company has been incorporated for less than 18 months prior to the date of delivery of the return under subsection (1) and the accounts of the company that are required to be published have not been made up, a statement in the specified form stating that fact;~~

~~(k) in the case of a company having a share capital, particulars relating to the authorized share capital and issued share capital, or their equivalents, of the company; and~~

~~(l) particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges that are required to be registered with the Registrar under this Ordinance.~~

~~(4) For the purpose of subsection (3)(g), where all the partners in a firm are joint secretaries of the company, the name and principal office of the firm may be substituted for the particulars mentioned in that subsection (3)(g).~~

~~(5) If there has been no alteration in the particulars required by subsections (2) and (3)(b), (e), (f), (g), (k) and (l) since the date of the last return, the company may, in lieu of the return required to be delivered under subsection (1), make a return (the "second-mentioned return") by certificate in the specified form stating—~~

~~(a) the date at which the last return under subsection (1) was made up; and~~

~~(b) that, as at the date of the second-mentioned return, there has been no alteration in those particulars since the date referred to in paragraph (a).~~

~~(6) Where a non-Hong Kong company registered under this Part has, within 3 months immediately before the commencement* of section 33 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), delivered to the Registrar for registration a return under section 336(1) of the pre-amended Ordinance, the company shall not be obliged to deliver a return that it shall otherwise be required to deliver under subsection (1) in the year of that commencement.~~

~~(Repealed 6 of 1984 s. 230. Added 30 of 2004 s. 2)~~

~~**Note:**~~

~~*** Commencement date: 14 December 2007.**~~

~~Section:~~	~~335~~	~~Return to be delivered to Registrar where documents, etc. altered~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Where, in the case of a non-Hong Kong company registered under this Part, any alteration is made in—~~

~~(a) the charter, statutes or memorandum (including articles, if any) of the company or other instrument defining the constitution of the company;~~

~~(b) the directors, secretary (or, where there are joint secretaries, each of them) or authorized representative of the company;~~

~~(c) the particulars of the directors, secretary (or, where there are joint secretaries, each of them) or authorized representative of the company delivered to the Registrar under this Part; or~~

~~(d) the address of the principal place of business of the company in Hong Kong or of its registered office (or its equivalent), or of its principal place of business, in the place of its incorporation,~~

~~the company shall, within 1 month after the date of the alteration, deliver to the Registrar for registration a return in the specified form containing the particulars of the alteration.~~

~~(2) If a non-Hong Kong company changes its corporate name, it shall, within 1 month after the date of the change, deliver to the Registrar for registration—~~

~~(a) a return in the specified form containing the particulars of the change of name; and~~

~~(b) a certified copy of the instrument effecting the change of name, together with a certified translation of the instrument in English or Chinese if that instrument is in a language other than English or Chinese.~~

~~(3) Upon receipt of the documents delivered under subsection (2), the Registrar shall register the return and issue to the company a fresh certificate of registration containing the corporate name so changed.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~336~~	~~Accounts of non-Hong Kong companies~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Where the law of the place of incorporation of a non-Hong Kong company registered under this Part requires the company to publish its accounts or to deliver copies of its accounts to any person in whose office they may be inspected as of right by members of the public, the company shall, within 42 days after each anniversary of the date of registration of the company under this Part, deliver to the Registrar for registration together with the return under section 334 a certified copy of the latest published accounts of the company that comply with that law.~~

~~(2) For the purpose of subsection (1), where the law of the place of incorporation of the company does not impose the requirement referred to in that subsection, but the laws of any other jurisdictions where the company is registered as a company, or the rules of any stock exchange or similar regulatory bodies in those jurisdictions impose that requirement, the company shall deliver to the Registrar for registration together with the return under section 334 a certified copy of any of the latest published accounts of the company that comply with any of those laws or rules as may be chosen by the company.~~

~~(3) If the accounts required to be provided under this section are in a language other than English or Chinese, the company shall deliver to the Registrar a certified translation of the accounts in English or Chinese in lieu of the certified copy of the accounts in the original language.~~

~~(4) Where a non-Hong Kong company registered under this Part has, within 3 months immediately before the commencement* of section 35 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), complied with section 336 of the pre-amended Ordinance in delivering to the Registrar for registration copies of the documents mentioned in section 336(1)(a) and (b) or (4) of the pre-amended Ordinance relating to a financial year of the company, the company shall not be obliged to deliver its latest published accounts that it shall otherwise be required to deliver under subsection (1) after that commencement if those latest published accounts relate to the same financial year.~~

~~(Replaced 30 of 2004 s. 2)~~

~~**Note:**~~

~~*** Commencement date: 14 December 2007.**~~

~~Section:~~	~~336A~~	~~Voluntary revision of accounts~~	~~L.N. 188 of 2007~~	~~14/12/2007~~

~~(1) If—~~

~~(a) a certified copy of any accounts of a non-Hong Kong company registered under this Part has been delivered to the Registrar for registration under section 336; and~~

~~(b) it appears to the directors of the company that the accounts did not comply with the relevant requirements,~~

~~the directors may cause the accounts to be revised.~~

~~(2) Such revision of the accounts is to be confined to—~~

~~(a) those aspects in which the accounts did not comply with the relevant requirements; and~~

~~(b) other necessary consequential revisions.~~

~~(3) If the directors of a non-Hong Kong company decide to cause any accounts of the company to be revised under subsection (1), the company shall, as soon as practicable after the decision, deliver to the Registrar for registration a warning statement, in the specified form, that the accounts will be so revised.~~

~~(4) In this section, "relevant requirements" (有關規定), in relation to the accounts of a non-Hong Kong company, means—~~

~~(a) in the case where section 336(1) applies to the company, the law of the place of incorporation of that company;~~

~~(b) in the case where section 336(2) applies to the company—~~

~~(i) the laws of any other jurisdictions where that company is registered as a company; or~~

~~(ii) the rules of any stock exchange or similar regulatory bodies in those jurisdictions.~~

~~(Replaced 18 of 2006 s. 64)~~

~~Section:~~	~~337~~	~~Obligation to state name of non-Hong Kong company, whether limited and place where incorporated~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Every non-Hong Kong company shall— (Amended 30 of 2004 s. 2)~~

~~(a) in every prospectus inviting subscriptions for its shares or debentures in Hong Kong state the place in which the company is incorporated; and~~

~~(b) conspicuously exhibit on every place where it carries on business in Hong Kong the name of the company and the place in which the company is incorporated; and~~

~~(c) cause the name of the company and of the place in which the company is incorporated to be stated in legible characters in all bill-heads and letter paper, and in all notices and other official publications of the company and, if the company is in liquidation, in all advertisements of the company; and~~

~~(ca) where the company is in liquidation— (Amended 30 of 2004 s. 2)~~

~~(i) if the name of the company is in a language other than Chinese, add the words and parentheses "(in liquidation)" after its name as exhibited under paragraph (b) and as stated in documents of the company under paragraph (c);~~

~~(ii) if the name of the company is in Chinese, add the expression in Chinese and parentheses "(正進行清盤)" after its name so exhibited and stated; and~~

~~(iii) if the name of the company is both in Chinese and in a language other than Chinese, add the expression in Chinese and parentheses "(正進行清盤)" and the words and parentheses "(in liquidation)" respectively after its name in Chinese and in that other language so exhibited and stated; and (Replaced 3 of 1997 s. 51)~~

~~(d) if the liability of the members of the company is limited, cause notice of that fact to be stated in legible characters in every such prospectus as aforesaid and in all bill-heads, letter paper, notices and other official publications of the company in Hong Kong and, if the company is in liquidation, in all advertisements of the company in Hong Kong, and to be affixed on every place where it carries on its business. (Amended 6 of 1984 ss. 233 & 259; 30 of 2004 s. 2) [cf. 1929 c. 23 s. 348 U.K.]~~

~~(2) Where a non-Hong Kong company is in liquidation before the commencement* of section 36(5), (6) and (7) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), section 337(c), (ca) and (d) of the pre-amended Ordinance shall apply to the company as if that section 36(5), (6) and (7) had not been enacted. (Added 30 of 2004 s. 2)~~

~~**Note:**~~

~~*** Commencement date: 14 December 2007.**~~

~~Section:~~	~~337A~~	~~Notice of commencement of liquidation and of appointment of liquidator~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) A non-Hong Kong company registered under this Part shall, within 14 days after the date of commencement of any proceedings for the liquidation of the company, or within 14 days after the notice of commencement of such proceedings has been served on the company according to the law of the place in which such proceedings are commenced, whichever is the later, deliver to the Registrar for registration a notice in the specified form containing the following particulars—~~

~~(a) the commencement date of the proceedings;~~

~~(b) the country where the proceedings are commenced;~~

~~(c) the mode of liquidation;~~

~~(d) if a liquidator has been appointed—~~

~~(i) whether he is a liquidator or provisional liquidator;~~

~~(ii) whether he is a sole liquidator, or one of the joint, or joint and several, liquidators;~~

~~(iii) the date of his appointment;~~

~~(iv) his present forename and surname, address and the number of his identity card (if any) or, in the absence of such number, the number and issuing country of any passport held by him.~~

~~(2) If—~~

~~(a) any change occurs in the particulars given in the notice;~~

~~(b) a liquidator is appointed after the notice is delivered to the Registrar for registration; or~~

~~(c) the liquidator whose name is given in the notice has ceased to hold office as such,~~

~~the company shall, within 14 days after the date of the change of particulars, or of the appointment of the liquidator, or of his cessation to hold office as such, as the case may be, deliver to the Registrar for registration a notice in the specified form, containing the particulars of the change, the particulars under subsection (1)(d) of the liquidator who is appointed, or the date of his cessation to hold office as such, as the case may be.~~

~~(3) For the purpose of subsection (1)(c), "mode of liquidation" (清盤方式) means voluntary or compulsory liquidation, or such other modes of liquidation, commenced in Hong Kong or elsewhere, as may be specified in the notice.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~337B~~	~~Regulation of use of corporate names by non-Hong Kong companies in Hong Kong~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Subject to subsection (2), where the Registrar is satisfied that in the case of a non-Hong Kong company registered under this Part and carrying on business in Hong Kong under its corporate name, its corporate name- (Amended 30 of 2004 s. 2)~~

~~(a) is the same as or is too like-~~

~~(i) a name appearing, or which should have appeared, in the Registrar's index of company names on the relevant date; or~~

~~(ii) the name of a body corporate incorporated or established under an Ordinance before the relevant date; or~~

~~(b) gives so misleading an indication of the nature of its activities in Hong Kong as to be likely to cause harm to the public,~~

~~he may serve a notice to that effect on the non-Hong Kong company. (Replaced 60 of 1990 s. 8) [cf. 1985 c. 6 s. 694 U.K.]~~

~~(2) A notice shall not be served on a non-Hong Kong company under subsection (1)(a) later than 6 months beginning on the relevant date. (Replaced 60 of 1990 s. 8) [cf. 1985 c. 6 s. 694 U.K.]~~

~~(2A)In subsections (1) and (2), "relevant date" (有關日期) means the date on which the non-Hong Kong company complies with section 333 or, where there has been a change in its corporate name, section 335. (Added 60 of 1990 s. 8) [cf. 1985 c. 6 s. 694 U.K.]~~

~~(3) A non-Hong Kong company on which a notice is served under subsection (1) may-~~

~~(a) deliver to the Registrar for registration a statement in the specified form specifying a name approved by the Registrar other than its corporate name under which it proposes to carry on business in Hong Kong; and~~

~~(b) after that name has been so registered, at any time deliver to the Registrar for registration a statement in the specified form specifying a name approved by the Registrar other than its corporate name in substitution for the name~~

~~previously registered. (Replaced 30 of 2004 s. 2)~~

~~(4) The name by which a non-Hong Kong company is, by virtue of subsection (3), for the time being registered under section 333AA shall for all purposes of the law applying in Hong Kong (including the Business Registration Ordinance (Cap 310)) be deemed to be the corporate name of the company; but this subsection shall not affect references to the corporate name of the company in this section or any rights or obligations of the company, or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced against it by its corporate name or its name previously registered may be continued or commenced against it by its name for the time being so registered.~~

~~(5) Subject to subsection (6), a non-Hong Kong company on which a notice is served under subsection (1) shall not at any time after the expiration of 2 months from the service of that notice carry on business in Hong Kong under its corporate name.~~

~~(6) A non-Hong Kong company on which a notice is served under subsection (1) may, within a period of 3 weeks from the service of that notice, apply to the court to set aside the notice, and the court may set it aside or confirm it.~~

~~(6A) The Registrar may, at any time before or after the end of the period mentioned in subsection (5), withdraw a notice served under subsection (1). (Added 30 of 2004 s. 2)~~

~~(6B) If a notice served under subsection (1) is withdrawn, subsection (5) ceases to apply to the company on which the notice was served. (Added 30 of 2004 s. 2)~~

~~(7) If subsection (5) is contravened, the non-Hong Kong company and every officer or agent of the company who knowingly and wilfully authorizes or permits the contravention shall be liable to— (Amended 30 of 2004 s. 2)~~

~~(a) a fine and, in the case of an individual, imprisonment; and~~

~~(b) for continued default, a daily default fine,~~

~~but nothing in subsection (5) or this subsection shall invalidate any transaction entered into by the company. (Amended 7 of 1990 s. 2; 60 of 1990 s. 8)~~

~~(Added 6 of 1984 s. 234. Amended 30 of 2004 s. 2)~~

~~[cf. 1976 c. 69 s. 31 U.K.]~~

~~**Note:**~~

~~**See 60 of 1990 s. 12.**~~

~~Section:~~	~~338~~	~~Service of documents on non-Hong Kong companies~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) Subject to subsection (2), any process or notice required to be served on a non-Hong Kong company shall be sufficiently served if~~

~~(a) it is addressed to a person whose name has been delivered to the Registrar under this Part as the authorized representative of the company; and~~

~~(b) it is left at his last known address or sent to him by post. (Replaced 30 of 2004 s. 2)~~

~~(2) Where any non-Hong Kong company makes default in delivering to the Registrar the name and address of a person resident in Hong Kong authorized to accept on behalf of the company service of process or notices, or if at any time all the persons whose names and addresses have been so delivered are dead or have ceased so to reside or refuse to accept service on behalf of the company or for any reason cannot be served, a document may be served on the company— (Amended 30 of 2004 s. 2)~~

~~(a) by leaving it at or sending it by post to any place of business established by the company in Hong Kong; or~~

~~(b) if the company no longer has a place of business in Hong Kong~~

~~(i) by sending it by registered post to its registered office, and a copy thereof by registered post to its principal place of business (if any), in the place of its incorporation at the respective addresses thereof registered under section 333(2)(f); or~~

~~(ii) if no such addresses have been registered, by leaving it at or sending it by post to any place in Hong Kong at which the company has had a place of business within the previous 12 months. (Amended 30 of 2004 s. 2)~~

~~(Replaced 6 of 1984 s. 235)~~

~~[cf. 1948 c. 38 s. 412 U.K.]~~

~~Section:~~	~~339~~	~~Notices to be sent when non-Hong Kong companies cease to have places of business in Hong Kong~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) If a non-Hong Kong company that is registered under this Part ceases to have a place of business in Hong Kong, it shall, within 7 days after ceasing to have the place of business, send to the Registrar a notice of that fact in the specified form.~~

~~(2) Upon receipt of the notice in subsection (1), the Registrar shall—~~

~~(a) retain and register the notice; and~~

~~(b) enter in the register of non-Hong Kong companies a statement that the relevant non-Hong Kong company has ceased to have a place of business in Hong Kong.~~

~~(Replaced 30 of 2004 s. 2)~~

~~Section:~~	~~339AA~~	~~Notices, etc. to be sent when non-Hong Kong companies are dissolved~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) If a non-Hong Kong company that is registered under this Part is dissolved, an agent of the company shall, within 14 days after the date of dissolution, send to the Registrar—~~

~~(a) a notice of that fact in the specified form; and~~

~~(b) a certified copy of an instrument effecting the dissolution, or a certified translation of the instrument in English or Chinese if the instrument is in a language other than English or Chinese.~~

~~(2) Upon receipt of the documents in subsection (1), the Registrar shall—~~

~~(a) retain and register the documents; and~~

~~(b) enter in the register of non-Hong Kong companies a statement that the relevant non-Hong Kong company has been dissolved.~~

~~(Added 30 of 2004 s. 2)~~

~~Section:~~	~~339A~~	~~Removal, etc. of names of non-Hong Kong companies from register~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) (Repealed 30 of 2004 s. 2)~~

~~(2) Where the Registrar has reasonable cause to believe that a non-Hong Kong company registered under this Part has ceased to have a place of business in Hong Kong, the provisions of this Ordinance relating to the striking off the register of companies of the names of defunct companies shall, with such adaptations as are necessary, extend and apply accordingly. (Amended 30 of 2004 s. 2)~~

~~(Added 6 of 1984 s. 235)~~

~~Section:~~	~~340~~	~~Penalties~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~If any non-Hong Kong company fails to comply with any of the provisions of this Part the company, and every officer or agent of the company who authorizes or permits the default, shall be liable to a fine and, for continued default, to a daily default fine.~~

~~(Replaced 6 of 1984 s. 235. Amended 7 of 1990 s. 2; 30 of 2004 s. 2)~~

~~[cf. 1948 c. 38 s. 414 U.K.]~~

~~Section:~~	~~341~~	~~Interpretation of Part XI~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~(1) For the purposes of this Part—~~

~~"authorized representative" (獲授權代表) means a person who is authorized to accept on behalf of the company service of process and any notices required to be served on the company and whose name is registered as such under section 333;~~

~~"certified" (核證) means certified in the manner prescribed in the Companies (Forms) Regulations (Cap 32 sub. leg. B) to be a true copy or a correct translation, as may be appropriate;~~

~~"director" (董事) includes a shadow director;~~

~~"place of business" (營業地點) includes a share transfer or share registration office but does not include an~~

~~office specified in the Twenty-fourth Schedule;~~

~~"pre-amended Ordinance" (修訂前的本條例)~~

~~(a) for the purposes of section 333(9) and (10), as enacted by section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004);~~

~~(b) for the purpose of section 333AA(3), as enacted by section 29 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 29 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004);~~

~~(c) for the purpose of section 333C(3), as enacted by section 32(2) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 32(2) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004);~~

~~(d) for the purposes of sections 334(6) and 336(4), as enacted by sections 33 and 35 respectively of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by sections 33 and 35 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004);~~

~~(e) for the purpose of section 337(2), as enacted by section 36(8) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004), means the Companies Ordinance (Cap 32) that was in force immediately before it was amended by section 36(5), (6) and (7) of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004);~~

~~"secretary" (秘書) includes any person occupying the position of secretary by whatever name called.~~

~~(2) In this Part—~~

~~(a) references to solicitors are references to persons who are solicitors qualified to act as such under the Legal Practitioners Ordinance (Cap 159);~~

~~(b) the expression "certified public accountant (practising)" (執業會計師) has the meaning assigned to it by the Professional Accountants Ordinance (Cap 50); (Replaced 10 of 2005 s. 225)~~

~~(c) the expressions "forename" (名字), "identity card" (身分證), "residential address" (住址) and "surname" (姓氏) have the meanings respectively assigned to them by section 158(10);~~

~~(d) references to a former forename or surname shall be construed in accordance with section 158(10)(f).~~

~~(Replaced 30 of 2004 s. 2)~~

Part:	XII	RESTRICTIONS ON SALE OF SHARES AND OFFERS OF SHARES FOR SALE	L.N. 154 of 2004	03/12/2004

Section:	342	Dating of prospectus and particulars to be contained therein	L.N. 154 of 2004	03/12/2004

(1) Subject to section 342A, it shall not be lawful for any person to issue, circulate or distribute in Hong Kong any prospectus offering for subscription or purchase shares in or debentures of a company incorporated outside Hong Kong, whether the company has or has not established a place of business in Hong Kong unless the prospectus is dated (which date shall, unless the contrary is proved, be taken as the date of publication of the prospectus) and- (Amended 86 of 1992 s. 12; 30 of 2004 s. 2)

(a) contains particulars with respect to the following matters-

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments, or provisions having the force of an enactment, by or under which the incorporation of the company was effected;

(iii) an address in Hong Kong where the said instrument, enactments or provisions, or copies thereof, and if the same are in a language other than English or Chinese a translation thereof in English or Chinese certified in the prescribed manner, can be inspected; (Amended 83 of 1995 s. 19)

(iv) the date on which and the country in which the company was incorporated;

(v) whether the company has established a place of business in Hong Kong, and, if so, the address of its principal office in Hong Kong;

(b) subject to the provisions of this section, is either in the English language and contains a Chinese translation or in the Chinese language and contains an English translation, and states the matters specified in Part I of the Third Schedule and sets out the reports specified in Part II of that Schedule,

subject always to the provisions contained in Part III of that Schedule: (Amended 83 of 1995 s. 19)

Provided that the provisions of paragraph (a)(i), (ii) and (iii) shall not apply in the case of a prospectus issued more than 2 years after the date at which the company is entitled to commence business, and, in the application of Part I of the Third Schedule for the purposes of this subsection, paragraph 5 thereof shall have effect with the substitution, for the reference to the articles, of a reference to the constitution of the company. (Amended 6 of 1984 s. 259)

(2) Any condition requiring or binding an applicant for shares or debentures to waive compliance with any requirement imposed by virtue of subsection (1)(a) or (b), or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(2A) Every prospectus to which subsection (1) applies must contain a statement specified in Part 2 of the Eighteenth Schedule. (Added 30 of 2004 s. 2)

(3) Subject to section 342A, it shall not be lawful for any person to issue to any person in Hong Kong a form of application for shares in or debentures of such a company as is mentioned in subsection (1) unless the form is issued with a prospectus which complies with this Part and the issue whereof in Hong Kong does not contravene the provisions of section 342B: (Amended 6 of 1984 s. 259; 86 of 1992 s. 12)

Provided that this subsection shall not apply if it is shown that the form of application was issued- (Amended 30 of 2004 s. 2)

(a) in connection with a bona fide invitation to a person to enter into an underwriting agreement with respect to the shares or debentures;

(b) in relation to shares or debentures which were not offered to the public; or (Amended 30 of 2004 s. 2)

(c) in connexion with an offer specified in Part 1 of the Seventeenth Schedule as read with the other Parts of that Schedule. (Added 30 of 2004 s. 2)

(4) In the event of non-compliance with or contravention of any of the requirements imposed by subsection (1)(a) and (b), a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if-

(a) as regards any matter not disclosed, he proves that he was not cognisant thereof; or

(b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

(c) the non-compliance or contravention was in respect of matters which, in the opinion of the court dealing with the case, were immaterial or were otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters contained in paragraph 19 of the Third Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of the matters not disclosed.

(5) This section shall not apply-

(a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or

(b) to the issue of a prospectus or a form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued and for the time being listed on a recognized stock market; (Amended 6 of 1984 s. 259; 10 of 1987 s. 11; 5 of 2002 s. 407)

but, subject as aforesaid, this section shall apply to a prospectus or form of application whether issued on the formation of a company or subsequently.

(6) Nothing in this section shall limit or diminish any liability which any person may incur ~~under the general law or this Ordinance apart from this section.~~ under—

(a) the general law;

(b) the provisions of the pre-amended Ordinance having a continuing effect under Schedule 10 to the Companies Ordinance (of 2011) or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1);

(c) this Ordinance apart from this section; or

(d) the Companies Ordinance (of 2011).

(7) It is hereby declared that the provisions of the Third Schedule applied by this section are also applied to a guarantor corporation in relation to an offer or invitation to the public to subscribe for or purchase debentures of a company incorporated outside Hong Kong. (Added 30 of 2004 s. 2)

(8) In subsection (7), "guarantor corporation" (提供擔保的法團), in relation to an offer or invitation to the public to subscribe for or purchase debentures of a company incorporated outside Hong Kong, means a corporation

that guarantees or agrees to guarantee-

(a) the repayment of any money received or to be received by the company in response to the offer or invitation;

(b) any other obligations of the company under or in respect of the debentures; or

(c) in favour of the company any amount-

(i) to which the company is entitled; and

(ii) receipt of which, as stated in the prospectus concerned, is intended to enable the company to wholly or partly discharge any of its obligations under or in respect of the debentures. (Added 30 of 2004 s. 2)

(Replaced 78 of 1972 s. 18)
[cf. 1948 c. 38 s. 417 U.K.]

Section:	342A	Exemption of certain persons and prospectuses from compliance with certain requirements	L.N. 154 of 2004	03/12/2004

(1) Where it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong (whether the company has or has not established a place of business in Hong Kong) to the public by a prospectus or class of prospectuses issued generally, there may, on the request of the applicant, and subject to such conditions (if any) as the Commission thinks fit, be issued by the Commission a certificate of exemption from compliance with any or all of the requirements of the relevant provisions if, having regard to the circumstances, the Commission considers that the exemption will not prejudice the interest of the investing public and compliance with any or all of those requirements-

(a) would be irrelevant or unduly burdensome; or

(b) is otherwise unnecessary or inappropriate. (Replaced 30 of 2004 s. 2)

(2) Whether or not a request referred to in subsection (1) has been made, the Commission may, by notice published in the Gazette, and subject to such conditions (if any) as the Commission thinks fit and specified in the notice, exempt-

(a) any class of companies; or

(b) any class of prospectuses issued by companies,

from any or all of the requirements of the relevant provisions if, having regard to the circumstances, the Commission considers that the exemption will not prejudice the interest of the investing public and compliance with any or all of those requirements, in the case of that class of companies or prospectuses, as the case may be-

(c) would be irrelevant or unduly burdensome; or

(d) is otherwise unnecessary or inappropriate. (Replaced 30 of 2004 s. 2)

(3) Where exemption from compliance with section 342(1) and (3) in relation to the requirements of the Third Schedule is granted under this section, whether by the issue of a certificate of exemption or by a notice in the Gazette, the certificate or notice, as the case may be, shall be expressed to have effect with regard to all of the requirements of the Third Schedule or to such of them as are specified in the certificate or notice, as the case may be.

(4) In this section, “relevant provisions” (有關條文) means any of the provisions of-

(a) section 44A(1), (2) or (6), 44B(1) or (2), 342(1), (2A), (3) or (7) or 342C(3) or (4); or

(b) Part 2 of the Twentieth Schedule or Part 2 of the Twenty-first Schedule. (Added 30 of 2004 s. 2)

(5) The Commission may, by order published in the Gazette, amend subsection (4). (Added 30 of 2004 s. 2)

(6) The Commission shall publish, by means of an on-line medium, such particulars of exemptions granted under subsection (1) as it considers appropriate. (Added 30 of 2004 s. 2)

(7) Where the Commission proposes to issue-

(a) a notice of exemption under subsection (2); or

(b) an amendment order under subsection (5),

it shall publish a draft of the proposed notice or order, in such manner as it considers appropriate, for the purpose of inviting representations on the proposed notice or order by the public. (Added 30 of 2004 s. 2)

(8) Where the Commission issues a notice or order mentioned in subsection (7) after a draft is published under that subsection in relation to the notice or order, it shall-

(a) publish, in such manner as it considers appropriate, an account setting out in general terms-

(i) the representations made on the draft; and

(ii) the response of the Commission to the representations; and

(b) where the notice or order is issued with modifications which in the opinion of the Commission result in

the notice or order being significantly different from the draft, publish, in such manner as it considers appropriate, details of the difference. (Added 30 of 2004 s. 2)

(9) Subsections (7) and (8) do not apply if the Commission considers, in the circumstances of the case, that-

(a) it is unnecessary or inappropriate that such subsections should apply; or

(b) any delay involved in complying with such subsections would not be-

(i) in the interest of the investing public; or

(ii) in the public interest. (Added 30 of 2004 s. 2)

(Replaced 86 of 1992 s. 13)

Section:	342AA	Exemption for structured products	8 of 2011	13/05/2011

Expanded Cross Reference:
17, 18, 19, 20, 21, 22

If it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong that are structured products, the following provisions do not apply in relation to the offer—

(a) this Part (other than this section);

(b) the Third Schedule; and

(c) the Seventeenth to the Twenty-second Schedules. <* Note - Exp. X-Ref.: Schedules 17, 18, 19, 20, 21, 22 *>

(Added 8 of 2011 s. 19)

Section:	342B	Provisions as to expert's consent, and allotment	L.N. 154 of 2004	03/12/2004

(1) It shall not be lawful for any person to issue, circulate or distribute in Hong Kong any prospectus offering for subscription or purchase shares in or debentures of a company incorporated outside Hong Kong, whether the company has or has not established a place of business in Hong Kong- (Amended 6 of 1984 s. 259; 30 of 2004 s. 2)

(a) if, where the prospectus includes a statement purporting to be made by an expert, he has not given, or has before delivery of the prospectus for registration withdrawn, his written consent to the issue of the prospectus with the statement included in the form and context in which it is included or there does not appear in the prospectus a statement that he has given and has not withdrawn his consent as aforesaid; or

(b) if the prospectus does not have the effect, where an application is made in pursuance thereof, of rendering all persons concerned bound by all the provisions (other than penal provisions) of sections 44A (except insofar as exemption from compliance has been granted under section 342A) and 44B so far as applicable. (Amended 86 of 1992 s. 14)

(1A) (Repealed 30 of 2004 s. 2)

(2) In this section the expression "expert" (專家) includes engineer, valuer, accountant and any other person whose profession gives authority to a statement made by him, and for the purposes of this section a statement shall be deemed to be included in a prospectus if it is contained therein or in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

(Added 78 of 1972 s. 18)
[cf. 1948 c. 38 s. 419 U.K.]

Section:	342C	Registration of prospectus	L.N. 154 of 2004	03/12/2004

(1) No prospectus offering for subscription or purchase shares in or debentures of a company incorporated outside Hong Kong (whether the company has or has not established a place of business in Hong Kong) shall be issued, circulated or distributed in Hong Kong unless the prospectus complies with the requirements of this Ordinance and, on or before the date of its publication, circulation or distribution in Hong Kong, its registration has been authorized under this section and a copy thereof has been registered by the Registrar. (Amended 30 of 2004 s. 2)

(2) Every prospectus shall-

(a) on the face of it, state that a copy has been registered as required by this section and, immediately after such statement, state that neither the Commission nor the Registrar takes any responsibility as to the contents of the prospectus or, where the prospectus is or is to be authorized for issue by a recognized

exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (Cap 571), state that neither the Commission nor the recognized exchange company nor the Registrar takes any responsibility as to the contents of the prospectus; (Amended 30 of 2004 s. 2)

(b) on the face of it, specify or refer to statements included in the prospectus which specify, any documents required by this section to be endorsed on or attached to the copy so registered; and

(c) conform with such requirements as are prescribed by the Chief Executive in Council or ~~specified by the Registrar under section 346 which are applicable to prospectuses to be registered under this Part~~ and the requirements set out in subsection (7A). (Amended 23 of 1999 s. 3)

(3) An application for authorization for registration of a prospectus under this section shall be made in writing to the Commission and there shall be delivered to the Commission together with the application a copy of the prospectus proposed to be registered which has been certified by 2 members of the governing body of the company or by their agents authorized in writing as having been approved by resolution of the governing body and having endorsed thereon or attached thereto-

(a) any consent to the issue of the prospectus required by section 342B from any person as an expert; and

(b) in the case of a prospectus issued generally, also-

(i) a copy of any contract required by paragraph 17 of the Third Schedule to be stated in the prospectus or, in the case of a contract not reduced into writing, a memorandum giving full particulars thereof or, if in the case of a prospectus exempted under section 342A from compliance with the requirements of section 342(1), a contract or a copy thereof or a memorandum of a contract is required by the Commission to be available for inspection in connection with the request made under section 342A(1), a copy or, as the case may be, a memorandum of that contract;

(ii) where the prospectus offers shares in the company for sale to the public, a list of the names, addresses and descriptions of the vendor or vendors of the shares; and

(iii) where the persons making any report required by Part II of the Third Schedule have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in paragraph 42 of that Schedule, a written statement signed by those persons setting out the adjustments and giving the reasons therefor.

(4) The references in subsection (3)(b)(i) to the copy of a contract required thereby to be endorsed on or attached to a copy of the prospectus shall, in the case of a contract wholly or partly in a language other than English or Chinese, be taken as references to a copy of a translation of the contract in either language or a copy embodying a translation in English or Chinese of the parts not in either language, as the case may be, being a translation certified in the prescribed manner under subsection (9) to be a correct translation. (Amended 83 of 1995 s. 20; 30 of 2004 s. 2)

(5) The Commission may-

(a) authorize the registration by the Registrar, of a prospectus to which this section applies and where the Commission so authorizes, the Commission shall issue a certificate-

(i) certifying that the Commission has done so; and

(ii) specifying the documents which are required to be endorsed on or attached to the copy of the prospectus to be registered; or

(b) refuse to authorize such registration.

(6) The Commission shall not authorize the registration of a prospectus which relates to an intended company.

(7) The Registrar-

(a) shall not register a prospectus under this section unless-

(i) it is dated and the copy thereof to be registered has been certified in the manner required by this section;

(ii) it is accompanied by a certificate issued under subsection (5);

(iii) it is endorsed thereon or attached thereto all the documents specified in the certificate granted under subsection (5); ~~and~~

(iv) it conforms with such requirements as are prescribed by the Chief Executive in Council ~~or specified by the Registrar under section 346 which are applicable to prospectuses to be registered under this Part~~ and the requirements set out in subsection (7A); and (Amended 23 of 1999 s. 3)

(v) it is accompanied by any fee that is payable, in respect of the registration, under a regulation made under section 25 of the Companies Ordinance (of 2011); and

(b) shall register a prospectus if subparagraphs (i), (ii), (iii) ~~and (iv)~~, (iv) and (v) of paragraph (a) are complied with in respect of that prospectus.

(7A) The following are the requirements set out for the purposes of subsections (2)(c) and (7)(a)(iv)—

(a) any requirement that the Registrar may specify, by notice in the Gazette, in relation to font size of prospectuses for the purposes of this section;

(b) any other requirements that the Registrar may specify, by any means that the Registrar thinks fit, for the purpose of—

(i) ensuring that documents of the same kind are of a standard form; and

(ii) enabling the Registrar to make copies or image records of documents and to make and keep records of the information contained in them.

(7B) For the purposes of subsection (7A)(b), the Registrar may specify different requirements for different documents or classes of documents.

(8) Any person aggrieved by the refusal to authorize the registration of a prospectus under this section may appeal to the court and the court may either dismiss the appeal or order that the registration of the prospectus be authorized by the Commission under this section.

(9) A translation mentioned in subsection (4) shall be-

(a) certified by the person making the translation as a correct translation; and

(b) deemed to be certified in the prescribed manner if the person making the translation has been certified, by the appropriate person mentioned in subparagraph (i) or (ii), as a person believed by that appropriate person to be competent to translate it into the English or Chinese language, as the case may be, that is to say-

(i) if the translation be made outside Hong Kong-

(A) a notary public in the place where the translation is made;

(B) such other person as may be specified by the Commission; or

(C) such other person belonging to a class of persons specified by the Commission, by notice published in the Gazette, for the purposes of this paragraph;

(ii) if the translation be made in Hong Kong-

(A) a notary public in Hong Kong;

(B) a solicitor of the High Court of Hong Kong;

(C) such other person as may be specified by the Commission; or

(D) such other person belonging to a class of persons specified by the Commission, by notice published in the Gazette, for the purposes of this paragraph. (Added 30 of 2004 s. 2)

(10) A notice published under subsection (9)(b)(i)(C) or (ii)(D) is not subsidiary legislation. (Added 30 of 2004 s. 2)

(Replaced 86 of 1992 s. 15)

Section:	342CA	Amendment of prospectus consisting of one document	L.N. 154 of 2004	03/12/2004

(1) A prospectus-

(a) consisting of one document; and

(b) to which the provisions of this Part are applicable,

may only be amended in accordance with the provisions of Part 2 of the Twentieth Schedule.

(2) The provisions of Part 2 of the Twentieth Schedule may alter the operation of a provision of this Part in relation to any prospectus, or class of prospectuses, which may be amended under subsection (1).

(3) If any company contravenes subsection (1), the company and every officer of the company who is in default shall be liable to a fine.

(4) For the avoidance of doubt, it is hereby declared that this section and Part 2 of the Twentieth Schedule do not apply to a prospectus to which section 342CB applies.

(Added 30 of 2004 s. 2)

Section:	342CB	Prospectus may consist of more than one document, etc.	L.N. 154 of 2004	03/12/2004

(1) A prospectus to which the provisions of this Part are applicable may consist of more than one document in accordance with the provisions of Part 2 of the Twenty-first Schedule.

(2) A prospectus to which subsection (1) applies may only be amended in accordance with the provisions of Part 2 of the Twenty-first Schedule.

(3) The provisions of Part 2 of the Twenty-first Schedule may alter the operation of a provision of this Part in

relation to any prospectus, or class of prospectuses, which falls within subsection (1) or which may be amended under subsection (2).

(4) If any company contravenes subsection (2), the company and every officer of the company who is in default shall be liable to a fine.

(Added 30 of 2004 s. 2)

Section:	342CC	Submission of certified copies	10 of 2005	08/07/2005

Where any document (howsoever described), other than a prospectus, is required under this Part to be submitted to the Registrar by a company incorporated outside Hong Kong, the requirement shall be deemed to be satisfied by the submission to the Registrar of a copy of the document certified—

(a) to be a true copy of the document; and

(b) by—

(i) a member of the governing body of the company;

(ii) the ~~secretary~~ company secretary of the company;

(iii) an agent of a member of the governing body or of the ~~secretary~~ company secretary of the company, authorized in writing for the purpose by the member or ~~secretary~~ company secretary;

(iv) a solicitor within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159) or a certified public accountant within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); or (Amended 10 of 2005 s. 224)

(v) a notary public within the meaning of section 2(1) of the Legal Practitioners Ordinance (Cap 159).

(Added 30 of 2004 s. 2)

Section:	342D	Penalty for contravention of sections 342 to 342C		30/06/1997

Expanded Cross Reference:
342, 342A, 342B, 342C

Any person who is knowingly responsible for the issue, circulation or distribution of a prospectus, or for the issue of a form of application for shares or debentures, in contravention of any of the provisions of sections 342 to 342C shall be liable to a fine. <* Note - Exp. X-Ref.: Sections 342, 342A, 342B, 342C *>

(Added 78 of 1972 s. 18. Amended 7 of 1990 s. 2)

[cf. 1948 c. 38 s. 421 U.K.]

Section:	342E	Civil liability for misstatements in prospectus	L.N. 154 of 2004	03/12/2004

Section 40 shall extend to every prospectus offering for subscription or purchase shares in or debentures of a company incorporated outside Hong Kong which is issued, circulated or distributed in Hong Kong, whether the company has or has not established a place of business in Hong Kong, with the substitution, for references to section 38C, of references to section 342B.

(Added 78 of 1972 s. 18. Amended 6 of 1984 s. 259; 30 of 2004 s. 2)

[cf. 1948 c. 38 s. 422 U.K.]

Section:	342F	Criminal liability for misstatements in prospectus	L.N. 12 of 2003	01/04/2003

(1) Where a prospectus relating to shares in or debentures of a company incorporated outside Hong Kong (whether the company has or has not established a place of business in Hong Kong) which is issued, circulated or distributed in Hong Kong after the commencement* of the Companies (Amendment) Ordinance 1992 (86 of 1992) includes any untrue statements, any person who authorized the issue, circulation or distribution of the prospectus in Hong Kong shall be liable to imprisonment and a fine, unless he proves either that the statement was immaterial or that he had reasonable grounds to believe and did up to the time of the issue, circulation or distribution of the prospectus in Hong Kong believe that the statement was true.

(2) A person shall not be deemed for the purposes of this section to have authorized the issue of a prospectus by reason only of his having given the consent required by section 342B to the inclusion therein of a statement purporting

to be made by him as an expert.

(3) Subsection (1) shall not apply-

(a) to the Commission;

(b) where the relevant prospectus is authorized by a recognized exchange company pursuant to a transfer order made under section 25 of the Securities and Futures Ordinance (Cap 571), to the Commission or the recognized exchange company; or

(c) where the relevant prospectus is authorized by a recognized exchange controller pursuant to a transfer order made under section 68 of that Ordinance, to the Commission or the recognized exchange controller. (Replaced 5 of 2002 s. 407)

(Added 86 of 1992 s. 16)

Note:

*** Commencement date: 1 February 1993-see L.N. 19 of 1993.**

Section:	343	Interpretation of provisions as to prospectuses	L.N. 154 of 2004	03/12/2004

(1) Where any document by which any shares in or debentures of a company incorporated outside Hong Kong are offered for sale to the public would, if the company concerned had been a company within the meaning of this Ordinance, have been deemed by virtue of section 41 to be a prospectus issued by the company, that document shall be deemed to be, for the purposes of this Part of this Ordinance, a prospectus issued by the company. (Amended 6 of 1984 s. 259)

(2) An offer of shares or debentures for subscription or sale to any person whose ordinary business is to buy or sell shares or debentures, whether as principal or agent, shall not be deemed an offer to the public for the purposes of this Part of this Ordinance. (Amended 30 of 1999 s. 31)

(2A) For the purposes of sections 342E and 342F, "untrue statement" (不真實陳述), in relation to a prospectus, includes a material omission from the prospectus. (Added 30 of 2004 s. 2)

(2B) For the purposes of the provisions of this Part, a statement included in a prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included. (Added 30 of 2004 s. 2)

(3) In this Part the expressions "shares" (股份) and "debentures" (債權證) have the same meanings as when used in relation to a company ~~incorporated under this Ordinance~~ as defined in section 2(1). (Amended 30 of 2004 s. 2)

(Replaced 78 of 1972 s. 18)
[cf. 1948 c. 38 s. 423 U.K.]

Section:	344	(Repealed 12 of 1974 s. 150)		30/06/1997

~~Part:~~	~~XIIA~~	~~DORMANT COMPANIES~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(Part XIIA added 10 of 1993 s. 6)~~

~~Section:~~	~~344A~~	~~Dormant companies~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~107, 108, 109, 110, 111, 122, 123, 124, 125, 126, 127, 128, 129, 129A, 129B, 129C, 129D, 129E, 129F, 129G, 130, 131, 132, 133, 134, 140A, 140B, 141, 141C, 141D~~

~~(1) A company may pass a special resolution-~~

~~(a) declaring that the company will become dormant either as from the date of delivery of the special resolution to the Registrar or as from a later date as is specified in the special resolution;~~

~~(b) authorizing the directors of the company to deliver to the Registrar the special resolution; and~~

~~(c) declaring that prior to the company ceasing to be dormant, the directors of the company shall deliver to the Registrar a further special resolution, declaring that the company intends to enter into a relevant accounting transaction. (Replaced 28 of 2003 s. 108)~~

~~(2) (Repealed 28 of 2003 s. 108)~~

~~(3) Upon delivery of the special resolution passed under subsection (1), the company shall be deemed to be a dormant company for the purposes of this section as from the date of such delivery or, if the resolution specifies a later date for commencement of the company becoming dormant, as from that later date. (Amended 28 of 2003 s. 108)~~

~~(4) A company which is deemed to be a dormant company under subsection (3) is exempt from complying with the requirements of sections 107 to 111, 122 to 134, 140A to 141 and 141C to 141D. <* Note - Exp. X Ref.: Sections 107, 108, 109, 110, 111, 122, 123, 124, 125, 126, 127, 128, 129, 129A, 129B, 129C, 129D, 129E, 129F, 129G, 130, 131, 132, 133, 134, 140A, 140B, 141, 141C, 141D *> (Amended 30 of 1999 s. 32)~~

~~(5) A company shall cease to be deemed to be dormant under subsection (3) upon delivery to the Registrar of the further special resolution referred to in subsection (1)(c). (Amended 28 of 2003 s. 108)~~

~~(6) If, during the period between the date on which a company is deemed under subsection (3) to have become a dormant company and the date on which the further special resolution referred to in subsection (1)(c) is delivered to the Registrar, a company enters into a relevant accounting transaction then- (Amended 28 of 2003 s. 108)~~

~~(a) the exemption conferred by subsection (4) shall cease as from the date of the relevant accounting transaction; and~~

~~(b) any shareholder of the company who knew or ought to have known about the relevant accounting transaction and all directors of the company shall be personally liable for any debt or liability of the company arising out of the relevant accounting transaction.~~

~~(7) In subsection (6), "director" (董事), in relation to a company, includes a shadow director. (Amended 28 of 2003 s. 108)~~

~~(8) This section does not apply to-~~

~~(a) a company that is not a private company; or~~

~~(b) a company specified in the Sixteenth Schedule as a company to which this section does not apply. (Replaced 30 of 1999 s. 32)~~

~~(9) In this section-~~

~~(a) a company is dormant during any period in which no transaction occurs which is, for the company, a relevant accounting transaction;~~

~~(b) "relevant accounting transaction" (有關會計交易) means a transaction which is required by section 121 to be entered in the company's books of account (disregarding any transaction which arises from the payment of any fee which the company is required to pay by any Ordinance).~~

Part:	XIII	MISCELLANEOUS	L.N. 187 of 2007	14/12/2007

Section:	345	(Repealed 30 of 2004 s. 2)	L.N. 187 of 2007	14/12/2007

(Subheading repealed 30 of 2004 s. 2)

~~Section:~~	~~346~~	~~Documents delivered to Registrar to conform to certain requirements~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~Provisions relating to Documents and Disposal thereof~~

~~(1) Subject to this Ordinance, every document delivered to the Registrar under this Ordinance shall-~~

~~(a) be in the English or Chinese language or be accompanied by a translation of the document into English or Chinese, being a translation certified in the prescribed manner to be a correct translation;~~

~~(b) be capable of being reproduced in a legible form; and~~

~~(c) comply with such other requirements as the Registrar may specify for the purpose of securing that documents of the same kind are of a standard form and of enabling him to make copies or image records of the document and to make and keep records of the information contained in it. (Replaced 28 of 2003 s. 109)~~

~~(1A)For the purpose of subsection (1)(c), the Registrar may specify different requirements for different documents or classes of documents. (Added 28 of 2003 s. 109)~~

~~(2) If under any provision of this Ordinance there is delivered to the Registrar a document (whether being an original document or a copy) which in the opinion of the Registrar does not comply with such requirements specified by him under this section as are applicable to it, the Registrar may serve on any person by whom under that provision~~

~~the document was required to be delivered (or, if there are 2 or more such persons, may serve on any of them) a notice stating his opinion to that effect and indicating the requirements so specified with which in his opinion the document does not comply. (Amended 3 of 1997 s. 53; 12 of 2010 s. 28)~~

~~(2A) A notice under subsection (2) must be served on a person-~~

~~(a) by registered post addressed to the person; or~~

~~(b) if the person so consents, in the form of an electronic record. (Added 12 of 2010 s. 28)~~

~~(3) Where the Registrar serves a notice under subsection (2) with respect to a document delivered under any such provision, then, for the purposes of any enactment which enables a penalty to be imposed in respect of any omission to deliver to the Registrar a document required to be delivered under that provision (and, in particular, for the purposes of any such enactment whereby such a penalty may be imposed by reference to each day during which the omission continues)-~~

~~(a) any duty imposed by that provision to deliver such a document to the Registrar shall be treated as not having been discharged by the delivery of that document; but~~

~~(b) no account shall be taken of any days falling within the period mentioned in subsection (4).~~

~~(4) The period referred to in subsection (3)(b) is the period beginning with the day on which the document was delivered to the Registrar as mentioned in subsection (2) and ending with the fourteenth day after the date of service of the notice under subsection (2) by virtue of which subsection (3) applies.~~

~~(5) In this section any reference to delivering a document shall be construed as including a reference to sending, forwarding, producing or (in the case of a notice) giving it.~~

~~(6) The Registrar may, by notice in the Gazette, specify requirements in relation to print size of prospectuses for the purpose of sections 38D(2)(c) and 342C(2)(c). (Added 86 of 1992 s. 17)~~

~~(Replaced 6 of 1984 s. 240)~~

~~[cf. 1976 c. 69 s. 35 U.K.]~~

~~Section:~~	~~346A~~	~~Documents delivered to Registrar in form of electronic record~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Subject to subsection (4), where a provision of this Ordinance authorizes or requires a document to be delivered to the Registrar, the document is delivered for the purposes of the provision if it is delivered to the Registrar in the form of an electronic record that complies with any requirements that may be specified by the Registrar for the purposes of this section.~~

~~(2) Without limiting the powers of the Registrar under subsection (1), the Registrar may specify requirements regarding the following matters-~~

~~(a) the format of an electronic record;~~

~~(b) the manner in which an electronic record is to be authenticated, approved or certified; and~~

~~(c) the system by which and the manner in which an electronic record is to be delivered.~~

~~(3) The Registrar may approve any sequence or combination of letters, characters, numbers or symbols selected by a person as a password for that person's use in any system designated by the Registrar for the purposes of this section.~~

~~(4) The Registrar may, by order published in the Gazette, exclude any document from the application of subsection (1) in relation to a provision of this Ordinance that authorizes or requires a document to be delivered to the Registrar.~~

~~(5) In this section, a reference to delivering a document includes sending, forwarding or producing the document and, in the case of a notice, giving the document.~~

~~(Added 12 of 2010 s. 29)~~

~~Section:~~	~~346B~~	~~Signature of documents delivered to Registrar in form of electronic record~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) Where a provision of this Ordinance authorizes or requires a person to sign a document that is to be delivered to the Registrar and the document is delivered in the form of an electronic record, the document is signed for the purposes of the provision if the person, for the purpose of authenticating, approving or certifying the document-~~

~~(a) affixes a digital signature of the person to the document; or~~

~~(b) includes with the document a password of the person approved under subsection (4).~~

~~(2) For the purposes of subsection (1)(a), a digital signature must be-~~

~~(a) supported by a recognized certificate;~~

~~(b) generated within the validity of that certificate; and~~

~~(c) used in accordance with the terms of that certificate.~~

~~(3) For the purposes of subsection (2)(a), a digital signature is supported by a recognized certificate if it is taken to be supported by that certificate for the purposes of the Electronic Transactions Ordinance (Cap 553) under section 2(2) of that Ordinance.~~

~~(4) The Registrar may approve any sequence or combination of letters, characters, numbers or symbols selected by a person as a password for that person's use in any system designated by the Registrar for the purposes of this section.~~

~~(5) In subsection (2)(b), "within the validity of that certificate" (在該證書的有效期內) has the meaning given by section 6(2) of the Electronic Transactions Ordinance (Cap 553).~~

~~(6) In this section, a reference to delivering a document includes sending, forwarding or producing the document and, in the case of a notice, giving the document.~~

~~(Added 12 of 2010 s. 29)~~

~~Section:~~	~~347~~	~~Power of Registrar to accept information in different forms~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) Where a document is required to be delivered to the Registrar under any provision of this Ordinance, the Registrar may, if he thinks fit, accept the information in question in any form approved by him. (Replaced 28 of 2003 s. 110)~~

~~(2) The delivery to the Registrar of information accepted by him as aforesaid shall be a sufficient compliance with the provision in question. (Amended 28 of 2003 s. 110)~~

~~(3) (Repealed 28 of 2003 s. 110)~~

~~(4) In this section any reference to delivering a document shall be construed as including a reference to sending, forwarding, producing or (in the case of a notice) giving it.~~

~~(Replaced 6 of 1984 s. 240)~~

~~[cf. 1976 c. 69 s. 36 U.K.]~~

~~Section:~~	~~348~~	~~Power of Registrar to refuse to register certain documents~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) The Registrar may refuse to register or accept for registration any document delivered to him under this Ordinance if it appears to him that-~~

~~(a) the document is manifestly unlawful or ineffective;~~

~~(b) the document is incomplete or altered; or~~

~~(c) any signature on the document, password included with the document, or digital signature accompanying the document, is incomplete or altered. (Amended 12 of 2010 s. 30)~~

~~(2) Without limiting the generality of subsection (1), where any form is specified under section 2A for use in relation to any purpose of this Ordinance, the Registrar may refuse to register or accept for registration any form used for that purpose that deviates from the form so specified.~~

~~(3) Any person aggrieved by a decision of the Registrar under subsection (1) or (2) may, within 42 days of the decision, appeal to the court against the decision and the court may, subject to subsection (4), make such order as it may deem just, including an order as to costs.~~

~~(4) Where an order as to costs is made against the Registrar under subsection (3), such costs shall be payable out of the general revenue and the Registrar shall not be liable personally therefor.~~

~~(5) In this section, "delivered" (交付) includes sent, forwarded, produced or given.~~

~~(Replaced 28 of 2003 s. 111)~~

~~Section:~~	~~348A~~	~~Registrar not responsible for statements in documents~~		~~30/06/1997~~

~~The Registrar shall not be responsible for verifying the truth of any statement made in any document delivered to him for registration.~~

~~(Added 6 of 1984 s. 240)~~

~~Section:~~	~~348B~~	~~Disposal of documents~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~The Registrar may, if in his opinion it is no longer necessary or desirable to maintain it, destroy or dispose of any document of a company which has been—~~

~~(a) lodged, filed or registered for not less than 7 years; or~~

~~(b) microfilmed or recorded by the imaging method or any other method. (Replaced 28 of 2003 s. 112)~~

~~(Replaced 17 of 1990 s. 3)~~

~~Section:~~	~~348BA~~	~~Registrar may issue certificates in any manner~~	~~L.N. 169 of 2010~~	~~21/02/2011~~

~~(1) The Registrar may issue a certificate under this Ordinance in any manner the Registrar thinks fit.~~

~~(2) Without limiting the powers of the Registrar under subsection (1), the Registrar may issue a certificate in the form of an electronic record.~~

~~(Added 12 of 2010 s. 31)~~

~~Section:~~	~~348C~~	~~Form of registers etc.~~		~~30/06/1997~~

~~Form of Registers etc.~~

~~(1) Any register, index, minute book or book of account required by this Ordinance to be kept by a company may be kept either by making entries in bound books or by recording the matters in question in any other manner.~~

~~(2) The power conferred on a company by subsection (1) includes power to keep the register or other record by recording the matters in question otherwise than in a legible form so long as the recording is capable of being reproduced in a legible form.~~

~~(3) If any register, index, minute book or book of account required by this Ordinance to be kept by a company is kept by the company by recording the matters in question otherwise than in a legible form, any duty imposed on the company by virtue of this Ordinance to allow inspection of, or to furnish a copy of, the register, index, minute book or book of account or any part of it shall be treated as a duty to allow inspection of, or to furnish, a reproduction of the recording or of the relevant part of it in a legible form.~~

~~(4) Where any such register, index, minute book or book of account is not kept by making entries in a bound book, but by some other means, adequate precautions shall be taken for guarding against falsification and facilitating its discovery, and where default is made in complying with this subsection, 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. (Amended 7 of 1990 s. 2)~~

~~(Added 6 of 1984 s. 240)~~

~~[cf. 1948 c. 38 s. 436 U.K.; 1976 c. 47 s. 3(1) & (3) U.K.]~~

~~Section:~~	~~348D~~	~~Power of Registrar to keep records~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~(1) The records kept by the Registrar may be kept in any form the Registrar thinks fit.~~

~~(2) Where the information contained in a document is recorded by the Registrar, any duty imposed on the Registrar under any law to file, register or keep the document shall be treated as having been discharged.~~

~~(3) Where the Registrar keeps a record of a document in a form that differs from the form in which the document was originally delivered to, or originally generated by, the Registrar, the record of that document shall be presumed, unless the contrary is shown, to accurately represent the information contained in the document as originally delivered or generated.~~

~~(4) In this section, "delivered" (交付) includes sent, forwarded, produced or given.~~

~~(Replaced 28 of 2003 s. 113)~~

Section:	349	Penalty for false statements		30/06/1997

Miscellaneous Offences

If any person in any return, report, certificate, balance sheet or other document, required by or for the purposes of any of the provisions of this Ordinance, wilfully makes a statement false in any material particular, knowing it to be

false, he shall be guilty of an offence and shall be liable on conviction to a fine and imprisonment: (Amended 7 of 1990 s. 2)

Provided that nothing in this section shall affect the provisions of Part V (perjury) of the Crimes Ordinance (Cap 200) or section 19, 20 or 21 of the Theft Ordinance (Cap 210).

(Replaced 6 of 1984 s. 241)
[cf. 1948 c. 38 s. 438 U.K.]

~~Section:~~	~~349A~~	~~Penalty for dishonest destruction etc., of registers, books or documents~~		~~30/06/1997~~

~~(1) Any person who dishonestly, with a view to gain for himself or another, or with intent to cause loss to another, destroys, removes, alters, defaces or conceals any register, book or document belonging to, or filed or deposited in, the office of the Registrar shall be guilty of an offence and liable to imprisonment.~~

~~(2) Any person who wilfully or maliciously destroys, removes, alters, defaces or conceals any register, book or document belonging to, or filed or deposited in, the office of the Registrar shall be guilty of an offence and liable to imprisonment and a fine.~~

~~(Added 6 of 1984 s. 242. Amended 7 of 1990 s. 2)~~

~~Section:~~	~~350~~	~~Penalty for improper use of "Limited", "Corporation" or "Incorporated"~~		~~30/06/1997~~

~~If any person or persons use or trade or carry on business under any name or title of which "Limited" or "Corporation" or "Incorporated", or any contraction or imitation of any of those words or the Chinese version thereof, is the last word, or under any name or title of which the Chinese characters 有限公司 or 註冊公司 or 法人團體 form part, that person or those persons shall, unless duly incorporated with limited liability, be liable to a fine for every day during which that name or title is used.~~

~~(Replaced 6 of 1984 s. 243. Amended 7 of 1990 s. 2)~~
~~[cf. 1948 c. 38 s. 439 U.K.]~~

~~Section:~~	~~350A~~	~~Obligation to give notice of paid-up capital~~		~~30/06/1997~~

~~If any company includes or permits to be included a statement of the authorized or issued capital of the company in any notice, circular, advertisement or other official publication of the company which is issued, circulated or distributed in Hong Kong, the company and an officer who is in default shall, unless a statement of the paid-up capital of the company is also stated not less prominently, be liable to a fine.~~

~~(Added 78 of 1972 s. 19. Amended 6 of 1984 s. 259; 7 of 1990 s. 2)~~

Section:	350B	Injunctions	L.N. 82 of 2005	15/07/2005

Injunctions

(1) Where a person ("the first-mentioned person") has, in relation to a specified corporation, engaged, is engaging or is proposing to engage in conduct that constituted, constitutes or would constitute—

(a) a contravention of this Ordinance;
(b) an attempt to contravene this Ordinance;
(c) aiding, abetting, counselling or procuring another person to contravene this Ordinance;
(d) inducing or attempting to induce, whether by threats, promises or otherwise, another person to contravene this Ordinance;
(e) his being in any way, directly or indirectly, knowingly concerned in, or a party to, a contravention of this Ordinance by another person; or
(f) conspiring with others to contravene this Ordinance~~;~~.
~~(g) a breach of his fiduciary duties owed to the specified corporation in any capacity other than as a director of the specified corporation; or~~
~~(h) a breach of his fiduciary or other duties as a director of the specified corporation owed to the specified corporation,~~

the court may, on the application of the Financial Secretary, or of a member or creditor of the specified corporation whose interests have been, are or would be affected by the conduct, grant an injunction, on such terms as the court considers appropriate, restraining the first-mentioned person from engaging in the conduct and, if in the opinion of the court it is desirable to do so, requiring the first-mentioned person to do any act or thing.

(2) The power of the court to grant an injunction restraining the first-mentioned person referred to in subsection (1) from engaging in the conduct mentioned in that subsection may be exercised—

(a) whether or not it appears to the court that he intends to engage again, or to continue to engage, in that conduct;

(b) whether or not he has previously engaged in that conduct; and

(c) whether or not there is an imminent danger of substantial damage to any other person if he engages in that conduct.

(3) Where a person ("the first-mentioned person") has, in relation to a specified corporation, refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing that the first-mentioned person is required by this Ordinance to do, the court may, on the application of the Financial Secretary, or of a member or creditor of the specified corporation whose interests have been, are or would be affected by the refusal or failure to do that act or thing, grant an injunction, on such terms as the court considers appropriate, requiring the first-mentioned person to do that act or thing.

(4) The power of the court to grant an injunction requiring the first-mentioned person referred to in subsection (1) or (3) to do an act or thing may be exercised—

(a) whether or not it appears to the court that he intends to refuse or fail again, or to continue to refuse or fail, to do that act or thing;

(b) whether or not he has previously refused or failed to do that act or thing; and

(c) whether or not there is an imminent danger of substantial damage to any other person if he refuses or fails to do that act or thing.

(5) Where the court considers appropriate, it may grant an interim injunction on such terms and conditions as it thinks fit pending determination of an application under subsection (1) or (3).

(6) The court may discharge or vary an injunction granted under subsection (1), (3) or (5).

(7) The court may, either in addition to or in substitution for the grant of the injunction under subsection (1) or (3), order the first-mentioned person referred to in subsection (1) or (3) to pay damages to any other person.

(8) For the avoidance of doubt, the damages that may be ordered by the court under subsection (7) does not entitle a person to recover by way of damages any loss that is solely reflective of the loss suffered by a specified corporation which only the specified corporation is entitled to recover under the common law.

(Added 30 of 2004 s. 2)

Section:	351	Provision for punishment and offence	L.N. 267 of 2003	13/02/2004

General Provisions as to Offences

(1) The Twelfth Schedule has effect with respect to the way in which offences under this Ordinance are punishable on conviction. (Replaced 7 of 1990 s. 3)

(1A) As respects an offence under a provision of this Ordinance set out in column 1 of the Twelfth Schedule-

(a) column 2 gives a description of the general nature of the offence only and shall not be used to interpret the provision;

(b) column 3 shows whether the offence is punishable on conviction on indictment or on summary conviction;

(c) column 4 shows, subject to paragraph (d), the maximum punishment by way of fine or imprisonment under this Ordinance which may be imposed on a person convicted of the offence;

(d) column 5 shows in the case of an offence for which there is an entry in that column that a person convicted of the offence after continued default, refusal or contravention is liable to a default fine: that is to say, he is liable, in addition to the punishment that may be imposed under paragraph (c), to the fine set out in that column for each day on which the default, refusal or contravention is continued. (Replaced 7 of 1990 s. 3)

(1B) (Repealed 7 of 1990 s. 3)

(2) For the purpose of any provision in this Ordinance which provides that an officer of a company who is in default shall be liable to a fine or penalty, "officer who is in default" (失責高級人員) means any officer of the

company, or any shadow director of the company, who knowingly and wilfully authorizes or permits the default, refusal or contravention mentioned in such provision. (Amended 28 of 2003 s. 114)

(Amended 6 of 1984 s. 244)

Section:	351A	Limitation on commencement of proceedings	L.N. 362 of 1997	01/07/1997

(1) Notwithstanding section 26 of the Magistrates Ordinance (Cap 227), an information or complaint relating to an offence under this Ordinance may be tried if it is laid or made, as the case may be, at any time within 3 years after the commission of the offence and within 12 months after the date on which evidence sufficient in the opinion of the Secretary for Justice to justify the proceedings comes to his knowledge.

(2) For the purposes of this section, a certificate of the Secretary for Justice as to the date on which evidence sufficient to justify proceedings came to his knowledge shall be conclusive evidence.

(3) This section shall not apply in relation to an offence committed before the coming into operation* of the Companies (Amendment) Ordinance 1972 (78 of 1982).

(Added 78 of 1972 s. 20. Amended L.N. 362 of 1997)

Note:
*** Operation date: 1 March 1973.**

~~Section:~~	~~351B~~	~~Production and inspection of books where offence suspected~~	~~L.N. 362 of 1997~~	~~01/07/1997~~

~~(1) If on the application of the Secretary for Justice it is shown to the court that there is reasonable cause to believe that any person has, while an officer of the company, committed an offence in connexion with the management of the company's affairs and that evidence of the commission of the offence is to be found in any books or papers of or under the control of the company, the court may make an order— (Amended L.N. 362 of 1997)~~

~~(a) authorizing any person named therein to inspect the said books or papers or any of them for the purpose of investigating and obtaining evidence of the offence; or~~

~~(b) requiring the secretary of the company or such other officer thereof as may be named in the order to produce the said books or papers or any of them to a person named in the order at a place so named.~~

~~(2) Subsection (1) shall apply also in relation to any books or papers of a person carrying on the business of banking so far as they relate to the company's affairs, as it applies to any books or papers of or under the control of the company, except that no such order as is referred to in subsection (1)(b) shall be made by virtue of this subsection.~~

~~(3) The decision of the court on an application under this section shall be final.~~

~~(Added 6 of 1984 s. 245)~~
~~[cf. 1948 c. 38 s. 441 U.K.]~~

Section:	352	Application of fines		30/06/1997

The court or magistrate imposing any fine under this Ordinance may direct that the whole or any part thereof shall be applied in or towards payment of the costs of the proceedings, or in or towards rewarding the person on whose information or at whose suit the fine is recovered, and subject to any such direction all fines under this Ordinance shall, notwithstanding anything in any other Ordinance, be paid into the general revenue.

(Amended 6 of 1984 s. 246)
[cf. 1929 c. 23 s. 367 U.K.]

Section:	353	(Repealed 6 of 1984 s. 247)		30/06/1997

Section:	354	Saving as to private prosecutors	L.N. 362 of 1997	01/07/1997

Nothing in this Ordinance relating to the institution of criminal proceedings by the Secretary for Justice shall be taken to preclude any person from instituting or carrying on any such proceedings.

(Amended L.N. 362 of 1997)
[cf. 1929 c. 23 s. 368 U.K.]

Section:	355	Saving for privileged communications	L.N. 362 of 1997	01/07/1997

Where proceedings are instituted under this Ordinance against any person by the Secretary for Justice nothing in this Ordinance shall be taken to require any person who has acted as solicitor for the defendant to disclose any privileged communication made to him in that capacity.

(Amended L.N. 362 of 1997)
[cf. 1929 c. 23 s. 369 U.K.]

~~Section:~~	~~356~~	~~Service of documents on company~~		~~30/06/1997~~

~~Service of Documents and~~ Legal Proceedings

~~A document may be served on a company by leaving it at or sending it by post to the registered office of the company.~~

~~[cf. 1929 c. 23 s. 370 U.K.]~~

~~Section:~~	~~357~~	~~Costs in actions by certain limited companies~~		~~30/06/1997~~

~~Where a limited company is plaintiff in any action or other legal proceeding, any judge having jurisdiction in the matter may, if it appears by credible testimony that there is reason to believe that the company will be unable to pay the costs of the defendant if successful in his defence, require sufficient security to be given for those costs, and may stay all proceedings until the security is given.~~

~~[cf. 1929 c. 23 s. 371 U.K.]~~

~~Section:~~	~~358~~	~~Power of court to grant relief in certain cases~~		~~30/06/1997~~

~~(1) If in any proceeding for negligence, default, breach of duty, or breach of trust against a person to whom this section applies it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all the circumstances of the case, including those connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court may think fit.~~

~~(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.~~

~~(3) Where any case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.~~

~~(4) The persons to whom this section applies are-~~

~~(a) officers of a company;~~

~~(b) persons employed by a company as auditors. (Replaced 6 of 1984 s. 248)~~

~~[cf. 1929 c. 23 s. 372 U.K.]~~

Section:	359	Power to enforce orders		30/06/1997

Orders made by the court under this Ordinance may be enforced in the same manner as orders made in an action pending therein.

(Amended 6 of 1984 s. 249)
[cf. 1929 c. 23 s. 373 U.K.]

Section:	359A	Power to make regulations	L.N. 204 of 2006	01/12/2006

General provisions as to Chief Executive in Council

(Amended 23 of 1999 s. 3)

(1) The Chief Executive in Council may make regulations in respect of any matter required or permitted to be prescribed by the Chief Executive in Council under this Ordinance. (Amended 23 of 1999 s. 3; 27 of 2001 s. 7)

~~(2) Without prejudice to the power conferred under subsection (1), the Chief Executive in Council may make regulations—~~

~~(a) specifying the period for the purposes of section 141CB;~~

~~(b) specifying the periods after which a copy of a summary financial report and a copy of the relevant financial documents of a listed company may be sent under section 141CC;~~

~~(c) providing for any matter in relation to the determination of the effect of a notice of intent sent by an entitled person of a listed company, including providing for the circumstances under which such a notice of intent shall be treated as a request under section 141CD;~~

~~(d) providing for the form and contents of a summary financial report of a listed company (including empowering a listed company to determine certain aspects of the form of its summary financial report);~~

~~(e) providing for the means to ascertain the wishes of an entitled person of a listed company in relation to the sending of a copy of a summary financial report to the person in place of a copy of the relevant financial documents from which the report is derived (including providing for the sending of a notification by the company to the person for the purposes);~~

~~(f) providing for the form and contents of a notification referred to in paragraph (e), including—~~

~~(i) providing for the form and contents of any card or document attached to such a notification; and~~

~~(ii) providing that any of such card or document shall be postage prepaid; and~~

~~(g) providing for any incidental, consequential and transitional provision that is necessary or expedient for the purposes of the matters provided for by this subsection. (Added 27 of 2001 s. 7)~~

~~(3) Without prejudice to the power conferred under subsection (1), the Chief Executive in Council may make regulations providing for the application of this Ordinance in relation to—~~

~~(a) the accounts, summary financial report or directors' report that has been revised under section 141E; and~~

~~(b) the accounts or directors' report that has been revised under section 336A. (Added 18 of 2006 s. 65)~~

~~(4) Regulations made under subsection (3)(a) may—~~

~~(a) make different provision according to whether the accounts, summary financial report or directors' report has been revised by—~~

~~(i) supplementing the accounts or report with another document that shows the revisions; or~~

~~(ii) replacing the accounts or report;~~

~~(b) provide for the functions of the auditors of the company in relation to the accounts, summary financial report or directors' report that has been revised;~~

~~(c) where—~~

~~(i) the accounts or directors' report, or a copy of the accounts or report, has, before the revision, been sent to members and other persons under section 129G, laid before the company in its general meeting under section 122, 124 or 129D, or forwarded to the Registrar under section 109; or~~

~~(ii) a copy of a summary financial report has, before the revision, been sent to a person in compliance with section 141CA,~~

~~require the company or the directors of the company to take such steps as may be specified in the regulations in relation to the accounts or report that has been revised;~~

~~(d) apply this Ordinance to the accounts, summary financial report or directors' report that has been revised subject to such additions, exceptions and modifications as specified in the regulations; and~~

~~(e) provide for incidental, consequential and transitional provisions. (Added 18 of 2006 s. 65)~~

~~(5) Regulations made under subsection (3)(b) may—~~

~~(a) make different provision according to whether the accounts or directors' report has been revised by—~~

~~(i) supplementing the accounts or report with another document that shows the revisions; or~~

~~(ii) replacing the accounts or report;~~

~~(b) require a company to which section 336A applies to take such steps as may be specified in the regulations in relation to the accounts or directors' report that has been revised;~~

~~(c) apply this Ordinance to the accounts or directors' report that has been revised subject to such additions, exceptions and modifications as specified in the regulations; and~~

~~(d) provide for incidental, consequential and transitional provisions. (Added 18 of 2006 s. 65)~~

~~(6) Regulations made under subsection (3) may—~~

~~(a) provide that any of the following is an offence—~~

~~(i) a failure to take all reasonable steps to secure compliance as respects the accounts, summary financial report or directors' report that has been revised with—~~

~~(A) a specified provision of the regulations; or~~

~~(B) a specified provision of this Ordinance as having effect under the regulations;~~

~~(ii) a contravention of—~~

~~(A) a specified provision of the regulations; or~~

~~(B) a specified provision of this Ordinance as having effect under the regulations;~~

~~(b) provide that such an offence is punishable—~~

~~(i) by a fine not exceeding $300000, or by a term of imprisonment not exceeding 12 months, or by both such fine and imprisonment; and~~

~~(ii) in the case where a person is convicted of such an offence after continued default, refusal or contravention, also by a fine not exceeding $700 for each day on which the default, refusal or contravention is continued;~~

~~(c) provide for any specified defence to be available in proceedings for such an offence; and~~

~~(d) provide that a court shall not sentence a person to imprisonment for such an offence unless satisfied that the offence was committed wilfully. (Added 18 of 2006 s. 65)~~

(Added 6 of 1984 s. 250)

Section:	360	Power to amend ~~requirements as to accounts, Schedules, tables, forms and fees~~ Schedules	L.N. 187 of 2007	14/12/2007

~~(1) The Chief Executive in Council may by order amend the requirements of this Ordinance as to the matters to be stated in a company's balance sheet, profit and loss account and group accounts, and in particular those of the Tenth and Eleventh Schedules; and any reference in this Ordinance to the Tenth or Eleventh Schedule shall be construed as a reference to that Schedule with any amendments made by an order for the time being in force under this subsection. (Amended 23 of 1999 s. 3)~~

~~(2) The Chief Executive in Council may by order amend Tables A, B, C, D and E in the First Schedule but no amendment made by the Chief Executive in Council in Table A shall affect any company registered before the amendment comes into operation, or repeal as respects that company any portion of that Table. (Amended 23 of 1999 s. 3)~~

(3) (Repealed 3 of 1997 s. 54)

~~(3A) The Financial Secretary may, by order published in the Gazette, amend the table of fees in the Eighth Schedule and the Fourteenth Schedule. (Added 30 of 1994 s. 9)~~

~~(4) The amount of any fee prescribed under this section shall not be limited by reference to the amount of administrative or other costs incurred or likely to be incurred in relation to providing the service to which such fee relates. (Added 41 of 1989 s. 4)~~

~~(5) The Financial Secretary may, by order published in the Gazette, amend the Sixteenth or Twenty-third Schedule. (Added 30 of 1999 s. 33. Amended 12 of 2005 s. 13)~~

(6) The Commission may, by order published in the Gazette, amend the Third, Seventeenth, Eighteenth, Nineteenth, Twentieth, Twenty-first or Twenty-second Schedule. (Added 30 of 2004 s. 2)

(7) Where the Commission proposes to make an order under subsection (6), it shall publish a draft of the proposed order, in such manner as it considers appropriate, for the purpose of inviting representations on the proposed order by the public. (Added 30 of 2004 s. 2)

(8) Where the Commission makes any order under subsection (6) after a draft is published under subsection (7) in relation to the order, it shall-

(a) publish, in such manner as it considers appropriate, an account setting out in general terms-

(i) the representations made on the draft; and

(ii) the response of the Commission to the representations; and

(b) where the order is made with modifications which in the opinion of the Commission result in the order being significantly different from the draft, publish, in such manner as it considers appropriate, details of the difference. (Added 30 of 2004 s. 2)

(9) Subsections (7) and (8) do not apply if the Commission considers, in the circumstances of the case, that-

(a) it is inappropriate or unnecessary that such subsections should apply; or

(b) any delay involved in complying with such subsections would not be-

(i) in the interest of the investing public; or

(ii) in the public interest. (Added 30 of 2004 s. 2)

~~(10) The Financial Secretary may, by order published in the Gazette, amend the Twenty-fourth Schedule. (Added 30 of 2004 s. 2)~~

(Replaced 6 of 1984 s. 250)
[cf. 1948 c. 38 s. 454 U.K.]

Part:	XIIIA	PREVENTION OF EVASION OF THE SOCIETIES ORDINANCE	L.N. 239 of 1999	11/11/1999

(Part XIIIA added 6 of 1984 s. 251)

Section:	360A	(Repealed 30 of 1999 s. 34)	L.N. 239 of 1999	11/11/1999

Section:	360B	Power of Chief Executive in Council to order Registrar to refuse registration if satisfied that a company is being formed to evade the Societies Ordinance	118 of 1997; 23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) If the Registrar suspects that the ~~memorandum and articles of association of a company delivered to him in accordance with section 15~~ relevant documents relate to a company which is being formed with the object of circumventing-

(a) the refusal of the Societies Officer to register or to exempt from registration a society under the Societies Ordinance (Cap 151); or

(b) the cancellation by the Societies Officer of the registration or exemption from registration of a society registered or exempted under the Societies Ordinance (Cap 151); or

(c) the prohibition of the operation or continued operation of a society by the Secretary for Security under section 8 of the Societies Ordinance (Cap 151),

or for the purpose of otherwise evading or defeating the provisions of the Societies Ordinance (Cap 151) or anything done thereunder, it shall be lawful for him to withhold registration of the same pending the receipt of the instructions of the Chief Executive in Council with respect thereto. In the event of the Chief Executive in Council being satisfied that the company is being formed with any such object or for any such purpose, he may order the Registrar to refuse registration of the ~~memorandum and articles, and upon receipt of such order, the Registrar shall, notwithstanding the provisions of section 15, refuse registration of the memorandum and articles~~ relevant documents. Despite section 15 of the pre-amended Ordinance or section 62 of the Companies Ordinance (of 2011), the Registrar must refuse registration of the relevant documents on receipt of the order.

(2) In this section—

"***relevant documents***" (有關文件) means—

(a) the memorandum of association and articles of association of the company delivered to the Registrar in accordance with section 15 of the pre-amended Ordinance; or

(b) the incorporation form and articles of association of the company delivered to the Registrar in accordance with section 62 of the Companies Ordinance (of 2011).

(Amended 75 of 1992 s. 33; 118 of 1997 s. 18; 23 of 1999 s. 3)

Section:	360C	Power of the Chief Executive in Council to order company engaging in undesirable activities to be struck off	L.N. 139 of 2008	11/07/2008

(1) If the Chief Executive in Council is satisfied that a company formed and registered under ~~this Ordinance~~ the Companies Ordinance (of 2011) or any former Companies Ordinance would, if it were a society in respect of which the Societies Ordinance (Cap 151) applied, be liable to have its registration or exemption from registration cancelled under section 5D or its operation or continued operation prohibited by the Secretary for Security under section 8 of that Ordinance, the Chief Executive in Council may order the Registrar of Companies to strike such company off the ~~register of companies~~ Companies Register. (Amended 75 of 1992 s. 34; 118 of 1997 s. 19; 23 of 1999 s. 3)

(2) The Registrar shall thereupon strike the name of the company off the register, and shall publish notice thereof in the Gazette, and on such publication the company shall be dissolved:

Provided that the liability, if any, of every director, officer and member of the company shall continue and may be enforced as if the company had not been dissolved.

(3) A copy of such notice shall be sent to such company, and may either be sent by post or be delivered by hand addressed to the company at its registered office, or if no office has been registered, addressed to the care of some director or officer of the company, or if there is no director or officer of the company whose name and address are known to the Registrar, the notice may be sent or delivered to ~~each of the persons who signed the memorandum of association, addressed to him at the address mentioned in that memorandum~~ each of the founder members, addressed to the founder member at the address mentioned in the memorandum of association or incorporation form, as the case may be, but if none of such addresses is available or if for any other reason the Registrar considers it unlikely that any notice sent in pursuance of this subsection will come to the knowledge of the addressee, it shall be sufficient compliance with this subsection that notice in the Gazette shall have been published in accordance with subsection (2). (Amended 30 of 2004 s. 2)

~~Section:~~	~~360D~~	~~Certain sections not to apply~~		~~30/06/1997~~

~~Sections 290, 291(7) and 292 shall not apply in the case of a company struck off the register under section 360C.~~

Section:	360E	Vesting and disposal of property of company struck off		30/06/1997

(1) Where a company is struck off the register and dissolved under section 360C, all property and rights whatsoever vested in or held on trust for the company immediately before its dissolution (including leasehold property but not including property held by the company on trust for any other person) shall vest in the Official Receiver.

(2) The Official Receiver shall with all due dispatch wind up the affairs of the company, and after realizing the said property and rights shall apply the sum so realized-

First, in paying all fees, costs, charges and expenses properly incurred in preserving, realizing or getting in the said property and rights.

Next, in paying all necessary fees, costs, charges and expenses incurred by the Official Receiver in and upon the winding up of the affairs of the company.

Next, in paying to the Government a sum equal to the fees which the Official Receiver could lawfully have charged if he had acted as liquidator of the company in a winding up thereof by the court.

Next, in paying the creditors of the company who shall have proved their debts within such time as shall have been limited by him not being less than 1 month from the date of publication of notice thereof in the Gazette and 2 or more local newspapers of which at least 1 shall be a Chinese newspaper, according to their respective rankings and priorities as if the company had been a company being wound up by the court by virtue of a winding up order dated the day of its dissolution under section 360C.

Next, in paying or distributing the surplus to or among the persons entitled thereto under the company's ~~memorandum and articles of association~~ articles.

Section:	360F	Provisions applicable to winding up of company struck off under section 360C		30/06/1997

Expanded Cross Reference:
360G, 360H, 360I, 360J, 360K, 360L, 360M

The provisions contained in sections 36OG to 360M shall apply to the winding up by the Official Receiver of the affairs of a company struck off the register of companies under section 360C. <* Note - Exp. X-Ref.: Sections 360G, 360H, 360I, 360J, 360K, 360L, 360M *>

Section:	360G	Certain sections to apply		30/06/1997

Expanded Cross Reference:
170, 171, 172, 173, 174, 175, 263, 264, 265, 266, 266A, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 281, 282, 283

Sections 170 to 175, 190, 211, 221, 263 to 277, 281 to 283 and 285 shall apply mutatis mutandis as if on the day of the dissolution of the company under section 360C an order had been made for the winding up of the company by the court and as if the Official Receiver were the liquidator thereof. <* Note - Exp. X-Ref.: Sections 170, 171, 172, 173, 174, 175, 263, 264, 265, 266, 266A, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 281, 282, 283 *>

Section:	360H	Calls on contributories		30/06/1997

The Official Receiver shall have the same rights and powers to settle a list of the contributories of the company, to make and enforce calls on the contributories on the list so settled, and to compromise calls and liabilities to calls, as if the company were being wound up by the court and he were the liquidator thereof.

Section:	360I	Continuation of pending legal proceedings		30/06/1997

Where any legal proceeding instituted by or against a company is pending at the date of its dissolution, such proceeding may be continued by or against the Official Receiver as representing such company.

Section:	360J	Obstruction of Official Receiver		30/06/1997

Every person who-

(a) without lawful excuse refuses to hand over to the Official Receiver or any person authorized by him in that behalf any key, safe, document, account book, or other thing of any nature whatsoever belonging to the company of which he may have the custody or possession; or

(b) without lawful excuse in any way obstructs the Official Receiver or any person authorized by him in that behalf in taking possession of any premises occupied by the company prior to its dissolution,

shall be guilty of an offence and shall be liable on conviction to a fine and imprisonment. (Amended 7 of 1990 s. 2)

Section:	360K	Control of Official Receiver	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) Subject to the provisions of this Part, the Official Receiver shall conform to any directions which may be given to him by the Chief Executive for the purposes of this Part. (Amended 23 of 1999 s. 3)

(2) The Official Receiver shall with the permission of the Chief Executive be entitled to apply by originating summons to the court for directions on any matter arising out of the winding up. (Amended 23 of 1999 s. 3)

(3) Any such application shall be heard and determined in such manner as the court may direct, and it shall be lawful for the court to hear such parties and persons as it may think fit.

(4) Without prejudice to the generality of subsection (3) the court may if it sees fit direct that the proceedings or any part thereof be heard in camera.

(5) If any person is aggrieved by any act or decision of the Official Receiver, that person may apply by originating summons to the court, and the court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

Section:	360L	Audit of Official Receiver's accounts	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) The accounts of the Official Receiver with respect to the winding up shall be audited in such manner as the Chief Executive may direct, and the cost of such audit shall be charged as an expense of the winding up. (Amended 23 of 1999 s. 3)

(2) In the event of the accounts being audited by a public servant there shall be paid to the Government in respect of such audit a sum equal to the fee which would have been chargeable on the audit of the Official Receiver's accounts if the winding up had been a winding up by the court.

Section:	360M	Protection of Official Receiver	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

(1) The Official Receiver shall not incur any personal liability in respect of the winding up of any company under this Part.

(2) No legal proceeding of any kind whatsoever, civil or criminal, shall without the permission of the Chief Executive be brought against the Official Receiver in respect of any act or omission connected in any manner whatsoever with any winding up under this Part. (Amended 23 of 1999 s. 3)

Section:	360N	~~Companies to which Part XI applies~~ Non-Hong Kong Companies	118 of 1997; 23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

If the Chief Executive in Council is satisfied that a ~~company to which Part XI applies~~ non-Hong Kong company would, if it were a society in respect of which the Societies Ordinance (Cap 151) applied, be liable to have- (Amended 23 of 1999 s. 3)

(a) its registration or exemption from registration cancelled under section 5D of the Societies Ordinance (Cap 151); or

(b) its operation or continued operation prohibited by the Secretary for Security under section 8 of the Societies Ordinance (Cap 151),

the Chief Executive in Council may order the company to cease to carry on business within Hong Kong, and such company shall thereupon cease to carry on business within Hong Kong and in the case of paragraph (b), the company is deemed to be an unlawful society within the meaning of and for the purposes of the Societies Ordinance (Cap 151): (Amended 75 of 1992 s. 35; 118 of 1997 s. 20; 23 of 1999 s. 3)

Provided that a person shall not be liable to prosecution for an offence against the Societies Ordinance (Cap 151) by reason only that he is a member of a company which has been ordered to cease to carry on business under this section.

~~Part:~~	~~XIV~~	~~SAVINGS~~		~~30/06/1997~~

~~Section:~~	~~361~~	~~Saving~~		~~30/06/1997~~

~~(1) Without prejudice to the provisions of section 23 of the Interpretation and General Clauses Ordinance (Cap 1)~~

~~(a) nothing in the repeal of the Companies Ordinance 1911 (58 of 1911), shall affect any order in council, order, rule, regulation, scale of fees, appointment, conveyance, mortgage, deed or agreement made, resolution passed, direction given, proceeding taken, instrument issued or thing done under any former enactment relating to companies, but any such order in council, order, rule, regulation, scale of fees, appointment, conveyance, mortgage, deed, agreement, resolution, direction, proceeding, instrument or~~

~~thing shall, if in force at the commencement of this Ordinance, continue in force, and so far as it could have been made, passed, given, taken, issued or done under this Ordinance shall have effect as if made, passed, given, taken, issued or done under this Ordinance;~~

~~(b) any person appointed to any office under or by virtue of any former enactment relating to companies shall be deemed to have been appointed to that office under or by virtue of this Ordinance;~~

~~(c) any register kept under any former enactment relating to companies shall be deemed part of the register to be kept under the corresponding provisions of this Ordinance;~~

~~(d) all funds and accounts constituted under this Ordinance shall be deemed to be in continuation of the corresponding funds and accounts constituted under the former enactments relating to companies.~~

~~(2) In this section, "former enactment relating to companies" (與公司有關的前有成文法則) means the Companies Ordinance 1911 (58 of 1911), and any enactment repealed thereby.~~

~~Section:~~	~~362~~	~~Saving~~		~~30/06/1997~~

~~Nothing in this Ordinance shall affect—~~

~~(a) the incorporation of any company registered under the Companies Ordinance 1911 (58 of 1911);~~

~~(b) Table A in the First Schedule annexed to the Companies Ordinance 1865 (1 of 1865), or any part thereof, either as originally contained in that schedule or as altered in pursuance of that Ordinance, so far as the same applies to any company existing at the commencement of this Ordinance;~~

~~(c) Table A in the First Schedule to the Companies Ordinance 1911 (58 of 1911), or any part thereof, either as originally contained in that schedule or as altered in pursuance of section 119 of that Ordinance, so far as the same applies to any company existing at the commencement of this Ordinance.~~

~~[cf. 1929 c. 23 s. 382 U.K.]~~

~~Section:~~	~~363~~	~~(Repealed 6 of 1984 s. 252)~~		~~30/06/1997~~

~~Section:~~	~~364~~	~~Saving~~		~~30/06/1997~~

~~Nothing in this Ordinance shall affect the provisions of the Insurance Companies Ordinance (Cap 41).~~

~~(Amended 6 of 1983 s. 60)~~

~~Section:~~	~~365~~	~~Savings and transitional~~		~~30/06/1997~~

~~(1) Any amendment made by the Companies (Amendment) Ordinance 1984 (6 of 1984) ("the amending Ordinance") to this Ordinance relating to the appointment of proxies, or to the rights of persons appointed as proxies, by members of a company shall not, as respects any company, apply in relation to any meeting of the company or any class of members of the company held within 3 months after the commencement* of the amending Ordinance.~~

~~(2) (Omitted as spent)~~

~~(3) (Repealed 30 of 1994 s. 10)~~

~~(4) (Omitted as spent)~~

~~(5) Section 253 and the First Schedule of the amending Ordinance shall not affect any company registered under this Ordinance before the commencement of the amending Ordinance.~~

~~(6) (Omitted as spent)~~

~~(Incorporated 6 of 1984 s. 260)~~

~~**Note:**~~

~~*** Commencement date: 31 August 1984.**~~

~~Section:~~	~~366~~	~~Transitional~~		~~30/06/1997~~

~~(1) Notwithstanding—~~

~~(a) the commencement* of sections 58, 65 and 67 of the Companies (Amendment) Ordinance 1997 (3 of 1997) (referred to in this section and section 367 as "the Amending Ordinance");~~

(b) the repeal by the Amending Ordinance of any form in use immediately before the commencement of this section; or

(c) any provision in this Ordinance or the Amending Ordinance requiring, in relation to any purpose of this Ordinance, the use of a form specified by the Registrar under section 2A,

any form which was in force and which was required or permitted to be used for that purpose immediately before the commencement of this section, may be used for that purpose, until the Registrar determines that the specified form must be used.

(2) Notwithstanding any provision in this Ordinance or the Amending Ordinance requiring any person, in relation to a particular purpose of the Ordinance, to state or furnish any matter, particulars or information specified by the Registrar, any requirement in relation to that purpose-

(a) to state or furnish any matter or particulars prescribed by the Governor in Council; and

(b) in force immediately before the commencement of this section,

applies, until the Registrar determines that matters, particulars or information specified by him for that purpose must be stated or furnished.

(Added 3 of 1997 s. 55)

Note:

*** Commencement date: 10 February 1997.**

Section:	367	Application of the Amending Ordinance		30/06/1997

(1) For the avoidance of doubt it is declared that sections 5A and 5B apply in relation to a company notwithstanding that it was registered before the commencement of those sections.

(2) Subsection (1) shall not be construed as-

(a) limiting the application of any other provision in the Amending Ordinance; or

(b) validating any transaction, entered into before the commencement of sections 5A and 5B, which would have been void if not for the enactment of those sections.

(Added 3 of 1997 s. 55)

Schedule:	1		L.N. 132 of 2010	10/12/2010

Expanded Cross Reference:
49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S

FIRST SCHEDULE [sections 2, 4, 14 & 360]
(Amended 28 of 2003 s. 115)

TABLE A [sections 2, 11, 114A, 322 & 360]
(Amended 28 of 2003 s. 115)

PART I

REGULATIONS FOR MANAGEMENT OF A COMPANY LIMITED BY SHARES, NOT BEING A PRIVATE COMPANY

Interpretation

1. In these regulations-

"Ordinance" (本條例) means the Companies Ordinance (Cap 32);

"seal" (印章) means the common seal of the company;

"secretary" (秘書) means any person appointed to perform the duties of the secretary of the company.

Expressions used in these regulations referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography and other modes of representing or reproducing words in a visible form.

~~Wherever any provision of these regulations (except a provision for the appointment of a proxy) requires that a communication as between the company, its directors or members be effected in writing, the requirement may be satisfied by the communication being given in the form of an electronic record if the person to whom the communication is given consents to it being given to him in that form.~~

~~Wherever any provision of these regulations requires that a meeting of the company, its directors or members be held, the requirement may be satisfied by the meeting being held by such lawful electronic means and in such manner as may be agreed by the company in general meeting.~~

~~Unless the context otherwise requires, words or expressions used in these regulations shall have the same meaning as in the Ordinance or any statutory modification thereof in force at the date at which these regulations become binding on the company. (Replaced 28 of 2003 s. 115)~~

~~Share Capital and Variation of Rights~~

~~2. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the company may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the company may from time to time by ordinary resolution determine.~~

~~3. Subject to sections 49 to 49S of the Ordinance, the company may issue shares on the terms that they are, or at the option of the company or the holder of the shares are liable, to be redeemed on such terms and in such manner as may be provided by the company's articles of association. <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *> (Replaced L.N. 188 of 1993)~~

~~4. If at any time the share capital is divided into different classes of shares, the rights attached to any class may, whether or not the company is being wound up, be varied with the consent in writing of the holders of three-fourths in nominal value of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class.~~

~~5. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking pari passu therewith.~~

~~6. The company may exercise the powers of paying commissions conferred by section 46 of the Ordinance, provided that the rate per cent or the amount of the commission paid or agreed to be paid shall be disclosed in the manner required by the said section and the rate of the commission shall not exceed the rate of 10 per cent of the price at which the shares in respect whereof the same is paid are issued or an amount equal to 10 per cent of such price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The company may also on any issue of shares pay such brokerage as may be lawful.~~

~~7. Except as required by law, no person shall be recognized by the company as holding any share upon any trust, and the company shall not be bound by or be compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these regulations or by law otherwise provided) any other rights in respect of any share except an absolute right to the entirety thereof in the registered holder.~~

~~8. Every person whose name is entered as a member in the register of members shall be entitled without payment to receive within 2 months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate for all his shares or several certificates each for 1 or more of his shares upon payment of $5 for every certificate after the first or such less sum as the directors shall from time to time determine. Every certificate shall be under the seal, or under the official seal kept by the company under section 73A of the Ordinance, and shall specify the shares to which it relates and the amount paid up thereon. Provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than 1 certificate, and delivery of a certificate for a share to 1 of several joint holders shall be sufficient delivery to all such holders.~~

~~9. If a share certificate be defaced, lost or destroyed, it may be renewed on payment of a fee of $5 or such less sum and on such terms (if any) as to evidence and indemnity and the payment of out-of-pocket expenses of the company of investigating evidence as the directors think fit.~~

~~10. (Repealed L.N. 188 of 1993)~~

~~Lien~~

~~11. The company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the company shall also have a first and paramount lien on all shares (other than fully paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The company's lien, if any, on a share shall extend to all dividends payable thereon.~~

~~12. The company may sell, in such manner as the directors think fit, any shares on which the company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of 14 days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.~~

~~13. To give effect to any such sale the directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprized in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.~~

~~14. The proceeds of the sale shall be received by the company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.~~

~~Calls on Shares~~

~~15. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares (whether on account of the nominal value of the shares or by way of premium) and not by the conditions of allotment thereof made payable at fixed times, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than 1 month from the date fixed for the payment of the last preceding call, and each member shall (subject to receiving at least 14 days' notice specifying the time or times and place of payment) pay to the company at the time or times and place so specified the amount called on his shares. A call may be revoked or postponed as the directors may determine.~~

~~16. A call shall be deemed to have been made at the time when the resolution of the directors authorizing the call was passed and may be required to be paid by instalments.~~

~~17. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.~~

~~18. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding 10 per cent per annum as the directors may determine, but the directors shall be at liberty to waive payment of such interest wholly or in part.~~

~~19. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium, shall for the purposes of these regulations be deemed to be a call duly made and payable on the date on which by the terms of issue the same becomes payable, and in case~~

~~of non-payment all the relevant provisions of these regulations as to payment of interest and expenses, forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.~~

~~20. The directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.~~

~~21. The directors may, if they think fit, receive from any member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such rate not exceeding (unless the company in general meeting shall otherwise direct) 8 per cent per annum, as may be agreed upon between the directors and the member paying such sum in advance.~~

~~Transfer of Shares~~

~~22. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.~~

~~23. Subject to such of the restrictions of these regulations as may be applicable, any member may transfer all or any of his shares by instrument in writing in any usual or common form or any other form which the directors may approve.~~

~~24. The directors may decline to register the transfer of a share (not being a fully paid share) to a person of whom they shall not approve, and they may also decline to register the transfer of a share on which the company has a lien.~~

~~25. The directors may also decline to recognize any instrument of transfer unless-~~

~~(a) a fee of $5 or such lesser sum as the directors may from time to time require is paid to the company in respect thereof;~~

~~(b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and~~

~~(c) the instrument of transfer is in respect of only one class of share.~~

~~26. If the directors refuse to register a transfer they shall within 2 months after the date on which the transfer was lodged with the company send to the transferor and transferee notice of the refusal.~~

~~27. The registration of transfers may be suspended at such times and for such periods as the directors may from time to time determine, provided always that such registration shall not be suspended in any year for more than 30 days or, where the period for closing the register of members is extended in respect of that year under section 99(2)(a) of the Ordinance, for more than that extended period.~~

~~28. The company shall be entitled to charge a fee not exceeding $5 on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney, or other instrument.~~

~~Transmission of Shares~~

~~29. In case of the death of a member the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognized by the company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.~~

~~30. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member may, upon such evidence being produced as may from time to time properly be required by the directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the directors shall, in either case, have the same right to decline or suspend~~

~~registration as they would have had in the case of a transfer of the share by that member before his death or bankruptcy, as the case may be.~~

~~31. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered he shall testify his election by executing to that person a transfer of the share. All the limitations, restrictions and provisions of these regulations relating to the right to transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the member had not occurred and the notice or transfer were a transfer signed by that member.~~

~~32. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the company:~~

~~Provided always that the directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within 90 days the directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.~~

~~33. Any person to whom the right to any shares in the company has been transmitted by operation of law shall, if the directors refuse to register the transfer, be entitled to call on the directors to furnish within 28 days a statement of the reasons for the refusal.~~

~~Forfeiture of Shares~~

~~34. If a member fails to pay any call or instalment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of the call or instalment remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.~~

~~35. The notice shall name a further day (not earlier than the expiration of 14 days from the date of service of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.~~

~~36. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.~~

~~37. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.~~

~~38. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the company all moneys which, at the date of forfeiture, were payable by him to the company in respect of the shares, but his liability shall cease if and when the company shall have received payment in full of all such moneys in respect of the shares.~~

~~39. A statutory declaration in writing that the declarant is a director or the secretary of the company, and that a share in the company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.~~

~~40. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.~~

~~Conversion of Shares into Stock~~

~~41. The company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.~~

~~42. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the directors may from time to time fix the minimum amount of stock transferable but so that such minimum shall not exceed the nominal amount of the shares from which the stock arose.~~

~~43. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.~~

~~44. Such of the regulations of the company as are applicable to paid-up shares shall apply to stock, and the words "share" and "shareholder" therein shall include "stock" and "stockholder".~~

~~Alteration of Capital~~

~~45. The company may from time to time by ordinary resolution increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.~~

~~46. The company may by ordinary resolution-~~

~~(a) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;~~

~~(b) sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 53(1)(d) of the Ordinance;~~

~~(c) cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.~~

~~47. The company may by special resolution reduce its share capital, any capital redemption reserve fund or any share premium account in any manner and with, and subject to, any incident authorized, and consent required, by law.~~

~~Purchase of own Shares~~

~~(Added L.N. 188 of 1993)~~

~~47A. At any time while the company is a listed company within the meaning of the Ordinance, it may, subject to sections 49, 49A, 49B(6), 49BA, 49C, 49E, 49F, 49G, 49H, 49P, 49Q, 49R and 49S of the Ordinance, purchase its own shares (including any redeemable shares). (Added L.N. 188 of 1993)~~

~~47B. At any time while the company is an unlisted company within the meaning of the Ordinance, it may, subject to sections 49 to 49S of the Ordinance, purchase its own shares (including any redeemable shares). <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *> (Added L.N. 188 of 1993)~~

~~47C. Notwithstanding section 49B(1) and (2) but subject to sections 49, 49A, 49B(6), 49F, 49G, 49H, 49I(4) and (5), 49P, 49Q, 49R and 49S of the Ordinance (except that such purchases may be made either out of or otherwise than out~~

~~of the distributable profits of the company or the proceeds of a fresh issue of shares), the company may purchase its own shares (including any redeemable shares) in order to-~~

~~(a) settle or compromise a debt or claim;~~

~~(b) eliminate a fractional share or fractional entitlement or an odd lot of shares (as defined in section 49B(5) of the Ordinance);~~

~~(c) fulfil an agreement in which the company has an option, or under which the company is obliged, to purchase shares under an employee share scheme which had previously been approved by the company in general meeting; or~~

~~(d) comply with an order of the court under-~~

~~(i) section 8(4);~~

~~(ii) section 47G(5), where such order provides for the matters referred to in section 47G(6); or~~

~~(iii) section 168A(2),~~

~~of the Ordinance. (Added L.N. 188 of 1993)~~

~~Allotment of Shares~~

~~48. The directors shall not exercise any power conferred on them to allot shares in the company without the prior approval of the company in general meeting where such approval is required by section 57B of the Ordinance.~~

~~General Meetings~~

~~49. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the company and that of the next. Provided that so long as the company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the directors shall appoint.~~

~~50. All general meetings other than annual general meetings shall be called extraordinary general meetings.~~

~~51. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by section 113 of the Ordinance. If at any time there are not within Hong Kong sufficient directors capable of acting to form a quorum, any director or any 2 members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.~~

~~Notice of General Meetings~~

~~52. An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by 14 days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company:~~

~~Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this regulation, be deemed to have been duly called if it is so agreed-~~

~~(a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and~~

~~(b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together holding not less than 95 per cent in nominal value of the shares giving that right.~~

~~53. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person~~

~~entitled to receive notice shall not invalidate the proceedings at that meeting.~~

~~Proceedings at General Meetings~~

~~54. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.~~

~~55. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and continues to be present until the conclusion of the meeting; save as herein otherwise provided, 2 members present in person or by proxy shall be a quorum.~~

~~56. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the members present shall be a quorum.~~

~~57. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman, or if he shall not be present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act or is absent from Hong Kong or has given notice to the company of his intention not to attend the meeting, the directors present shall elect one of their number to be chairman of the meeting.~~

~~58. If at any meeting no director is willing to act as chairman or if no director is present within 15 minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.~~

~~59. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.~~

~~60. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded -~~

~~(a) by the chairman; or~~

~~(b) by at least 2 members present in person or by proxy; or~~

~~(c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting; or~~

~~(d) by a member or members holding shares in the company conferring a right to vote at the meeting being shares on which an aggregate sum has been paid up equal to not less than one-tenth of the total sum paid up on all the shares conferring that right.~~

~~Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of the proceedings of the company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.~~

~~The demand for a poll may be withdrawn.~~

~~61. Except as provided in regulation 63, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.~~

~~62. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at~~

~~which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.~~

~~63. A poll demanded on the election of a chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.~~

~~Votes of Members~~

~~64. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands every member present in person shall have 1 vote, and on a poll every member shall have 1 vote for each share of which he is the holder.~~

~~65. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.~~

~~66. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis, or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other person may, on a poll, vote by proxy.~~

~~67. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the company have been paid.~~

~~68. No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.~~

~~69. On a poll votes may be given either personally or by proxy.~~

~~70. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing, or, if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorized, A proxy need not be a member of the company.~~

~~71. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within Hong Kong as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.~~

~~72. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit-~~

~~"_____ Limited~~

~~I/We _____, of~~

~~_____, being a member/members of the above-named company, hereby appoint~~

~~of _____, or failing him, _____ of _____, as my/our proxy to vote for me/us on my/our behalf at the [annual or extraordinary, as the case may be] general meeting of the company to be held on the _____ day of _____ 19_____, and at any adjournment thereof.~~

~~Signed this _____ day of _____ 19_____.".~~

~~73. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit-~~

~~"_____ Limited~~

~~I/We, _____, of~~

~~_____, being a member/members of the above-named company, hereby appoint _____ of _____, or failing him, _____ of _____, as my/our proxy to vote for me/us on my/our behalf at the [annual or extraordinary, as the case may be] general meeting of the company, to be held on the _____ day of _____ 19_____, and at any adjournment thereof.~~

~~Signed this _____ day of _____ 19_____.~~

~~This form is to be used *in favour of / against the resolution.~~

~~Unless otherwise instructed, the proxy will vote as he thinks fit.~~

~~*Strike out whichever is not desired.".~~

~~74. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.~~

~~75. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.~~

~~Corporations acting by Representatives at Meetings~~

~~76. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.~~

~~Directors~~

~~77. The number of the directors and the names of the first directors shall be determined in writing by the founder members or a majority of them. (Amended 30 of 2004 s. 2)~~

~~78. The remuneration of the directors shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors may also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connexion with the business of the company.~~

~~79. The shareholding qualification for directors may be fixed by the company in general meeting, and unless and until so fixed no qualification shall be required.~~

~~80. A director of the company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as shareholder or otherwise, and, subject to the Ordinance, no such director shall be accountable to the company for any remuneration or other benefits received by him as a director or officer of, or from his interest in, such other company unless the company otherwise direct.~~

~~Borrowing Powers~~

~~81. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, or any part thereof, and to issue debentures, debenture stock, and, subject to section 57B of the Ordinance, convertible debentures and convertible debenture stock, and other securities whether outright or as security for any debt, liability or obligation of the company or of any third party:~~

~~Provided that the amount for the time being remaining undischarged of moneys borrowed or secured by the directors as aforesaid (apart from temporary loans obtained from the company's bankers in the ordinary course of business) shall not at any time, without the previous sanction of the company in general meeting, exceed the nominal amount of the share capital of the company for the time being issued, but nevertheless no lender or other person dealing with the company shall be concerned to see or inquire whether this limit is observed. No debt incurred or security given in excess of such limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit hereby imposed had been or was thereby exceeded.~~

~~Powers and Duties of Directors~~

~~82. Subject to the provisions of the Ordinance, the memorandum and articles and to any directions given by special resolution, the business and affairs of the company shall be managed by the directors, who may exercise all the powers of the company. No alteration of the memorandum or articles and no such direction shall invalidate any prior act of the directors which would have been valid if that alteration had not been made or that direction had not been given. The powers given by this regulation shall not be limited by any special power given to the directors by the articles, and a meeting of the directors at which a quorum is present may exercise all powers exercisable by the directors. (Replaced 28 of 2003 s. 115)~~

~~83. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorize any such attorney to delegate all or any of the powers, authorities and discretions vested in him.~~

~~84. The company may exercise the powers conferred by section 35 of the Ordinance with regard to having an official seal for use outside Hong Kong, and such powers shall be vested in the directors. (Amended 23 of 1988 s. 2)~~

~~85. The company may exercise the powers conferred upon the company by sections 103, 104 and 106 of the Ordinance with regard to the keeping of a branch register, and the directors may (subject to the provisions of those sections) make and vary such regulations as they may think fit respecting the keeping of any such register.~~

~~86. (1) A director who is in any way, whether directly or indirectly, interested in a contract or proposed contract (being a contract of significance in relation to the company's business) with the company shall, if his interest in the contract or proposed contract is material, declare the nature of his interest at a meeting of the directors in accordance with section 162 of the Ordinance.~~

~~(2) A director shall not vote in respect of any such contract or arrangement in which he is so interested, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to-~~

- ~~(a) any arrangement for giving any director any security or indemnity in respect of money lent by him to or obligations undertaken by him for the benefit of the company; or~~
- ~~(b) any arrangement for the giving by the company of any security to a third party in respect of a debt or obligation of the company for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by the deposit of a security; or~~
- ~~(c) any contract by a director to subscribe for or underwrite shares or debentures of the company; or~~
- ~~(d) any contract or arrangement with any other company in which he is interested only as an officer of the company or as holder of shares or other securities,~~

~~and these prohibitions may at any time be suspended or relaxed to any extent, and either generally or in respect of any~~

~~particular contract, arrangement or transaction, by the company in general meeting.~~

~~(3) A director may hold any other office or place of profit under the company (other than the office of auditor) in conjunction with his office of director for such period and on such terms (as to remuneration and otherwise) as the directors may determine and no director or intending director shall be disqualified by his office from contracting with the company either with regard to his tenure of any such other office or place of profit or as vendor, purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the company in which any director is in any way interested, be liable to be avoided, nor shall any director so contracting or being so interested be liable to account to the company for any profit realized by any such contract or arrangement by reason of such director holding that office or of the fiduciary relation thereby established.~~

~~(4) A director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other director is appointed to hold any such office or place of profit under the company or whereat the terms of any such appointment are arranged, and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.~~

~~(5) Any director may act by himself or his firm in a professional capacity for the company, and he or his firm shall be entitled to remuneration for professional services as if he were not a director; provided that nothing herein contained shall authorize a director or his firm to act as auditor to the company.~~

~~87. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.~~

~~88. The directors shall cause minutes to be made in books provided for the purpose—~~

~~(a) of all appointments of officers made by the directors;~~

~~(b) of the names of the directors present at each meeting of the directors and of any committee of the directors;~~

~~(c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors,~~

~~and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.~~

~~89. The directors on behalf of the company may pay a gratuity or pension or allowance on retirement to any director who has held any other salaried office or place of profit with the company or to the director's spouse or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance. (Amended 30 of 1999 s. 35)~~

~~Disqualification of Directors~~

~~90. The office of director shall be vacated if the director—~~

~~(a) ceases to be a director by virtue of section 155 of the Ordinance; or~~

~~(b) becomes bankrupt or makes any arrangement or composition with his creditors generally; or~~

~~(c) becomes prohibited from being a director by reason of any disqualification order made under Part IVA of the Ordinance; or (Amended 30 of 1994 s. 11)~~

~~(d) becomes of unsound mind; or~~

~~(e) resigns his office by notice in writing to the company given in accordance with section 157D(3)(a) of the Ordinance; or~~

~~(f) shall for more than 6 months have been absent without permission of the directors from meetings of the directors held during that period.~~

~~Rotation of Directors~~

~~91. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not 3 or a multiple of 3, then the number nearest one-third, shall retire from office.~~

~~92. The directors to retire in every year shall be those who have been longest in office since their last election, but as~~

~~between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.~~

~~93. A retiring director shall be eligible for re-election.~~

~~94. The company at the meeting at which a director retires in manner aforesaid may fill the vacated office by electing a person thereto, and in default the retiring director shall if offering himself for re-election be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.~~

~~95. No person other than a director retiring at the meeting shall unless recommended by the directors be eligible for election to the office of director at any general meeting unless not less than 3 nor more than 21 days before the date appointed for the meeting there shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.~~

~~96. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.~~

~~97. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these regulations. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election but shall not be taken into account in determining the directors who are to retire by rotation at such meeting.~~

~~98. The company may by special resolution remove any director before the expiration of his period of office notwithstanding anything in these regulations or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.~~

~~99. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding regulation, and without prejudice to the powers of the directors under regulation 97 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. A person appointed in place of a director so removed or to fill such a vacancy shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.~~

~~Proceedings of Directors~~

~~100. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Hong Kong.~~

~~101. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be 2.~~

~~102. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.~~

~~103. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time~~

~~appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.~~

~~104. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.~~

~~105. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.~~

~~106. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.~~

~~107. All acts done by any meeting of the directors or of a committee of directors or by any person acting as a director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.~~

~~108. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held:~~

~~Provided that this regulation shall not apply in relation to any contract or arrangement (not being one of the types specified in regulation 86(2)) in which a director or directors are interested, unless the number of directors signing the resolution who are not interested in the contract or arrangement would have constituted a quorum of directors if a meeting had been held for the purpose of considering the contract or arrangement.~~

~~Managing Director~~

~~109. The directors may from time to time appoint one or more of their body to the office of managing director for such period and on such terms as they think fit, and, subject to the terms of any agreement entered into in any particular case, may revoke such appointment. A director so appointed shall not, whilst holding that office, be subject to retirement by rotation or be taken into account in determining the rotation of retirement of directors, but his appointment shall be automatically determined if he cease from any cause to be a director.~~

~~110. A managing director shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors may determine.~~

~~111. The directors may entrust to and confer upon a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may from time to time revoke, withdraw, alter or vary all or any of such powers.~~

~~Secretary~~

~~112. The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.~~

~~113. A provision of the Ordinance or these regulations requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.~~

~~The Seal~~

~~114. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee of the directors authorized by the directors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second~~

~~director or by some other person appointed by the directors for the purpose.~~

~~Dividends and Reserve~~

~~115. The company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.~~

~~116. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the company.~~

~~117. No dividend shall be paid otherwise than out of profits in accordance with the provisions of Part IIA of the Ordinance. (Amended L.N. 188 of 1993)~~

~~118. The directors may, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for any purpose to which the profits of the company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the company or be invested in such investments (other than shares of the company) as the directors may from time to time think fit. The directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.~~

~~119. Subject to the rights of persons, if any, entitled to shares with special rights as to dividend, all dividends shall be declared and paid according to the amounts paid or credited as paid on the shares in respect whereof the dividend is paid, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the shares during any portion or portions of the period in respect of which the dividend is paid; but if any share is issued on terms providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.~~

~~120. The directors may deduct from any dividend payable to any member all sums of money (if any) presently payable by him to the company on account of calls or otherwise in relation to the shares of the company.~~

~~121. Any general meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid up shares, debentures or debenture stock of any other company or in any one or more of such ways, and the directors shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the directors may settle the same as they think expedient, and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all parties, and may vest any such specific assets in trustees as may seem expedient to the directors.~~

~~122. Any dividend, bonus, interest or other moneys payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the register of members or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of 2 or more joint holders may give effectual receipts for any dividends, bonuses, interest or other moneys payable in respect of the shares held by them as joint holders.~~

~~123. No dividend shall bear interest against the company.~~

~~Accounts~~

~~124. The directors shall cause proper books of account to be kept with respect to~~

~~(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;~~

~~(b) all sales and purchases of goods by the company; and~~

~~(c) the assets and liabilities of the company.~~

~~Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.~~

~~125. The books of account shall be kept at the registered office of the company, or, subject to section 121(3) of the Ordinance, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.~~

~~126. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statue or authorized by the directors or by the company in general meeting.~~

~~127. The directors shall from time to time, in accordance with sections 122, 124 and 129D of the Ordinance, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.~~

~~128. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the directors' report and a copy of the auditors' report, shall not less than 21 days before the date of the meeting be sent to every member of, and every holder of debentures of, the company and to all persons other than members or holders of debentures of the company, being persons entitled to receive notices of general meetings of the company:~~

~~Provided that this regulation shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any shares or debentures.~~

~~Capitalization of Profits~~

~~129. The company in general meeting may upon the recommendation of the directors resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the company's reserve accounts or to the credit of the profit and loss account or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such members respectively or paying up in full unissued shares or debentures of the company to be allotted and distributed credited as fully paid up to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the directors shall give effect to such resolution:~~

~~Provided that a share premium account and a capital redemption reserve fund may, for the purposes of this regulation, only be applied in the paying up of unissued shares to be allotted to members of the company as fully paid bonus shares.~~

~~130. Whenever such a resolution as aforesaid shall have been passed the directors shall make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issues of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorize any person to enter on behalf of all the members entitled thereto into an agreement with the company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalization, or (as the case may require) for the payment up by the company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalized, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.~~

~~Audit~~

~~131. Auditors shall be appointed and their duties regulated in accordance with sections 131, 132, 133, 140, 140A, 140B and 141 of the Ordinance.~~

~~Notices~~

~~132. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within Hong Kong) to the address, if any, within Hong Kong supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 48 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.~~

~~133. A notice may be given by the company to the joint holders of a share by giving the notice to the joint holder first named in the register of members in respect of the share.~~

~~134. A notice may be given by the company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, within Hong Kong supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.~~

~~135. Notice of every general meeting shall be given in any manner hereinbefore authorized to-~~

~~(a) every member except those members who (having no registered address within Hong Kong) have not supplied to the company an address within Hong Kong for the giving of notices to them;~~

~~(b) every person entitled to a share in consequence of the death or bankruptcy of a member who, but for his death or bankruptcy, would be entitled to receive notice of the meeting; and~~

~~(c) the auditor for the time being of the company.~~

~~No other person shall be entitled to receive notices of general meetings.~~

~~Winding up~~

~~136. If the company shall be wound up the liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Ordinance, divide amongst the members in specie or kind the whole or any part of the assets of the company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.~~

~~Indemnity~~

~~137. Every director, managing director, agent, auditor, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him in relation to the company in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application under section 358 of the Ordinance in which relief is granted to him by the court.~~

~~PART II~~

~~REGULATIONS FOR THE MANAGEMENT OF A PRIVATE COMPANY LIMITED BY SHARES~~

~~1. The regulations contained in Part I of Table A (with the exception of regulations 24, 47A and 47B) shall apply.~~

~~(Amended L.N. 188 of 1993)~~

~~2. The company is a private company and accordingly-~~

~~(a) the right to transfer shares is restricted in manner hereinafter prescribed;~~

~~(b) the number of members of the company (exclusive of persons who are in the employment of the company and of persons who having been formerly in the employment of the company were while in such employment and have continued after the determination of such employment to be members of the company) is limited to 50. Provided that where 2 or more persons hold one or more shares in the company jointly they shall for the purpose of this regulation be treated as a single member;~~

~~(c) any invitation to the public to subscribe for any shares or debentures of the company is prohibited;~~

~~(d) the company shall not have power to issue share warrants to bearer.~~

~~2A. Subject to sections 49 to 49S of the Ordinance, the company may purchase its own shares (including any redeemable shares). <* Note - Exp. X-Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *> (Added L.N. 188 of 1993)~~

~~2B. Subject to sections 49I to 49O of the Ordinance, the company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares. <* Note - Exp. X-Ref.: Sections 49I, 49J, 49K, 49L, 49M, 49N, 49O *> (Added L.N. 188 of 1993)~~

~~3. The directors may, in their absolute discretion and without assigning any reason therefor, decline to register any transfer of any share, whether or not it is a fully paid share.~~

~~*Note:* Regulations 2A and 2B of this Part are alternative to regulations 47A and 47B of Part I, and regulation 3 of this Part is alternative to regulation 24 of Part I. (Replaced L.N. 188 of 1993)~~

~~TABLE B~~ ~~[sections 4, 14 & 360]~~

~~(Amended 28 of 2003 s. 115)~~

~~FORM OF MEMORANDUM OF ASSOCIATION OF A COMPANY LIMITED BY SHARES~~

~~1st. The name of the company is "The Kwun Tong Electronics Manufacturing Company Limited (觀塘電子製造業有限公司)".~~

~~2nd. The registered office of the company will be situated in Hong Kong.~~

~~3rd. The objects for which the company is established are [*If the objects are being stated, they should be set out here*]. (Amended 3 of 1997 s. 56)~~

~~4th. The liability of the members is limited.~~

~~5th. The share capital of the company is $15000000 divided into $150000 shares of $100 each.~~

~~WE, the several persons whose names and addresses are given below, wish to form a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.~~

~~*Names, Addresses and Descriptions of Signatories*~~	~~*Number of Shares taken by each Signatory*~~

1. Wong Tai-kwong (黃大光) of , Electronics Engineer. 1
2. John Smith of 1
, Banker.
Total shares taken 2

Dated the day of 19 .
Witness to the above signatures,

John Jones,
No. 13, Chater Road, Hong Kong.
Solicitor.

(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)

Note: The 3rd paragraph applies only if the objects are being stated but that paragraph can be adapted or modified to contain any statement restricting or excluding objects. (Added 3 of 1997 s. 56)

TABLE C [sections 14 & 360]

FORM OF MEMORANDUM AND ARTICLES OF ASSOCIATION
OF A COMPANY LIMITED BY GUARANTEE,
AND NOT HAVING A SHARE CAPITAL

Memorandum of Association

1st. The name of the company is "The Yaumati District Elderly Residents Benevolent Association Limited (油蔴地區耆老慈善社有限公司)".

2nd. The registered office of the company will be situated in Hong Kong.

3rd. The objects for which the company is established are [*in the case of an association referred to in section 21(1) or a company referred to in section 21(2), the objects should be set out here; in any other case if the objects are being stated they should be set out here*]. (Amended 3 of 1997 s. 56)

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within 1 year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding $100.

WE, the several persons whose names and addresses are given below, wish to form a company, in pursuance of this memorandum of association.

Names, Addresses and Descriptions of Signatories

1. Chan Kwok-wah (陳國華) of , Headmaster.
2. Lee Wing-tak (李榮德) of , Stockbroker.

Dated the day of 19 .
Witness to the above signatures,

John Jones,
No. 13, Chater Road, Hong Kong.

~~*Solicitor.*~~

~~(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)~~

~~ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION~~

~~**Interpretation**~~

~~1. In these articles-~~

~~"Ordinance" (本條例) means the Companies Ordinance, Chapter 32; (Amended 12 of 2010 s. 61)~~

~~"seal" (印章) means the common seal of the company; (Amended 12 of 2010 s. 61)~~

~~"secretary" (秘書) means any person appointed to perform the duties of the secretary of the company.~~

~~Expressions referring to writing shall, unless the contrary intention appears, be construed as including references to printing, lithography, photography, and other modes of representing or reproducing words in a visible form.~~

~~Unless the context otherwise requires, words or expressions contained in these articles shall bear the same meaning as in the Ordinance or any statutory modification thereof in force at the date at which these articles become binding on the company.~~

~~**Members**~~

~~2. The number of members with which the company proposes to be registered is 500, but the directors may from time to time register an increase of members.~~

~~3. The founder members and such other persons as the directors shall admit to membership shall be members of the company. (Amended 30 of 2004 s. 2)~~

~~**General Meetings**~~

~~4. The company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it; and not more than 15 months shall elapse between the date of one annual general meeting of the company and that of the next. Provided that so long as the company holds its first annual general meeting within 18 months of its incorporation, it need not hold it in the year of its incorporation or in the following year. The annual general meeting shall be held at such time and place as the directors shall appoint.~~

~~5. All general meetings other than annual general meetings shall be called extraordinary general meetings.~~

~~6. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by section 113 of the Ordinance. If at any time there are not within Hong Kong sufficient directors capable of acting to form a quorum, any director or any 2 members of the company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the directors.~~

~~**Notice of General Meetings**~~

~~7. An annual general meeting and a meeting called for the passing of a special resolution shall be called by 21 days' notice in writing at the least, and a meeting of the company other than an annual general meeting or a meeting for the passing of a special resolution shall be called by 14 days' notice in writing at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the company in general~~

~~meeting, to such persons as are, under the articles of the company, entitled to receive such notices from the company:~~

~~Provided that a meeting of the company shall, notwithstanding that it is called by shorter notice than that specified in this article be deemed to have been duly called if it is so agreed—~~

~~(a) in the case of a meeting called as the annual general meeting, by all the members entitled to attend and vote thereat; and~~

~~(b) in the case of any other meeting, by a majority in number of the members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent of the total voting rights of all the members entitled to attend and vote at that meeting.~~

~~8. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.~~

~~Proceedings at General Meetings~~

~~9. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets, and the reports of the directors and auditors, the election of directors in the place of those retiring and the appointment of, and the fixing of the remuneration of, the auditors.~~

~~10. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business and continues to be present until the conclusion of the meeting; save as herein otherwise provided, 2 members present in person shall be a quorum.~~

~~11. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or to such other day and at such other time and place as the directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.~~

~~12. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the company, or if there is no such chairman, or if he shall not be present within 15 minutes after the time appointed for the holding of the meeting or is unwilling to act or is absent from Hong Kong or has given notice to the company of his intention not to attend the meeting, the directors present shall elect one of their number to be chairman of the meeting.~~

~~13. If at any meeting no director is willing to act as chairman or if no director is present within 15 minutes after the time appointed for holding the meeting, the members present shall choose one of their number to be chairman of the meeting.~~

~~14. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.~~

~~15. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded—~~

~~(a) by the chairman; or~~

~~(b) by at least 2 members present in person or by proxy; or~~

~~(c) by any member or members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the members having the right to vote at the meeting.~~

~~Unless a poll be so demanded a declaration by the chairman that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of proceedings of the company shall be conclusive evidence of the fact without proof of the number or~~

~~proportion of the votes recorded in favour of or against such resolution.~~

~~The demand for a poll may be withdrawn.~~

~~16. Except as provided in article 18, if a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.~~

~~17. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.~~

~~18. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.~~

~~Votes of Members~~

~~19. Every member shall have 1 vote.~~

~~20. A member of unsound mind, or in respect of whom an order has been made by any court having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver, curator bonis or other person in the nature of a committee, receiver or curator bonis appointed by that court, and any such committee, receiver, curator bonis or other person may, in a poll, vote by proxy.~~

~~21. No member shall be entitled to vote at any general meeting unless all moneys payable by him to the company in his capacity as member, and which have been outstanding for more than 1 month after they fell due for payment, have been paid.~~

~~22. On a poll votes may be given either personally or by proxy.~~

~~23. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney duly authorized in writing or, if the appointer is a corporation, either under seal or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the company.~~

~~24. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the registered office of the company or at such other place within Hong Kong as is specified for that purpose in the notice convening the meeting, not less than 48 hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than 24 hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.~~

~~25. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit-~~

~~" Limited.~~

~~I/We of~~

~~, being a member/members~~

~~of the above named company, hereby appoint of~~

~~or failing him ,~~

~~of~~

~~as my/our proxy to vote for me/us on my/our behalf at the [annual or extraordinary, as the case may be] general meeting of the company to be held on the day of 19 , and at any adjournment thereof.~~

~~Signed this day of 19~~

~~26. Where it is desired to afford members an opportunity of voting for or against a resolution the instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit-~~

"

~~Limited.~~

~~I/We _____, of~~

~~, being a member/members~~

~~of the above named company, hereby appoint~~

~~_____ of~~

~~or failing him of ;~~

~~as my/our proxy to vote for me/us on my/our behalf at the [annual or extraordinary, as the case may be] general meeting of the company to be held on the day of 19 , and at any adjournment thereof.~~

~~Signed this day of 19~~

~~This form is to be used *in favour of / against the resolution. Unless otherwise instructed, the proxy will vote as he thinks fit.~~

~~*Strike out whichever is not desired.".~~

~~27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.~~

~~28. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the company at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.~~

~~Corporations acting by Representatives at Meetings~~

~~29. Any corporation which is a member of the company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the company.~~

~~Directors~~

~~30. The number of the directors and the names of the first directors shall be determined in writing by the founder members or a majority of them. (Amended 30 of 2004 s. 2)~~

~~31. The remuneration of the directors shall from time to time be determined by the company in general meeting. Such remuneration shall be deemed to accrue from day to day. The directors shall also be paid all travelling, hotel and other expenses properly incurred by them in attending and returning from meetings of the directors or any committee of the directors or general meetings of the company or in connexion with the business of the company.~~

~~Borrowing Powers~~

~~32. The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking and property, or any part thereof, and to issue debentures, debenture stock and other securities, whether outright or as security for any debt, liability or obligation of the company or of any third party.~~

~~Powers and Duties of Directors~~

~~33. The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and may exercise all such powers of the company as are not, by the Ordinance or by these articles, required to be exercised by the company in general meeting, subject nevertheless to the provisions of the Ordinance or these articles and to such regulations, being not inconsistent with the aforesaid provisions, as may be prescribed by the company in general meeting; but no regulation made by the company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not~~

~~been made.~~

~~34. The directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the directors, to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under these articles) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the directors may think fit and may also authorize any such attorney to delegate all or any of the powers, authorities and discretions vested in him.~~

~~35. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the company, shall be signed, drawn, accepted, endorsed, or otherwise executed, as the case may be, in such manner as the directors shall from time to time by resolution determine.~~

~~36. The directors shall cause minutes to be made in books provided for the purpose-~~

~~(a) of all appointments of officers made by the directors;~~

~~(b) of the names of the directors present at each meeting of the directors and of any committee of the directors;~~

~~(c) of all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors,~~

~~and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.~~

~~Disqualification of Directors~~

~~37. The office of director shall be vacated if the director-~~

~~(a) without the consent of the company in general meeting holds any other office of profit under the company; or~~

~~(b) becomes bankrupt or makes any arrangement or composition with his creditors generally; or~~

~~(c) becomes prohibited from being a director by reason of any disqualification order made under Part IVA of the Ordinance; or (Amended 30 of 1994 s. 11)~~

~~(d) becomes of unsound mind; or~~

~~(e) resigns his office by notice in writing to the company given in accordance with section 157D(3)(a) of the Ordinance; or~~

~~(f) shall for more than 6 months have been absent without permission of the directors from meetings of the directors held during that period; or~~

~~(g) is directly or indirectly interested in any contract (being a contract of significance in relation to the company's business) with the company and, if his interest in the contract is material, fails to declare the nature of his interest in manner required by section 162 of the Ordinance.~~

~~A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.~~

~~Rotation of Directors~~

~~38. At the first annual general meeting of the company all the directors shall retire from office, and at the annual general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not 3 or a multiple of 3, then the number nearest one-third, shall retire from office.~~

~~39. The directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.~~

~~40. A retiring director shall be eligible for re-election.~~

~~41. The company at the meeting at which a director retires in manner aforesaid may fill the vacated office by~~

electing a person thereto, and in default the retiring director shall, if offering himself for re-election, be deemed to have been re-elected, unless at such meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such director shall have been put to the meeting and lost.

42. No person other than a director retiring at the meeting shall unless recommended by the directors be eligible for election to the office of director at any general meeting unless, not less than 3 nor more than 21 days before the date appointed for the meeting, there shall have been left at the registered office of the company notice in writing, signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing signed by that person of his willingness to be elected.

43. The company may from time to time by ordinary resolution increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

44. The directors shall have power at any time, and from time to time, to appoint any person to be a director, either to fill a casual vacancy or as an addition to the existing directors, but so that the total number of directors shall not at any time exceed the number fixed in accordance with these articles. Any director so appointed shall hold office only until the next following annual general meeting, and shall then be eligible for re-election, but shall not be taken into account in determining the directors who are to retire by rotation at such meeting.

45. The company may by special resolution remove any director before the expiration of his period of office notwithstanding anything in these articles or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him and the company.

46. The company may by ordinary resolution appoint another person in place of a director removed from office under the immediately preceding article. Without prejudice to the powers of the directors under article 44 the company in general meeting may appoint any person to be a director either to fill a casual vacancy or as an additional director. The person appointed to fill such a vacancy shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors

47. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors. It shall not be necessary to give notice of a meeting of directors to any director for the time being absent from Hong Kong.

48. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall be 2.

49. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the articles of the company as the necessary quorum of directors, the continuing directors or director may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company, but for no other purpose.

50. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within 5 minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

51. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

52. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the

~~chairman is not present within 5 minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.~~

~~53. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in the case of an equality of votes the chairman shall have a second or casting vote.~~

~~54. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.~~

~~55. A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at a meeting of the directors duly convened and held.~~

~~Secretary~~

~~56. The secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.~~

~~57. A provision of the Ordinance or these articles requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the same person acting both as director and as, or in place of, the secretary.~~

~~The Seal~~

~~58. The directors shall provide for the safe custody of the seal, which shall only be used by the authority of the directors or of a committee of the directors authorized by the directors in that behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for the purpose.~~

~~Accounts~~

~~59. The directors shall cause proper books of account to be kept with respect to-~~

~~(a) all sums of money received and expended by the company and the matters in respect of which the receipt and expenditure takes place;~~

~~(b) all sales and purchases of goods by the company; and~~

~~(c) the assets and liabilities of the company.~~

~~Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.~~

~~60. The books of account shall be kept at the registered office of the company, or, subject to section 121(3) of the Ordinance, at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.~~

~~61. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the company except as conferred by statute or authorized by the directors or by the company in general meeting.~~

~~62. The directors shall from time to time in accordance with sections 122, 124 and 129D of the Ordinance, cause to be prepared and to be laid before the company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in those sections.~~

~~63. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the company in general meeting, together with a copy of the directors' report and a copy of the auditor's report, shall not less than 14 days before the date of the meeting be sent to every member of, and every holder of debentures of, the company:~~

~~Provided that this article shall not require a copy of those documents to be sent to any person of whose address the company is not aware or to more than one of the joint holders of any debentures.~~

~~Audit~~

~~64. Auditors shall be appointed and their duties regulated in accordance with sections 131, 132, 133, 140, 140A, 140B and 141 of the Ordinance.~~

~~Notices~~

~~65. A notice may be given by the company to any member either personally or by sending it by post to him or to his registered address, or (if he has no registered address within Hong Kong) to the address, if any, within Hong Kong supplied by him to the company for the giving of notice to him. Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of 48 hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.~~

~~66. Notice of every general meeting shall be given in any manner hereinbefore authorized to-~~

~~(a) every member except those members who (having no registered address within Hong Kong) have not supplied to the company an address within Hong Kong for the giving of notices to them; and~~

~~(b) the auditors for the time being of the company.~~

~~No other person shall be entitled to receive notices of general meetings.~~

~~67. Every director, managing director, agent, auditor, secretary and other officer for the time being of the company shall be indemnified out of the assets of the company against any liability incurred by him in relation to the company in defending any proceedings, whether civil or criminal, in which judgment is given in his favour or in which he is acquitted or in connexion with any application under section 358 of the Ordinance in which relief is granted to him by the court.~~

~~*Names, Addresses and Descriptions of Signatories*~~

~~1. Chan Kwok-wah (陳國華) of _____, Headmaster.~~

~~2. Lee Wing-tak (李榮德) of _____, Stockbroker.~~

~~Dated the _____ day of _____ 19__.~~

~~Witness to the above signatures,~~

~~John Jones,~~
~~No. 13, Chater Road, Hong Kong.~~
~~*Solicitor.*~~

~~(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)~~

~~TABLE D~~ ~~[sections 14 & 360]~~

~~MEMORANDUM AND ARTICLES OF ASSOCIATION OF~~
~~A COMPANY LIMITED BY GUARANTEE AND~~
~~HAVING A SHARE CAPITAL~~

~~*Memorandum of Association*~~

1st. The name of the company is "The Yuen Long Motel Company Limited (元朗汽車酒店有限公司)".

2nd. The registered office of the company will be situated in Hong Kong.

3rd. The objects for which the company is established are [*If the objects are being stated, they should be set out here*]. (Amended 3 of 1997 s. 56)

4th. The liability of the members is limited.

5th. Every member of the company undertakes to contribute to the assets of the company in the event of its being wound up while he is a member, or within 1 year afterwards, for payment of the debts and liabilities of the company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding $500.

6th. The share capital of the company shall consist of $10000000 divided into 10000 shares of $1000 each.

WE, the several persons whose names and addresses are given below, wish to form a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.

Names, Addresses and Descriptions of Signatories	*Number of Shares taken by each Signatory*
1. Chow Tak-kwong (周德光) of , Hotel Executive.	1
2. Hamish MacDonald of , Banker.	1
Total shares taken	2

Dated the day of 19 .
Witness to the above signatures,

John Jones,
No. 13, Chater Road, Hong Kong.
Solicitor.

(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)

Note: The 3rd paragraph applies only if the objects are being stated but that paragraph can be adapted or modified to contain any statement restricting or excluding objects. (Added 3 of 1997 s. 56)

ARTICLES OF ASSOCIATION TO ACCOMPANY
PRECEDING MEMORANDUM OF ASSOCIATION

1. The number of members with which the company proposes to be registered is 50, but the directors may from time to time register an increase of members.

2. The regulations of Table A, Part I, set out in the First Schedule to the Companies Ordinance, Chapter 32 (in these articles called "the Ordinance"), shall (with the exception of regulations 47A and 47B) be deemed to be incorporated with these articles and shall apply to the company. (Amended L.N. 188 of 1993)

~~3. Subject to sections 49 to 49S of the Ordinance, the company may purchase its own shares (including any redeemable shares). <* Note - Exp. X Ref.: Sections 49, 49A, 49B, 49BA, 49C, 49D, 49E, 49F, 49G, 49H, 49I, 49J, 49K, 49L, 49M, 49N, 49O, 49P, 49Q, 49R, 49S *> (Added L.N. 188 of 1993)~~

~~4. Subject to sections 49I to 49O of the Ordinance, the company may make a payment in respect of the redemption or purchase of its own shares otherwise than out of the distributable profits of the company or the proceeds of a fresh issue of shares. <* Note - Exp. X Ref.: Sections 49I, 49J, 49K, 49L, 49M, 49N, 49O *> (Added L.N. 188 of 1993)~~

~~Note: Articles 3 and 4 of these articles are alternative to regulations 47A and 47B of Table A, Part I. (Added L.N. 188 of 1993)~~

~~*Names, Addresses and Descriptions of Signatories*~~

~~1. Chow Tak-kwong (周德光) of _____, Hotel Executive.~~

~~2. Hamish MacDonald of _____, Banker.~~

~~Dated the _____ day of _____ 19 .~~

~~Witness to the above signatures,~~

~~John Jones,~~
~~No. 13, Chater Road, Hong Kong.~~
~~*Solicitor.*~~

~~(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)~~

~~TABLE E~~ ~~[sections 14 & 360]~~

~~MEMORANDUM AND ARTICLES OF ASSOCIATION~~
~~OF AN UNLIMITED COMPANY HAVING~~
~~A SHARE CAPITAL~~

~~*Memorandum of Association*~~

~~1st. The name of the company is "Chan and Ma Consulting Civil Engineers Company (陳馬工程顧問公司)".~~

~~2nd. The registered office of the company will be situated in Hong Kong.~~

~~3rd. The objects for which the company is established are [*If the objects are being stated, they should be set out here*]. (Amended 3 of 1997 s. 56)~~

~~WE, the several persons whose names are given below, wish to form a company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the company set opposite our respective names.~~

~~*Names, Addresses and Descriptions of Signatories*~~	~~*Number of Shares taken by each Signatory*~~
~~1. Chan Tai-wai (陳大偉) of _____, Consulting Civil Engineer.~~	~~1~~
~~2. Ma Wai-tong (馬偉棠) of _____, Consulting Civil Engineer.~~	~~1~~
~~Total shares taken~~	~~2~~

~~Dated the _____ day of _____ 19__.~~
~~Witness to the above signatures,~~

~~John Jones,~~
~~No. 13, Chater Road, Hong Kong.~~
~~*Solicitor.*~~

~~(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)~~

~~**Note:** The 3rd paragraph applies only if the objects are being stated but that paragraph can be adapted or modified to contain any statement restricting or excluding objects. (Added 3 of 1997 s. 56)~~

~~ARTICLES OF ASSOCIATION TO ACCOMPANY THE PRECEDING MEMORANDUM OF ASSOCIATION~~

~~1. The number of members with which the company proposes to be registered is 20, but the directors may from time to time register an increase of members.~~

~~2. The share capital of the company is $_____ divided into shares of $_____ each.~~

~~3. The company may by special resolution-~~

~~(a) increase the share capital by such sum to be divided into shares of such amount as the resolution may prescribe;~~
~~(b) consolidate its shares into shares of a larger amount than its existing shares;~~
~~(c) sub-divide its shares into shares of a smaller amount than its existing shares;~~
~~(d) cancel any shares which at the date of the passing of the resolution have not been taken or agreed to be taken by any person;~~
~~(e) reduce its share capital in any way.~~

~~4. The regulations of Table A, Part I, set out in the First Schedule to the Companies Ordinance, Chapter 32 (other than regulations 41 to 48 inclusive) shall be deemed to be incorporated with these articles and shall apply to the company.~~

~~*Names, Addresses and Descriptions of Signatories*~~

~~1. Chan Tai-wai (陳大偉) of _____, Consulting Civil Engineer.~~
~~2. Ma Wai-tong (馬偉棠) of _____, Consulting Civil Engineer.~~

~~Dated the _____ day of _____ 19__.~~
~~Witness to the above signatures,~~

~~John Jones,~~
~~No. 13, Chater Road, Hong Kong.~~
~~*Solicitor.*~~

~~(Amended 25 of 1998 s. 2; 30 of 2004 s. 2)~~
~~(First Schedule replaced 6 of 1984 s. 253)~~

~~Schedule:~~	~~2~~	~~FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A PRIVATE COMPANY ON BECOMING A PUBLIC COMPANY AND REPORTS TO BE SET OUT THEREIN~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~SECOND SCHEDULE~~ ~~[sections 2B & 30]~~
~~(Amended 12 of 2005 s. 14)~~

~~PART I~~

~~FORM OF STATEMENT AND PARTICULARS TO BE CONTAINED THEREIN~~

~~THE COMPANIES ORDINANCE~~

~~Statement in lieu of Prospectus delivered for registration by~~
~~[Insert the name of the company]~~

~~Pursuant to section 30 of the Companies Ordinance~~

~~Delivery for registration duly authorized by (Insert the name of every director who has authorized and signed this Statement).~~	
~~The nominal share capital of the company .....~~	~~$~~
~~Divided into .....~~	~~Shares of $ each.~~
	~~" " "~~
	~~" " "~~
~~Amount (if any) of the above capital which consists of redeemable shares.~~	~~Shares of $ each.~~
~~The earliest date on which the company has power to redeem these shares.~~	
~~Names, descriptions and addresses of directors or proposed directors.~~	
~~Amount of shares issued .....~~	~~Shares~~
~~Amount of commissions paid in connexion therewith.~~	
~~Amount of discount, if any, allowed on the issue of any shares, or so much thereof as has not been written off at the date of the statement.~~	
~~Unless more than 1 year has elapsed since the date on which the company began to carry on business~~	
~~Amount of preliminary expenses .....~~	~~$~~
~~By whom those expenses have been paid or are payable.~~	
~~Amount paid to any promoter .....~~	~~Name of promoter~~ ~~Amount $~~
~~Consideration for the payment .....~~	~~Consideration~~
~~Any other benefit given to any promoter .....~~	~~Name of promoter~~ ~~Nature and value of benefit~~
~~Consideration for giving of benefit .....~~	~~Consideration~~
~~If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.~~	
~~Number and amount of shares and debentures issues within the 2 years preceding the date of this statement as fully or partly paid up otherwise than for cash or agreed to be so issued at the date of this statement.~~	~~1. shares of $ fully paid.~~ ~~2. shares upon which $ per share credited as paid.~~ ~~3. debenture $~~
~~Consideration for the issue of those shares or debentures.~~	~~4. Consideration~~

~~Number, description and amount of any shares or debentures which any person has or is entitled to be given an option to subscribe for, or to acquire from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.~~	~~1. shares of $ and debentures of $~~
~~Period during which option is exercisable.~~	~~2. Until~~
~~Price to be paid for shares or debentures subscribed for or acquired under option.~~	~~3.~~
~~Consideration for option or right to option.~~	~~4. Consideration~~
~~Persons to whom option or right to option was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.~~	~~5. Names and addresses~~
~~Names and addresses of vendors of property (1) purchased or acquired by the company within the 2 years preceding the date of this statement or (2) agreed or proposed to be purchased or acquired by the company, except where the contract for its purchase or acquisition was entered into in the ordinary course of business and there is no connexion between the contract and the company ceasing to be a private company or where the amount of the purchase money is not material.~~	
~~Amount (in cash, shares or debentures) paid or payable to each separate vendor.~~	
~~Amount paid or payable in cash, shares or debentures for any such property, specifying the amount paid or payable for goodwill.~~	~~Total purchase price $~~ ~~Cash ..... $~~ ~~Shares ..... $~~ ~~Debentures ..... $~~ ~~Goodwill ..... $~~
~~Short particulars of any transaction relating to any such property which was completed within the 2 preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect.~~	
~~Dates of, parties to, and general nature of every material contract (other than contracts entered into in the ordinary course of business or entered into more than 2 years before the delivery of this statement).~~	
~~Time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a language other than the official languages, a copy of a translation thereof in English or Chinese or embodying a translation in English or Chinese of the parts in a language other than the official languages, as the case may be, being a translation certified in the prescribed manner to be a correct translation. (Amended 23 of 1998 s. 2)~~	
~~Names and addresses of the auditors of the company.~~	
~~Full particulars of the nature and extent of the interest of every director in any property purchased or acquired by the company within the 2 years preceding the date of this statement or proposed to be purchased or acquired by the company, or where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest~~	

~~of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become or to qualify him as, a director, or otherwise for services rendered or to be rendered to the company by him or by the firm.~~ ~~Rates of the dividends (if any) paid by the company in respect of each class of shares in the company in each of the 5 financial years immediately preceding the date of this statement or since the incorporation of the company whichever period is the shorter.~~ ~~Particulars of the cases in which no dividends have been paid in respect of any class of shares in any of these years.~~	

~~(Signatures of the persons above named as directors or proposed directors or of their agents authorized in writing.)~~

~~.....~~
~~.....~~
~~.....~~

~~Date:~~

~~PART II~~

~~REPORTS TO BE SET OUT~~

~~1. If unissued shares or debentures of the company are to be applied in the purchase of a business, a report made by accountants (who shall be named in the statement) upon~~

~~(a) the profits or losses of the business in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and~~

~~(b) the assets and liabilities of the business at the last date to which the accounts of the business were made up.~~

~~2. (1) If unissued shares or debentures of the company are to be applied directly or indirectly in any manner resulting in the acquisition of shares in an undertaking which by reason of the acquisition or anything to be done in consequence thereof or in connexion therewith will become a subsidiary of the company, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other undertaking in accordance with sub-paragraph (2) or (3), as the case requires, indicating how the profits or losses of the other undertaking dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company, and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired.~~

~~(2) If the other undertaking has no subsidiaries, the report referred to in sub-paragraph (1) shall— (Amended 12 of 2005 s. 14)~~

~~(a) so far as regards profits and losses, deal with the profits or losses of the undertaking in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and~~

~~(b) so far as regards assets and liabilities, deal with the assets and liabilities of the undertaking at the last date to which the accounts of the undertaking were made up.~~

~~(3) If the other undertaking has subsidiaries, the report referred to in sub-paragraph (1) shall— (Amended 12 of 2005 s. 14)~~

~~(a) so far as regards profits and losses, deal separately with the other undertaking's profits or losses as provided by sub-paragraph (2), and in addition deal either— (Amended 12 of 2005 s. 14)~~

~~(i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other undertaking; or~~

~~(ii) individually with the profits or losses of each subsidiary, so far as they concern members of the~~

~~other undertaking;~~

~~or, instead of dealing separately with the other undertaking's profits or losses, deal as a whole with the profits or losses of the other undertaking and, so far as they concern members of the other undertaking, with the combined profits or losses of its subsidiaries; and~~

~~(b) so far as regards assets and liabilities, deal separately with the other undertaking's assets and liabilities as provided by sub-paragraph (2) and, in addition, deal either— (Amended 12 of 2005 s. 14)~~

~~(i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other undertaking's assets and liabilities; or~~

~~(ii) individually with the assets and liabilities of each subsidiary;~~

~~and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.~~

~~(Amended 12 of 2005 s. 14)~~

~~PART III~~

~~PROVISIONS APPLYING TO PARTS I AND II OF THIS SCHEDULE~~

~~3. In this Schedule the expression "vendor" (賣主) includes a vendor as defined in Part III of the Third Schedule and the expression "financial year" (財政年度) has the meaning assigned to it in that Part of that Schedule.~~

~~4. If in the case of a business which has been carried on, or of an undertaking which has been carrying on business, for less than 5 years, the accounts of the business or undertaking have only been made up in respect of 4 years, 3 years, 2 years or 1 year, Part II of this Schedule shall have effect as if references to 4 years, 3 years, 2 years or 1 year, as the case may be, were substituted for references to 5 years. (Amended 12 of 2005 s. 14)~~

~~5. Any report required by Part II of this Schedule shall either indicate by way of note any adjustment as respects the figures of any profits or losses or assets and liabilities dealt with by report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.~~

~~6. Any report by accountants required by Part II shall be made by accountants authorized under this Ordinance for appointment as auditors of a company and shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company, or of the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and for the purposes of this paragraph the expression "officer" (高級人員) shall include a proposed director but not an auditor. (Amended 12 of 2005 s. 14)~~

~~7. For the purposes of Part I, the description of a person, that is to say, his profession, trade or other occupation shall be stated with particularity and precision; and the description "Company Director" shall be inadequate unless supplementary information is provided stating the nature of the relevant company's business.~~

~~8. For the purposes of Part I, "address" (地址) in the case of a natural person means the place of his usual residence.~~

~~(Second Schedule replaced 78 of 1972 s. 21. Amended L.N. 187 of 1993; 83 of 1995 s. 22)~~

~~Schedule:~~	~~3~~	~~MATTERS TO BE SPECIFIED IN PROSPECTUS AND REPORTS TO BE SET OUT THEREIN~~	~~8 of 2011~~	~~13/05/2011~~

THIRD SCHEDULE

[sections 2B, 38, 38A, 38AA, 38D, 42, 342, 342A, 342AA, 342C & 360 & 2nd, 4th, 20th & 21st Schs.]
(Amended 12 of 2005 s. 15; 8 of 2011 s. 20)

PART I

MATTERS TO BE SPECIFIED

1. The general nature of the business of the company, and if the company carries on 2 or more activities which are material having regard to profits or losses, assets employed or any other factor, information as to the relative importance of each such activity.

2. The authorized share capital ~~and the description and nominal value of the shares into which it~~ or maximum number of shares issuable under the articles and the description and nominal value (if any) of the shares into which the authorized share capital is divided, the amount of share capital issued or agreed to be issued, and the amount paid up on the shares which have been issued.

3. Sufficient particulars and information to enable a reasonable person to form as a result thereof a valid and justifiable opinion of the shares or debentures and the financial condition and profitability of the company at the time of the issue of the prospectus, taking into account the nature of the shares or debentures being offered and the nature of the company, and the nature of the persons likely to consider acquiring them. (Amended 30 of 2004 s. 2)

4. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

5. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.

6. The names, descriptions and addresses of the directors or proposed directors.

7. Where shares are offered to the public for subscription, particulars as to-

(a) the minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters-

(i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

(ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(iv) working capital;

but, so long as the general purpose of the issue is clearly stated and the issue is fully underwritten, this sub-paragraph need not be complied with, and

(b) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

8. The date and time of the opening of the subscription lists.

9. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the 2 preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

10. The number, description and amount of any shares in or debentures of the company which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option, that is to say-

(a) the period during which it is exercisable;

(b) the price to be paid for shares or debentures subscribed for under it;

(c) the consideration (if any) given or to be given for it or for the right to it;

(d) the names and addresses of the persons to whom it or the right to it was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.

11. The number and amount of shares and debentures which within the 2 preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

12. (1) As respects any property to which this paragraph applies-

(a) the names and addresses of the vendors;

(b) the amount payable in cash, shares or debentures to the vendor and, where there is more than 1 separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor;

(c) short particulars of any transaction relating to the property completed within the 2 preceding years in which any vendor of the property to the company or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company had any interest direct or indirect.

(2) The property to which this paragraph applies is property purchased or acquired by the company or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property-

(a) the contract for the purchase or acquisition whereof was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or

(b) as respects which the amount of the purchase money is not material.

13. The amount, if any, paid or payable as purchase money in cash, shares or debentures for any property to which paragraph 12 applies, specifying the amount, if any, payable for goodwill.

14. The amount, if any, paid within the 2 preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in or debentures of the company, or the rate of any such commission.

15. The amount or estimated amount of preliminary expenses and the persons by whom any of those expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of those expenses have been paid or are payable.

16. Any amount or benefit paid or given within the 2 preceding years or intended to be paid or given to any promoter, and the consideration for the payment or the giving of the benefit.

17. The dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than 2 years before the date of issue of the prospectus; and a statement that a copy of every such material contract has been delivered to the Registrar for registration.

18. The names and addresses of the auditors, if any, of the company, and, if the prospectus invites the public to subscribe for debentures which are stated in the prospectus to be guaranteed, the names and addresses of the auditors, if any, of the guarantor corporation.

19. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the company.

20. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in

respect of capital and dividends attached to, the several classes of shares respectively.

21. In the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

22. The contents or a sufficient summary of the contents of the articles of the company with regard to any borrowing powers exercisable by the directors and the manner of variation of such powers.

23. Particulars of any bank overdrafts or other similar indebtedness of the company and its subsidiaries, if any, as at the latest practicable date or, if there are no bank overdrafts or other similar indebtedness, a statement to that effect.

24. Particulars of any hire purchase commitments, guarantees or other material contingent liabilities of the company and its subsidiaries, if any, or, if there are none such, a statement to that effect.

25. Particulars of the authorized debentures of the company and its subsidiaries, if any, the amount issued and outstanding or agreed to be issued, or if no debentures are outstanding a statement to that effect.

26. If the prospectus invites the public to subscribe for debentures of the company-

(a) the rights conferred upon the holders thereof, including rights in respect of interest and redemption, and particulars of the security, if any, therefor;

(b) the designation of such debentures which shall incorporate-

(i) in the case of debentures not secured by a charge on assets of the company-

(A) the word "unsecured" if the designation is in English;

(B) the expression in Chinese "無保證" if the designation is in Chinese; or

(C) both such word and expression respectively if the designation is both in English and Chinese; and

(ii) in the case of debentures secured to a substantial extent by a specific mortgage or charge-

(A) the word "mortgage" if the designation is in English;

(B) the expression in Chinese "按揭" if the designation is in Chinese; or

(C) both such word and expression respectively if the designation is both in English and Chinese; (Replaced 3 of 1997 s. 57)

(c) particulars of any guarantee subsisting in respect of the debentures, including the name and address of the guarantor, and the designation or any description of the debentures shall only incorporate the word "guaranteed" or the expression in Chinese "獲擔保" if they are guaranteed to a substantial extent by a legally enforceable guarantee. (Replaced 3 of 1997 s. 57)

27. A statement as to the gross trading income or sales turnover (as may be appropriate) of the company during each of the 3 financial years immediately preceding the issue of the prospectus including an explanation of the method used for the computation of such income or turnover, and a reasonable break-down between the more important trading activities; but a bank, discount house or other company whose business is in the opinion of the directors of a character that such a statement is either not practicable or not of value may instead include an explanation of the absence of such a statement. (Amended 86 of 1992 s. 18; 30 of 2004 s. 2)

28. If the prospectus offers shares in the company for sale to the public-

(a) the names, addresses and descriptions of the vendor or vendors of the shares, or, if there are more than 10 vendors, the like particulars of the 10 principal vendors and a statement of the number of other vendors;

(b) particulars of any beneficial interest possessed by any director of the company in any shares so offered for sale.

29. The name, date and country of incorporation, whether public or private (if applicable), the general nature of the business, the issued capital and the proportion thereof held or intended to be held, of every company the whole of the capital of which or a substantial proportion thereof is held or intended to be held, or whose profits or assets make or

will make a material contribution to the figures in the auditors' report or to the next ~~accounts~~ financial statements of the company.

30. A statement of the persons holding or beneficially interested in any substantial part of the share capital of the company and the amounts of the holdings in question.

PART II

REPORTS TO BE SET OUT

31. (1) A report by the auditors of the company with respect to-

(a) profits and losses and assets and liabilities of the company in accordance with sub-paragraph (2) or (3), as the case required; and

(b) the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the 3 financial years immediately preceding the issue of the prospectus, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years,

and, if no ~~accounts have been made up~~ financial statements have been prepared in respect of any part of the period of 3 years ending on a date 3 months before the issue of the prospectus, containing a statement of that fact.

(2) If the company has no subsidiaries, the report shall-

(a) so far as regards profits and losses, deal with the profits or losses of the company in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and

(b) so far as regards assets and liabilities, deal with the assets and liabilities of the company at the last date to which the ~~accounts of the company were made up~~ financial statements of the company were prepared.

(3) If the company has subsidiaries, the report shall-

(a) so far as regards profits and losses, deal separately with the company's (other than subsidiaries) profits or losses as provided by sub-paragraph (2) and, in addition, deal either-

(i) as a whole with the combined profits or losses of its subsidiaries; or

(ii) individually with the profits or losses of each subsidiary,

or, instead of dealing separately with the company's profits or losses, deal as a whole with the profits or losses of the company and with the combined profits or losses of its subsidiaries; and

(b) so far as regards assets and liabilities, deal separately with the company's (other than subsidiaries) assets and liabilities as provided by sub-paragraph (2) and, in addition, deal either-

(i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the company's assets and liabilities; or

(ii) individually with the assets and liabilities of each subsidiary,

and shall indicate as respects the profits or losses and assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

(Replaced 30 of 2004 s. 2)

32. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by accountants (who shall be named in the prospectus) upon-

(a) the profits or losses of the business in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and (Amended 86 of 1992 s. 18)

(b) the assets and liabilities of the business at the last date to which the ~~accounts of the business were made up~~ financial statements of the business were prepared.

33. (1) if-

(a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in any manner resulting in the acquisition by the company of shares in any other undertaking; and

(b) by reason of that acquisition or anything to be done in consequence thereof or in connexion therewith

that undertaking will become a subsidiary of the company,

a report made by accountants (who shall be named in the prospectus) upon-

(i) the profits or losses of the other undertaking in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and (Amended 86 of 1992 s. 18)

(ii) the assets and liabilities of the other undertaking at the last date to which the ~~accounts of the undertaking were made up~~ financial statements of the undertaking were prepared.

(2) The said report shall-

(a) indicate how the profits or losses of the other undertaking dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired; and

(b) where the other undertaking has subsidiaries, deal with the profits or losses and the assets and liabilities of the undertaking and its subsidiaries in the manner provided by paragraph 31(3) in relation to the company and its subsidiaries.

(Amended 12 of 2005 s. 15)

34. (1) This paragraph shall apply in the case of every company whose ~~accounts at the last date to which the accounts have been made up~~ financial statements at the last date to which the financial statements have been prepared disclose that either a value exceeding 10 per cent of the value of the assets of the company or a value of not less than $3000000 is placed on the company's interests in land or buildings.

(2) A valuation report with respect to all the company's interests in land or buildings which shall include the following particulars of each property-

(a) the address;

(b) a brief description;

(c) the use at the date of the report;

(d) the nature of the tenure;

(e) a summary of the terms of any sub-leases or tenancies, including repair obligations, granted by the company;

(f) the approximate age of buildings;

(g) the present capital value;

(h) the estimated current net rental, being the estimated average net annual income from the property accruing to the company over a long period of years (not being less than 3 years) before taking into account tax and any interest or mortgage expenses but after taking into account management and maintenance expenses.

(3) A report for the purposes of sub-paragraph (2) shall state-

(a) whether the valuation-

(i) is the current value in the open market, stating whether-

(A) on an investment basis, or

(B) on a development basis, or

(C) on a future capital realization basis;

(ii) is the current value as an asset of a going concern;

(iii) is the value after development has been completed; or

(iv) has any other basis (which should be stated);

(b) where the valuation is based on value after development has been completed-

(i) the date when the development is expected to be completed;

(ii) the estimated cost of carrying out the development or (where part of the development has already been carried out) the estimated cost of completing the development; and

(iii) the estimated value of the property in the open market in its present condition.

(4) If the company has obtained more than one valuation report regarding any of the company's interests in land or buildings within 6 months before the issue of the prospectus then all other such reports shall be included.

PART III

PROVISIONS APPLYING TO PARTS I AND II OF SCHEDULE

35. Paragraphs 15 (so far as it relates to preliminary expenses) and 19 shall not apply in the case of a prospectus issued more than 2 years after the date at which the company began to carry on business.

36. Every person shall, for the purposes of this Schedule, be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where-

(a) the purchase money is not fully paid at the date of the issue of the prospectus;
(b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;
(c) the contract depends for its validity or fulfilment on the result of that issue.

37. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression "vendor" included the lessor, and the expression "purchase money" included the consideration for the lease, and the expression "sub-purchaser" included a sub-lessee.

38. References in paragraph 10 to subscribing for shares or debentures shall include acquiring them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.

39. For the purposes of paragraph 12 where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.

40. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the ~~accounts of the company or business have only been made up~~ financial statements of the company or business have only been prepared in respect of 2 years or 1 year, Part II shall have effect as if references to 2 years or 1 year, as the case may be, were substituted for references to 3 years. (Amended 86 of 1992 s. 18)

41. The expression "financial year" (財政年度) ~~in Part II means the year in respect of which the accounts of the company or of the business, as the case may be, are made up, and where by reason of any alteration of the date on which the financial year of the company or business terminates the accounts of the company or business have been made up for a period greater or less than a year, that greater or less period shall for the purposes of that Part be deemed to be a financial year.~~ in this Schedule means the year in respect of which the financial statements of the company or of the business, as the case may be, are prepared, and where by reason of any alteration of the date on which the financial year of the company or business terminates the financial statements of the company or business have been prepared for a period greater or less than a year, that period is for the purposes of this Schedule to be regarded as a financial year.

42. Any report required by Part II shall either indicate by way of note any adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

43. Any report by accountants required by Part II shall be made by accountants qualified under the Professional Accountants Ordinance (Cap 50) for appointment as auditors of a company and shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company or of the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and for the purposes of this paragraph the expression "officer" (高級人員) shall include a proposed director but not an auditor. (Amended 6 of 1984 s. 259; 12 of 2005 s. 15)

44. For the purposes of paragraph 6, the description of a person, that is to say, his profession, trade or other occupation shall be stated with particularity and precision; and the description "Company Director" shall be inadequate unless supplementary information is provided stating the nature of the relevant company's business.

45. For the purposes of this Schedule, "address" (地址) in the case of a natural person means the place of his usual residence.

46. Any valuation report required by Part II-

(a) shall not state or imply that any land or building has been professionally valued unless the valuation is made by a professionally qualified valuation surveyor who is subject to the discipline of a professional body;

(b) shall not be made by a person who is an officer or servant or proposed director of the company or the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and

(c) shall not be made by a company which-

(i) is the company's subsidiary or parent undertaking or a subsidiary of the company's parent undertaking; or

(ii) has either a paid up capital of less than $1000000 or the assets of which do not exceed liabilities by $1000000 or more as shown in the company's last balance sheet.

(Amended 12 of 2005 s. 15)

47. (Repealed 30 of 2004 s. 2)

(Third Schedule replaced 78 of 1972 s. 21)

Schedule:	4	FORM OF STATEMENT IN LIEU OF PROSPECTUS TO BE DELIVERED TO REGISTRAR BY A COMPANY WHICH DOES NOT ISSUE A PROSPECTUS OR WHICH DOES NOT GO TO ALLOTMENT ON A PROSPECTUS ISSUED, AND REPORTS TO BE SET OUT THEREIN	L.N. 163 of 2005	01/12/2005

FOURTH SCHEDULE [sections 2B & 43]

(Amended 12 of 2005 s. 16)

PART I

FORM OF STATEMENT AND PARTICULARS TO BE CONTAINED THEREIN

~~THE COMPANY ORDINANCE~~

~~Statement in lieu of Prospectus delivered for registration by~~
~~[Insert the name of the company]~~

~~Pursuant to section 43 of the~~
~~Companies Ordinance~~
COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

Statement in lieu of Prospectus delivered for registration by
[*Insert the name of the company*]
Pursuant to section 43 of the
Companies (Winding Up and Miscellaneous Provisions) Ordinance

Delivery for registration duly authorized by (Insert the name of every director who has authorized and signed this Statement).	
The ~~nominal share capital~~ amount of the issued share capital of the company.	$
Divided into	Shares of $ each. " " " " "

"

Amount (if any) of above capital which consists of redeemable shares.	Shares of $ each.
The earliest date on which the company has power to redeem these shares.	
Names, descriptions and addresses of directors or proposed directors.	
If the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.	
Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.	1. shares of $ fully paid. 2. shares upon which $ per share credited as paid. 3. debenture $
The consideration for the intended issue of those shares and debentures.	4. Consideration
Number, description and amount of any shares or debentures which any person has or is entitled to be given an option to subscribe for, or to acquire from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.	1. shares of $ and debentures of $
Period during which option is exercisable.	2. Until
Price to be paid for shares or debentures subscribed for or acquired under option.	3.
Consideration for option or right to option.	4. Consideration-
Persons to whom option or right to option was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.	5. Names and addresses-
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company except where the contract for its purchase or acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material.	
Amount (in cash, shares or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price $ Cash ..... $ Shares ..... $ Debentures $_____ Goodwill .... $_____
Short particulars of any transaction relating to any such property which was completed within the 2 preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect.	
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company; or	Amount paid. Amount payable.
Rate of the commission	Rate per cent.
The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.	
Estimated amount of preliminary expenses.	$

By whom those expenses have been paid or are payable. Amount paid or intended to be paid to any promoter. Consideration for the payment ..... Any other benefit given or intended to be given to any promoter. Consideration for giving of benefit. Dates of, parties to and general nature of every material contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than 2 years before the delivery of this statement). Time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a language other than the official languages, a copy of a translation thereof in English or Chinese or embodying a translation in English or Chinese of the parts in a language other than the official languages, as the case may be, being a translation certified in the prescribed manner to be a correct translation. (Amended 23 of 1998 s. 2) Names and addresses of the auditors of the company (if any). Full particulars of the nature and extent of the interest of every director in the promotion of or in the property proposed to be acquired by the company, or where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares, or otherwise, by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the company.	Name of promoter. Amount $ Consideration- Name of promoter- Nature and value of benefit- Consideration-

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorized in writing.)

.....
.....
.....

Date:

PART II

REPORTS TO BE SET OUT

1. Where it is proposed to acquire a business, a report made by accountants (who shall be named in the statement) upon-

(a) the profits or losses of the business in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and

(b) the assets and liabilities of the business at the last date to which the ~~accounts of the business were made up~~ financial statements of the business were prepared.

2. (1) Where it is proposed to acquire shares in an undertaking which by reason of the acquisition or anything to be done in consequence thereof or in connexion therewith will become a subsidiary of the company, a report made by

accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other undertaking in accordance with sub-paragraph (2) or (3), as the case requires, indicating how the profits or losses of the other undertaking dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company, and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired.

(2) If the other undertaking has no subsidiaries, the report referred to in sub-paragraph (1) shall- (Amended 12 of 2005 s. 16)

(a) so far as regards profits and losses, deal with the profits or losses of the undertaking in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and

(b) so far as regards assets and liabilities, deal with the assets and liabilities of the undertaking at the last date to which the ~~accounts of the undertaking were made up~~ financial statements of the undertaking were prepared.

(3) If the other undertaking has subsidiaries, the report referred to in sub-paragraph (1) shall- (Amended 12 of 2005 s. 16)

(a) so far as regards profits and losses, deal separately with the other undertaking's profits or losses as provided by sub-paragraph (2), and in addition deal either- (Amended 12 of 2005 s. 16)

(i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other undertaking; or

(ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other undertaking;

or, instead of dealing separately with the other undertaking's profits or losses, deal as a whole with the profits or losses of the other undertaking and, so far as they concern members of the other undertaking, with the combined profits or losses of its subsidiaries; and

(b) so far as regards assets and liabilities, deal separately with the other undertaking's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either- (Amended 12 of 2005 s. 16)

(i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other undertaking's assets and liabilities; or

(ii) individually with the assets and liabilities of each subsidiary;

and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

(Amended 12 of 2005 s. 16)

PART III

PROVISIONS APPLYING TO PARTS I AND II OF THIS SCHEDULE

3. In this Schedule the expression "vendor" (賣主) includes a vendor as defined in Part III of the Third Schedule, and the expression "financial year" (財政年度) has the meaning assigned to it in that Part of that Schedule.

4. If in the case of a business which has been carried on, or of an undertaking which has been carrying on business, for less than 5 years, the ~~accounts of the business or undertaking have only been made up~~ financial statements of the business or undertaking have only been prepared in respect of 4 years, 3 years, 2 years or 1 year, Part II shall have effect as if references to 4 years, 3 years, 2 years or 1 year, as the case may be, were substituted for references to 5 years. (Amended 12 of 2005 s. 16)

5. Any report required by Part II shall either indicate by way of note any adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

6. Any report by accountants required by Part II shall be made by accountants authorized under ~~this Ordinance~~ the Companies Ordinance (of 2011) for appointment as auditors of a company and shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company or of the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and for

the purposes of this paragraph the expression "officer" (高級人員) shall include a proposed director but not an auditor. (Amended 12 of 2005 s. 16)

7. For the purposes of Part I, the description of a person, that is to say, his profession, trade or other occupation shall be stated with particularity and precision; and the description "Company Director" shall be inadequate unless supplementary information is provided stating the nature of the relevant company's business.

8. For the purposes of Part I, "address" (地址) in the case of a natural person means the place of his usual residence.

(Fourth Schedule replaced 78 of 1972 s. 21. Amended L.N. 187 of 1993; 83 of 1995 s. 23)

Schedule:	5	(Repealed 3 of 1997 s. 58)		30/06/1997

Schedule:	6	(Repealed 3 of 1997 s. 58)		30/06/1997

~~Schedule:~~	~~7~~	~~POWERS~~		~~30/06/1997~~

~~SEVENTH SCHEDULE~~ ~~[section 5]~~

~~1. To carry on any other business which may seem to the company capable of being conveniently carried on in connexion with its business or calculated directly or indirectly to enhance the value of or render profitable any of the company's property or rights.~~

~~2. To acquire and undertake the whole or any part of the business, property, and liabilities of any person or company carrying on any business which the company is authorized to carry on, or possessed of property suitable for the purposes of the company.~~

~~3. To apply for, purchase, or otherwise acquire any patents, patent rights, copyrights, trade marks, formulas, licences, concessions, and the like, conferring any exclusive or non-exclusive or limited right to use, or any secret or other information as to, any invention which may seem capable of being used for any of the purposes of the company, or the acquisition of which may seem calculated directly or indirectly to benefit the company; and to use, exercise, develop, or grant licences in respect of, or otherwise turn to account, the property, rights, or information so acquired.~~

~~4. To amalgamate or enter into partnership or into any arrangement for sharing of profits, union of interest, co-operation, joint adventure, reciprocal concession, or otherwise, with any person or company carrying on or engaged in or about to carry on or engage in any business or transaction which the company is authorized to carry on or engage in, or any business or transaction capable of being conducted so as directly or indirectly to benefit the company.~~

~~5. To take, or otherwise acquire, and hold, shares, debentures, or other securities of any other company.~~

~~6. To enter into any arrangements with any Government or authority, supreme, municipal, local, or otherwise, that may seem conducive to the company's objects, or any of them; and to obtain from any such Government or authority any rights, privileges, and concessions which the company may think it desirable to obtain; and to carry out, exercise, and comply with any such arrangements, rights, privileges, and concessions.~~

~~7. To establish and support or aid in the establishment and support of associations, institutions, funds, trusts, and conveniences calculated to benefit employees or directors or past employees or directors of the company or of its predecessors in business, or the dependants or connexions of any such persons; and to grant pensions and allowances; and to make payments towards insurance; and to subscribe or guarantee money for charitable or benevolent objects, or for any exhibition, or for any public, general, or useful object.~~

~~8. To promote any other company or companies for the purpose of acquiring or taking over all or any of the~~

~~property, rights, and liabilities of the company, or for any other purpose which may seem directly or indirectly calculated to benefit the company.~~

~~9. To purchase, take on lease or in exchange, hire, and otherwise acquire any real and personal property and any rights or privileges which the company may think necessary or convenient for the purposes of its business, and in particular any land, buildings, easements, machinery, plant, and stock in trade.~~

~~10. To construct, improve, maintain, develop, work, manage, carry out, or control any buildings, works, factories, mills, roads, ways, tramways, railways, branches or sidings, bridges, reservoirs, watercourses, wharves, warehouses, electric works, shops, stores, and other works and conveniences which may seem calculated directly or indirectly to advance the company's interests; and to contribute to, subsidize, or otherwise assist or take part in the construction, improvement, maintenance, development, working, management, carrying out, or control thereof.~~

~~11. To invest and deal with the money of the company not immediately required in such manner as may from time to time be thought fit.~~

~~12. To lend and advance money or give credit to any person or company; to guarantee, and give guarantees or indemnities for the payment of money or the performance of contracts or obligations by any person or company; to secure or undertake in any way the repayment of moneys lent or advanced to or the liabilities incurred by any person or company; and otherwise to assist any person or company.~~

~~13. To borrow or raise or secure the payment of money in such manner as the company may think fit and to secure the same or the repayment or performance of any debt, liability, contract, guarantee or other engagement incurred or to be entered into by the company in any way and in particular by the issue of debentures perpetual or otherwise, charged upon all or any of the company's property (both present and future), including its uncalled capital; and to purchase, redeem, or pay off any such securities.~~

~~14. To remunerate any person or company for services rendered, or to be rendered, in placing or assisting to place or guaranteeing the placing of any of the shares in the company's capital or any debentures, or other securities of the company, or in or about the organization, formation, or promotion of the company or the conduct of its business.~~

~~15. To draw, make, accept, endorse, discount, execute, and issue~~

~~(a) promissory notes, bills of exchange, bills of lading, and other negotiable or transferable instruments;~~

~~(b) prescribed instruments within the meaning of section 137B of the Banking Ordinance (Cap 155). (Replaced 94 of 1993 s. 35)~~

~~16. To sell or dispose of the undertaking of the company or any part thereof for such consideration as the company may think fit, and in particular for shares, debentures, or securities of any other company having objects altogether or in part similar to those of the company.~~

~~17. To adopt such means of making known and advertising the business and products of the company as may seem expedient.~~

~~18. To apply for, secure, acquire by legislative enactment, assignment, transfer, purchase, or otherwise, and to exercise, carry out, and enjoy any charter, licence, power, authority, franchise, concession, right, or privilege, which any Government or authority or any corporation or other public body may be empowered to grant; and to pay for, aid in, and contribute towards carrying the same into effect; and to appropriate any of the company's shares, debentures, or other securities and assets to defray the necessary costs, charges, and expenses thereof.~~

~~19. To apply for, promote, and obtain any statute, order, regulation, or other authorization or enactment which may seem calculated directly or indirectly to benefit the company; and to oppose any bills, proceedings, or applications which may seem calculated directly or indirectly to prejudice the company's interests.~~

~~20. To procure the company to be registered or recognized in any country or place outside Hong Kong.~~

~~21. To sell, improve, manage, develop, exchange, lease, dispose of, turn to account, or otherwise deal with all or any part of the property and rights of the company.~~

~~22. To issue and allot fully or partly paid shares in the capital of the company in payment or part payment of any real or personal property purchased or otherwise acquired by the company or any services rendered to the company.~~

~~23. To distribute any of the property of the company among the members in kind or otherwise but so that no distribution amounting to a reduction of capital shall be made without the sanction required by law.~~

~~24. To take or hold mortgages, liens, and charges to secure payment of the purchase price, or any unpaid balance of the purchase price, of any part of the company's property of whatsoever kind sold by the company, or any money due to the company from purchasers and others.~~

~~25. To carry out all or any of the objects of the company and do all or any of the above things in any part of the world and either as principal, agent, contractor, or trustee, or otherwise, and by or through trustees or agents or otherwise, and either alone or in conjunction with others.~~

~~26. To do all such other things as are incidental or conducive to the attainment of the objects and the exercise of the powers of the company.~~

~~(Seventh Schedule replaced 6 of 1984 s. 255)~~

~~Schedule:~~	~~8~~	~~TABLE OF FEES TO BE PAID TO THE REGISTRAR OF COMPANIES~~	~~L.N. 137 of 2008; L.N. 139 of 2008~~	~~11/07/2008~~

~~EIGHTH SCHEDULE~~

~~[sections 19, 48B, 49A, 168R, 177, 304, 318 & 360]~~
~~(Amended 28 of 2003 s. 116)~~

~~I. BY A COMPANY HAVING A SHARE CAPITAL~~

~~(a) for registration of company (Amended 28 of 1990 s. 2) ..... $1425~~
~~And, in addition, for every $1000 or part of $1000 of the nominal share capital (subject to the amount of the fee so calculated not exceeding $30000) (Amended 20 of 1983 s. 2; L.N. 135 of 1996) ..... $ 1~~

~~(aa) lodgment fee to be paid on delivery of the incorporation form under section 15 (Added L.N. 11 of 1996. Amended 30 of 2004 s. 2) ..... $ 295~~

~~(b) for registration of every increase in nominal share capital made after the first registration of any company, for every $1000 or part of $1000 of such increase (subject to the amount of the fee so calculated not exceeding $30000) (Amended 20 of 1983 s. 2; L.N. 135 of 1996) ..... $ 1~~

~~Provided that where a company has paid an additional fee under paragraph (c)(ii) in respect of shares allotted at a premium, no fee shall be payable under this paragraph in respect of any increase in the nominal share capital of that company where such increase is made for the purpose of capitalizing the whole or any part of that premium and is applied to that purpose.~~
~~And, in addition, in the case of a company having on the 1 June 1955 a nominal share capital in excess of $3000000, on the first such increase after the said date, for every $1000 or part of $1000 of such excess nominal share capital as remains unissued immediately before such increase ..... $ 4~~

~~Provided that no additional fee shall be payable under this sub-paragraph by a company which has paid the additional fee under paragraph (ba). (Added 81 of 1976 s. 6)~~

~~(ba) in the case of a company having on the 1st day of June, 1955 a nominal share capital in excess of $3000000, for every $1000 or part of $1000 of such excess nominal share capital as remains unissued as at the date of payment of this fee ..... $ 4~~

~~The fee under this paragraph shall be paid on or before the 1st day of January, 1977:~~

~~Provided that no fee shall be payable under this paragraph by a company which has increased its nominal share capital and paid the additional fee under paragraph (b). (Added 4 of 1976 s. 4. Amended 81 of 1976 s. 6)~~

~~(c) for registration of a return of allotments~~

~~(i) in the case of a company having on 1 June 1955 a nominal share capital in excess of $3000000, for every $1000 or part of $1000 of such excess nominal share capital allotted after the said date ..... $ 4~~

~~Provided that no additional fee shall be payable under this subparagraph by a company which has paid the additional fee under paragraph (b) or (ba);~~

~~(ii) in the case of company which allots shares at a premium, whether for cash or otherwise, for every $1000 or part of $1000 of the aggregate amount or value of the premiums paid or payable on such shares (subject to the amount of the fee so calculated not exceeding $30000) (Replaced L.N. 11 of 1996. Amended L.N. 135 of 1996) ..... $ 1~~

~~(ca) for registration of a prospectus under section 38D or 342C (Replaced 86 of 1992 s. 19) ..... $1415~~

~~(d) for registration of any existing company, except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for the registration of a new company.~~

~~(e) annual registration fee (to be paid on delivery of annual return under section 107)~~

~~for a private company having a share capital~~

~~(i) if delivered within 42 days after the anniversary of incorporation .. $ 105~~

~~(ii) if delivered more than 42 days after but within 3 months after the anniversary of incorporation ..... $ 870~~

~~(iii) if delivered more than 3 months after but within 6 months after the anniversary of incorporation ..... $1740~~

~~(iv) if delivered more than 6 months after but within 9 months after the anniversary of incorporation ..... $2610~~

~~(v) if delivered more than 9 months after the anniversary of incorporation $3480~~

~~for any other company~~

~~(vi) if delivered within 42 days after the annual general meeting .. $ 140~~

~~(vii) if delivered more than 42 days after but within 3 months after the annual general meeting ..... $1200~~

~~(viii) if delivered more than 3 months after but within 6 months after the annual general meeting ..... $2400~~

~~(ix) if delivered more than 6 months after but within 9 months after the annual general meeting ..... $3600~~

~~(x) if delivered more than 9 months after the annual general meeting (Replaced L.N. 11 of 1996) ..... $4800~~

~~(f) (Repealed L.N. 11 of 1996)~~

~~II. BY A COMPANY NOT HAVING A SHARE CAPITAL~~

~~For registration of a company whose number of members as stated in the articles does not exceed 25 ..... $ 170~~

~~For registration of a company whose number of members as stated in the articles exceeds 25, but does not exceed 100 ..... $ 340~~

~~For registration of a company whose number of members as stated in the articles exceeds 100 but is not stated to be unlimited, a fee of $340 with an additional $20 for every additional 50 members or less after the first 100.~~

~~For registration of a company in which the number of members is stated in the articles to be unlimited ..... $1025~~

~~For registration of any increase on the number of members made after the registration of the company in respect of every 50 members, or less than 50 members, of that increase ..... $ 20~~

~~Provided that no company shall be liable to pay on the whole a greater fee than $1025 in respect of its number of members, taking into account the fee paid on the first registration of the company.~~

~~For registration of any existing company, except such companies as are by this Ordinance exempted from payment of fees in respect of registration under this Ordinance, the same fee as is charged for registering a new company.~~

~~Annual registration fee (to be paid on delivery of annual return under section 107) (Replaced 6 of 1984 s. 256. Amended 80 of 1997 s. 102) ..... $ 105~~

~~(Amended L.N. 11 of 1996)~~

~~III. BY A COMPANY TO WHICH PART XI OF THIS ORDINANCE APPLIES~~

~~(a) For the issue of a certificate of registration under section 333AA(2)(c) or 335(3) (Amended 30 of 2004 s. 2) ..... $1425~~

~~(aa) Lodgment fee to be paid on delivery of documents under section 333 (Added L.N. 457 of 1997) ..... $ 295~~

~~(b) Annual registration fee (to be paid on delivery of return under section 334)~~

~~(i) if delivered within 42 days after the anniversary of registration ..... $ 180~~

~~(ii) if delivered more than 42 days after but within 3 months after the anniversary of registration ..... $1200~~

~~(iii) if delivered more than 3 months after but within 6 months after the anniversary of registration ..... $2400~~

~~(iv) if delivered more than 6 months after but within 9 months after the anniversary of registration ..... $3600~~

~~(v) if delivered more than 9 months after the anniversary of registration (Replaced L.N. 86 of 2007) ..... $4800~~

~~(c) (Repealed L.N. 86 of 2007) .....~~

~~(Replaced 6 of 1984 s. 256)~~

~~IV. BY A COMPANY REQUIRING A LICENCE, CONSENT OR APPROVAL UNDER THIS ORDINANCE~~

~~(a) for a consent under section 20(2) ..... $ 850~~

~~(b) for a licence under section 21 ..... $4475~~

~~(c) lodgment fee to be paid on delivery of application under section 21 (Added L.N. 457 of 1997) ..... $4605~~

~~(d) for a licence under section 93(2) ..... $ 340~~

~~(Replaced 41 of 1989 s. 5)~~

~~V. FEES FOR INSPECTING, OBTAINING DOCUMENTS AND RECORDS KEPT BY THE REGISTRAR, ETC.~~

~~Description~~	~~Unregistered on-line user~~	~~Registered on-line user~~	~~On-site user~~
~~(a) by virtue of section 158C(2) or 333C(2) or both, for inspecting the index of directors kept by the Registrar~~			
~~(i) for each inspection of the list of directors and reserve director (if any) of a company, or of the list of directors of a non-Hong Kong company~~	~~$11~~	~~$11~~	~~$11~~
~~(ii) for each inspection of the particulars of a director or a reserve director (if any) of a company, or of the particulars of a director of a non-Hong Kong company~~	~~$11~~	~~$11~~	~~$11~~
~~(iii) for each inspection of all the directorships and reserve directorships held by a person in any companies, and all the~~	~~$22~~	~~$22~~	~~$22~~

~~directorships held by that person in any non-Hong Kong companies~~			
~~(b) by virtue of section 168R(4), for each inspection of the register of disqualification orders kept by the Registrar, per disqualified person~~	~~$11~~	~~$11~~	~~$11~~
~~(c) by virtue of section 305(1)~~			
~~(i) for obtaining, by way of downloading through on-line medium, an image record of the following documents kept by the Registrar~~			
~~(A) (I) each prospectus of a company or a company incorporated outside Hong Kong~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(II) the memorandum, articles, or memorandum and articles of a company~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(III) the charter, statutes, memorandum (including articles, if any), or any other instrument constituting or defining the constitution of a non-Hong Kong company~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(IV) interim accounts prepared for a proposed distribution by a listed company and delivered under section 79H(4)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(V) balance sheet (including any documents annexed to it), auditors' report and directors' report forwarded under section 109(3) in relation to an annual return of a company~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(VI) account made up by liquidator in respect of a company filed under section 239(3)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(VII) account made up by liquidator in respect of a company filed under section 248(3)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(VIII) accounts of a non-Hong Kong company delivered under section 333(1)(f) of the pre-amended Ordinance, or section 333(3)(c) or (d)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(IX) balance sheet as at the end of a financial year, profit and loss account for that year, group accounts (if any) and directors' report (if any) in respect of that year (including any documents delivered with such balance sheet, accounts and directors' report), and auditors' report (if any) on such balance sheet and accounts, of a non-Hong Kong company delivered under section 336(1)(a) and (b) or (4) of the pre-amended Ordinance~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(X) accounts of a non-Hong Kong company delivered under section 336(1) or (2) (Added L.N. 86 of 2007)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(B) (I) each annual return of a company (but excluding those documents which are forwarded under section 109(3)(a) and (b))~~	~~$18~~	~~$16~~	~~Not applicable~~
~~(II) the lists in specified form delivered under section 333(1)(b) and (c) of the pre-amended Ordinance or the specified form delivered under section 333(1), in respect of a non-Hong Kong company~~	~~$18~~	~~$16~~	~~Not applicable~~
~~(III) each return delivered under section 336(1) of the pre-amended Ordinance, or section 334, in respect of a non-Hong Kong company (Added L.N. 86 of 2007)~~	~~$18~~	~~$16~~	~~Not applicable~~

~~(IV) each incorporation form (Added L.N. 137 of 2008)~~	~~$18~~	~~$16~~	~~Not applicable~~
~~(C) (I) the register of charges kept under section 83(1), per charge~~	~~$10~~	~~$9~~	~~Not applicable~~
~~(II) any other document~~	~~$10~~	~~$9~~	~~Not applicable~~
~~(ii) for inspecting and obtaining, at the office for the registration of companies, a copy of an image record of the following documents kept by the Registrar~~			
~~(A) (I) each prospectus of a company or a company incorporated outside Hong Kong~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(II) the memorandum, articles, or memorandum and articles of a company~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(III) the charter, statutes, memorandum (including articles, if any), or any other instrument constituting or defining the constitution of a non-Hong Kong company~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(IV) interim accounts prepared for a proposed distribution by a listed company and delivered under section 79H(4)~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(V) balance sheet (including any documents annexed to it), auditors' report and directors' report forwarded under section 109(3) in relation to an annual return of a company~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(VI) account made up by liquidator in respect of a company filed under section 239(3)~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(VII) account made up by liquidator in respect of a company filed under section 248(3)~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(VIII) accounts of a non-Hong Kong company delivered under section 333(1)(f) of the pre-amended Ordinance, or section 333(3)(c) or (d)~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(IX) balance sheet as at the end of a financial year, profit and loss account for that year, group accounts (if any) and directors' report (if any) in respect of that year (including any documents delivered with such balance sheet, accounts and directors' report), and auditors' report (if any) on such balance sheet and accounts, of a non-Hong Kong company delivered under section 336(1)(a) and (b) or (4) of the pre-amended Ordinance~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(X) accounts of a non-Hong Kong company delivered under section 336(1) or (2) (Added L.N. 86 of 2007)~~	~~Not applicable~~	~~Not applicable~~	~~$35~~
~~(B) (I) each annual return of a company (but excluding those documents which are forwarded under section 109(3)(a) and (b))~~	~~Not applicable~~	~~Not applicable~~	~~$30~~
~~(II) the lists in specified form delivered under section 333(1)(b) and (c) of the pre-amended Ordinance or the specified form delivered under section 333(1), in respect of a non-Hong Kong company~~	~~Not applicable~~	~~Not applicable~~	~~$30~~
~~(III) each return delivered under section 336(1) of the pre-amended Ordinance, or section 334, in respect of a non-Hong Kong company (Added L.N. 86 of 2007)~~	~~Not applicable~~	~~Not applicable~~	~~$30~~
~~(IV) each incorporation form (Added L.N. 137 of~~	~~Not~~	~~Not~~	~~$30~~

~~2008)~~	~~applicable~~	~~applicable~~	
~~(C) (I) the register of charges kept under section 83(1), per charge~~	~~Not applicable~~	~~Not applicable~~	~~$20~~
~~(II) any other document~~	~~Not applicable~~	~~Not applicable~~	~~$20~~
~~(iii) for on-line inspection of, and obtaining, an image record of the following documents kept by the Registrar~~			
~~(A) (I) each prospectus of a company or a company incorporated outside Hong Kong~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(II) the memorandum, articles, or memorandum and articles of a company~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(III) the charter, statutes, memorandum (including articles, if any), or any other instrument constituting or defining the constitution of a non-Hong Kong company~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(IV) interim accounts prepared for a proposed distribution by a listed company and delivered under section 79H(4)~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(V) balance sheet (including any documents annexed to it), auditors' report and directors' report forwarded under section 109(3) in relation to an annual return of a company~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(VI) account made up by liquidator in respect of a company filed under section 239(3)~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(VII) account made up by liquidator in respect of a company filed under section 248(3)~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(VIII) accounts of a non-Hong Kong company delivered under section 333(1)(f) of the pre-amended Ordinance, or section 333(3)(c) or (d)~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(IX) balance sheet as at the end of a financial year, profit and loss account for that year, group accounts (if any) and directors' report (if any) in respect of that year (including any documents delivered with such balance sheet, accounts and directors' report), and auditors' report (if any) on such balance sheet and accounts, of a non-Hong Kong company delivered under section 336(1)(a) and (b) or (4) of the pre-amended Ordinance~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(X) accounts of a non-Hong Kong company delivered under section 336(1) or (2) (Added L.N. 86 of 2007)~~	~~$29~~	~~$26~~	~~Not applicable~~
~~(B) (I) each annual return of a company (but excluding those documents which are forwarded under section 109(3)(a) and (b))~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(II) the lists in specified form delivered under section 333(1)(b) and (c) of the pre-amended Ordinance or the specified form delivered under section 333(1), in respect of a non-Hong Kong company~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(III) each return delivered under section 336(1) of the pre-amended Ordinance, or section 334, in respect of a non-Hong Kong company (Added L.N. 86 of 2007)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(IV) each incorporation form (Added L.N. 137 of 2008)~~	~~$23~~	~~$21~~	~~Not applicable~~
~~(C) (I) the register of charges kept under section 83(1),~~	~~$13~~	~~$12~~	~~Not~~

~~per charge~~			~~applicable~~
~~(II) any other document~~	~~$13~~	~~$12~~	~~Not applicable~~
~~(iv) where an image record of any document kept by the Registrar pursuant to any provision of this Ordinance is not available, for each inspection at the office for the registration of companies of the document or the relevant record kept by the Registrar~~	~~Not applicable~~	~~Not applicable~~	~~$20~~
~~(v) for obtaining a copy of any record containing the current particulars of a company or a non-Hong Kong company, per company~~	~~$22~~	~~$22~~	~~$22~~
~~(d) initial fee payable by a registered on-line user for the purpose of inspecting and obtaining documents and records specified in paragraphs (a), (b), and (c)(i), (iii) and (v), per year (in addition to the fees payable under the said paragraphs)~~			
~~(i) for a principal account~~	~~Not applicable~~	~~$500~~	~~Not applicable~~
~~(ii) or each subsequent account~~	~~Not applicable~~	~~$100~~	~~Not applicable~~

~~Note: For the purpose of this Part~~

~~"on-site user" (註冊處使用者) means a person inspecting or obtaining documents and records specified in paragraphs (a), (b), and (c)(ii), (iv) and (v) at the office for the registration of companies;~~

~~"pre-amended Ordinance" (修訂前的本條例)—~~

~~(a) in paragraph (c)(i)(A)(VIII), (ii)(A)(VIII) and (iii)(A)(VIII), means the Companies Ordinance (Cap 32) that was in force immediately before the amendment of section 333 of that Ordinance by section 28 of Schedule 2 to the Companies (Amendment) Ordinance 2004 (30 of 2004) ("the Amendment Schedule");~~

~~(b) in paragraph (c)(i)(A)(IX), (ii)(A)(IX) and (iii)(A)(IX), means the Companies Ordinance (Cap 32) that was in force immediately before the amendment of section 336 of that Ordinance by section 35 of the Amendment Schedule;~~

~~(c) in paragraph (c)(i)(B)(II), (ii)(B)(II) and (iii)(B)(II), means the Companies Ordinance (Cap 32) that was in force immediately before the amendment of section 333 of that Ordinance by section 28 of the Amendment Schedule;~~

~~(d) in paragraph (c)(i)(B)(III), (ii)(B)(III) and (iii)(B)(III), means the Companies Ordinance (Cap 32) that was in force immediately before the amendment of section 336 of that Ordinance by section 35 of the Amendment Schedule; (Added L.N. 86 of 2007)~~

~~"principal account" (主要帳戶) means the first account which a registered on-line user registers with the Registrar under a registration arrangement;~~

~~"registered on-line user" (登記聯線使用者) means a person who has entered into a registration arrangement with the Registrar;~~

~~"registration arrangement" (登記安排) means an arrangement whereby a person may register one or more accounts with the Registrar through which that person may use an on-line medium, at fees which are the same as or lesser than those payable by an unregistered on-line user, for inspecting and obtaining documents and records specified in paragraphs (a), (b), and (c)(i), (iii) and (v);~~

~~"subsequent account" (其後帳戶) means any account, other than the principal account, which a registered on-line user registers with the Registrar under a registration arrangement;~~

~~"unregistered on-line user" (非登記聯線使用者) means a person, not in the capacity of a registered on-line user, using an on-line medium for inspecting or obtaining documents and records specified in paragraphs (a), (b), and (c)(i), (iii) and (v).~~

~~(Replaced L.N. 78 of 2004. Amended L.N. 86 of 2007)~~

~~VI. MISCELLANEOUS FEES~~

~~(a) lodgment fee for a notification of change of name under section 22(1A) .. $ 240~~
~~(b) for issuing a certificate of change of name under section 22(7) ..... $ 55~~
~~(c) for registering -~~
~~(i) under Part III of this Ordinance any charge required to be registered thereunder whether created by a company or existing on property acquired by a company ..... $ 340~~
~~(ii) particulars of a series of debentures under Part III of this Ordinance ..... $ 340~~
~~(iii) a memorandum under section 85(1) or (2) ..... $ 190~~
~~(iv) a notice of appointment of a receiver or manager, or of a mortgagee's entering into possession, under section 87(3) ..... $ 40~~
~~(d) for endorsing the words "satisfaction entered" or the expression in Chinese "已清償" upon an instrument of charge under section 85(6) ..... $ 40~~
~~(e) for an authorization under section 111(1) ..... $ 850~~
~~(f) application fee for deregistration of a private company under section 291AA ... $ 420~~
~~(g) for processing an application requesting the Registrar to represent a defunct company or its liquidator under section 291B ..... $1740~~
~~(h) for the completion of or giving effect to any dealing, transaction or matter relating to a defunct company, by any act done or caused to be done by the Registrar under section 291B .. $1240~~
~~(i) for issuing under section 305(1) -~~
~~(i) a certificate of incorporation or a certificate of change of name of a company (Replaced L.N. 86 of 2007) ..... $170~~
~~(ia) a certificate certifying registration of a non-Hong Kong company or a certificate certifying registration of a non-Hong Kong company with a changed name (Added L.N. 86 of 2007) - $ 170~~
~~(ii) a copy of or an extract from the relevant record or document referred to in paragraph (c)(iv) of Part V, or an extract from any other document, per page ..... $ 5~~
~~(j) for certifying under section 305(3A) a copy of or an extract from a document, or a copy of information contained in a record, per copy or extract (as the case may be) ..... $ 130~~

~~(Added L.N. 78 of 2004)~~

~~(Eighth Schedule amended L.N. 231 of 1993; L.N. 371 of 1994; L.N. 11 of 1996; L.N. 457 of 1997; L.N. 149 of 1998)~~

~~Schedule:~~	~~9~~	~~PROVISIONS RELATING TO ACQUISITION OF MINORITY SHARES AFTER SUCCESSFUL TAKE-OVER OFFER~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~NINTH SCHEDULE~~ ~~[section 168]~~

~~PART 1 Right of company to buy out minority shareholders~~

~~1. If, in a case in which the offer does not relate to shares of different classes, the transferee company has, during the period of 4 months beginning on the date of the offer, acquired not less than nine-tenths in value of the shares for which the offer is made (by virtue of acceptances of the offer or, if the shares are listed on a recognized stock market, by virtue of acceptances of the offer or otherwise), the transferee company may give notice to the holder of any shares to which the offer relates which the transferee company has not acquired that it desires to acquire those shares. (Amended 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~2. If, in a case in which the offer relates to shares of different classes, the transferee company has, during the period of 4 months beginning on the date of the offer, acquired not less than nine-tenths in value of the shares of any class for which the offer is made (by virtue of acceptances of the offer or, if the shares are listed on a recognized stock market, by virtue of acceptances of the offer or otherwise), the transferee company may give notice to the holder of any shares of that class which the transferee company has not acquired that it desires to acquire those shares. (Amended 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~3. Any notice under this Part shall be given in the specified form and in the prescribed manner and not later than 5 months after the date of the offer; and where such a notice is given to the holder of any shares the transferee company shall, subject to paragraph 4, be entitled and bound to acquire those shares on the terms of the offer. (Amended 3 of 1997 s. 60)~~

~~4. Where a notice is given under this Part to the holder of any shares the court may, on an application made by him within 2 months from the date on which the notice was given, order that the transferee company shall not be entitled and bound to acquire the shares or specify terms of acquisition different from those of the offer.~~

~~5. Where an offer is such as to give the holder of shares a choice of terms, any notice under this Part shall give particulars of the choice and state-~~

~~(a) that the holder of the shares may within 2 months from the date of the notice exercise that choice by letter sent to the company at an address specified in the notice; and~~

~~(b) which terms are to be taken as applying in default of his exercising the choice as aforesaid,~~

~~and the terms of the offer mentioned in paragraph 3 shall be determined accordingly.~~

~~6. Where an offer is such that the holder of shares in the transferor company is to receive shares or debentures of the transferee company but with an option to receive instead some other consideration to be provided by a third party-~~

~~(a) the terms of the offer mentioned in paragraph 3 shall not include that option unless the transferee company in its notice under this Part indicates that the option is to apply; and~~

~~(b) if the transferee company does not so indicate it may, if it thinks fit, offer in that notice a corresponding option to receive some other consideration to be provided by that company,~~

~~and, if the transferee company offers such a corresponding option and the holder of the shares within 2 months from the date of the notice exercises that corresponding option by a letter sent to the company at an address specified in the notice, the terms of the offer mentioned in paragraph 3 shall be determined accordingly.~~

~~For the purposes of this paragraph, consideration shall be deemed to be provided by a third party where it is made available to the transferee company on terms that it shall be used by the transferee company as consideration pursuant to the offer.~~

~~7. Where a notice has been given under this Part and the court has not, on an application made by the person to whom the notice was given, ordered to the contrary, the transferee company shall, on the expiration of 2 months from the date on which the notice has been given or, if an application to the court is then pending, after that application has been disposed of-~~

~~(a) transmit a copy of the notice to the transferor company together with an instrument of transfer executed on behalf of the shareholder on whom the notice was served by any person appointed by the transferee company; and~~

~~(b) pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this Part that company is entitled to acquire,~~

~~and the transferor company shall thereupon register the transferee company as the holder of those shares; but no instrument of transfer shall be required for any share for which a share warrant is for the time being outstanding.~~

~~8. Any sums received by the transferor company under paragraph 7 shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received; but any such sum or other consideration shall not be paid out or delivered to any person claiming to be entitled thereto unless he produces the share certificate of such shares or other evidence of his title thereto, or a satisfactory indemnity in lieu of such certificate or other evidence.~~

~~PART 2 Right of minority shareholders to be bought out by company~~

~~9. If the offer does not relate to shares of different classes and not later than the expiration of the period within which the offer can be accepted the transferee company is the holder of not less than nine-tenths in value of all the shares in the transferor company or, if the offer relates to a class of shares, not less than nine-tenths in value of all the shares of that class, the holder of any shares to which the offer relates who has not accepted the offer before the~~

~~expiration of that period may by letter addressed to the transferee company require it to acquire those shares.~~

~~10. If the offer relates to shares of different classes and not later than the expiration of the period within which the offer can be accepted the transferee company is the holder of not less than nine-tenths in value of the shares of any class for which the offer is made, the holder of any shares of that class who has not accepted the offer before the expiration of that period may by letter addressed to the transferee company require it to acquire those shares.~~

~~11. Within 1 month of the expiration of the period within which the offer can be accepted the transferee company shall give notice in the specified form and in the prescribed manner to a person having rights under this Part calling on him to decide whether or not to exercise them, but he shall not be entitled to exercise them later than 2 months after the date on which the notice is given. (Amended 3 of 1997 s. 60)~~

~~12. Where the holder of any shares exercises his rights under this Part the transferee company shall be entitled and bound to acquire the shares on the terms of the offer or on such other terms as may be agreed or as the court, on the application of the holder of the shares or the transferee company, thinks fit to order.~~

~~13. Where an offer is such as to give the holder of shares a choice of terms and he requires the transferee company to acquire the shares under this Part without the company having given him a notice under paragraph 11, the requirement shall not have effect unless it indicates an exercise of that choice.~~

~~14. Where an offer is such as to give the holder of shares a choice of terms and the company gives him a notice under paragraph 11, the notice shall give particulars of the choice and state-~~

~~(a) that he may exercise the choice in making a requirement under this Part; and~~

~~(b) which terms are to be taken as applying if he makes such a requirement without exercising the choice,~~

~~and the terms of the offer mentioned in paragraph 12 shall be determined accordingly.~~

~~15. Where an offer is such that the holder of shares in the transferor company is to receive shares or debentures of the transferee company but with an option to receive instead some other consideration to be provided by a third party-~~

~~(a) the terms of the offer mentioned in paragraph 12 shall not include that option unless the transferee company in a notice under paragraph 11 indicates that the option is to apply; and~~

~~(b) if the transferee company does not so indicate it may, if it thinks fit, offer in such a notice a corresponding option to receive some other consideration to be provided by that company,~~

~~and, if the transferee company offers such a corresponding option and the holder of the shares exercises that corresponding option in his requirement under this Part, the terms of the offer mentioned in paragraph 12 shall be determined accordingly.~~

~~For the purposes of this paragraph, consideration shall be deemed to be provided by a third party where it is made available to the transferee company on terms that it shall be used by the transferee company as consideration pursuant to the offer.~~

~~(Ninth Schedule replaced 6 of 1984 s. 257)~~

~~Schedule:~~	~~10~~	~~ACCOUNTS~~	~~L.N. 163 of 2005~~	~~01/12/2005~~

~~Expanded Cross Reference:~~
~~161, 161A, 161B, 161BA, 161C~~

~~TENTH SCHEDULE~~ ~~[sections 2B, 48B, 79F, 79H, 79K, 79O, 123, 126, 129D, 141, 157HA, 161B & 360]~~

~~(Amended 28 of 2003 s. 117; 12 of 2005 s. 17)~~

~~Preliminary~~

~~1. Paragraphs 2 to 12 apply to the balance sheet and 13 to 17 to the profit and loss account, and are subject to the exceptions and modifications provided for by Part II in the case of a holding or subsidiary company and by Part III in~~

~~the case of companies of the classes there mentioned; and this Schedule has effect in addition to the provisions of sections 161 to 161C of this Ordinance. <* Note - Exp. X-Ref.: Sections 161, 161A, 161B, 161BA, 161C *>~~

~~PART I~~

~~GENERAL PROVISIONS AS TO BALANCE SHEET AND PROFIT AND LOSS ACCOUNT~~

~~Balance Sheet~~

~~2. The authorized share capital, issued share capital, liabilities and assets shall be summarized, with such particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified-~~

~~(a) any part of the issued capital that consists of redeemable shares, the earliest and latest dates on which the company has power to redeem those shares, whether those shares must be redeemed in any event or are liable to be redeemed at the option of the company and whether any (and, if so, what) premium is payable on redemption; (Amended L.N. 188 of 1993)~~

~~(b) so far as the information is not given in the profit and loss account, any share capital on which interest has been paid out of capital during the financial year, and the rate at which interest as been so paid;~~

~~(c) the amount of the share premium account;~~

~~(d) particulars of any redeemed debentures which the company has power to reissue.~~

~~3. There shall be stated under separate headings, so far as they are not written off,-~~

~~(a) the preliminary expenses;~~

~~(b) any expenses incurred in connexion with any issue of share capital or debentures;~~

~~(c) any sums paid by way of commission in respect of any shares or debentures;~~

~~(d) any sums allowed by way of discount in respect of any debentures; and~~

~~(e) the amount of the discount allowed on any issue of shares at a discount.~~

~~4. (1) The reserves, provisions, liabilities and assets shall be classified under headings appropriate to the company's business:~~

~~Provided that-~~

~~(a) where the amount of any class is not material, it may be included under the same heading as some other class; and~~

~~(b) where any assets of one class are not separable from assets of another class, those assets may be included under the same heading.~~

~~(2) Fixed assets, current assets and assets that are neither fixed nor current shall be separately identified.~~

~~(3) The method or methods used to arrive at the amount of the fixed assets under each heading shall be stated.~~

~~5. (1) The method of arriving at the amount of any fixed asset shall, subject to sub-paragraph (2), be to take the difference between-~~

~~(a) its cost or, if it stands in the company's books at a valuation, the amount of the valuation; and~~

~~(b) the aggregate amount provided or written off since the date of acquisition or valuation, as the case may be, for depreciation or diminution in value;~~

~~and for the purposes of this paragraph the net amount at which any assets stand in the company's books at 1st October 1975 (after deduction of the amounts previously provided or written off for depreciation or diminution in value) shall, if the figures relating to the period before 1st October 1975 cannot be obtained without unreasonable expense or delay, be treated as if it were the amount of a valuation of those assets made at 1st October 1975 and, where any of those assets are sold, the said net amount less the amount of the sales shall be treated as if it were the amount of a valuation so made of the remaining assets.~~

~~(2) Sub-paragraph (1) shall not apply-~~

~~(a) to assets for which the figures relating to the period beginning with 1st October 1975 cannot be obtained without unreasonable expense or delay; or~~

~~(b) to assets the replacement of which is provided for wholly or partly-~~

~~(i) by making provision for renewals and charging the cost of replacement against the provision so made; or~~

~~(ii) by charging the cost of replacement direct to revenue; or~~

(c) to any listed investments or to any unlisted investments of which the value as estimated by the directors is shown either as the amount of the investments or by way of note; or (Amended 6 of 1984 s. 259)

(d) to goodwill, patents or trade marks.

(3) For the assets under each heading whose amount is arrived at in accordance with sub-paragraph (1), there shall be shown

(a) the aggregate of the amounts referred to in paragraph (a) of that sub-paragraph; and

(b) the aggregate of the amounts referred to in paragraph (b) thereof.

(4) As respects the assets under each heading whose amount is not arrived at in accordance with sub-paragraph (1) because their replacement is provided for as mentioned in sub-paragraph (2)(b), there shall be stated

(a) the means by which their replacement is provided for; and

(b) the aggregate amount of the provision (if any) made for renewals and not used.

6. The aggregate amounts respectively of reserves and provisions (other than provisions for depreciation, renewals or diminution in value of assets) shall be stated under separate headings:

Provided that

(a) this paragraph shall not require a separate statement of either of the said amounts which is not material; and

(b) the Financial Secretary may direct that it shall not require a separate statement of the amount of provisions where he is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account a provision (other than as aforesaid) shall be so framed or marked as to indicate that fact.

7. (1) There shall also be shown (unless it is shown in the profit and loss account or a statement or report annexed thereto, or the amount involved is not material)

(a) where the amount of the reserves or of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) shows an increase as compared with the amount at the end of the immediately preceding financial year, the source from which the amount of the increase has been derived; and

(b) where

(i) the amount of the reserves shows a decrease as compared with the amount at the end of the immediately preceding financial year; or

(ii) the amount at the end of the immediately preceding financial year of the provisions (other than provisions for depreciation, renewals or diminution in value of assets) exceeded the aggregate of the sums since applied and amounts still retained for the purposes thereof;

the application of the amounts derived from the difference.

(2) Where the heading showing the reserves or any of the provisions aforesaid is divided into sub-headings, this paragraph shall apply to each of the separate amounts shown in the sub-headings instead of applying to the aggregate amount thereof.

8. If an amount is set aside for the purpose of its being used to prevent undue fluctuations in charges for taxation, it shall be stated.

9. (1) There shall be shown under separate headings

(a) the aggregate amounts respectively of the company's listed investments and unlisted investments; (Amended 6 of 1984 s. 259)

(b) if the amount of the goodwill and of any patents and trade marks or part of that amount is shown as a separate item in or is otherwise ascertainable from the books of the company, or from any contract for the sale or purchase of any property to be acquired by the company, or from any documents in the possession of the company relating to the stamp duty payable in respect of any such contract or the conveyance of any such property, the said amount so shown or ascertained so far as not written off or, as the case may be, the said amount so far as it is so shown or ascertainable and as so shown or ascertained, as the case may be;

(c) the aggregate amount of any outstanding loans made under the authority of section 47C(4)(b) and (c); (Amended 68 of 1995 s. 2)

~~(d) the aggregate amount of bank loans and overdrafts, and the aggregate amount of loans, other than bank loans or overdrafts, made to the company which—~~

~~(i) are repayable otherwise than by instalments and fall due for repayment after the expiration of the period of 5 years beginning with the day next following the expiration of the financial year; or~~

~~(ii) are repayable by instalments any of which fall due for payment after the expiration of that period;~~

~~(e) the aggregate amount which is recommended for distribution by way of dividend.~~

~~(2) Nothing in head (b) of sub-paragraph (1) shall be taken as requiring the amount of the goodwill, patents and trade marks to be stated otherwise than as a single item.~~

~~(3) The heading showing the amount of the listed investments shall be subdivided, where necessary, to distinguish the investments as respects which there has, and those as respects which there has not, been granted a listing on a recognized stock market. (Amended 6 of 1984 s. 259; 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~(4) In relation to each loan falling within head (d) of sub-paragraph 1) (other than a bank loan or overdraft), there shall be stated by way of note (if not otherwise stated) the terms on which it is repayable and the rate at which interest is payable thereon:~~

~~Provided that if the number of loans is such that, in the opinion of the directors, compliance with the foregoing requirement would result in a statement of excessive length, it shall be sufficient to give a general indication of the terms on which the loans are repayable and the rates at which interest is payable thereon.~~

~~10. Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the fact that that liability is so secured shall be stated, but it shall not be necessary to specify the assets on which the liability is secured.~~

~~11. Where any of the company's debentures are held by a nominee of or trustee for the company, the nominal amount of the debentures and the amount at which they are stated in the books of the company shall be stated.~~

~~12. (1) The matters referred to in the following sub-paragraphs shall be stated by way of note, or in a statement or report annexed, if not otherwise shown.~~

~~(2) The number, description and amount of any shares in the company which any person has an option to subscribe for, together with the following particulars of the option, that is to say—~~

~~(a) the period during which it is exercisable;~~

~~(b) the price to be paid or shares subscribed for under it.~~

~~(3) The amount of any arrears of fixed cumulative dividends on the company's shares and the period for which the dividends or, if there is more than one class, each class of them are in arrear.~~

~~(4) Particulars of any charge on the assets of the company to secure the liabilities of any other person, including, where practicable, the amount secured.~~

~~(5) The general nature of any other contingent liabilities not provided for and, where practicable, the aggregate amount or estimated amount of those liabilities, if it is material.~~

~~(6) Where practicable the aggregate amount or estimated amount, if it is material, of contracts for capital expenditure, so far as not provided or and, where practicable, the aggregate amount or estimated amount, if it is material, of capital expenditure authorized by the directors which has not been contracted for.~~

~~(7) In the case of fixed assets under any heading whose amount is required to be arrived at in accordance with paragraph 5(1) (other than unlisted investments) and is so arrived at by reference to a valuation, the years (so far as they are known to the directors) in which the assets were severally valued and the several values, and, in the case of assets that have been valued during the financial year, (Amended 6 of 1984 s. 259)~~

~~(a) the names of the persons who valued them or particulars of their qualifications for doing so, and~~

~~(b) the bases of valuation used by such persons.~~

~~(8) If there are included amongst fixed assets under any heading (other than investments) assets that have been acquired during the financial year, the aggregate amount of the assets acquired as determined for the purpose of making up the balance sheet, and if during that year any fixed assets included under a heading in the balance sheet made up with respect to the immediately preceding financial year (other than investments) have been disposed of or destroyed, the aggregate amount thereof as determined for the purpose of making up that balance sheet.~~

~~(9) Of the amount of fixed assets consisting of land, how much is ascribable to—~~

~~(a) land in Hong Kong in each of the following categories—~~

~~(i) land held on long lease;~~

~~(ii) land held on medium-term lease;~~

(iii) land held on short lease;

(b) land outside Hong Kong in each of the following categories-

(i) land held freehold;

(ii) land held on long lease;

(iii) land held on medium-term lease;

(iv) land held on short lease.

(10) If in the opinion of the directors any of the current assets have not a value, on realization in the ordinary course of the company's business, at least equal to the amount at which they are stated, the fact that the directors are of that opinion.

(11) The aggregate market value of the company's listed investments where it differs from the amount of the investments as stated, and the stock exchange value of any investments of which the market value is shown (whether separately or not) and is taken as being higher than their stock exchange value. (Amended 6 of 1984 s. 259)

(12) If a sum set aside for the purpose of its being used to prevent undue fluctuations in charges for taxation has been used during the financial year for another purpose, the amount thereof and the fact that it has been so used.

(13) If the amount carried forward for stock in trade or work in progress is material for the appreciation by its members of the company's state of affairs or of its profit or loss for the financial year, the manner in which that amount has been computed.

(14) The basis on which other currencies have been converted into the currency in which the balance sheet is expressed, where the amount of the assets or liabilities affected is material.

(15) The basis on which the amount, if any, set aside for Hong Kong profits tax is computed.

(16) Except in the case of the first balance sheet laid before the company after 1st October 1975, the corresponding amounts at the end of the immediately preceding financial year for all items shown in the balance sheet other than any item the amount for which is shown-

(a) in pursuance of sub-paragraph (8), or

(b) as an amount the source or application of which is required by paragraph 7 to be shown.

Profit and Loss Account

13. (1) There shall be shown-

(a) the amount charged to revenue by way of provision for depreciation, renewals or diminution in value of fixed assets;

(b) the amount of the interest on loans of the following kinds made to the company (whether on the security of debentures or not), namely, bank loans, overdrafts and loans which, not being bank loans or overdrafts,—

(i) are repayable otherwise than by instalments and fall due for repayment before the expiration of the period of 5 years beginning with the day next following the expiration of the financial year; or

(ii) are repayable by instalments the last of which falls due for payment before the expiration of that period;

and the amount of the interest on loans of other kinds so made (whether on the security of debentures or not);

(c) the amount of the charge to revenue for taxes imposed by the Inland Revenue Ordinance (Cap 112) and, if that amount would have been greater but for relief from double taxation, the amount which it would have been but for such relief, and the amount of the charge for taxation imposed outside Hong Kong of profits, income and (so far as charged to revenue) capital gains;

(d) the amounts respectively provided for redemption of share capital and for redemption of loans;

(e) the amount, if material, set aside or proposed to be set aside to, or withdrawn from, reserves;

(f) subject to sub-paragraph (2), the amount, if material, set aside to provisions other than provisions for depreciation, renewals or diminution in value of assets or, as the case may be, the amount, if material, withdrawn from such provisions and not applied for the purposes thereof;

(g) the amounts respectively of income from listed investments and income from unlisted investments; (Amended 6 of 1984 s. 259)

(h) if a substantial part of the company's revenue for the financial year consists in rents from land and buildings, the amount thereof (after deduction of ground-rents, rates and other out-goings);

(i) the amount, if material, charged to revenue in respect of sums payable in respect of the hire of plant

~~and machinery;~~

~~(j) the aggregate amount of the dividends paid and proposed.~~

~~(2) The Financial Secretary may direct that a company shall not be obliged to show an amount set aside to provisions in accordance with sub-paragraph (1)(f), if he is satisfied that that is not required in the public interest and would prejudice the company, but subject to the condition that any heading stating an amount arrived at after taking into account the amount set aside as aforesaid shall be so framed or marked as to indicate that fact.~~

~~(3) If, in the case of any assets in whose case an amount is charged to revenue by way of provision for depreciation or diminution in value, an amount is also charged by way of provision or renewal thereof, the last mentioned amount shall be shown separately.~~

~~(4) If the amount charged to revenue by way of provision for depreciation or diminution in value of any fixed assets (other than investments) has been determined otherwise than by reference to the amount of those assets as determined for the purpose of making up the balance sheet, that fact shall be stated.~~

~~14. The amount of any charge arising in consequence of the occurrence of an event in a preceding financial year and of any credit so arising shall, if not included in a heading relating to other matters, be stated under a separate heading.~~

~~15. The amount of the remuneration of the auditors shall be shown under a separate heading, and for the purposes of this paragraph, any sums paid by the company in respect of the auditors' expenses shall be deemed to be included in the expression "remuneration".~~

~~16. (1) The matters referred to in sub-paragraphs (2) to (4) shall be stated by way of note, if not otherwise shown.~~

~~(2) The turnover for the financial year, except in so far as it is attributable to the business of banking or to business of such other class as may be prescribed for the purposes of this sub-paragraph.~~

~~(3) If some or all of the turnover is omitted by reason of its being attributable as aforesaid, the fact that it is so omitted.~~

~~(4) The method by which turnover stated is arrived at.~~

~~17. (1) The matters referred to in sub-paragraphs (2) to (6) shall be stated by way of note, if not otherwise shown.~~

~~(2) If depreciation or replacement of fixed assets is provided for by some method other than a depreciation charge or provision for renewals, or is not provided for, the method by which it is provided for or the fact that it is not provided for, as the case may be.~~

~~(3) The basis on which the charge for Hong Kong profits tax is computed.~~

~~(4) Any special circumstances which affect liability in respect of taxation of profits, income or capital gains for the financial year or liability in respect of taxation of profits, income or capital gains for succeeding financial years.~~

~~(5) Except in the case of the first profit and loss account laid before the company after 1st October 1975 the corresponding amounts for the immediately preceding financial year for all items shown in the profit and loss account.~~

~~(6) Any material respects in which any items shown in the profit and loss account are affected -~~

~~(a) by transactions of a sort not usually undertaken by the company or otherwise by circumstances of an exceptional or non-recurrent nature; or~~

~~(b) by any change in the basis of accounting.~~

~~PART II~~

~~SPECIAL PROVISIONS WHERE THE COMPANY IS A HOLDING OR SUBSIDIARY COMPANY~~

~~Modifications of and Additions to Requirements as to Company's own Accounts~~

~~18. (1) This paragraph shall apply where the company is a holding company, whether or not it is itself a subsidiary of another undertaking. (Amended 12 of 2005 s. 17)~~

~~(2) The aggregate amount of assets consisting of shares in, or amounts owing (whether on account of a loan or otherwise) from, the company's subsidiaries, distinguishing shares from indebtedness, shall be set out in the balance sheet separately from all the other assets of the company, and the aggregate amount of indebtedness (whether on account of a loan or otherwise) to the company's subsidiaries shall be so set out separately from all its other liabilities~~

~~and~~

~~(a) the references in Part I to the company's investments (except those in paragraphs 12(8) and 13(4)) shall not include investments in its subsidiaries required by this paragraph to be separately set out; and~~

~~(b) paragraphs 5, 13(1)(a) and 17(2) shall not apply in relation to fixed assets consisting of interests in the company's subsidiaries.~~

~~(3) There shall be shown by way of note on the balance sheet or in a statement or report annexed thereto the number, description and amount of the shares in and debentures of the company held by its subsidiaries or their nominees, but excluding any of those shares or debentures in the case of which the subsidiary is concerned as personal representative or in the case of which it is concerned as trustee and neither the company nor any subsidiary thereof is beneficially interested under the trust, otherwise than by way of security only for the purposes of a transaction entered into by it in the ordinary course of a business which includes the lending of money.~~

~~(4) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing~~

~~(a) the reasons why subsidiaries are not dealt with in group accounts;~~

~~(b) the net aggregate amount, so far as it concerns members of the holding company and is not dealt with in the company's accounts, of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)~~

~~(i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and~~

~~(ii) for their previous financial years since they respectively became the holding company's subsidiary;~~

~~(c) the net aggregate amount of the subsidiaries' profits after deducting the subsidiaries' losses (or vice versa)~~

~~(i) for the respective financial years of the subsidiaries ending with or during the financial year of the company; and~~

~~(ii) for their other financial years since they respectively became the holding company's subsidiary;~~

~~so far as those profits are dealt with, or provision is made for those losses, in the company's accounts;~~

~~(d) any qualifications contained in the report of the auditors of the subsidiaries on their accounts for their respective financial years ending as aforesaid, and any note or saving contained in those accounts to call attention to a matter which, apart from the note or saving, would properly have been referred to in such a qualification, in so far as the matter which is the subject of the qualification or note is not covered by the company's own accounts and is material from the point of view of its members;~~

~~or, in so far as the information required by this sub-paragraph is not obtainable, a statement that it is not obtainable:~~

~~Provided that the Financial Secretary may, on the application or with the consent of the company's directors, direct that in relation to any subsidiary this sub-paragraph shall not apply or shall apply only to such extent as may be provided by the direction.~~

~~(5) Sub-paragraph (4)(b) and (c) shall apply only to profits and losses of a subsidiary which may properly be treated in the holding company's accounts as revenue profits or losses, and the profits or losses attributable to any shares in a subsidiary for the time being held by the holding company or any other of its subsidiaries shall not (for that or any other purpose) be treated as aforesaid so far as they are profits or losses for the period before the date on or as from which the shares were acquired by the company or any of its subsidiaries, except that they may in a proper case be so treated where~~

~~(a) the company is itself the subsidiary of another undertaking; and~~

~~(b) the shares were acquired from that undertaking or a subsidiary of it;~~

~~and for the purpose of determining whether any profits or losses are to be treated as profits or losses for the said period the profit or loss for any financial year of the subsidiary may, if it is not practicable to apportion it with reasonable accuracy by reference to the facts, be treated as accruing from day to day during that year and apportioned accordingly. (Amended 12 of 2005 s. 17)~~

~~(6) Where group accounts are not submitted, there shall be annexed to the balance sheet a statement showing, in relation to the subsidiaries (if any) whose financial years did not end with that of the company~~

~~(a) the reasons why the company's directors consider that the subsidiaries' financial years should not end with that of the company; and~~

~~(b) the dates on which the subsidiaries' financial years ending last before that of the company respectively ended or the earliest and latest of those dates.~~

~~19. (1) The balance sheet of a company which is a subsidiary of another undertaking, whether or not it is itself a~~

~~holding company, shall show the aggregate amount of its indebtedness to all undertakings of which it is a subsidiary or a fellow subsidiary and the aggregate amount of indebtedness of all such undertakings to it, distinguishing in each case between indebtedness in respect of debentures and otherwise, and the aggregate amount of assets consisting of shares in fellow subsidiaries.~~

~~(2) For the purposes of this paragraph a company shall be deemed to be a fellow subsidiary of another undertaking if both are subsidiaries of the same undertaking but neither is the other's subsidiary.~~

~~(Amended 12 of 2005 s. 17)~~

~~Consolidated Accounts of Holding Company and Subsidiaries~~

~~20. Subject to the following paragraphs of this Part, the consolidated balance sheet and profit and loss account shall combine the information contained in the separate balance sheets and profit and loss accounts of the holding company and of the subsidiaries dealt with by the consolidated accounts, but with such adjustments (if any) as the directors of the holding company think necessary.~~

~~21. Subject as aforesaid and to Part III, the consolidated accounts shall, in giving the said information, comply so far as practicable, with the requirements of this Ordinance as if they were the accounts of an actual company.~~

~~22. Sections 161 and 161B shall not, by virtue of paragraphs 20 and 21, apply for the purpose of the consolidated accounts.~~

~~23. Paragraph 7 shall not apply for the purpose of any consolidated accounts laid before a company with the first balance sheet so laid after 1st October 1975.~~

~~24. In relation to any subsidiaries of the holding company not dealt with by the consolidated accounts-~~

~~(a) Paragraph 18(2) and (3) shall apply for the purpose of those accounts as if those accounts were the accounts of an actual company of which they were subsidiaries; and~~

~~(b) there shall be annexed the like statement as is required by paragraph 18(4) where there are no group accounts, but as if references therein to the holding company's accounts were references to the consolidated accounts.~~

~~25. In relation to any subsidiaries (whether or not dealt with by the consolidated accounts), whose financial years did not end with that of the company, there shall be annexed the like statement as is required by paragraph 18(6) where there are no group accounts.~~

~~PART III~~

~~EXCEPTIONS FOR SPECIAL CLASSES OF COMPANY~~

~~26. (1) A banking company shall not be subject to the requirements of Part I other than-~~

~~(a) as respects its balance sheet, those of paragraphs 2 and 3, paragraph 4 (so far as it relates to assets), paragraph 9 (except sub-paragraphs (1)(d) and (4)), paragraphs 10 and 11 and paragraph 12 (except sub-paragraphs (7), (8), (9), (11) and (12)); and~~

~~(b) as respects its profit and loss account, those of sub-paragraph (1)(h) and (j) of paragraph 13, paragraphs 14 and 15 and sub-paragraphs (1) and (5) of paragraph 17;~~

~~but, where in its balance sheet reserves or provisions (other than provisions for depreciation, renewals or diminution in value of assets) are not stated separately, any heading stating an amount arrived at after taking into account a reserve or such a provision shall be so framed or marked as to indicate that fact, and its profit and loss account shall indicate by appropriate words the manner in which the amount stated for the company's profit or loss has been arrived at.~~

~~(2) The accounts of a banking company shall not be deemed, by reason only of the fact that they do not comply with any requirements of Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Ordinance.~~

~~(3) In this paragraph the expression "banking company" (銀行公司) means any company which carries on banking business and holds a valid banking licence granted under the Banking Ordinance (Cap 155) authorizing it to do so in Hong Kong. (Amended 27 of 1986 s. 137)~~

~~27. (1) An insurance company shall not be subject to the following requirements of Part I, that is to say-~~

~~(a) as respects its balance sheet, those of paragraphs 4 to 7, sub-paragraphs (1)(a) and (3) of paragraph 9 and sub-paragraphs (4), (5) and (7) to (11) of paragraph 12;~~

~~(b) as respects its profit and loss account, those of paragraph 13 (except sub-paragraph (1)(b), (c), (d) and (j)) and paragraph 17(2);~~

~~but, where in its balance sheet reserves or provisions (other than provisions for depreciation, renewals or diminution in value of assets) are not stated separately, any heading stating an amount arrived at after taking into account a reserve or such a provision shall be so framed or marked as to indicate that fact, and its profit and loss account shall indicate by appropriate words the manner in which the amount stated for the company's profit or loss has been arrived at:~~

~~Provided that the Financial Secretary may direct that any such insurance company whose business includes to a substantial extent business other than insurance business shall comply with all the requirements of Part I or such of them as may be specified in the direction and shall comply therewith as respects either the whole of its business or such part thereof as may be so specified.~~

~~(2) Where an insurance company is entitled to the benefit of this paragraph, then any wholly owned subsidiary thereof shall also be so entitled if its business consists only of business which is complementary to insurance business of the classes carried on by the insurance company.~~

~~(3) The accounts of a company shall not be deemed, by reason only of the fact that they do not comply with any requirement of Part I from which the company is exempt by virtue of this paragraph, not to give the true and fair view required by this Ordinance.~~

~~(4) For the purposes of this paragraph a company shall be deemed to be the wholly owned subsidiary of an insurance company if it has no members except the insurance company and the insurance company's wholly owned subsidiaries and its or their nominees.~~

~~28. (Repealed 3 of 1997 s. 61)~~

~~29. Where a company entitled to the benefit of any provision contained in this Part is a holding company, the reference in Part II to consolidated accounts complying with the requirements of this Ordinance shall, in relation to consolidated accounts of that company, be construed as referring to those requirements in so far only as they apply to the separate accounts of that company.~~

~~PART IV~~

~~INTERPRETATION OF SCHEDULE~~

~~30. (1) For the purposes of this Schedule, unless the context otherwise requires,-~~

~~(a) the expression "provision" (準備金) shall, subject to sub-paragraph (2), mean any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability of which the amount cannot be determined with substantial accuracy;~~

~~(b) the expression "reserve" (儲備) shall not, subject as aforesaid, include any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets or retained by way of providing for any known liability or any sum set aside for the purpose of its being used to prevent undue fluctuations in charges for taxation;~~

~~and in this paragraph the expression "liability" (負債) shall include all liabilities in respect of expenditure contracted for and all disputed or contingent liabilities.~~

~~(2) Where-~~

~~(a) any amount written off or retained by way of providing for depreciation, renewals or diminution in value of assets, not being an amount written off in relation to fixed assets before 1st October 1975; or~~

~~(b) any amount retained by way of providing for any known liability,~~

~~is in excess of that which in the opinion of the directors is reasonably necessary for the purpose, the excess shall be treated for the purposes of this Schedule as a reserve and not as a provision.~~

~~31. For the purposes aforesaid,-~~

~~(a) the expression "listed investment" (上市投資) (means an investment as respects which there has been granted a listing on a recognized stock market, or on any stock exchange of repute outside Hong Kong, and the expression "unlisted investment" (非上市投資) shall be construed accordingly; (Amended 6 of 1984 s. 259; 10 of 1987 s. 11; 5 of 2002 s. 407)~~

~~(b) the expression "lease" (租約) includes an agreement for a lease;~~

~~(c) in relation to land in Hong Kong—~~

~~(i) the expression "long lease" (長期租約) means a lease in the case of which either—~~

~~(A) the portion of the term for which it was granted remaining unexpired at the end of the financial year is not less than 50 years, or~~

~~(B) if the lease is a renewable Government lease, the portion of the said term remaining unexpired at the said date when added to the term for which the lessee is entitled to renew the lease amounts to a period of not less than 50 years from the said date; (Amended 29 of 1998 s. 105)~~

~~(ii) the expression "medium-term lease" (中期租約) means a lease in the case of which either—~~

~~(A) the portion of the term for which it was granted remaining unexpired at the end of the financial year is less than 50 years but not less than 10 years, or~~

~~(B) if the lease is a renewable Government lease, the portion of the said term remaining unexpired at the said date when added to the term for which the lessee is entitled to renew the lease amounts to a period of less than 50 years but not less than 10 years from the said date; (Amended 29 of 1998 s. 105)~~

~~(iii) the expression "short lease" (短期租約) means a lease which is not a long or a medium-term lease;~~

~~(d) in relation to land outside Hong Kong—~~

~~(i) the expression "long lease" (長期租約) means a lease in the case of which the portion of the term for which it was granted remaining unexpired at the end of the financial year is not less than 50 years,~~

~~(ii) the expression "medium-term lease" (中期租約) means a lease in the case of which the portion of the term for which it was granted remaining unexpired at the end of the financial year is less than 50 years but not less than 10 years,~~

~~(iii) the expression "short lease" (短期租約) means a lease which is not a long or a medium-term lease;~~

~~(e) a loan shall be deemed to fall due for repayment, and an instalment of a loan shall be deemed to fall due for payment, on the earliest date on which the lender could require repayment or, as the case may be, payment if he exercised all options and rights available to him.~~

~~(Tenth Schedule added 80 of 1974 s. 22)~~

~~Schedule:~~	~~11~~	~~ACCOUNTS OF CERTAIN PRIVATE COMPANIES UNDER SECTION 141D~~	~~L.N. 267 of 2003~~	~~13/02/2004~~

~~Expanded Cross Reference:~~
~~161, 161A, 161B, 161BA, 161C~~

~~ELEVENTH SCHEDULE~~ ~~[sections 141D & 360]~~

~~(Amended 28 of 2003 s. 118)~~

~~ACCOUNTS OF CERTAIN PRIVATE COMPANIES UNDER SECTION 141D~~

~~(Replaced 6 of 1984 s. 259)~~

~~1. This Schedule has effect in addition to the provisions of sections 161 to 161C of this Ordinance. <* Note— Exp. X-Ref.: Sections 161, 161A, 161B, 161BA, 161C *>~~

~~2. The authorized share capital, issued share capital, liabilities and assets shall be summarized, with such~~

~~particulars as are necessary to disclose the general nature of the assets and liabilities, and there shall be specified—~~

~~(a) any part of the issued capital that consists of redeemable shares, the earliest and latest dates on which the company has power to redeem those shares, whether those shares must be redeemed in any event or are liable to be redeemed at the option of the company and whether any (and, if so, what) premium is payable on redemption; (Amended L.N. 188 of 1993)~~

~~(b) so far as the information is not given in the profit and loss account, any share capital on which interest has been paid out of capital during the financial year, and the rate at which interest has been so paid;~~

~~(c) the amount of the share premium account;~~

~~(d) particulars of any redeemed debentures which the company has power to reissue.~~

~~3. There shall be stated under separate headings, so far as they are not written off,—~~

~~(a) the preliminary expenses;~~

~~(b) any expenses incurred in connexion with any issue of share capital or debentures;~~

~~(c) any sums paid by way of commission in respect of any shares or debentures;~~

~~(d) any sums allowed by way of discount in respect of any debentures; and~~

~~(e) the amount of the discount allowed on any issue of shares at a discount.~~

~~4. (1) Fixed assets, current assets and assets that are neither fixed nor current shall be separately identified.~~

~~(2) The method or methods used to arrive at the amount of the fixed assets shall be stated.~~

~~5. There shall be shown under a separate heading the aggregate amount of any outstanding loans made under the authority of section 47C(4)(b) and (c). (Amended 28 of 2003 s. 118)~~

~~6. Where any liability of the company is secured otherwise than by operation of law on any assets of the company, the fact that that liability is so secured shall be stated, but it shall not be necessary to specify the assets on which the liability is secured.~~

~~(Eleventh Schedule added 80 of 1974 s. 22)~~

Schedule:	12	PUNISHMENT OF OFFENCES UNDER THIS ORDINANCE	L.N. 169 of 2010	21/02/2011

Expanded Cross Reference:
342, 342A, 342B, 342C

TWELFTH SCHEDULE [section 351]

Section creating offence	General nature of offence	Mode of prosecution	Punishment	Daily default fine (if applicable)
~~8(8)~~	~~Company failing to deliver to the Registrar notice or other document following alteration to its objects~~	~~Summary~~	~~level 3~~	~~$300~~
~~10(3)~~	~~Company without a share capital failing to give notice of an increase of number of members beyond the registered number~~	~~Summary~~	~~level 3~~	~~$300~~
~~13(4)~~	~~Company failing to deliver to the Registrar document following alteration to its articles (Added 30 of 1999 s. 38)~~	~~Summary~~	~~level 3~~	~~$300~~
~~18A(2)~~	~~Failing to deliver to the Registrar any consent to be a director (Added 12 of 2010 s. 11)~~	~~Summary~~	~~level 3~~	~~$300~~

~~21(9)~~	~~Failure by a body to alter its name on the revocation of a licence to use the words "Chamber of Commerce", etc. in its name~~	~~Summary~~	~~level 3~~	~~$700~~
~~22(1B)~~	~~Company failing to give the Registrar notice of change of company name (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~22(6)~~	~~Company failing to change name on the direction of the Registrar (Replaced 60 of 1990 s. 10)~~	~~Summary~~	~~level 6 and 6 months~~	~~$700~~
~~22A(4)~~	~~Company failing to change name on the direction of the Registrar on the grounds that the name is misleading or offensive, etc. (Amended 12 of 2010 s. 16)~~	~~Summary~~	~~level 4~~	~~$700~~
~~26(2)~~	~~Company failing to send to one of its members a copy of the memorandum or articles when required by the member~~	~~Summary~~	~~level 3~~	~~-~~
~~27(2)~~	~~When a company's memorandum is altered, issuing a copy of the memorandum without alteration~~	~~Summary~~	~~level 3~~	~~-~~
~~30(2)~~	~~Failing to give notice, register prospectus or otherwise failing to comply with section 30(1) or (1A) on ceasing to be a private company~~	~~Summary~~	~~level 5~~	~~-~~
~~30(2A)~~	~~Authorizing a statement in lieu of prospectus under section 30(1) containing an untrue statement~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
38(1B)	Issuing a company prospectus that does not comply with section 38(1) and (1A)	Summary	level 5	-
38(3)	Issuing a company prospectus that does not comply with section 38	Summary	level 6	-
38B(3)	Advertising an abstract from or an abridged version of a company prospectus	Summary	level 6	-
38C(2)	Issuing a company prospectus with an expert's statement in it, he not having given his consent	Summary	level 6	-
38D(8)	Issuing a company prospectus without delivering a copy to the Registrar or without the requisite endorsements (Amended 86 of 1992 s. 20)	Summary	level 6	$300
39A(3)	Amendment of prospectus consisting of one document not done in compliance with Part 1 of the Twentieth Schedule (Added 30 of 2004 s. 2)	Summary	level 6	-
39B(4)	Amendment of prospectus consisting of more than one	Summary	level 6	-

	document not done in compliance with Part 1 of the Twenty-first Schedule (Added 30 of 2004 s. 2)			
40A(1)	Authorizing the issue of a prospectus containing an untrue statement	On indictment	$700000 and 3 years	-
		Summary	$150000 and 12 months	-
43(4)	Allotting shares before the 3rd day after delivering a statement in lieu of prospectus to the Registrar	Summary	level 6	-
43(5)	Authorizing a statement in lieu of prospectus under section 43(1) containing an untrue statement	On indictment	$350000 and 2 years	-
		Summary	$150000 and 12 months	-
44A(4)	Allotting shares before the 3rd day after the issue of a prospectus	Summary	level 6	-
44B(3)	Company failing to keep money in separate bank account when received under a prospectus stating that stock exchange listing is being applied for	Summary	level 5	-
~~45(3)~~	~~Company failing to deliver return of allotments, etc., to the Registrar~~	~~Summary~~	~~level 5~~	~~$700~~
~~46(5)~~	~~Company failing to deliver to the Registrar the specified form disclosing the amount or rate of share commission~~	~~Summary~~	~~level 4~~	~~-~~
~~47A(3)~~	~~Company giving financial assistance for the acquisition of its own shares~~	~~Summary~~	~~$125000 and 12 months~~	~~-~~
~~47F(4)~~	~~Company failing to register statement made by directors under section 47E(6) (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 5~~	~~$1300~~
~~47F(5)~~	~~Director signing a statement made under section 47E(6) without having reasonable grounds for the opinion expressed in it (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~47G(10)~~	~~Company failing to give the Registrar notice, or copy of court order, of application under section 47G~~	~~Summary~~	~~level 3~~	~~$250~~
~~49G(6)~~	~~Default by company's officer in registering return disclosing purchase by company of own shares~~	~~On indictment~~	~~level 6~~	~~$650~~
		~~Summary~~	~~level 4~~	~~$250~~
~~49G(7)~~	~~Default by company to keep copy contract, etc., at registered office; refusal of inspection to person demanding it~~	~~Summary~~	~~level 4~~	~~$250~~
~~49K(6)~~	~~Director signing a statement under section 49K without having reasonable grounds for the~~	~~On indictment~~	~~$125000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6~~	~~-~~

	~~opinion expressed in it (Amended 28 of 2003 s. 119)~~		~~months~~	
~~49M(6)~~	~~Refusal of inspection of directors' statement and auditors' report under section 49K (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 4~~	~~$650~~
~~49N(4)~~	~~Company failing to give the Registrar notice, or copy of court order, of application under section 49N~~	~~Summary~~	~~level 3~~	~~$250~~
~~50(3)~~	~~Company failing to disclose in a prospectus particulars of discount allowed on the issue of shares~~	~~Summary~~	~~level 3~~	~~$300~~
~~54(2)~~	~~Company failing to give notice of reorganization of share capital~~	~~Summary~~	~~level 3~~	~~$300~~
~~55(3)~~	~~Company failing to give notice of increase of share capital~~	~~Summary~~	~~level 3~~	~~$300~~
~~57A(3)~~	~~Company failing to disclose on share certificates the class of share or the prohibition or restrictions of voting rights for the share~~	~~Summary~~	~~level 3~~	~~$300~~
~~57B(6)~~	~~Director knowingly and wilfully allotting shares without the company's prior approval in general meeting~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~58(1B)~~	~~Company reducing share capital in breach of section 58~~	~~On indictment~~	~~$1250000 and 5 years~~	~~-~~
		~~Summary~~	~~$125000 and 12 months~~	~~-~~
~~63~~	~~Officer of a company concealing the name of a creditor entitled to object to a reduction of capital, or wilfully misrepresenting the nature or amount of the debt or claim~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~64(5)~~	~~Company failing to forward a copy of an order of the court to the Registrar under section 64 within 21 days~~	~~Summary~~	~~level 3~~	~~$300~~
~~69(2)~~	~~Company failing to forward notice of refusal to register a transfer to the parties or otherwise failing to comply with section 69~~	~~Summary~~	~~level 3~~	~~$300~~
~~70(2)~~	~~Company failing to issue certificates or debentures on allotment or transfer (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~71A(9)~~	~~Company failing to publish notice of issue of replacement certificate~~	~~Summary~~	~~level 3~~	~~$300~~
~~74A(4)~~	~~Company failing to keep register of debentures or to give notice of the place where it is kept~~	~~Summary~~	~~level 5~~	~~$700~~
~~75(4)~~	~~Company refusing to allow inspection or copy of register of~~	~~Summary~~	~~level 3~~	~~$300~~

	~~debenture holders~~			
~~81(3)~~	~~Company failing to register particulars of charge~~	~~Summary~~	~~level 5~~	~~$1500~~
~~82(2)~~	~~Company failing to register particulars of an existing charge over property acquired~~	~~Summary~~	~~level 5~~	~~$1500~~
~~87(7)~~	~~Person appointing or ceasing to act as receiver or manager, or entering into or going out of possession as mortgagee, etc., failing to give notice to the Registrar—(Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~88(4)~~	~~Company failing to keep a copy of a charge at the registered office or failing to notify the Registrar where charges are kept~~	~~Summary~~	~~level 5~~	~~$700~~
~~89(4)~~	~~Company failing to keep a register of charges or failing to notify the Registrar where the register of charges is kept~~	~~Summary~~	~~level 5~~	~~$700~~
~~89(5)~~	~~Officer knowingly and wilfully permitting the omission of an entry in the register of charges~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~90(2)(a)~~	~~Officer refusing to allow inspection of the register of charges or instruments of charge~~	~~Summary~~	~~level 3~~	~~$300~~
~~91(6)~~	~~Non-Hong Kong company failing to register a Hong Kong property charge—(Amended 30 of 2004 s. 2)~~	~~Summary~~	~~level 5~~	~~$1500~~
~~92(4)~~	~~Company failing to notify the Registrar of registered office—(Amended 30 of 2004 s. 2)~~	~~Summary~~	~~level 3~~	~~$300~~
~~93(3)~~	~~Company failing to affix its name outside its place of business, etc.~~	~~Summary~~	~~level 3~~	~~$300~~
~~93(4)~~	~~Company failing to use its company name, seal, etc., correctly~~	~~Summary~~	~~level 3~~	~~-~~
~~93(5)~~	~~Officer or other person authorizing the use of improper seal, etc.~~	~~Summary~~	~~level 3~~	~~-~~
~~95(4)~~	~~Company failing to keep a register of members or failing to notify place where register is kept~~	~~Summary~~	~~level 4~~	~~$700~~
~~95A(3)~~	~~Company failing to enter the required statement in the company's register of members—(Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 4~~	~~$700~~
~~96(3)~~	~~Company failing to maintain index to register of members~~	~~Summary~~	~~level 3~~	~~$300~~
~~98(3)~~	~~Company refusing inspection of register of members~~	~~Summary~~	~~level 3~~	~~$300~~
~~99(4)~~	~~Company failing to supply certificate as to closure of the register of members~~	~~Summary~~	~~level 3~~	~~-~~
~~103(7)~~	~~Company keeping register of~~	~~Summary~~	~~level 3~~	~~$300~~

	~~members outside Hong Kong without licence~~			
~~104(7)~~	~~Company failing to keep a copy of the branch register with the principal register or that copy up to date~~	~~Summary~~	~~level 3~~	~~$300~~
~~109(4)~~	~~Company failing to comply with requirements for completing and filing annual returns~~	~~Summary~~	~~level 5~~	~~$700~~
~~111(5) (relating to subsections (1) and (2))~~	~~Company failing to hold Annual General Meeting~~	~~Summary~~	~~level 5~~	~~-~~
~~111(5) (relating to subsection (4))~~	~~Company failing to notify the Registrar of resolution by company to treat a meeting as an Annual General Meeting~~	~~Summary~~	~~level 3~~	~~$300~~
~~114C(3)~~	~~Officer failing to give notice of the right to proxies with notice of meeting~~	~~Summary~~	~~level 3~~	~~-~~
~~114C(5)~~	~~Officer authorizing an invitation to appoint proxies at company expense to only some of the members~~	~~Summary~~	~~level 3~~	~~-~~
~~115A(7)~~	~~Officer failing to circulate members' resolutions, etc.~~	~~Summary~~	~~level 5~~	~~-~~
~~116B(10)~~	~~Company failing to enter record of resolutions agreed in accordance with section 116B — (Added 46 of 2000 s. 39)~~	~~Summary~~	~~Level 3~~	~~$300~~
~~116BA(2)~~	~~Director or secretary failing to notify company's auditor of matters under section 116B — (Added 46 of 2000 s. 39)~~	~~Summary~~	~~Level 3~~	~~-~~
~~116BC(5)~~	~~Sole member failing to provide the company with a written record of his decision — (Added 28 of 2003 s. 119)~~	~~Summary~~	~~Level 3~~	~~$300~~
~~116BC(6)~~	~~Company failing to enter record of written record of decision provided in accordance with section 116BC — (Added 28 of 2003 s. 119)~~	~~Summary~~	~~Level 3~~	~~$300~~
~~117(5)~~	~~Company failing to lodge copies of special resolutions, etc., with the Registrar~~	~~Summary~~	~~level 3~~	~~$300~~
~~117(6)~~	~~Company failing to lodge copies of special resolutions, etc., with the Registrar~~	~~Summary~~	~~level 3 per copy~~	~~-~~
~~119(4)~~	~~Company failing to enter minutes of certain meetings~~	~~Summary~~	~~level 3~~	~~$300~~
~~119A(3)~~	~~Company failing to keep minutes, etc., at its registered office or failing to notify the Registrar where they are kept~~	~~Summary~~	~~level 5~~	~~$700~~

~~120(3)~~	~~Company failing to allow minutes, etc., to be inspected~~	~~Summary~~	~~level 3~~	~~$300~~
~~121(4)~~	~~Director failing to take reasonable steps to ensure that proper books of account are kept~~	~~Summary~~	~~$300000 and 12 months~~	~~-~~
~~122(3)~~	~~Director failing to take reasonable steps to ensure that accounts are tabled at the Annual General Meeting~~	~~Summary~~	~~$300000 and 12 months~~	~~-~~
~~123(6)~~	~~Director failing to take reasonable steps to ensure that accounts tabled at the Annual General Meeting comply with section 123~~	~~Summary~~	~~$300000 and 12 months~~	~~-~~
~~124(3)~~	~~Director failing to take reasonable steps to ensure that group accounts tabled at the Annual General Meeting comply with section 124~~	~~Summary~~	~~$300000 and 12 months~~	~~-~~
~~128(6)~~	~~Company failing to satisfy obligation imposed under section 128(5) or (5A) (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 6~~	~~$300~~
~~129(6)~~	~~Company failing to satisfy obligation imposed under section 129(5) or (5A) (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 6~~	~~$300~~
~~129B(3)~~	~~Company failing to have balance sheet signed before issue, etc.~~	~~Summary~~	~~level 4~~	~~-~~
~~129C(3)~~	~~Company failing to annex required documents to balance sheet before issue, etc.~~	~~Summary~~	~~$150000~~	~~-~~
~~129F~~	~~Director failing to take reasonable steps to secure compliance with sections 129D and 129E~~	~~Summary~~	~~$150000 and 6 months~~	~~-~~
~~129G(3) (relating to subsection (1) or (2A))~~	~~Company failing to circulate balance sheet, etc., to members or to supply a copy of a statement~~	~~Summary~~	~~level 3~~	~~-~~
~~129G(3) (relating to subsection (2))~~	~~Company failing to supply a copy of last balance sheet on request of a member, etc.~~	~~Summary~~	~~level 5~~	~~$300~~
~~131(7)~~	~~Company failing to give notice of resolution to remove an auditor~~	~~Summary~~	~~level 3~~	~~$300~~
~~133(2)~~	~~Subsidiary or holding company failing to give auditors information~~	~~Summary~~	~~level 3~~	~~-~~
~~134(1)~~	~~Officer recklessly or knowingly making false statements, etc., to auditors~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~140A(7)~~	~~Company failing to give notice of resignation, etc., of auditor~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~140B(3)~~	~~Director failing to convene a~~	~~On indictment~~	~~$150000 and 2~~	~~-~~

	~~meeting on the requisition of the auditor~~	~~Summary~~	~~years level 5 and 6 months~~	~~-~~
~~141CA(2)~~	~~Company sending copy of summary financial report in place of copy of relevant financial documents in contravention of section 141CA(1) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~level 3~~	~~-~~
~~141CC(3)~~	~~Company sending copy of summary financial report in contravention of section 141CC(1) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~level 3~~	~~-~~
~~141CC(3)~~	~~Company sending copy of relevant financial documents in contravention of section 141CC(2) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~level 3~~	~~-~~
~~141CD(3)~~	~~Company failing to comply with request for copy of relevant financial documents (Added 27 of 2001 s. 8)~~	~~Summary~~	~~level 5~~	~~$300~~
~~141CE(2)~~	~~Company sending copy of summary financial report where there is in existence any of the events mentioned in section 141CE(1) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~level 5~~	~~-~~
~~141CF(3)(a)~~	~~Company circulates, issues or publishes copy of summary financial report which does not comply with requirements referred to in section 141CF(1) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~$300000~~	~~-~~
~~141CF(3)(b)~~	~~Officer circulates, issues or publishes copy of summary financial report which does not comply with requirements referred to in section 141CF(1) (Added 27 of 2001 s. 8)~~	~~Summary~~	~~$300000 and 12 months~~	~~-~~
~~141D(4)~~	~~Director failing to take reasonable steps to ensure directors' report is attached to balance sheet~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~141E(4)~~	~~Company failing to deliver to Registrar warning statement (Added 18 of 2006 s. 66)~~	~~Summary~~	~~level 5~~	~~$700~~
~~152A(4)~~	~~Company, etc., failing to produce books, etc., to Financial Secretary when required under section 152A~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~152B(4)~~	~~Person interfering with execution of a search warrant issued under section 152B~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~152C(2)~~	~~Person disclosing information gathered under section 152A contrary to section 152C~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6~~	~~-~~

			~~months~~	
~~152D(1)~~	~~Person destroying, etc., documents required under section 152A~~	~~On indictment~~	~~$1500000 and 3 years~~	~~-~~
		~~Summary~~	~~$150000 and 12 months~~	~~-~~
~~152E~~	~~Person falsifying documents required under section 152A~~	~~On indictment~~	~~$1500000 and 3 years~~	~~-~~
		~~Summary~~	~~$150000 and 12 months~~	~~-~~
~~152FC(3)~~	~~Person disclosing or using information or document obtained as a result of an inspection under section 152FA contrary to section 152FC(1) or (2) (Added 30 of 2004 s. 2)~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~153(3)~~	~~Company (not being a private company) failing to have at least 2 directors (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~153A(3)~~	~~Private company failing to have at least one director (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~153C(4)~~	~~Sole director failing to provide the company with a written record of his decision (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~153C(5)~~	~~Company failing to enter record of written record of decision provided in accordance with section 153C (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~155(5)~~	~~Unqualified person acting as a director~~	~~Summary~~	~~level 3~~	~~$300~~
~~155A(5)~~	~~Director failing to take reasonable steps to prevent the carrying into effect of proposals specified in section 155A without the approval of the company in general meeting~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~155B(3)~~	~~Director failing to give notice of material interest in a matter, the subject of a resolution to be discussed at a general meeting or meeting of a class of members, which affects the matter differently from the interest of the company~~	~~Summary~~	~~level 6~~	~~-~~
~~155B(4)~~	~~Company failing to give notice of a director's material interest in a matter, the subject of a resolution to be discussed at a general meeting or meeting of a class of members, which affects the matter differently from the interest of the company~~	~~Summary~~	~~level 6~~	~~-~~

~~156(1)~~	~~Undischarged bankrupt acting as a director, etc.~~	~~On indictment~~	~~$700000 and 2 years~~	~~-~~
		~~Summary~~	~~$150000 and 12 months~~	~~-~~
~~157J(3)~~	~~Company entering into a transaction or arrangement contrary to section 157H (Amended 28 of 2003 s. 119)~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~158(8)~~	~~Company refusing to permit inspection of register of directors and secretaries or failing to keep or maintain the register~~	~~Summary~~	~~level 3~~	~~$300~~
~~158A(3)~~	~~Company failing to keep register of directors and secretaries at registered office or failing to notify the Registrar of place where register is kept~~	~~Summary~~	~~level 5~~	~~$700~~
~~158B(2)~~	~~Director, etc., defaulting in giving notice to the company of such matters required under section 158 (Amended 75 of 1993 s. 23)~~	~~Summary~~	~~level 6~~	~~$550~~
~~159(3)~~	~~Director, etc., defaulting in giving notice that liability of a director, etc., is, by provision in the memorandum, unlimited before the position is filled~~	~~Summary~~	~~level 4~~	~~-~~
~~161A(2)~~	~~Director failing to take all reasonable steps to ensure amounts required to be included in the company's accounts, etc., show the previous year's equivalent amount~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~161BA(7)~~	~~Director failing to take all reasonable steps to ensure the company, if an authorized financial institution, maintains a register of agreements~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~161BA(11)~~	~~Company failing to permit inspection or to send a copy as required of the register of agreements for an authorized financial institution~~	~~Summary~~	~~level 3~~	~~$300~~
~~161BB(3)~~	~~Director failing to take all reasonable steps to ensure the company keeps a register of particulars relating to quasi-loans and credit transactions, etc. (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~161BB(7)~~	~~Company failing to permit inspection or to send a copy as required of the register of particulars relating to quasi-loans and credit transactions, etc. (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~

~~161C(3)~~	~~Director or shadow director failing to disclose matters required under section 161 or 161B (Amended 28 of 2003 s. 119)~~	~~Summary~~	~~level 5~~	~~-~~
~~162(3)~~	~~Director failing to disclose material interest in a contract~~	~~Summary~~	~~level 5~~	~~-~~
~~162A(2)~~	~~Company failing to disclose, etc., management contract relating to the management of the whole or a substantial part of company business~~	~~Summary~~	~~level 3~~	~~$300~~
~~162B(3)~~	~~Company having one member who is also a director failing to set out in a written memorandum the terms of a contract with that member (Added 28 of 2003 s. 119)~~	~~Summary~~	~~level 3~~	~~$300~~
~~163B(2)~~	~~Director, etc., failing to disclose payment for loss of office, etc., in connection with transfer of shares in company~~	~~Summary~~	~~level 5~~	~~-~~
~~166(4)~~	~~Company failing to deliver order sanctioning compromise to the Registrar~~	~~Summary~~	~~level 1 per copy~~	~~-~~
~~166A(4)~~	~~Company failing to give statement of effect of compromise, etc., with notice of meeting or where notice is by advertisement, failing to give notice of place of meeting or place where such details may be obtained~~	~~Summary~~	~~level 5~~	~~-~~
~~166A(5)~~	~~Director, etc., failing to give details of matters relating to himself relevant to section 166A~~	~~Summary~~	~~level 5~~	~~-~~
~~167(3)~~	~~Company failing to give notice of an order under section 167 to the Registrar~~	~~Summary~~	~~level 3~~	~~$300~~
~~168A(4)~~	~~Specified corporation failing to give the Registrar an office copy of an order altering, etc., the specified corporation's memorandum or articles on petition of a minority group (Amended 30 of 2004 s. 2)~~	~~Summary~~	~~level 3~~	~~$300~~
168BAI	Company failing to send or supply documents or information in hard copy form (Added 12 of 2010 s. 36)	Summary	level 3	$300
168M	Person contravening a disqualification order (Added 30 of 1994 s. 12)	On indictment	$100000 and 2 years	-
		Summary	$25000 and 6 months	-
190(5)	Person failing to comply with requirements to give information, etc., to liquidator under section	Summary	level 5	$300

	190 (Amended 46 of 2000 s. 39)			
227(3)	Liquidator failing to deliver dissolution order to the Registrar	Summary	level 5	$300
228A(4)	Director signing a winding-up statement without having reasonable grounds for the opinion that the company cannot by reason of its liabilities continue its business, or to consider that the winding up should be commenced under section 228A because it is not reasonably practicable for it to be commenced under another section of the Ordinance (Added 28 of 2003 s. 119)	Summary	level 5 and 6 months	-
228A(6) (relating to subsection (5)(b))	Director failing to appoint a provisional liquidator forthwith after delivery of winding-up statement to the Registrar (Added 28 of 2003 s. 119)	Summary	level 5	-
228A(6) (relating to subsection (5)(c))	Director failing to cause meetings of the company or creditors to be summoned within 28 days after delivery of winding-up statement (Added 28 of 2003 s. 119)	Summary	level 5	-
228A(13) (relating to subsection (10))	Provisional liquidator failing to deliver to the Registrar the notice of appointment required under section 228A(10) (Added 28 of 2003 s. 119)	Summary	level 3	$200
228A(13) (relating to subsection (11)(a))	Person ceasing to act as provisional liquidator failing to publish in the Gazette the notice required under section 228A(11)(a) (Added 28 of 2003 s. 119)	Summary	level 3	$200
228A(13) (relating to subsection (11)(b))	Person ceasing to act as provisional liquidator failing to deliver to the Registrar the notice required under section 228A(11)(b) (Added 28 of 2003 s. 119)	Summary	level 3	$200
228A(13) (relating to subsection (12))	Provisional liquidator failing to deliver to the Registrar the notice of change of particulars required under section 228A(12) (Added 28 of 2003 s. 119)	Summary	level 3	$200
229(2)	Company failing to advertise in the Gazette notice of resolution to wind up voluntarily	Summary	level 3	$300
233(3)	Director signing a certificate that company being wound up voluntarily can meet its debts within the time set out in the certificate without having	Summary	level 5 and 6 months	-

	reasonable grounds to do so (Amended 28 of 2003 s. 119)			
237A(3)	Liquidator failing to call a meeting on forming the opinion that a company in voluntary liquidation will not be able to meet its debts within the time stated in the certificate of solvency issued under section 233 (Amended 28 of 2003 s. 119)	Summary	level 3	-
238(2)	Liquidator failing to call a general meeting at the end of any year	Summary	level 3	-
239(3)	Liquidator failing to send the Registrar a copy of accounts, etc., on completion of the winding up	Summary	level 3	$300
239(5)	Person failing to deliver an office copy of an order under section 239 to the Registrar for registration	Summary	level 3	$300
239(6)	Liquidator failing to call a final general meeting under section 239	Summary	level 3	-
241(6)	Company, etc., failing to comply with the requirements to call creditors' meeting, etc., after a meeting which proposes to wind up the company voluntarily	Summary	level 5	-
247(2)	Liquidator failing to call annual meeting of creditors	Summary	level 3	-
248(3)	Liquidator failing to send copy account or return of holding of final meeting to the Registrar	Summary	level 3	$300
248(5)	Person failing to deliver an office copy of an order under section 248 to the Registrar for registration	Summary	level 3	$300
248(6)	Liquidator failing to call a general meeting of the company or of creditors as required by section 248	Summary	level 3	-
253(4) (relating to subsection (1)(a))	Liquidator failing to publish in the Gazette the notice of appointment required under section 253(1)(a) (Added 28 of 2003 s. 119)	Summary	level 3	$300
253(4) (relating to subsection (1)(b))	Liquidator failing to deliver to the Registrar the notice of appointment required under section 253(1)(b) (Added 28 of 2003 s. 119)	Summary	level 3	$300
253(4) (relating to subsection (2)(a))	Person ceasing to act as liquidator failing to publish in the Gazette the notice required under section 253(2)(a) (Added 28 of 2003 s. 119)	Summary	level 3	$300
253(4)	Person ceasing to act as liquidator	Summary	level 3	$300

(relating to subsection (2)(b))	failing to deliver to the Registrar the notice required under section 253(2)(b) (Added 28 of 2003 s. 119)			
253(4) (relating to subsection (3))	Liquidator failing to deliver to the Registrar the notice of change of particulars required under section 253(3) (Added 28 of 2003 s. 119)	Summary	level 3	$300
271(1) (relating to paragraph (o))	Officer, etc., failing to comply with section 271 (offences by officers of companies in liquidation)	On indictment Summary	5 years 2 years	- -
271(1) (relating to any other paragraph)	Officer, etc., failing to comply with section 271 (offences by officers of companies in liquidation)	On indictment Summary	$150000 and 2 years level 5 and 6 months	- -
272	Officer, etc., falsifying, etc., books, etc.	On indictment Summary	$150000 and 2 years level 5 and 6 months	- -
273	Officer acting with intent to defraud creditors by giving, etc., or concealing, etc., property of company in liquidation	On indictment Summary	$150000 and 2 years level 5 and 6 months	- -
274(1)	Officer failing to keep books for the 2 years prior to winding up of company	On indictment Summary	$150000 and 2 years level 5 and 6 months	- -
275(3)	Person being a party to carrying on the business of a company with intent to defraud creditors	On indictment Summary	Fine (unlimited) and 5 years $150000 and 12 months	- -
278	Undischarged bankrupt or body corporate acting as liquidator	Summary	$150000	-
278A	Person corruptly inducing appointment of liquidator	Summary	$150000	-
280(2)	Company, etc., failing to notify on invoice, etc., that it is in liquidation	Summary	level 3	-
283(4)	Person contravening general rules made for the destruction, etc., of books, etc., of liquidated company	Summary	level 3	-
284(3)	Liquidator failing to send prescribed particulars with respect to the proceedings in and position of the liquidation during the liquidation to the Registrar	Summary	level 3	$700
290(2)	Person failing to deliver an office copy of an order under section 290 to the Registrar for registration	Summary	level 3	$300
~~291AA(14)~~	~~Person giving false or misleading information in connection with~~	~~Summary~~	~~level 6 and 6~~	~~-~~

	~~application for deregistration (Added 30 of 1999 s. 38)~~		~~months~~	
~~292(5)~~	~~Former director failing to keep books and papers of dissolved company (Added 30 of 1999 s. 38)~~	~~Summary~~	~~level 3~~	~~-~~
297(2)	Body corporate acting as a receiver	Summary	level 5	-
297A	Undischarged bankrupt acting as a receiver	On indictment	$150000 and 2 years	-
		Summary	level 5 and 6 months	-
299(2)	Company, etc., authorizing, etc., the issue of invoices, etc., without reference to its being in receivership, etc.	Summary	level 3	-
300A(7)	Receiver failing to give notices, etc., as required under section 300A	Summary	level 3	$300
300B(5)	Persons defaulting in complying with requirements of section 300B (special provisions as to statement submitted to receiver)	Summary	level 3	$300
301(2)	Receiver, etc., failing to deliver accounts to the Registrar	Summary	level 3	$300
~~337B(7)~~	~~Non-Hong Kong company carrying on business after being given notice under section 337B (Replaced 60 of 1990 s. 10. Amended 30 of 2004 s. 2)~~	~~Summary~~	~~level 6 and 6 months~~	~~$700~~
~~340~~	~~Non-Hong Kong company failing to comply with Part XI (Amended 30 of 2004 s. 2)~~	~~Summary~~	~~level 5~~	~~$700~~
342CA(3)	Amendment of prospectus consisting of one document not done in compliance with Part 2 of the Twentieth Schedule (Added 30 of 2004 s. 2)	Summary	level 6	-
342CB(4)	Amendment of prospectus consisting of more than one document not done in compliance with Part 2 of the Twenty-first Schedule (Added 30 of 2004 s. 2)	Summary	level 6	-
342D	Person responsible for issue, etc., of prospectus, etc., contravening sections 342 to 342C <* Note - Exp. X-Ref.: Sections 342, 342A, 342B, 342C *>	Summary	$150000	-
342F(1)	Authorizing the issue, circulation or distribution in Hong Kong of a prospectus ~~relating to shares in or debentures of a non-Hong Kong company containing an untrue statement (Added 86 of 1992 s. 20. Amended 30 of 2004 s. 2)~~	On indictment	$550000 and 3 years	-
		Summary	$150000 and 12 months	-

	(containing an untrue statement) relating to shares in or debentures of a company incorporated outside Hong Kong (whether the company has or has not established a place of business in Hong Kong)			
~~348C(4)~~	~~Company failing to take adequate precautions against falsification, etc., of registers, etc.~~	~~Summary~~	~~level 3~~	~~$300~~
349	Person making a false statement	Summary	level 6 and 6 months	-
~~349A(1)~~	~~Person dishonestly destroying, etc., registers~~	~~On indictment~~	~~7 years~~	~~-~~
~~349A(2)~~	~~Person wilfully or maliciously destroying, etc., registers~~	~~On indictment~~	~~$150000 and 2 years~~	~~-~~
		~~Summary~~	~~level 5 and 6 months~~	~~-~~
~~350~~	~~Person improperly using "Limited", etc.~~	~~Summary~~	~~level 3~~	~~$300~~
~~350A~~	~~Company failing to state paid-up capital at the time of stating authorized capital~~	~~Summary~~	~~level 3~~	~~-~~
360J	Person obstructing Official Receiver	Summary	$150000 and 6 months	-

(Twelfth Schedule added 7 of 1990 s. 4. Amended 77 of 1991 s. 8; 30 of 1994 s. 12; 84 of 1995 s. 8; L.N. 306 of 1996; 3 of 1997 s. 62; 28 of 2003 s. 119; 18 of 2006 s. 66)

Schedule:	13	PROVISIONS RELATING TO ACQUISITION OF MINORITY SHARES AFTER SUCCESSFUL BUY OUT BY SHARE REPURCHASE		30/06/1997

~~THIRTEENTH SCHEDULE~~ ~~[sections 49BA, 58 & 168B]~~

~~PART 1 RIGHT OF REPURCHASING COMPANY TO BUY OUT MINORITY SHAREHOLDERS~~

~~1. In a case where a shareholder, or a number of shareholders (in this Schedule referred to as the "relevant shareholder"), gives notice to all other shareholders in the repurchasing company not later than the date that notice of the meeting called for the purpose of authorizing the proposed offer is given that the relevant shareholder shall not tender any of the shares held by it for purchase by the repurchasing company, if, during the period of 4 months beginning on the date of the offer, the repurchasing company buys nine-tenths of the shares (other than the shares held by the relevant shareholder) for which the repurchasing company has made the offer, the repurchasing company may, subject to paragraphs 2 and 3 being complied with, give notice to the holder of any shares to which the offer relates, and which the repurchasing company has not acquired, that it desires to purchase those shares.~~

~~2. The relevant shareholder shall not tender any of its shares under the offer.~~

~~3. The repurchasing company shall not give notice to the relevant shareholder of its desire to purchase any of the relevant shareholder's shares.~~

~~4. Where the repurchasing company gives notice under paragraph 1, it shall do so in the specified form not later than 5 months after the offer; and shall be entitled and bound to purchase those shares on the terms of the offer. (Amended 3 of 1997 s. 63)~~

~~5. The repurchasing company shall pay to any holder to whom it has given notice under paragraph 1, the amount of the offer for the shares on receipt of~~

~~(a) the share certificate;~~

~~(b) satisfactory evidence of his title; or~~

~~(c) a declaration as to the loss or destruction of the share certificate together with a suitable indemnity.~~

~~6. Where the repurchasing company has given notice under paragraph 1 to the holder of any shares, the court may, on an application made by the holder of the shares within 2 months from the date on which the notice was given, order that the repurchasing company shall not be entitled and bound to purchase those shares or specify terms of purchase different from the terms of the offer.~~

~~7. Where an offer is such as to give the holder of shares a choice of terms, the repurchasing company shall in any notice which it gives under paragraph 1 state the particulars of the choice and~~

~~(a) that the holder of the shares may within 2 months from the date of the notice exercise that choice by letter sent to the repurchasing company at the address specified in the notice; and~~

~~(b) which terms are to be taken as applying in default of his exercising the choice as set out in the offer.~~

~~8. Where the repurchasing company has given notice under paragraph 1 and the court has not ordered to the contrary, the repurchasing company shall on the expiration of 2 months from the date of the notice, or if an application to the court is pending after that application has been disposed of, cancel any outstanding shares the subject of the notice, and pay the moneys due for their purchase into a separate bank account in trust for the persons entitled to the shares for which the moneys were received.~~

~~9. A person who claims to be entitled to any funds in the account referred to in paragraph 8 may apply to the repurchasing company for payment on production of~~

~~(a) the share certificate;~~

~~(b) satisfactory evidence of his title; or~~

~~(c) a declaration as to the loss or destruction of the share certificate together with a suitable indemnity.~~

~~PART 2-RIGHT OF MINORITY SHAREHOLDERS TO BE BOUGHT OUT BY REPURCHASING COMPANY~~

~~10. If not later than the expiration of the period within which the offer can be accepted, the total of~~

~~(a) the share holding of the relevant shareholder; and~~

~~(b) the shares purchased by the repurchasing company,~~

~~is not less than nine-tenths in value of the shares, or shares in a class, as the case may be, of the repurchasing company as at the date on which the offer was made, the holder of any shares to which the offer relates (other than the relevant shareholder) may by letter addressed to the repurchasing company require it to purchase those shares.~~

~~11. Where a shareholder exercises his rights under paragraph 10, the repurchasing company is entitled and bound to purchase the shares on the terms of the offer, or as may be agreed, or as the court may, on the application of the holder or the repurchasing company, order.~~

~~12. Within 1 month of the expiration of the period within which the offer can be accepted the repurchasing company shall give notice in the specified form and in a manner specified by the Registrar to a person having rights under this Part calling on him to decide whether or not to exercise them, but he shall not be entitled to exercise them later than 2 months after the date on which the notice is given. (Amended 3 of 1997 s. 63)~~

~~13. Where an offer is such as to give the holder of shares a choice of terms, the repurchasing company shall in any notice given under paragraph 12 state the particulars of the choice and~~

~~(a) that the holder of the shares may exercise that choice in making a requirement under this Part; and~~

~~(b) which terms are to be taken as applying if he makes such a requirement without exercising the choice,~~

~~and the terms of the offer mentioned in paragraph 11 shall be determined accordingly.~~

~~(Thirteenth Schedule added 77 of 1991 s. 9)~~

~~Schedule:~~	~~14~~	~~TABLE OF FEES TO BE PAID TO A COMPANY~~		~~30/06/1997~~

~~FOURTEENTH SCHEDULE~~ ~~[sections 98 & 360]~~

~~1. By a non-member for inspecting the register of members~~ ~~$1~~

~~2. By a member or non-member for making a copy of the register of members by photostatic means~~

~~(a) per sheet or page of size equal to or smaller than 210 mm x 330 mm~~ ~~80 cents~~

~~(b) per sheet or page of size greater than 210 mm x 330 mm~~ ~~$3~~

~~3. By a member or non-member for making a copy of the register by any other means per record of each member~~

~~50 cents~~

~~(Fourteenth Schedule added 75 of 1993 s. 24)~~

Schedule:	15	MATTERS FOR DETERMINING UNFITNESS OF DIRECTORS	L.N. 239 of 1999	11/11/1999

FIFTEENTH SCHEDULE [section 168K]

PART I

MATTERS APPLICABLE IN ALL CASES

1. Any misfeasance or breach of any fiduciary or other duty by the director in relation to the company.

2. Any misapplication or retention by the director of, or any conduct by the director giving rise to an obligation to account for, any money or other property of the company.

3. The extent of the director's responsibility for any failure by the company to comply ~~with any of the following provisions~~ with—

~~(a) section 81;~~

~~(b) section 95;~~

~~(c) section 96;~~

~~(d) section 107;~~

~~(e) (Repealed 30 of 1999 s. 40)~~

~~(f) section 109;~~

~~(g) section 119A;~~

~~(h) section 121;~~

~~(i) section 158; and~~

~~(j) section 158A.~~

(a) any of the following provisions of the pre-amended Ordinance—

(i) section 81;

(ii) section 95;

(iii) section 96;

(iv) section 107;

(v) section 109;

(vi) section 119A;

(vii) section 121;

(viii) section 158;

(ix) section 158A; and

(b) any of the following provisions of the Companies Ordinance (of 2011)—

(i) section 334;

(ii) section 335;
(iii) section 340;
(iv) section 341;
(v) section 369;
(vi) section 370;
(vii) section 373;
(viii) section 609;
(ix) section 617;
(x) section 618;
(xi) section 620;
(xii) section 632;
(xiii) section 633(1);
(xiv) section 634;
(xv) section 636;
(xvi) section 639;
(xvii) section 640(1);
(xviii) section 641;
(xix) section 643;
(xx) section 653; and
(xxi) section 655.

4. The extent of the director's responsibility for any failure by the directors of the company to comply ~~with sections 122 and 129B.~~ with—

(a) sections 122 and 129B of the pre-amended Ordinance; and
(b) sections 379 and 420 of the Companies Ordinance (of 2011).

PART II

MATTERS APPLICABLE WHERE COMPANY HAS BECOME INSOLVENT

1. The extent of the director's responsibility for the causes of the company becoming insolvent.

2. The extent of the director's responsibility for any failure by the company to supply any goods or services which have been paid for (in whole or in part).

3. The extent of the director's responsibility for the company entering into any transaction or giving any preference, being a transaction or preference liable to be set aside under section 182 or 266.

4. The extent of the director's responsibility for any failure by the directors of the company to comply with section 241.

5. Any failure by the director to comply with any obligation imposed on him by or under any of the following provisions-

(a) section 190;
(b) section 211;
(c) section 228A;
(d) section 241; (Amended 3 of 1997 s. 64)
(da) section 274; and (Added 3 of 1997 s. 64)
(e) section 300A.

(Fifteenth Schedule added 30 of 1994 s. 13)

~~Schedule:~~	~~16~~	~~COMPANIES TO WHICH SECTION 291AA OR 344A OF THIS ORDINANCE DOES NOT APPLY~~	~~L.N. 12 of 2003~~	~~01/04/2003~~

~~SIXTEENTH SCHEDULE~~ ~~[sections 291AA, 344A & 360]~~

~~PART I~~

~~COMPANIES TO WHICH SECTIONS 291AA AND 344A OF THIS ORDINANCE DO NOT APPLY~~

~~1. An authorized institution as defined in the Banking Ordinance (Cap 155).~~
~~2. An insurer as defined in the Insurance Companies Ordinance (Cap 41).~~
~~3. A corporation licensed under Part V of the Securities and Futures Ordinance (Cap 571) to carry on a business in any regulated activity within the meaning of Schedule 5 to that Ordinance and an associated entity of the corporation within the meaning of Part VI of that Ordinance. (Replaced 5 of 2002 s. 407)~~
~~4-7. (Repealed 5 of 2002 s. 407)~~
~~8. An approved trustee as defined in the Mandatory Provident Fund Schemes Ordinance (Cap 485).~~
~~9. A company having a subsidiary that falls within any of the categories specified in items 1 to 8.~~
~~10. A company that has fallen within any of the categories specified in items 1 to 9 at any time during the preceding 5 years.~~

~~PART II~~

~~COMPANIES TO WHICH SECTION 291AA OF THIS ORDINANCE DOES NOT APPLY~~

~~PART III~~

~~COMPANIES TO WHICH SECTION 344A OF THIS ORDINANCE DOES NOT APPLY~~

~~(Sixteenth Schedule added 30 of 1999 s. 41)~~

Schedule:	17	OFFERS SPECIFIED FOR THE PURPOSES OF PARAGRAPH (b)(ii) OF THE DEFINITION OF "PROSPECTUS" IN SECTION 2(1) OF THIS ORDINANCE	8 of 2011	13/05/2011

SEVENTEENTH SCHEDULE [sections 2, 38, 38AA, 43, 48A, 342, 342AA & 360 & 18th Sch.]
(Amended 8 of 2011 s. 21)

PART 1

LIST OF OFFERS, ETC. NOT FALLING WITHIN DEFINITION

1. An offer to professional investors within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571)(including professional investors falling within paragraph (j) of the definition of "professional investor" in that section).

2. An offer—
   (a) to not more than 50 persons; and
   (b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

3. An offer—
   (a) in respect of which the total consideration payable for the shares or debentures concerned shall not

exceed the amount specified in Part 2, or its equivalent in another currency; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

4. An offer—

(a) in respect of which the minimum denomination of, or the minimum consideration payable by any person for, the shares or, in the case of debentures, the minimum principal amount to be subscribed or purchased, is not less than the amount specified in Part 3, or its equivalent in another currency; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

5. An offer in connection with an invitation made in good faith to enter into an underwriting agreement.

6. An offer in connection with a takeover or merger or a share ~~repurchase which is in compliance with the Codes on Takeovers and Mergers and Share Repurchases issued by the Commission as in force from time to time.~~ buy-back which is in compliance with the Codes on Takeovers and Mergers and Share Buy-backs issued by the Commission as in force from time to time.

7. An offer of shares in a company—

(a) made—

(i) for no consideration, to any or all holders of shares in the company; or

(ii) as an alternative to a dividend or other distribution, to all holders of shares of a particular class in the company, provided the offer is of fully paid-up shares of the same class; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

8. An offer—

(a) of shares in or debentures of a company;

(b) to persons who are qualifying persons in respect of the company referred to in paragraph (a) or of another company which is a member of the same group of companies as the company referred to in that paragraph;

(c) by—

(i) the company referred to in paragraph (a);

(ii) another company which is a member of the same group of companies as the company referred to in paragraph (a); or

(iii) the trustees—

(A) of a trust established by any one or more of the companies mentioned in subparagraphs (i) and (ii); and

(B) holding the shares or debentures the subject of the offer;

(d) on terms that the only persons who can acquire the shares or debentures are the qualifying persons to whom they are offered or, if the terms of the offer so permit, any qualifying person; and

(e) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

9. An offer by—

(a) a charitable institution or trust of a public character mentioned in section 88 of the Inland Revenue Ordinance (Cap 112); or

(b) an educational establishment within the meaning of section 2(1) of the Sex Discrimination Ordinance (Cap 480),

where—

(c) the proceeds of the offer will be applied towards the objectives of the charitable institution or trust, or educational establishment, as the case may be; and

(d) the offer contains a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

10. An offer—

(a) to members, or applicants for membership, of a club or association—

(i) who can reasonably be regarded as having a common interest with each other and with the club or association in the affairs of the club or association; and

(ii) where the proceeds of the offer are to be applied for purposes which can reasonably be regarded

as concerning the affairs of the club or association; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

11. An offer—

(a) in respect of—

(i) an exchange of shares in the same company which does not result in an increase in the issued share capital of the company; or

(ii) an exchange of debentures of the same company which does not result in an increase in the aggregate principal amount outstanding under the debentures; and

(b) containing a statement specified in Part 3 of the Eighteenth Schedule to this Ordinance.

12. An offer—

(a) in connection with a collective investment scheme authorized under section 104 of the Securities and Futures Ordinance (Cap 571); and

(b) in connection with which the issue of each advertisement, invitation or document has been authorized under section 105 of the Securities and Futures Ordinance (Cap 571).

PART 2

AMOUNT SPECIFIED FOR THE PURPOSES OF SECTION 3 OF PART 1

$5000000

PART 3

AMOUNT SPECIFIED FOR THE PURPOSES OF SECTION 4 OF PART 1

$500000

PART 4

INTERPRETATION OF PART 1

1. Any reference to an offer in Part 1—

(a) includes an offer of any right, option or interest in or in relation to the shares or debentures the subject of the offer;

(b) does not include the offer to the extent that it is made to persons who are outside Hong Kong.

2. A prospectus, notice, circular, brochure, advertisement, or other document, still falls within Part 1 if it falls entirely within any combination of any of sections 1, 2, 5, 6, 7, 8, 9, 10, 11 or 12 of Part 1.

3. For the purposes of sections 2 and 3 of Part 1, an offer is to be taken together with any other offer of the same class of shares or debentures—

(a) which was made by the same person;

(b) which was open at any time within the period of 12 months ending with the date on which the first-mentioned offer is first made; and

(c) the document issued in respect of which was not a prospectus by virtue of either of those sections being satisfied.

4. For the purposes of section 2 of Part 1—

(a) the making of an offer of shares or debentures to trustees or members of a partnership or unincorporated association in their capacity as such; or

(b) the making of such an offer to any other 2 or more persons jointly,

is to be treated as the making of an offer to a single person.

5. For the purposes of section 7 of Part 1, a holder of shares in a company, in relation to an offer mentioned in that section, means a person who, at the close of business on a date—

(a) specified in the offer; or

(b) falling within the period of 60 days ending with the date on which the offer is first made,

is a holder of shares in the company.

6. For the purposes of this section and section 8 of Part 1—

(a) "qualifying person" (合資格的人), in relation to a company—

(i) means—

(A) a bona fide director, employee, officer, consultant, former director, former employee, former officer or former consultant of the company;

(B) a bona fide dependent of any person mentioned in sub-subparagraph (A);

(ii) includes the trustees of a trust—

(A) established by any one or more of the companies mentioned in section 8(c)(i) and (ii) of Part 1; and

(B) which can hold shares or debentures on behalf of any person referred to in subparagraph (i);

(b) "consultant" (顧問) means a person who, pursuant to a contract for services, renders services to a company ("the relevant company") which are commonly rendered by an employee of—

(i) the relevant company; or

(ii) a company belonging to the class of companies which predominantly carry out the same kind of business as the relevant company;

(c) "dependent" (受養人), in relation to a person, means—

(i) the wife, husband, widow or widower of the person; or

(ii) any child, or stepchild, of the person under the age of 18 years.

7. The Commission may prepare and publish guidelines in relation to the provisions of this Schedule.

8. Guidelines published under section 7 are not subsidiary legislation.

(Seventeenth Schedule added 30 of 2004 s. 2)

Schedule:	18	WARNING, ETC. STATEMENTS TO BE CONTAINED IN CERTAIN DOCUMENTS	8 of 2011	13/05/2011

EIGHTEENTH SCHEDULE

[sections 38, 38AA, 342, 342AA, & 360 & 17th & 21st Schs.]
(Amended 8 of 2011 s. 22)

PART 1

STATEMENT TO BE CONTAINED IN PROSPECTUS TO WHICH SECTION 38(1) OF THIS ORDINANCE APPLIES

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

"IMPORTANT

If you are in any doubt about any of the contents of this prospectus, you should obtain independent professional advice.";

and, if in the Chinese language, a statement in the following form or a form to the like effect—

"重要提示

如你對此招股章程的任何內容有任何疑問，你應尋求獨立專業意見。".

PART 2

STATEMENT TO BE CONTAINED IN PROSPECTUS TO WHICH
SECTION 342(1) OF THIS ORDINANCE APPLIES

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

"IMPORTANT

If you are in any doubt about any of the contents of this prospectus, you should obtain independent professional advice.";

and, if in the Chinese language, a statement in the following form or a form to the like effect—

"重要提示

如你對此招股章程的任何內容有任何疑問，你應尋求獨立專業意見。".

PART 3

STATEMENT TO BE CONTAINED IN CERTAIN OFFERS
SPECIFIED IN PART 1 OF THE
SEVENTEENTH SCHEDULE

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

"WA R N I N G

The contents of this document have not been reviewed by any regulatory authority in Hong Kong. You are advised to exercise caution in relation to the offer. If you are in any doubt about any of the contents of this document, you should obtain independent professional advice.";

and, if in the Chinese language, a statement in the following form or a form to the like effect—

"警告

本文件的內容未經在香港的規管當局審核。你應就有關要約謹慎行事。如你對本文件的任何內容有任何疑問，你應尋求獨立專業意見。".

PART 4

STATEMENT TO BE CONTAINED IN ISSUE
PROSPECTUS, ETC. MENTIONED IN
THE TWENTY-FIRST SCHEDULE

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

"Potential investors should read the issue prospectus in conjunction with the programme prospectus to which it relates in order to understand the offer to which the documents relate, in particular before making an application in response to the offer.";

and, if in the Chinese language, a statement in the following form or a form to the like effect—

"潛在投資者應參閱發行章程並一併參閱與其相關的計劃章程，以明白該文件所關乎的要約，你尤其應該在應有關要約提出申請前參閱上述文件。".

PART 5

STATEMENT TO BE CONTAINED IN AMENDMENT
TO ISSUE PROSPECTUS MENTIONED IN
THE TWENTY-FIRST SCHEDULE

A statement, in a prominent position, if in the English language, in the following form or a form to the like effect—

"Potential investors should read this amendment in conjunction with the issue prospectus which it amends in order to understand the offer to which the documents relate, in particular before making an application in response to the offer.";

and, if in the Chinese language, a statement in the following form or a form to the like effect—

"潛在投資者應參閱本修訂並一併參閱被修訂的發行章程，以明白該文件所關乎的要約，你尤其應該在應有關要約提出申請前參閱上述文件。".

(Eighteenth Schedule added 30 of 2004 s. 2)

Schedule:	19	CONTENTS AND PUBLICATION REQUIREMENTS OF ADVERTISEMENTS MENTIONED IN SECTION 38B(2)(e) OF THIS ORDINANCE	8 of 2011	13/05/2011

NINETEENTH SCHEDULE [sections 38AA, 38B, 342AA & 360]
(Amended 8 of 2011 s. 23)

1. Contents of advertisement

(1) The advertisement must contain the following mandatory particulars or particulars to the like effect—

(a) a statement that the advertisement is issued by the company to which the advertisement relates;

(b) a warning statement that potential investors should read the prospectus for detailed information about the company and the proposed offering before deciding whether or not to invest in the shares or debentures concerned; and

(c) a statement that the advertisement does not constitute an offer or an invitation to induce an offer by any person to acquire, subscribe for or purchase the shares or debentures concerned.

(2) The advertisement may contain the following discretionary particulars but, subject to section 38B(2AA) of this Ordinance, no other discretionary particulars—

(a) the name of the company to which the advertisement relates and the place of incorporation of the company;

(b) a description of the shares or debentures offered or proposed to be offered;

(c) the dates on which, and the places at which, the prospectus to which the advertisement relates is or will be available to the public;

(d) details of the administrative procedures relevant to investors that are likely to assist their participation in the offer;

(e) if a listing is being applied for in Hong Kong or elsewhere, a statement that the company is seeking listing of, and permission to deal in, the shares or debentures concerned on the stock exchange or stock exchanges concerned; and

(f) legends designed to clarify the legal nature of the advertisement if, but only if, the legends are

consistent with—
(i) the advertisement not being a prospectus; and
(ii) guidelines published under section 38BA of this Ordinance.

2. Language

The advertisement may be in the English language or the Chinese language or both languages.

(Nineteenth Schedule added 30 of 2004 s. 2)

Schedule:	20	AMENDMENT OF PROSPECTUS CONSISTING OF ONE DOCUMENT	8 of 2011	13/05/2011

TWENTIETH SCHEDULE

[sections 38A, 38AA, 39A, 342A, 342AA, 342CA & 360 & 12th Sch.]
(Amended 8 of 2011 s. 24)

PART 1

COMPANIES INCORPORATED IN HONG KONG

1. Amendments

The information contained in—
(a) a prospectus may only be amended by—
(i) an addendum to the prospectus; or
(ii) replacing the prospectus with a new prospectus;
(b) an addendum to a prospectus may only be amended by—
(i) a further addendum to the prospectus;
(ii) replacing the addendum with a new addendum; or
(iii) replacing the addendum and prospectus with a new prospectus.

2. Amendment made pursuant to section 1 is prospectus

It is hereby declared that any amendment made pursuant to section 1 is a prospectus and, subject to section 3, the provisions of this Ordinance shall apply to the amendment accordingly.

3. Certain amendments made pursuant to section 1 to be read with prospectus

Where it enables a provision of this Ordinance (including paragraph 3 of the Third Schedule to this Ordinance) to apply to an amendment made pursuant to section 1(a)(i) or (b)(i) or (ii), the amendment shall, for the purposes of that application, be read with the prospectus to which it relates and the addenda, if any, to the prospectus.

PART 2

COMPANIES INCORPORATED OUTSIDE HONG KONG

1. Amendments

The information contained in—
(a) a prospectus may only be amended by—

(i) an addendum to the prospectus; or
(ii) replacing the prospectus with a new prospectus;

(b) an addendum to a prospectus may only be amended by—
(i) a further addendum to the prospectus;
(ii) replacing the addendum with a new addendum; or
(iii) replacing the addendum and prospectus with a new prospectus.

2. Amendment made pursuant to section 1 is prospectus

It is hereby declared that any amendment made pursuant to section 1 is a prospectus and, subject to section 3, the provisions of this Ordinance shall apply to the amendment accordingly.

3. Certain amendments made pursuant to section 1 to be read with prospectus

Where it enables a provision of this Ordinance (including paragraph 3 of the Third Schedule to this Ordinance) to apply to an amendment made pursuant to section 1(a)(i) or (b)(i) or (ii), the amendment shall, for the purposes of that application, be read with the prospectus to which it relates and the addenda, if any, to the prospectus.

(Twentieth Schedule added 30 of 2004 s. 2)

Schedule:	21	PROVISIONS IN ACCORDANCE WITH WHICH A PROSPECTUS MAY CONSIST OF MORE THAN ONE DOCUMENT	8 of 2011	13/05/2011

Expanded Cross Reference:
37, 38, 38A, 38B, 38BA, 38C, 38D, 39, 39A, 39B, 39C, 40, 40A, 40B, 41, 41A, 42, 43, 44, 44A, 44B

TWENTY-FIRST SCHEDULE [sections 38A, 38AA, 39B, 342A, 342AA, 342CB & 360 & 12th & 18th Schs.]
(Amended 8 of 2011 s. 25)

PART 1

PROSPECTUS TO WHICH THE PROVISIONS OF PART II OF THIS ORDINANCE APPLY

1. Interpretation

In this Part—

"issue prospectus" (發行章程) means that prospectus to which the provisions of Part II of this Ordinance apply contained in the document, or series of documents, mentioned in section 2(1)(b);

"programme prospectus" (計劃章程) means that prospectus to which the provisions of Part II of this Ordinance apply contained in the document mentioned in section 2(1)(a);

"relevant information" (有關資料), in relation to a prospectus, means such information as is required by the provisions of sections 37 to 44B of, and the Third Schedule to, this Ordinance to be contained in the prospectus. <* Note- Exp. x-Ref: Sections 37, 38, 38A, 38B, 38BA, 38C, 38D, 39, 39A, 39B, 39C, 40, 40A, 40B, 41, 41A, 42, 43, 44, 44A, 44B *>

2. Prospectus consisting of more than one document

(1) A prospectus may consist of—

(a) a document containing such relevant information as the issuer of the document thinks fit (but excluding the price, or any formula for calculating the price, of the shares or debentures to which the prospectus relates); and

(b) a document, or series of documents, containing such relevant information as is not already contained in the document mentioned in paragraph (a).

(2) For the avoidance of doubt, it is hereby declared that an issue prospectus does not have to be issued at the same time as the programme prospectus concerned is issued.

3. Amendments

The information contained in—

(a) a programme prospectus may only be amended by—

(i) an addendum to the programme prospectus;

(ii) replacing the programme prospectus with a new programme prospectus; or

(iii) the issue prospectus concerned or an addendum to the issue prospectus;

(b) an issue prospectus may only be amended by—

(i) an addendum to the issue prospectus; or

(ii) replacing the issue prospectus with a new issue prospectus;

(c) an addendum to a programme prospectus may only be amended by—

(i) a further addendum to the programme prospectus;

(ii) replacing the addendum with a new addendum;

(iii) replacing the addendum and programme prospectus with a new programme prospectus; or

(iv) the issue prospectus concerned or an addendum to the issue prospectus;

(d) an addendum to an issue prospectus may only be amended by—

(i) replacing the addendum with a new addendum; or

(ii) replacing the addendum and issue prospectus with a new issue prospectus.

4. Amendment made pursuant to section 3 is prospectus

It is hereby declared that any amendment made pursuant to section 3 is a prospectus and, subject to section 5, the provisions of this Ordinance shall apply to the amendment accordingly.

5. Certain amendments made pursuant to section 3 to be read with other related documents

Where it enables a provision of this Ordinance (including paragraph 3 of the Third Schedule to this Ordinance) to apply to an amendment made pursuant to section 3, the amendment shall, for the purposes of that application, be read with all or any of the programme prospectus to which it relates and the addenda, if any, to the programme prospectus and the issue prospectus to which it relates and the addenda, if any, to the issue prospectus, as the case requires.

6. Warning

(1) Every issue prospectus (including a new issue prospectus mentioned in section 3(b)(ii) or (d)(ii)) and any form of application must contain a statement specified in Part 4 of the Eighteenth Schedule to this Ordinance.

(2) Any amendment made pursuant to section 3(b)(i) must contain a statement specified in Part 5 of the Eighteenth Schedule to this Ordinance.

7. Availability of programme prospectus, etc.

The issuer of a programme prospectus must make arrangements for—

(a) the programme prospectus and its addenda, if any; and

(b) the issue prospectus concerned and its addenda, if any,

to be readily available to investors and potential investors throughout the period during which the shares or debentures to which the issue prospectus relates are offered or sold to the public.

8. Cessation of offer to which programme prospectus, etc. relates

The shares or debentures the subject of a programme prospectus and its addenda, if any, and the issue prospectus concerned and its addenda, if any, shall cease to be offered or sold to the public on and after the date of—

(a) the publication of the next annual report and ~~accounts~~ financial statements of the company to which the programme prospectus relates after the publication of the programme prospectus;

(b) the first anniversary of the date of publication of the programme prospectus; or

(c) if there is a guarantor corporation, within the meaning of section 38(8) of this Ordinance, in relation to the offer concerned, the publication of the next annual report and ~~accounts~~ financial statements of the guarantor corporation after the publication of the programme prospectus,

whichever is the earlier.

9. Application of section 38C of this Ordinance

It is hereby declared that, where section 38C of this Ordinance has been complied with in respect of a programme prospectus which has been issued, the issue of any issue prospectus concerned does not of itself require that section to again be complied with in respect of the programme prospectus.

PART 2

PROSPECTUS TO WHICH THE PROVISIONS OF PART XII OF THIS ORDINANCE APPLY

1. Interpretation

In this Part—

"issue prospectus" (發行章程) means that prospectus to which the provisions of Part XII of this Ordinance apply contained in the document, or series of documents, mentioned in section 2(1)(b);

"programme prospectus" (計劃章程) means that prospectus to which the provisions of Part XII of this Ordinance apply contained in the document mentioned in section 2(1)(a);

"relevant information" (有關資料), in relation to a prospectus, means such information as is required by the provisions of Part XII of, and the Third Schedule to, this Ordinance to be contained in the prospectus.

2. Prospectus consisting of more than one document

(1) A prospectus may consist of—

(a) a document containing such relevant information as the issuer of the document thinks fit (but excluding the price, or any formula for calculating the price, of the shares or debentures to which the prospectus relates); and

(b) a document, or series of documents, containing such relevant information as is not already contained in the document mentioned in paragraph (a).

(2) For the avoidance of doubt, it is hereby declared that an issue prospectus does not have to be issued at the same time as the programme prospectus concerned is issued.

3. Amendments

The information contained in—

(a) a programme prospectus may only be amended by—

(i) an addendum to the programme prospectus;
(ii) replacing the programme prospectus with a new programme prospectus; or
(iii) the issue prospectus concerned or an addendum to the issue prospectus;

(b) an issue prospectus may only be amended by—
(i) an addendum to the issue prospectus; or
(ii) replacing the issue prospectus with a new issue prospectus;

(c) an addendum to a programme prospectus may only be amended by—
(i) a further addendum to the programme prospectus;
(ii) replacing the addendum with a new addendum;
(iii) replacing the addendum and programme prospectus with a new programme prospectus; or
(iv) the issue prospectus concerned or an addendum to the issue prospectus;

(d) an addendum to an issue prospectus may only be amended by—
(i) replacing the addendum with a new addendum; or
(ii) replacing the addendum and issue prospectus with a new issue prospectus.

4. Amendment made pursuant to section 3 is prospectus

It is hereby declared that any amendment made pursuant to section 3 is a prospectus and, subject to section 5, the provisions of this Ordinance shall apply to the amendment accordingly.

5. Certain amendments made pursuant to section 3 to be read with other related documents

Where it enables a provision of this Ordinance (including paragraph 3 of the Third Schedule to this Ordinance) to apply to an amendment made pursuant to section 3, the amendment shall, for the purposes of that application, be read with all or any of the programme prospectus to which it relates and the addenda, if any, to the programme prospectus and the issue prospectus to which it relates and the addenda, if any, to the issue prospectus, as the case requires.

6. Warning

(1) Every issue prospectus (including a new issue prospectus mentioned in section 3(b)(ii) or (d)(ii)) and any form of application must contain a statement specified in Part 4 of the Eighteenth Schedule to this Ordinance.

(2) Any amendment made pursuant to section 3(b)(i) must contain a statement specified in Part 5 of the Eighteenth Schedule to this Ordinance.

7. Availability of programme prospectus, etc.

The issuer of a programme prospectus must make arrangements for—
(a) the programme prospectus and its addenda, if any; and
(b) the issue prospectus concerned and its addenda, if any,
to be readily available to investors and potential investors throughout the period during which the shares or debentures to which the issue prospectus relates are offered or sold to the public.

8. Cessation of offer to which programme prospectus, etc. relates

The shares or debentures the subject of a programme prospectus and its addenda, if any, and the issue prospectus concerned and its addenda, if any, shall cease to be offered or sold to the public on and after the date of—
(a) the publication of the next annual report and ~~accounts~~ financial statements of the company to which the programme prospectus relates after the publication of the programme prospectus;
(b) the first anniversary of the date of publication of the programme prospectus; or

(c) if there is a guarantor corporation, within the meaning of section 342(8) of this Ordinance, in relation to the offer concerned, the publication of the next annual report and ~~accounts~~ financial statements of the guarantor corporation after the publication of the programme prospectus,

whichever is the earlier.

9. Application of section 342B of this Ordinance

It is hereby declared that, where section 342B of this Ordinance has been complied with in respect of a programme prospectus which has been issued, the issue of any issue prospectus concerned does not of itself require that section to again be complied with in respect of the programme prospectus.

(Twenty-first Schedule added 30 of 2004 s. 2)

Schedule:	22	PERSONS SPECIFIED FOR THE PURPOSES OF SECTION 40 OF THIS ORDINANCE	8 of 2011	13/05/2011

TWENTY-SECOND SCHEDULE [sections 38AA, 40, 342AA & 360]

(Amended 8 of 2011 s. 26)

1. Persons who subscribe for or purchase shares or debentures pursuant to an offer in a prospectus.

2. Persons who by means of an agent acquire shares or debentures pursuant to an offer in a prospectus.

3. Persons who acquire shares or debentures pursuant to arrangements made between—
   (a) the issuer or vendor of the shares or debentures; and
   (b) intermediaries appointed for the purposes of the offer.

(Twenty-second Schedule added 30 of 2004 s. 2)

Schedule:	23	PARENT AND SUBSIDIARY UNDERTAKINGS	L.N. 163 of 2005	01/12/2005

Expanded Cross Reference:
3, 4, 5, 5A, 5B, 5C, 6, 7, 8, 9, 10

TWENTY-THIRD SCHEDULE [sections 2B & 360]

1. **Interpretation**

(1) For the purposes of the provisions specified under section 2B(3) of this Ordinance and this Schedule—

"parent company" (母公司) means a parent undertaking which is a company;

"parent undertaking" (母企業) shall be construed in accordance with section 2;

"shares" (股、股份) shall be construed as a reference to—
   (a) in relation to an undertaking with a share capital, the allotted shares;
   (b) in relation to an undertaking with capital in the form other than share capital, the rights to share in the capital of the undertaking; and
   (c) in relation to an undertaking without any capital, the interest—
      (i) conferring any right to share in the profits or liability to contribute to the losses of the undertaking; or
      (ii) giving rise to an obligation to contribute to the debts or expenses of the undertaking in the event of a winding up;

"undertaking" (企業) means—
   (a) a body corporate;

(b) a partnership; or

(c) an unincorporated association carrying on a trade or business, whether for profit or not.

(2) In construing any references to an undertaking which is not a company for the purposes of this Ordinance, other expressions appropriate to companies shall be construed, in relation to that undertaking, as references to the corresponding persons, officers, documents or organs, as the case may be, appropriate to undertakings of that description.

2. Parent undertaking and subsidiary undertaking

(1) An undertaking is a parent undertaking ("parent undertaking") in relation to another undertaking ("subsidiary undertaking") if—

(a) (i) in the case where both the parent undertaking and the subsidiary undertaking are bodies corporate, the subsidiary undertaking is a subsidiary of the parent undertaking by virtue of section 2(4), (5), (6) and (7) of this Ordinance; or

(ii) in any other case, the parent undertaking—

(A) holds a majority of the voting rights in the subsidiary undertaking;

(B) is a member of the subsidiary undertaking and has the right to appoint or remove a majority of its board of directors; or

(C) is a member of the subsidiary undertaking and controls alone, pursuant to an agreement with other shareholders or members, a majority of the voting rights in the subsidiary undertaking; or

(b) the parent undertaking has the right to exercise a dominant influence over the subsidiary undertaking by virtue of—

(i) the provisions contained in the subsidiary undertaking's ~~memorandum or articles~~ constitution or equivalent constitutional documents; or

(ii) a control contract.

(2) For the purposes of subsection (1)(a)(ii), an undertaking shall be treated as a member of another undertaking ("the relevant undertaking"), if—

(a) any of its subsidiary undertakings is a member of the relevant undertaking; or

(b) any shares in the relevant undertaking are held by a person acting on behalf of the first-mentioned undertaking or any of its subsidiary undertakings.

(3) An undertaking shall be treated as the parent undertaking of another undertaking if a subsidiary undertaking of the first-mentioned undertaking is, or is to be treated as, the parent undertaking of that other undertaking; and references to a subsidiary undertaking of the first-mentioned undertaking shall be construed accordingly.

(4) Sections 3 to 10 contain provisions explaining expressions used in this section and otherwise supplementing this section. <* Note - Exp. X-Ref.: Sections 3, 4, 5, 5A, 5B, 5C, 6, 7, 8, 9, 10 *>

3. Voting rights in undertaking

(1) For the purposes of section 2(1)(a)(ii)(A) and (C), the references to the voting rights in an undertaking shall be construed as references to the rights conferred on shareholders in respect of their shares or, in the case of an undertaking not having a share capital, on members, to vote at general meetings of the undertaking on all, or substantially all, matters.

(2) For the purposes of subsection (1), where an undertaking which does not have general meetings at which matters are decided by the exercise of voting rights, the references to holding a majority of the voting rights in the undertaking shall be construed as references to having the right under the constitution of the undertaking to direct the overall policy of the undertaking or to alter the terms of its constitution.

4. Right to appoint or remove majority of directors

For the purposes of section 2(1)(a)(ii)(B)—

(a) the reference to the right to appoint or remove a majority of the board of directors shall be construed as a reference to the right to appoint or remove directors holding a majority of the voting rights at

meetings of the board on all, or substantially all, matters;

(b) an undertaking shall be treated as having the right to appoint to a directorship if—

(i) a person's appointment to it follows necessarily from his appointment as a director of the undertaking; or

(ii) the directorship is held by the undertaking itself; and

(c) a right to appoint or remove a directorship which is exercisable only with the consent of another person shall be left out of account unless no other person has a right to appoint or, as the case may be, remove in relation to that directorship.

5. **Right to exercise dominant influence**

For the purposes of section 2(1)(b)—

(a) an undertaking shall not be regarded as having the right to exercise a dominant influence over another undertaking unless it has a right to give directions with respect to the operating and financial policies of that other undertaking which the directors are, or a majority of the directors is, obliged to comply with whether or not they are for the benefit of that other undertaking; and

(b) a "control contract" (控制合約) means a contract in writing conferring such a right which is—

(i) of a kind authorized by the ~~memorandum or articles~~ constitution, or equivalent constitutional documents, of the undertaking in relation to which the right is exercisable; and

(ii) permitted by the law under which that undertaking is established.

6. **Rights exercisable only in certain circumstances**

(1) For the purposes of this Schedule but without prejudice to subsection (2), rights which are exercisable only in certain circumstances shall be taken into account only—

(a) when the circumstances have arisen, and for so long as they continue to obtain; or

(b) when the circumstances are within the control of the person having the rights.

(2) Rights which are normally exercisable but are temporarily incapable of exercise shall continue to be taken into account.

7. **Rights held by one person on behalf of another**

For the purposes of this Schedule—

(a) rights held by a person in a fiduciary capacity shall be treated as not held by him;

(b) rights held by a person as nominee for another shall be treated as held by the other; and

(c) rights shall be treated as held as nominee for another if they are exercisable only on his instructions or with his consent.

8. **Rights attached to shares by way of security**

Where any rights referred to in this Schedule are attached to shares held by way of security, the rights shall be treated as held by the person providing the security, if—

(a) apart from the right to exercise them for the purpose of preserving the value of the security, or of realizing it, the rights are exercisable only in accordance with his instructions; or

(b) the shares are held in connection with the granting of loans as part of normal business activities and apart from the right to exercise them for the purpose of preserving the value of the security, or of realizing it, the rights are exercisable only in his interests.

9. **Rights attributed to parent undertaking**

(1) For the purposes of section 2, rights shall be treated as held by a parent undertaking if they are held by any

of its subsidiary undertakings.

(2) Nothing in section 7 or 8 shall be construed as requiring rights held by a parent undertaking to be treated as held by any of its subsidiary undertakings.

(3) For the purposes of section 8, rights shall be treated as being exercisable in accordance with the instructions of or in the interests of an undertaking if they are exercisable in accordance with the instructions of or, as the case may be, in the interests of any group undertaking.

(4) In this section, "group undertaking" (企業集團), in relation to an undertaking ("relevant undertaking"), means an undertaking which is—

(a) a parent undertaking or subsidiary undertaking of the relevant undertaking; or

(b) a subsidiary undertaking of any parent undertaking of the relevant undertaking.

10. **Supplementary**

References in any provision of sections 7, 8 and 9 to rights held by a person include rights falling to be treated as held by him by virtue of any other provision of those sections but not rights which by virtue of any such provision are to be treated as not held by him.

(Twenty-third Schedule added 12 of 2005 s. 18)

~~Schedule:~~	~~24~~	~~OFFICES NOT INCLUDED IN DEFINITION OF "PLACE OF BUSINESS" UNDER PART XI OF THIS ORDINANCE~~	~~L.N. 187 of 2007~~	~~14/12/2007~~

~~TWENTY-FOURTH SCHEDULE~~ ~~[sections 341 & 360]~~

~~1. A local representative office established or maintained with the approval of the Monetary Authority under section 46 of the Banking Ordinance (Cap 155) by a bank as defined in section 46(9) of that Ordinance.~~

~~(Twenty-fourth Schedule added 30 of 2004 s. 2)~~

Chapter:	32B	COMPANIES (FORMS) REGULATIONS	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 2)

[1 October 1933]

(Originally G.N. 624 of 1933)

Regulation:	1	(Repealed L.N. 59 of 1994)		30/06/1997

Regulation:	2	(Repealed 3 of 1997 s. 65)		30/06/1997

~~Regulation:~~	~~3~~	~~Certified copies of documents required to be delivered under Part XI~~	~~L.N. 26 of 2007~~	~~20/04/2007~~

~~(1) This paragraph applies to the certified copies of documents that are required to be delivered to the Registrar under Part XI of the Ordinance.~~

~~(2) A document shall be deemed to be certified as a true copy if it is duly certified as such—~~

~~(a) in the company's place of incorporation—~~

~~(i) by an official of the government of that place to whose custody the original of the document is committed;~~

~~(ii) by a notary public practising in that place;~~

~~(iii) by a lawyer practising in that place;~~

~~(iv) by a professional accountant practising in that place;~~

~~(v) by an officer of a court of law duly authorized by the law of that place to certify documents for any judicial or other legal purpose; or~~

~~(vi) by a professional company secretary practising in that place;~~

~~(b) in Hong Kong—~~

~~(i) by a notary public practising in Hong Kong;~~

~~(ii) by a solicitor practising in Hong Kong;~~

~~(iii) by a certified public accountant (practising) within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); (10 of 2005 s. 226)~~

~~(iv) by an officer of the court in Hong Kong who is authorized by law to certify documents for any judicial or other legal purpose;~~

~~(v) by a consular officer of the place of incorporation of the company; or~~

~~(vi) by a professional company secretary practising in Hong Kong;~~

~~(c) by an officer of the company; or~~

~~(d) by the authorized representative of the company.~~

~~(30 of 2004 s. 3)~~

Regulation:	4	(Repealed 30 of 2004 s. 3)	L.N. 139 of 2008	11/07/2008

~~Regulation:~~	~~5~~	~~Verified or certified copy of change under sections 80 and 82~~		~~30/06/1997~~

~~A copy of the instrument by which a charge is created or evidenced to be delivered to the Registrar under the provisions of sections 80(3) and 82(1) of the Ordinance shall be verified or certified to be a true copy under the seal of the company, or under the hand of some person interested therein otherwise than on behalf of the company.~~

Regulation:	5A	(Repealed 30 of 2004 s. 3)	L.N. 26 of 2007	20/04/2007

Regulation:	6	Translations	L.N. 26 of 2007	20/04/2007

(1) A translation of a document shall be deemed to be a certified translation in the prescribed manner for the purposes of the Ordinance if-

(a) it is certified by the person making the translation to be a correct translation; and

(b) the person making the translation is believed to be a person who is competent in translating a document into the English or Chinese language, as the case may be, by and is so certified by a person referred to in subparagraph (2).

(2) A person may make a certification under subparagraph (1)(b) if he is-

(a) where the translation is made in a place outside Hong Kong-

(i) a notary public practising in that place;

(ii) a lawyer practising in that place;

(iii) a professional accountant practising in that place;

(iv) an officer of a court of law duly authorized by the law of that place to certify documents for any judicial or other legal purpose;

(v) a consular officer in that place;

(vi) a professional company secretary practising in that place; or

(vii) such other person as may be specified by the Registrar; or

(b) where the translation is made in Hong Kong-

(i) a notary public practising in Hong Kong;

(ii) a solicitor practising in Hong Kong;

(iii) a certified public accountant (practising) within the meaning of section 2 of the Professional Accountants Ordinance (Cap 50); (10 of 2005 s. 226)

(iv) a consular officer in Hong Kong; or

(v) a professional company secretary practising in Hong Kong.

(30 of 2004 s. 3)

~~Regulation:~~	~~7~~	~~Provision for particular cases~~		~~30/06/1997~~

~~The Registrar of Companies may in any particular case, if he thinks fit to do so and upon such conditions as he thinks fit, permit certified copies or translations to be delivered to him though not certified in accordance with the above requirements.~~

~~Regulation:~~	~~8~~	~~Mode of delivery of notice~~		~~30/06/1997~~

~~(1) Where notice is given by a transferee company pursuant to section 168 of, and the Ninth Schedule to, the Ordinance, such notice shall be given to the dissenting shareholder either personally in Hong Kong or by sending it by registered post to him at his address in Hong Kong registered in the books of the transferor company or (if he has no address in Hong Kong so registered) to the address, if any, in Hong Kong supplied by him to the transferor company for the giving of notice to him. (3 of 1997 s. 66)~~

~~(2) In any case in which a dissenting shareholder has no such address the transferee company may apply to the Registrar of Companies for a direction as to the manner in which such notice shall be given.~~

~~(L.N. 168 of 1984)~~

List of Forms in the Schedule

(Repealed 3 of 1997 s. 67)

Schedule:		SCHEDULE (Repealed 3 of 1997 s. 67)		30/06/1997

Chapter:	32C	COMPANIES (FEES AND PERCENTAGES) ORDER	Gazette Number	Version Date
		Empowering section		30/06/1997

(Cap 32, section 296)

[1 January 1937]

(Originally G.N. 1019 of 1936)

Paragraph:	1			30/06/1997

This order may be cited as the Companies (Fees and Percentages) Order.

(L.N. 446 of 1994)

Paragraph:	2			30/06/1997

In this order, unless the context otherwise requires, a section referred to by number means the section so numbered in the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap 32).

(G.N.A. 106 of 1955)

Paragraph:	3		25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

The fees and percentages to be taken in the Court of First Instance in respect of proceedings under the ~~Companies Ordinance (Cap 32)~~ Ordinance (other than winding-up proceedings) shall be the fees contained in item 1A of Schedule 1, and, where the proceeding is one for which no fee is prescribed in the said Schedule, the fees and percentages prescribed for a similar proceeding in the First Schedule to the High Court Fees Rules (Cap 4 sub. leg. D).

(G.N.A. 106 of 1955; 25 of 1998 s. 2)

Paragraph:	4		25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

The fees and percentages to be taken in the Court of First Instance in respect of proceedings in the winding up of companies shall be-

(a) the fees contained in Schedule 2; and
(b) the fees contained in Schedule 1, where the proceeding described therein is taken with respect to a company which is being wound up; and
(c) where the proceeding is one for which no fee is prescribed in the said Schedules 1 and 2, the fees and percentages prescribed for a similar proceeding in the First Schedule to the High Court Fees Rules (Cap 4 sub. leg. D). (G.N.A. 106 of 1955)

(25 of 1998 s. 2)

Paragraph:	5			30/06/1997

The fees and percentages prescribed in Schedules 1 and 2 shall be taken either in money, or by causing the relevant document to be franked with the amount of the fee thereof, together with the date of franking.

(G.N.A. 106 of 1955; L.N. 251 of 1981)

Paragraph:	6			30/06/1997

The fees and percentages set out in Schedule 3 in respect of proceedings in the winding up of companies shall be taken in the office of the Official Receiver or of the Registrar of Companies, as the case may be.

Paragraph:	7		46 of 2000	01/07/2000

(1) The fees and percentages prescribed in Schedule 3 shall be taken in money. (L.N. 198 of 1987)

(2) The percentages prescribed in number I of Table B of Schedule 3 shall be paid by a liquidator upon submission of his accounts to the Official Receiver under section 203, or where the Official Receiver is acting as liquidator, before he is released under section 205. (L.N. 198 of 1987)

(3) The fee specified under item 3 of Schedule 2 shall have effect and apply only in relation to proceedings in the winding up of companies commenced after the coming into operation of the Companies (Fees and Percentages) (Amendment) Order 1989 (L.N. 221 of 1989). (L.N. 221 of 1989 para. 3 incorporated. 46 of 2000 s. 40)

Paragraph:	8			30/06/1997

Wherever practicable the money shall be paid in respect of every fee before the proceeding is had in respect of which the fee is payable.

(L.N. 251 of 1981)

Paragraph:	9			30/06/1997

Where the head office of the company being wound up is situate in Hong Kong, and the liquidation takes place partly in Hong Kong and partly elsewhere, or where the court has sanctioned a reconstruction of the company or a scheme of arrangement of its affairs, or where for any other reason the Official Receiver satisfies the court that the fees or percentages in Table B in Schedule 3 would be excessive, such reduction may be made in the said fees or percentages as may, on the application of the Official Receiver, be sanctioned by the court.

Paragraph:	10	Transitional and savings		30/06/1997

(1) This paragraph relates to the fee payable under number I of Table B of Schedule 3.

(2) Where an Official Receiver's or liquidator's account has been audited before the commencement date but the fee payable in respect thereof has not been paid before that date, the fee calculated under the old scale shall continue to be payable except that where such fee together with all fees paid in respect of previous accounts is higher than the fee that would be payable if calculated under the new scale on the aggregate amount of assets realized and brought to credit, a fee calculated under the new scale on the aggregate amount of assets realized and brought to credit (giving credit for any amount previously paid) shall be payable.

(3) In the case where a winding-up commenced before the commencement date continues after that date the fee payable in respect of an account sent to the Official Receiver under section 203 or, where the Official Receiver is liquidator, prepared for the purposes of section 205, after the commencement date shall be calculated under the new scale on the aggregate amount of assets realized and brought to credit and in respect of any assets brought to credit before the commencement date in respect of which a fee has already been paid, credit shall be given as if a fee calculated under the new scale had been paid.

(4) Subject to subparagraph (5) where a liquidator's account has been sent to the Official Receiver or, where the Official Receiver is liquidator, has been prepared, under section 203, before the commencement date but has not been audited before that date the fee payable in respect thereof shall be calculated under the new scale.

(5) In the case referred to in subparagraph (4) where the account has been sent or prepared (as the case may be) more than 3 months before the commencement date and has not been audited before that date, the fee payable in respect thereof shall be calculated under the old scale except that where such fee is higher than the fee that would be payable under the new scale, a fee calculated under the new scale shall be payable.

(6) Where an account relating to a period ending before the commencement date is sent to the Official Receiver under section 203 or, where the Official Receiver is liquidator, is prepared, for the purposes of section 205, after the commencement date, the fee payable in respect thereof shall be calculated under the new scale.

(7) In this paragraph-

"commencement date" (生效日期) means the date of the coming into operation of the Companies (Fees and Percentages) (Amendment) Order 1987 (L.N. 198 of 1987);

"new scale" (新收費表) means the scale of fees prescribed in number I of Table B of Schedule 3 as substituted by the Companies (Fees and Percentages) (Amendment) Order 1987 (L.N. 198 of 1987);

"old scale" (舊收費表) means the scale of fees* prescribed in number I of Table B of Schedule 3 in force immediately before the commencement date.

(L.N. 198 of 1987)

Note:

*** For old scale of fees, see Companies (Fees and Percentages) Order (Cap 32 sub. leg. 1985 Ed.)**

Schedule:	1		L.N. 239 of 1999	11/11/1999

[paragraph 3]

Item	Particular	Fee	Document to be stamped
1A.	On an application under section 290 of the Ordinance for a declaration that the dissolution of a company is void.	$1,045.00	The notice of motion or summons.
1.	On presenting a petition- ~~(a) under section 8 to confirm an alteration in a memorandum; and~~ (a) under section 84 of the Companies Ordinance (of 2011) to cancel an alteration of the objects in a company's articles; or ~~(b) under section 59 to confirm a reduction of capital. This fee includes any fee on answering a petition or setting down for hearing. Where a petition is presented under more than one of these sections, only one fee of $1045.00 shall be charged on the petition.~~ (b) under section 221 of the Companies Ordinance (of 2011) to confirm a reduction of share capital. This fee includes any fee on answering a petition or setting down for hearing. Where a petition is presented under more than one of these sections, only one fee of $1,045.00 is charged on the petition.	$1045.00	The petition.
2.	On an application- (a) under ~~section 64~~ section 177 of the Companies Ordinance (of 2011) to cancel a variation of shareholders' rights; ~~(b) under section 290 for a declaration that the dissolution of a company is void;~~ (c) under ~~section 291 to restore a name to the register of companies~~ section 753 of the Companies Ordinance (of 2011) for restoration of a company to the Companies Register; ~~(ca) under section 291AB to reinstate the registration of a company deregistered under section 291AA; (30 of 1999 s. 44)~~ (d) under ~~section 86 for extension of time for registration or for rectification of register of charges; and~~ section 345 of the Companies Ordinance (of 2011) for extension of		

	time for registration;		
(da)	under section 346 of the Companies Ordinance (of 2011) for rectification of register of charges; and		
(e)	under~~ section 166 to sanction a compromise or arrangement~~ section 664 of the Companies Ordinance (of 2011) to sanction an arrangement or compromise.	$1045.00	The notice of motion or summons.

(G.N.A. 106 of 1955; L.N. 9 of 1976; L.N. 140 of 1985; L.N. 134 of 1988; L.N. 357 of 1992; L.N. 164 of 1994)

Schedule:	2		46 of 2000	01/07/2000

[paragraph 4]

Item	Particular	Fee	Document to be stamped
1.	On presenting a petition for the winding up of a company by or under the supervision of the court ..... This fee includes any fee on answering a petition or setting down for hearing. No fee is payable on a winding-up order or an order continuing a voluntary liquidation subject to the supervision of the court.	$1045	The petition.
2.	(Repealed 46 of 2000 s. 40)		
3.	On an application for release by a liquidator for every $1000 or fraction of $1000 of the gross amount of assets realized and brought to credit (46 of 2000 s. 40)	$5.00	-

(G.N.A. 106 of 1955; L.N. 52 of 1964; L.N. 9 of 1976; L.N. 140 of 1985; L.N. 134 of 1988; L.N. 357 of 1992; L.N. 164 of 1994; L.N. 569 of 1994; L.N. 93 of 1996; L.N. 168 of 1997)

Schedule:	3		46 of 2000	01/07/2000

[paragraph 6]

TABLE A

Item	Particular	Fee $
1.	On an inspection of a liquidator's statement sent to the Registrar of Companies under section 284 (L.N. 412 of 1994; L.N. 85 of 1996; L.N. 468 of 1997)	26.00
1A.	On an inspection of a copy of the liquidator's accounts filed under section 203(4) or (6) (L.N. 202 of 1984; L.N. 198 of 1987)	12.00
2.	For a copy of or extract from any such statement-	
	(a) if the copy is made by photographic means-	
	for each page or portion of a page	13.00
	Provided that, where any copy exceeds in size 210 x 297 mm, such additional fee, not exceeding $5, shall be paid as the Registrar may direct; (L.N. 397 of 1984; L.N. 412 of 1994; L.N. 85 1996; L.N. 468 of 1997)	
	(b) if the copy is made by other means-	
	per page (uncertified)	
	per page (certified) (L.N. 412 of 1994; L.N. 85 1996; L.N. 468 of 1997)	4.00
		8.00
3.	On an application by a liquidator to the Official Receiver for a special bank account under section 202 (L.N. 221 of 1989; 46 of 2000 s. 40)	390.00

4. On an order by the Official Receiver for a special bank account (L.N. 221 of 1989) 390.00

4A. On an application by a liquidator to the Official Receiver acting as a committee of inspection (L.N. 221 of 1989) 390.00

5. On an application to the Official Receiver-

(a) under section 285 for payment of money out of the Companies Liquidation Account; or

(b) after 6 months from the date of issue, for the re-issue of a lapsed cheque or money order in respect of moneys standing to the credit of that account. (L.N. 221 of 1989) 60.00

6. (a) On every payment under section 285 of money out of the Companies Liquidation Account-

on each $1000 or fraction of $1000 ..... 50.00

to be charged as follows-

where the money consists of unclaimed dividends, on each dividend paid out; where the money consists of undistributed funds or balances, on the amount paid out;

(b) the total fees taken under this item in respect of undistributed funds or balances shall not exceed $45000 in each liquidation. (L.N. 221 of 1989)

7. For insertion in the Gazette of a notice relating to a company which is being wound up by the court (L.N. 221 of 1989) 355.00

8. On an application by a member of the public to the Official Receiver for a search on whether a winding-up petition has been presented against a company (L.N. 221 of 1989) 85.00

9. (Repealed 46 of 2000 s. 40)

10. On proof of debt above $250 (other than a proof for workmen's wages) 40.00

This fee includes administering oath and filing. No fee is payable on a proof for $250 or under. (46 of 2000 s. 40)

TABLE B

I. On the aggregate amount of assets realized and brought to credit by a liquidator (including the Official Receiver when he is acting as liquidator), after deducting any sums paid to secured creditors, other than holders of floating charges in respect of their securities and any sums spent out of money received in carrying on the business of the company, a fee according to the following scale-

(a) On the first $500000 or fraction thereof, $100 on every $1000 or fraction thereof;

(b) On the next $500000 or fraction thereof, $75 on every $1000 or fraction thereof;

(c) On the next $4000000 or fraction thereof, $65 on every $1000 or fraction thereof;

(d) On the next $5000000 or fraction thereof, $37.50 on every $1000 or fraction thereof; (L.N. 235 of 1996)

(e) On the next $40000000 or fraction thereof, $20 on every $1000 or fraction thereof;

(f) On all further amounts, $10 on every $1000 or fraction thereof.

(L.N. 198 of 1987)

II. Where the Official Receiver acts as provisional liquidator only-

(a) Where no winding-up order is made upon the petition, or where a winding-up order is rescinded, or all further proceedings are stayed prior to the summoning of the statutory meetings of creditors and contributories; or

(b) Where a winding-up order is made but the Official Receiver is not continued as liquidator after the statutory meetings of creditors and contributories,

such amount as the court, on the application of the Official Receiver, may consider reasonable to be paid by the petitioner, or by the company, as the court may direct, in respect of the services of the Official Receiver as provisional liquidator.

(L.N. 198 of 1987)

III. Where the Official Receiver acts as liquidator of the company and a special manager is appointed (to include the

Official Receiver's services as provisional liquidator)-

such amount as the court, on the application of the Official Receiver, may consider reasonable.

IV. In all other cases where the Official Receiver acts as liquidator of the company (to include his services as provisional liquidator-

(1) In respect of every 10 members, creditors and debtors, and every fraction of 10 (L.N. 251 of 1981; L.N. 140 of 1985) $670

(This fee is to include cost of official stationery, printing, books, forms and postages in Hong Kong).

(2) Upon the total assets, including the produce of calls on contributories, realized or brought to credit by the Official Receiver, after deducting sums on which fees are chargeable under number V of this Table, and the amount spent out of the money received in carrying on the business of the company, 10%. (L.N. 140 of 1985)

(3) On the amount distributed in dividend or paid to contributories, preferential creditors, and debenture holders by the Official Receiver, 5%.

V. Where the Official Receiver collects, calls or realizes property for debenture holders-

the same fees as under number IV(2) and (3) of this table, to be paid out of the proceeds of such calls or property.

VI. Where the Official Receiver realizes property for secured creditors other than debenture holders-

the same fees as under number IV(2) of this table, to be paid out of the proceeds of such property.

VII. Where the Official Receiver performs any special duties not provided for under the foregoing numbers in these Tables-

such amount as the court, on the application of the Official Receiver may consider reasonable.

VIII. Travelling, keeping possession, law costs, and other reasonable expenses of the Official Receiver-the amount disbursed.

IX. Notwithstanding the fees and percentages prescribed in number I and numbers III to VII of this Table, where the Official Receiver acts as liquidator of the company, the total fees under those numbers shall not be less than $12150.

(L.N. 140 of 1985)

(G.N.A. 106 of 1955; L.N. 52 of 1964; L.N. 9 of 1976; L.N. 251 of 1981; L.N. 140 of 1985; L.N. 270 of 1993; L.N. 431 of 1993; L.N. 569 of 1994; L.N. 93 of 1996; L.N. 168 of 1997)

~~Chapter:~~	~~32D~~	~~COMPANIES (EXEMPTION FROM STATEMENT OF TURNOVER) ORDER~~	~~Gazette Number~~	~~Version Date~~

		~~Empowering section~~		~~30/06/1997~~

~~(Cap 32, Tenth Schedule Part I, para. 16(2))~~

~~[3 September 1976]~~

~~(Originally L.N. 233 of 1976)~~

~~Paragraph:~~	~~1~~	~~Citation~~		~~30/06/1997~~

~~This order may be cited as the Companies (Exemption from Statement of Turnover) Order.~~

~~Paragraph:~~	~~2~~	~~Prescription of class of business~~		~~30/06/1997~~

~~The business of taking deposits carried on by a company which is a deposit-taking company or restricted licence bank within the meaning of section 2 of the Banking Ordinance (Cap 155) is hereby prescribed as a class of business for the purposes of paragraph 16(2) in Part I of the Tenth Schedule to the Companies Ordinance (Cap 32).~~

~~(9 of 1982 s. 20; 27 of 1986 s. 137; 3 of 1990 s. 55; 49 of 1995 s. 53)~~

Chapter:	32E	COMPANIES (SPECIFICATION OF NAMES) ORDER	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 22B(1))

[22 February 1991]

(Originally L.N. 48 of 1991)

Paragraph:	1	Citation		30/06/1997

This order may be cited as the Companies (Specification of Names) Order.

(Enacted 1991)

Paragraph:	2	Specification of words, etc.	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

The words or expressions set out in the Schedule are specified as words or expressions, the registration of which as, or as a part of, a company's name requires the Chief Executive's approval.

(Enacted 1991. 23 of 1999 s. 3)

Schedule:		SCHEDULE		30/06/1997

[paragraph 2]

SPECIFICATION OF WORDS OR EXPRESSIONS

Building Society
Chamber of Commerce
Cooperative
Kaifong
Mass Transit
Municipal
Savings
Tourist Association
Trust
Trustee
Underground Railway
市政
地下鐵路
地鐵
合作
受託
受託人
建屋合作社
信託
旅遊協會
商會
街坊

~~總商會~~
~~儲蓄~~

~~(L.N. 248 of 1997)~~

Chapter:	32H	COMPANIES (WINDING-UP) RULES	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 296)

[1 January 1937]

(Originally G.N. 1018 of 1936)

Rule:	1	Application of rules		30/06/1997

PRELIMINARY

(1) Subject to the limitation hereinafter mentioned these rules shall apply to the proceedings in every winding up under the Ordinance of a company, which shall commence on and after the date on which these rules come into operation~~ and to all proceedings under section 168A of the Ordinance~~, and they shall also, so far as practicable, and subject to any general or special order of the court, apply to all proceedings which shall be taken or instituted after the said date, in the winding up of a company which commenced on or after 1 July 1933. Rules which from their nature and subject matter are, or which by the head lines above the group in which they are contained or by their terms are made applicable only to the proceedings in a winding up by the court, or only to such proceedings and proceedings in a creditors voluntary winding up shall not apply to the proceedings in a voluntary winding up, or as the case may be in a members' voluntary winding up.

~~(2) Rules which from their nature and subject matter are, or which by the head lines above the group in which they are contained or by their terms are made applicable only to the proceedings in a winding up, whether by the court or voluntarily, shall not apply to proceedings under section 168A of the Ordinance. (L.N. 178 of 1978; L.N. 201 of 1984)~~

[cf. R. 1]*

Note:
*** The references to "R1", etc., are to the English Companies (Winding-up) Rules 1929.**

Rule:	2	Interpretation of terms	10 of 2005	08/07/2005

In these rules, unless the context or subject-matter otherwise requires-

"bailiff" (執達主任) means the bailiff of the court and includes an assistant bailiff;

"company" (公司) means a company which is being wound up, or against which proceedings to have it wound up ~~or proceedings under section 168A of the Ordinance~~ have been commenced; (L.N. 178 of 1978)

"court" (法院)、(法庭) means the Court of First Instance and references in these rules, or in the forms in the Appendix, to the High Court of Hong Kong shall be construed accordingly; (L.N. 201 of 1984; 25 of 1998 s. 2)

"creditor" (債權人) includes a corporation, and a firm of creditors in partnership;

"gazetted" (在憲報刊登) means published in the Gazette;

"Official Receiver" (破產管理署署長) includes any officer appointed by the Chief Executive to discharge the duties of Official Receiver under the Ordinance and includes a deputy official receiver so appointed; (23 of 1999 s. 3)

"proceedings" (法律程序) means the proceedings in the winding up of a company under the Ordinance~~, or proceedings under section 168A of the Ordinance~~; (L.N. 178 of 1978)

"proof" (債權證明表) means a document by which a creditor seeks to establish his claim against a company; (L.N. 225 of 1992)

"Registrar" (司法常務官) means the Registrar of the High Court and includes a senior deputy registrar, deputy registrar or assistant registrar of the High Court; (L.N. 372 of 1981; 10 of 2005 s. 173)

relevant provision (有關條文) means a provision of—

(a) the Ordinance;
(b) the pre-amended Ordinance having a continuing effect under Schedule 10 to the Companies Ordinance (of 2011) or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1); or
(c) the Companies Ordinance (of 2011);

"rules" (規則) means these rules, and includes the prescribed forms;

"sealed" (蓋章) means sealed with the seal of the court;

"taxing officer" (訟費評定官) means the officer of the court whose duty it is to tax costs in the proceedings of the court under its ordinary jurisdiction.

(46 of 2000 s. 40)
[cf. R. 2]

Rule:	3	Use of forms in Appendix		30/06/1997

The forms in the Appendix, where applicable, and where they are not applicable forms of the like character, with such variations as circumstances may require, shall be used. Where such forms are applicable any costs occasioned by the use of any other or more prolix forms shall be borne by or disallowed to the party using the same, unless the court shall otherwise direct.

[cf. R. 3]

Rule:	4	Office of Registrar in the court		30/06/1997

COURT AND CHAMBERS

(1) All proceedings in the winding up of companies in the court shall be attached to the Registrar, who shall, together with the necessary clerks and officers, and subject to the Ordinance and rules, act under the general or special directions of a judge.

(2) (Repealed L.N. 372 of 1981)

[cf. R. 4]

Rule:	5	Matters in court to be heard in court and chambers		30/06/1997

(1) Except as provided in section 180A, the following matters and applications in the court shall be heard before a judge in open court- (L.N. 304 of 1988)

(a) petitions;
(b) appeals to the court from the Official Receiver when acting as Official Receiver and not as liquidator;
(c) applications under section 290 of the Ordinance;
(d) applications by the Official Receiver or liquidator under section 284(3) of the Ordinance, or an appeal thereunder;
(e) applications for the committal of any person to prison for contempt;
(f) public examinations;
(g) applications under section 277(1) of the Ordinance;
(h) applications to rectify the Register;
(i) such matters and applications as a judge may from time to time by any general or special orders direct to be heard before him in open court.

(2) Examinations of persons summoned before the court under section 221 of the Ordinance, shall be held in court or in chambers as the court shall direct.

(3) Every other matter or application in the court under ~~the Ordinance~~ a relevant provision to which the rules apply may be heard and determined in chambers.

[cf. R. 5 & R. 6]

Rule:	6	Applications in chambers		30/06/1997

Subject to the provisions of the Ordinance and rules-

(a) the Registrar may under the general or special directions of a judge hear and determine any application or matter which under the Ordinance and rules may be heard and determined in chambers;
(b) any matter or application before the Registrar may at any time be adjourned by him to be heard before a judge;
(c) any matter or application may, at any time, if a judge thinks fit, be adjourned from chambers to court or from court to chambers, and if all the contending parties require any matter or application to be adjourned from chambers to court it shall be so adjourned. (L.N. 108 of 1987)

[cf. R. 7]

Rule:	7	Motions and summonses		30/06/1997

(1) Every application in court other than a petition, shall be made by motion, notice of which shall be served on every person against whom an order is sought, not less than 2 clear days before the day named in the notice for hearing the motion. (See Form 1)

(2) Every application in chambers shall be made by summons, which, unless otherwise ordered, shall be served on every person against whom an order is sought, and shall require the person or persons to whom the summons is addressed to attend at the time and place named in the summons.

(3) Every application by the liquidator to the court for directions in relation to any particular matter arising under the winding up shall be made in chambers.

[cf. R. 8]

Rule:	8	Times for holding court		30/06/1997

Subject to the provisions of the Ordinance, the times of the sitting of the court in matters relating to the winding up of companies ~~and applications under section 168A of the Ordinance~~ shall be those which are appointed for the transaction of the general business of the court, unless a judge shall otherwise order.

(L.N. 178 of 1978)
[cf. R. 10]

Rule:	9	Title of proceedings	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

PROCEEDINGS

(1) Every proceeding in a winding-up matter shall be dated, and shall, with any necessary additions, be intituled as follows-

IN THE HIGH COURT OF HONG KONG
COMPANIES (WINDING-UP). No. OF ~~19~~ .20 .

In the Matter of the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance.

and in the matter of the company to which it relates. Numbers and dates may be denoted by figures. (25 of 1998 s. 2)

(2) The first proceeding in every winding-up matter shall have a distinctive number assigned to it in the office of the Registrar, and all proceedings in any matter subsequent to the first proceeding shall bear the same number as the first proceeding.

[cf. R. 11]

Rule:	10	Written or printed proceedings		30/06/1997

All proceedings shall be written or printed, or partly written or partly printed, on paper of the size 210 x 297 mm, or thereabouts, and must have a stitching margin; but no objection shall be allowed to any proof or affidavit on

account only of its being written or printed on paper of other size.

(L.N. 397 of 1984)
[cf. R. 12]

Rule:	11	Process to be sealed		30/06/1997

All orders, summonses, petitions, warrants, process of any kind (including notices when issued by the court) and office copies in any winding-up matter shall be sealed.

[cf. R. 13]

Rule:	12	Issue of summonses		30/06/1997

Every summons in a winding-up matter in the court shall be prepared by the applicant or his solicitor, and issued from the office of the Registrar. A summons, when sealed, shall be deemed to be issued.

[cf. R. 14]

Rule:	13	Orders		30/06/1997

Every order, whether made in court or in cha'mbers, in the winding up of a company shall be drawn up by the applicant or his solicitor and signed by the Registrar, unless in any proceeding, or classes of proceedings, the judge or Registrar who makes the order shall direct that no order need be drawn up. Where a direction is given that no order need be drawn up, the note or memorandum of the order, signed or initialled by the judge or the Registrar making the order, shall be sufficient evidence of the order having been made.

[cf. R. 15]

Rule:	14	File of proceedings in office of Registrar		30/06/1997

All petitions, affidavits, summonses, orders, proofs, notices, depositions, bills of costs and other proceedings in the court in a winding-up matter shall be kept and remain of record in the office of the Registrar and, subject to the directions of the court, shall be placed in one continuous file.

[cf. R. 16]

Rule:	15	Office copies		30/06/1997

All office copies of petitions, affidavits, depositions, papers and writings, or any parts thereof, required by the Official Receiver or any liquidator, contributory, creditor, officer of a company, or other person entitled thereto, shall be provided by the Registrar, and shall, except as to figures, be fairly written out at length, and be sealed and delivered out without any unnecessary delay, and in the order in which they shall have been bespoken.

[cf. R. 18]

Rule:	16	Inspection of file		30/06/1997

Every person who has been a director or officer of a company which is being wound up, shall be entitled, free of charge, and every contributory and every creditor whose claim or proof has been admitted shall be entitled on payment of a fee of $1 for each inspection per diem, at all reasonable times, to inspect the file of proceedings and to take copies or extracts from any document therein, or to be furnished with such copies or extracts upon payment of 75 cents per folio of 72 words, each figure being counted as a word.

(L.N. 50 of 1964)
[cf. R. 19]

Rule:	17	Use of file by Official Receiver		30/06/1997

Where, in the exercise of his functions under the Ordinance or rules, the Official Receiver requiries to inspect or use the file of proceedings the Registrar shall (unless the file is at the time required for use in court or by him) on

request, transmit the file of proceedings to the Official Receiver, and the Registrar may, in his discretion, permit the Official Receiver to retain in his custody for such time as the Registrar may think fit any file or files of proceedings.

[cf. R. 20]

Rule:	18	Defacement of stamps		30/06/1997

Every officer of the court who shall receive any document to which an adhesive stamp shall be affixed, shall immediately upon receipt of the document deface the stamp thereon and no such document shall be filed or delivered until the stamp thereon shall have been so defaced.

[cf. R. 21]

Rule:	19	Duties of bailiff		30/06/1997

SERVICE AND EXECUTION OF PROCESS AND ENFORCEMENT OF ORDERS

(1) It shall be the duty of the bailiff to serve such orders, summonses, petitions and notices as the court may require him to serve; to execute warrants and other process; to attend any sittings of the court if so required by the court (but not sittings in chambers); and to do and perform all such things as may be required of him by the court.

(2) Nothing in this rule shall require any order, summons, petition, or notice to be served by a bailiff or officer of the court which is not specially by the Ordinance or rules required to be so served, unless the court in any particular proceeding by order specially so directs.

[cf. R. 22]

Rule:	20	Service		30/06/1997

(1) All notices, summonses, and other documents other than those of which personal service is required, may be sent by prepaid post letter to the last known address of the person to be served therewith; and the notice, summons, or document shall be considered as served at the time that the same ought to be delivered in the due course of post by the post office, and notwithstanding the same may be returned by the post office.

(2) No service shall be deemed invalid by reason that the name, or any of the names other than the surname of the person to be served, has been omitted from the document containing the person's name, provided that the court is satisfied that in other respects the service of the document has been sufficient.

[cf. R. 23]

Rule:	21	Enforcement of orders		30/06/1997

Every order of the court made in the exercise of the powers conferred by ~~the Ordinance and rules,~~ a relevant provision or by the rules may be enforced by the court as if it was a judgment or order of the court made in the exercise of its ordinary jurisdiction.

[cf. R. 24]

Rule:	22	Form of petition		30/06/1997

PETITION

Every petition shall be in the Form 2, 3 or 3A in the Appendix with such variations as circumstances may require. (See Forms 2, 3 & 3A)

(L.N. 178 of 1978)

Rule:	22A	Deposit by petitioner	L.N. 170 of 1997	30/06/1997

(1) Before presenting a petition the petitioner shall deposit with the Official Receiver the sum of $12150 for the purpose of covering the fees and expenses to be incurred by the Official Receiver; and no petition shall be received unless the receipt of the Official Receiver for the deposit is produced to the Registrar. (L.N. 245 of 1977; L.N. 139

of 1985; L.N. 95 of 1996; L.N. 170 of 1997)

(2) After presenting a petition the petitioner shall deposit with the Official Receiver, for the purpose set out in paragraph (1), such further sum as the court may, on the application of the Official Receiver, from time to time direct.

(3) The Official Receiver shall account for the money so deposited to the petitioner, or, if the company itself is the petitioner, to the liquidator of the company, and any money so deposited by a petitioner other than the company shall, except and so far as such money may be required by reason of insufficiency of assets for the payment of the fees of and expenses incurred by the Official Receiver, be repaid to the petitioner out of the proceeds of the assets of the company in the order of priority set out in rule 179(1).

(L.N. 50 of 1964)

Rule:	23	Presentation of petition		30/06/1997

A petition shall be presented at the office of the Registrar, who shall appoint the time and place at which the petition is to be heard. Notice of the time and place appointed for hearing the petition shall be written on the petition and sealed copies thereof, and the Registrar may at any time before the petition has been advertised, alter the time appointed, and fix another time.

[cf. R. 26]

Rule:	23A	Copies of documents filed in proceedings to be served on Official Receiver and Chief Bailiff	46 of 2000	01/07/2000

Where a petitioner presents or files at court any document in connexion with any proceedings, he or his solicitor shall, within 24 hours of such presentation or filing, serve a copy of the document presented or filed on the Official Receiver and the Chief Bailiff.

(L.N. 245 of 1977; 46 of 2000 s. 40)

Rule:	24	Advertisement of petition		30/06/1997

Every petition shall be advertised 7 clear days or such longer time as the court may direct before the hearing, as follows- (See Form 4)

(a) in the case of a company whose registered office or if there shall be no such office, then whose principal or last known principal place of business is or was situate within Hong Kong once in the Gazette, and once at least in 2 Hong Kong daily newspapers, or in such other newspaper as the court directs; (L.N. 201 of 1984)

(b) in the case of any other company, once in the Gazette, and twice at least in one local newspaper circulating in the district where the local register is kept, or the principal or last known principal place of business, as the case may be, of such company is or was situate, or in such other newspaper as shall be directed by the court;

(c) the advertisement shall state the day on which the petition was presented, and the name and address of the petitioner, and of his solicitor and shall contain a note at the foot thereof, stating that any person who intends to appear on the hearing of the petition, either to oppose or support, must send notice of his intention to the petitioner, or to his solicitor within the time and in the manner prescribed by rule 30, and an advertisement of a petition for the winding up of a company by the court which does not contain such a note shall be deemed irregular.

And if the petitioner or his solicitor does not within the time hereby prescribed or within such extended time as the Registrar may allow duly advertise the petition in the manner prescribed by this rule the appointment of the time and place at which the petition is to be heard shall be cancelled by the Registrar and the petition shall be removed from the file unless a judge or the Registrar shall otherwise direct.

[cf. R. 27]

Rule:	25	Service of petition		30/06/1997

Every petition shall, unless presented by the company, be served upon the company at the registered office, if any, of the company, and if there is no registered office, then at the principal or last known principal place of business

of the company, if any such can be found, by leaving a copy with any member, officer, or servant of the company there, or in case no such member, officer, or servant can be found there, then by leaving a copy at such registered office or principal place of business, or by serving it on such member, officer, or servant of the company as the court may direct; and where the company is being wound up voluntarily, the petition shall also be served upon the liquidator (if any), appointed for the purpose of winding up the affairs of the company. (See Forms 5 & 6)

[cf. R. 28]

Rule:	26	Verification of petition		30/06/1997

Every petition for the winding up of a company by the court shall be verified by an affidavit referring thereto. Such affidavit shall be made by the petitioner, or by one of the petitioners, if more than one, or, in case the petition is presented by a corporation, by some director, ~~secretary~~ company secretary, or other principal officer thereof, and shall be sworn after and filed within 4 days after the petition is presented, and such affidavit shall be sufficient prima facie evidence of the statements in the petition. (See Forms 7 & 8)

(L.N. 201 of 1984)
[cf. R. 29]

Rule:	27	Copy of petition to be furnished to creditor or contributory		30/06/1997

Every contributory or creditor of the company shall be entitled to be furnished by the solicitor of the petitioner with a copy of the petition, within 24 hours after requiring same, upon payment of 75 cents per folio of 72 words for such copy, each figure being counted as a word.

(L.N. 50 of 1964)
[cf. R. 30]

Rule:	27A	Administration of small liquidations	46 of 2000	01/07/2000

(1) Where after the presentation of a petition the court orders that winding up of a company shall be by way of summary procedure under section 227F of the Ordinance, the provisions of the Ordinance and these rules shall, subject to any special direction of the court, be modified in accordance with paragraphs (2) to (5). (46 of 2000 s. 40)

(2) On the making of the order the liquidator shall forthwith cause notice thereof to be published in the Gazette, but there shall be no advertisement of any subsequent proceedings unless the court otherwise directs. (46 of 2000 s. 40)

(3) The title of every document in the proceedings subsequent to the making of the order shall contain the words "Summary Case".

(4) (Repealed L.N. 139 of 1985)

(5) Notices of meetings other than first meetings shall not be sent to creditors whose debts do not exceed $1000, or to contributories. (L.N. 139 of 1985)

(6) (Repealed 46 of 2000 s. 40)

(L.N. 245 of 1977)

Rule:	28	Appointment of provisional liquidator		30/06/1997

PROVISIONAL LIQUIDATOR

(1) After the presentation of a petition, upon the application of a creditor, or of a contributory or of a petitioner, or of the company, and upon proof by affidavit of sufficient grounds for the appointment of a provisional liquidator, the court, if it thinks fit, and upon such terms as in the opinion of the court shall be just and necessary, may make the appointment. (L.N. 376 of 1989)

(1A) Before an order appointing a provisional liquidator is made, the applicant for the order shall deposit with the Official Receiver the sum of $3500 towards the fees and expenses of the Official Receiver in connection with such appointment. (L.N. 433 of 1993; L.N. 286 of 1997)

(2) The order appointing the provisional liquidator shall bear the number of the petition, and shall state the nature and a short description of the property of which the provisional liquidator is ordered to take possession, and the

duties to be performed by the provisional liquidator. (See Form 9)

(3) Subject to any order of the court, if no order for the winding up of the company is made upon the petition, or if an order for the winding up of the company on the petition is rescinded, or if all proceedings on the petition are stayed the provisional liquidator shall be entitled to be paid, out of the property of the company, all the costs, charges, and expenses properly incurred by him as provisional liquidator, including such sum as is or would be payable under the scale of fees in force for the time being where the Official Receiver is appointed provisional liquidator, and may retain out of such property the amounts of such costs, charges, expenses, and fees. (L.N. 201 of 1984)

(4) Where any person other than the Official Receiver has been appointed provisional liquidator and the Official Receiver has taken any steps for the purpose of obtaining a statement of affairs or has performed any other duty prescribed by these rules the provisional liquidator shall pay the Official Receiver such sum, if any, as the court directs.

[cf. R. 31]

Rule:	29	Attendance before hearing to show compliance with rules		30/06/1997

HEARING OF PETITIONS AND ORDERS MADE THEREON

After a petition has been presented, the petitioner or his solicitor, shall, on a day to be appointed by the Registrar, attend before the Registrar and satisfy him that the petition has been duly advertised, that the prescribed affidavit verifying the statements therein and the affidavit of service (if any) have been duly filed, and that the provisions of the rules as to petitions for winding-up companies have been duly complied with by the petitioner. No order for the winding up of a company shall be made on the petition of any petitioner who has not, prior to the hearing of the petition, attended before the Registrar at the time appointed, and satisfied him in manner required by this rule.

[cf. R. 32]

Rule:	30	Notice by persons who intend to appear		30/06/1997

Every person who intends to appear on the hearing of a petition shall serve on, or send by post to, the petitioner, or his solicitor, at the address stated in the advertisement of the petition, notice of his intention. The notice shall contain the address of such person, and shall be signed by him or his solicitor, and shall be served, or if sent by post shall be posted in such time as in ordinary course of post to reach the address not later than 6 o'clock in the afternoon of the day previous to the day appointed for the hearing of the petition, or if such day be a Monday, not later than one o'clock in the afternoon of the Saturday previous to such day. The notice shall be in Form 10 with such variations as circumstances may require. A person who has failed to comply with this rule shall not, without the special leave of the court, be allowed to appear on the hearing of the petition. (See Form 10)

[cf. R. 33]

Rule:	31	List of names and addresses of persons who appear on the petition		30/06/1997

The petitioner, or his solicitor, shall prepare a list of the names and addresses of the persons who have given notice of their intention to appear on the hearing of the petition, and of their respective solicitors, which shall be in Form 11. On the day appointed for hearing the petition a fair copy of the list (or if no notice of intention to appear has been given a statement in writing to that effect) shall be handed by the petitioner, or his solicitor, to the court prior to the hearing of the petition. (See Form 11)

[cf. R. 34]

Rule:	32	Affidavits in opposition and reply		30/06/1997

(1) Affidavits in opposition to a petition that a company may be wound up by the court shall be filed within 7 days, or such longer time as the court may direct, of the date on which the affidavit verifying the petition is filed and notice of the filing of every affidavit in opposition to such a petition shall be given to the petitioner or his solicitor on the day on which the affidavit is filed. (L.N. 201 of 1984)

(2) An affidavit in reply to an affidavit filed in opposition to a petition shall be filed within 3 days of the date

on which notice of such affidavit is received by the petitioner or his solicitor.

[cf. R. 35]

Rule:	33	Substitution of creditor or contributory for withdrawing petitioner		30/06/1997

When a petitioner is not entitled to present a petition or whether so entitled or not, where he (a) fails to advertise his petition within the time by these rules prescribed or such extended time as the Registrar may allow or (b) consents to withdraw his petition, or to allow it to be dismissed, or the hearing adjourned, or fails to appear in support of his petition when it is called on in court on the day originally fixed for the hearing thereof, or on any day to which the hearing has been adjourned, or (c) if appearing, does not apply for an order in the terms of the prayer of his petition, the court may, upon such terms as it may think just, substitute as petitioner any creditor or contributory who in the opinion of the court would have a right to present a petition, and who is desirous of prosecuting the petition. An order to substitute a petitioner may, where a petitioner fails to advertise his petition within the time prescribed by these rules or consents to withdraw his petition, be made in chambers at any time.

[cf. R. 36]

Rule:	34	Notice that winding-up order has been pronounced to be given to Official Receiver		30/06/1997

ORDER TO WIND UP A COMPANY
~~AND ORDER UNDER~~
~~SECTION 168A OF THE ORDINANCE~~

(L.N. 178 of 1978)

When an order for the winding up of a company, or for the appointment of a provisional liquidator prior to the making of an order for the winding up of the company, has been pronounced in court, the Registrar shall, on the same day, send to the Official Receiver a notice informing him that the order has been pronounced.

The notice may be in Forms 12 and 13 respectively, with such variations as circumstances may require. (See Forms 12 & 13)

[cf. R. 37]

Rule:	35	Drawing up and contents of winding-up order	46 of 2000	01/07/2000

(1) It shall be the duty of the petitioner, or his solicitor, and of all other persons who have appeared on the hearing of the petition, at latest on the day following the day on which an order for the winding up of a company ~~or an order under section 168A of the Ordinance~~ is pronounced in court, to leave with the Registrar a draft of the order and all other documents required for the purpose of enabling the Registrar to complete the order forthwith. ~~Except in the case of an order made under section 168A of the Ordinance it shall not be~~ It is not necessary for the Registrar to make an appointment to settle the order unless in any particular case the special circumstances make an appointment necessary. (See Form 14) (L.N. 178 of 1978)

(2) An order to wind up a company or for the appointment of a provisional liquidator shall contain at the foot thereof a notice stating that it will be the duty of the person who is at the time ~~secretary~~ company secretary of the company and any person who is then an officer thereof, and of such of the persons who are liable to make out or concur in making out the company's statement of affairs as the Official Receiver, provisional liquidator or liquidator may require, to attend on the Official Receiver, provisional liquidator or liquidator at such time and place as he may appoint and to give him all information he may require. (L.N. 201 of 1984; 46 of 2000 s. 40)

[cf. R. 40]

Rule:	36	Transmission and advertisement of winding-up order	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) When an order that a company be wound up, or for the appointment of a provisional liquidator has been

made-

(a) 3 copies of the order sealed with the seal of the court shall forthwith be sent by the Registrar to the Official Receiver;

(b) the Official Receiver shall cause a sealed copy of the order to be served upon the company by prepaid letter addressed to it at the registered office of the company (if any), or if there is no registered office at its principal or last known principal place of business, or upon such other person or persons, and in such other manner as the court may direct, and if the order is that the company be wound up by the court, shall forward to the Registrar of Companies the copy of the order which by section 185 of the Ordinance is directed to be so forwarded by the company, or otherwise as may be prescribed;

(c) the Official Receiver shall forthwith cause notice of the order to be gazetted; (See Form 103(1))

(d) the Official Receiver shall forthwith send notice of the order to such local paper as the court may from time to time direct, or, in default of such direction, as he may select. (See Form 16)

(2) (Repealed L.N. 201 of 1984)

~~(3) Where an order under section 168A of the Ordinance has been made, an office copy of the order shall, unless the court otherwise orders, be served by the petitioner on the company and on the Registrar of Companies in like manner as, under paragraph (1)(b), the Official Receiver is required to serve a sealed copy of the order, and where such order involves a reduction of capital or alteration of the memorandum of association, the Ordinance and Rules of the High Court (Cap 4 sub. leg. A) relative to such matters shall apply as the court may direct. (L.N. 178 of 1978; 25 of 1998 s. 2)~~

[cf. R. 41]

Rule:	37	Appointment of special manager		30/06/1997

SPECIAL MANAGER

An application by the Official Receiver for the appointment of a special manager shall be supported by a report of the Official Receiver, which shall be placed on the file of proceedings. No affidavit by the Official Receiver in support of the application shall be required.

[cf. R. 48]

Rule:	38	Accounting by special manager		30/06/1997

(1) Every special manager shall lodge with the Official Receiver an account in relation to the total of his receipts and payments as special manager, and such account shall be certified to be correct by the special manager.

(2) The Official Receiver may require any account referred to in paragraph (1) to be audited.

(L.N. 286 of 1997)

Rule:	39	Preparation of statement of affairs	46 of 2000	01/07/2000

STATEMENT OF AFFAIRS

(1) Every person who under section 190 of the Ordinance, has been required by the provisional liquidator or liquidator to submit and verify a statement as to the affairs of a company, shall be furnished by the provisional liquidator or liquidator with forms and instructions for the preparation of the statement. The statement shall be made out in duplicate, one copy of which shall be verified by affidavit. The provisional liquidator or liquidator shall cause to be filed with the Registrar the verified statement of affairs. (See Form 23)

(2) The Official Receiver, provisional liquidator or liquidator may from time to time hold personal interviews with every such person for the purpose of investigating the company's affairs, and it shall be the duty of every such person to attend on the Official Receiver, provisional liquidator or liquidator at such time and place as the Official Receiver, provisional liquidator or liquidator may appoint and give the Official Receiver, provisional liquidator or liquidator all information that he may require.

(46 of 2000 s. 40)

[cf. R. 50]

Rule:	40	Extension of time for submitting statement of affairs	46 of 2000	01/07/2000

When any person requires any extension of time for submitting the statement of affairs, he shall apply to the provisional liquidator or liquidator, who may, if he thinks fit, give a notice in writing extending the time.

(L.N. 286 of 1997; 46 of 2000 s. 40)

[cf. R. 51]

Rule:	41	Information subsequent to statement of affairs	46 of 2000	01/07/2000

After the statement of affairs of a company has been submitted to the provisional liquidator or liquidator it shall be the duty of each person who has made or concurred in making it, if and when required, to attend on the Official Receiver, provisional liquidator or liquidator and answer all such questions as may be put to him, and give all such further information as may be required of him by the Official Receiver, provisional liquidator or liquidator in relation to the statement of affairs.

(46 of 2000 s. 40)

[cf. R. 52]

Rule:	42	Default	46 of 2000	01/07/2000

Any default in complying with the requirements of section 190 of the Ordinance, may be reported by the provisional liquidator or liquidator to the court.

(46 of 2000 s. 40)

[cf. R. 53]

Rule:	43	Expenses of statement of affairs	46 of 2000	01/07/2000

A person who is required to make or concur in making any statement of affairs of a company shall, before incurring any costs or expenses in and about the preparation and making of the statement, apply to the provisional liquidator or liquidator for his sanction, and submit a statement of the estimated costs and expenses which it is intended to incur; and, except by order of the court, no person shall be allowed out of the assets of the company any costs or expenses which have not before being incurred been sanctioned by the provisional liquidator or liquidator.

(46 of 2000 s. 40)

[cf. R. 54]

Rule:	44	Dispensing with statement of affairs	46 of 2000	01/07/2000

(1) Any application to dispense with the requirements of section 190 of the Ordinance shall be supported by a report of the provisional liquidator or liquidator showing the special circumstances which in his opinion render such a course desirable. (46 of 2000 s. 40)

(2) When the court has made an order dispensing with the requirements of the said section, it may give such consequential directions as it may see fit and in particular it may give directions as to the sending of any notices which are by these rules required to be sent to any person mentioned in the statement of affairs.

[cf. R. 55]

Rule:	45	Appointment of liquidator on report of meetings of creditors and contributories	46 of 2000	01/07/2000

APPOINTMENT OF LIQUIDATOR IN A WINDING UP
BY THE COURT

(1) As soon as possible after the first meetings of creditors and contributories have been held the Official Receiver, or the chairman of the meeting, as the case may be, shall report the result of each meeting to the court. (See Form 24)

(2) Upon the result of the meetings of creditors and contributories being reported to the court, the court may, if

the meeting of creditors and the meeting of contributories have each passed the same resolutions, or if the resolutions passed at the 2 meetings are identical in effect, upon the application of the provisional liquidator, forthwith make the appointments necessary for giving effect to such resolutions. In any other case the court shall, on the application of the provisional liquidator, fix a time and place for considering the resolutions and determinations (if any) of the meetings, deciding differences (if any), and making such order as shall be necessary. (46 of 2000 s. 40)

(3) When a time and place have been fixed for the consideration of the resolutions and determinations of the meetings, such time and place shall be advertised by the provisional liquidator in such manner as the court shall direct, but so that the first or only advertisement shall be published not less than 7 days before the time so fixed. (46 of 2000 s. 40)

(4) Upon the consideration of the resolutions and determinations of the meetings the court shall hear the provisional liquidator and any creditor or contributory. (46 of 2000 s. 40)

(4A) For the purposes of appointing a person to be a liquidator, the Official Receiver may, if he considers desirable, require an affidavit as to the fitness of such person to be so appointed. (L.N. 286 of 1997)

(5) If a liquidator is appointed, a copy of the order appointing him shall be transmitted by him to the Official Receiver and the Official Receiver shall, as soon as the liquidator has given security, cause notice of the appointment to be gazetted. The expense of gazetting the notice of the appointment shall be paid by the liquidator, but may be charged by him on the assets of the company. (See Forms 25 & 103(7))

(6) Every appointment of a liquidator or committee of inspection shall be advertised by the liquidator, in such manner as the court directs, immediately after the appointment has been made and the liquidator has given the required security. (See Form 27)

(7) If a liquidator in a winding up by the court shall die, or resign, or be removed, another liquidator may be appointed in his place in the same manner as in the case of a first appointment, and the Official Receiver shall, on the request of not less than one-tenth in value of the creditors or contributories summon meetings for the purpose of determining whether or not the vacancy shall be filled; but none of the provisions of this rule shall apply where the liquidator is released under section 205 of the Ordinance in which case the Official Receiver shall remain liquidator. (See Forms 103(8) & (9))

[cf. R. 56]

Rule:	46	(Repealed 28 of 2003 s. 124)	L.N. 267 of 2003	13/02/2004

Rule:	47	Security to satisfaction of Official Receiver		30/06/1997

SECURITY BY LIQUIDATOR OR SPECIAL MANAGER IN A WINDING UP BY THE COURT

In the case of a special manager or a liquidator other than the Official Receiver, the following provisions as to security shall have effect, namely- (See Form 26)

(a) the security shall be given to such officers or persons, and in such manner as the Official Receiver may from time to time direct;

(b) it shall not be necessary that security shall be given in each separate winding up; but security may be given either specially in a particular winding up, or generally, to be available for any winding up in which the person giving security may be appointed, either as liquidator or special manager;

(c) the Official Receiver shall fix the amount and nature of such security, and may from time to time, as he thinks fit, either increase or diminish the amount of special or general security which any person has given;

(d) the certificate of the Official Receiver that a liquidator or special manager has given security to his satisfaction shall be filed with the Registrar; (See Form 26)

(e) the cost of furnishing the required security by a liquidator or special manager, including any premiums which he may pay to a guarantee society, shall be borne by him personally, and shall not be charged against the assets of the company as an expense incurred in the winding up.

[cf. R. 57]

Rule:	48	Failure to give or keep up security		30/06/1997

(1) If a liquidator or special manager fails to give the required security within the time stated for that purpose in the order appointing him, or any extension thereof, the Official Receiver shall report such failure to the court, who may thereupon rescind the order appointing the liquidator or special manager.

(2) If a liquidator or special manager fails to keep up his security, the Official Receiver shall report such failure to the court, who may thereupon remove the liquidator or special manager, and make such order as to costs as the court shall think fit.

(3) Where an order is made under this rule rescinding an order for the appointment of or removing a liquidator, the court may direct that another liquidator is to be appointed and thereupon the same meetings shall be summoned and the same proceedings may be taken as in the case of a first appointment of a liquidator.

[cf. R. 58]

Rule:	49	Report of liquidator to be filed	46 of 2000	01/07/2000

PUBLIC EXAMINATION

A report made by the Official Receiver or liquidator pursuant to section 191(2) of the Ordinance shall state, in a narrative form, the facts and matters which the Official Receiver or liquidator desires to bring to the notice of the court, and his opinion as required by the said section.

(46 of 2000 s. 40)

Rule:	50	Appointment of time for consideration of report	46 of 2000	01/07/2000

The Official Receiver or liquidator may apply to the court to fix a day for the consideration of the report, and on such application the court shall appoint a day on which the report shall be considered.

(46 of 2000 s. 40)

Rule:	51	Consideration of report	46 of 2000	01/07/2000

The consideration of the report shall be before a judge personally in chambers, and the party who made the further report shall, and the Official Receiver or the liquidator when he is not the party who made the further report may, personally, or by counsel or solicitor, attend the consideration of the report, and give the court any further information or explanation with reference to the matter stated in the report which the court may require.

(46 of 2000 s. 40)

[cf. R. 59]

Rule:	52	Order for public examination		30/06/1997

An order under section 222 of the Ordinance directing any person or persons to attend for public examination shall be in Form 29 with such variations as circumstances may require. (See Form 29)

Rule:	53	Application for day for holding examination	46 of 2000	01/07/2000

Upon an order directing a person to attend for public examination being made, the Official Receiver or liquidator, as the case may be, shall apply for the appointment of a day on which the public examination is to be held.

(46 of 2000 s. 40)

[cf. R. 61]

Rule:	54	Appointment of time and place for public examination	46 of 2000	01/07/2000

A day and place shall be appointed for holding the public examination, and notice of the day and place so appointed shall be given by the Official Receiver or liquidator, as the case may be, to the person who is to be examined by sending such notice in a registered letter addressed to his usual or last known address. (See Forms 30 &

31)

(46 of 2000 s. 40)
[cf. R. 62]

Rule:	55	Notice of public examination to creditors and contributories	46 of 2000	01/07/2000

(1) The Official Receiver or liquidator, as the case may be, shall give notice of the time and place appointed for holding a public examination to the creditors and contributories by advertisement in such newspapers as the court from time to time may direct, or in default of any such direction as the Official Receiver or liquidator, as the case may be, thinks fit, and shall also cause notice of the appointment to be gazetted. (See Form 103(3)) (46 of 2000 s. 40)

(2) Where an adjournment of the public examination has been directed, notice of the adjournment shall not, unless otherwise directed by the court, be advertised.

[cf. R. 63]

Rule:	56	Default in attending	46 of 2000	01/07/2000

(1) If any person who has been directed by the court to attend for public examination fails to attend at the time and place appointed for holding or proceeding with the same, and no good cause is shown by him for such failure, or if before the day appointed for the examination the Official Receiver or liquidator satisfies the court that such person has absconded, or that there is reason for believing that he is about to abscond with the view of avoiding examination, it shall be lawful for the court, upon its being proved to the satisfaction of the court that notice of the order and of the time and place appointed for attendance at the public examination was duly served, without any further notice, to issue a warrant for the arrest of the person required to attend, or to make such other order as the court shall think just. (See Form 38) (46 of 2000 s. 40)

(2) A warrant of arrest issued by the court under this rule shall be issued in the Registry of the High Court pursuant to an order of the court directing such issue. (25 of 1998 s. 2) (See Form 38A)

[cf. R. 64]

Rule:	57	Notes of examination to be filed		30/06/1997

The notes of every public examination shall, after being signed as required by section 222(7) of the Ordinance, be filed with the Registrar. (See Forms 34 & 35)

[cf. R. 65]

Rule:	57A	Application of certain rules where report is made under section 168IA of Ordinance	46 of 2000	01/07/2000

Expanded Cross Reference:
49, 50, 51, 52, 53, 54

Where a report under section 168IA of the Ordinance is made to the court by the Official Receiver, rules 49 to 54 and 56 and 57 inclusive shall apply to and in relation to the proceedings arising from the report. <* Note - Exp. X-Ref.: Rules 49, 50, 51, 52, 53, 54*>

(46 of 2000 s. 40)

Rule:	58	Application by or against delinquent directors, officers and promoters	46 of 2000	01/07/2000

PROCEEDINGS BY OR AGAINST DIRECTORS,
PROMOTERS, AND OFFICERS

(1) An application under any of the following provisions ~~of the Ordinance~~-
(a) section 276 of the Ordinance;
(b) section 275(1), (2) or (4) of the Ordinance;

(c) section 168I of the Ordinance, where such application relates to a company in course of being wound up by the court; (L.N. 201 of 1984; 46 of 2000 s. 40)

(d) ~~section 358(2)~~section 892(1) of the Companies Ordinance (of 2011),

shall be made by a summons returnable in the first instance in chambers, in which summons shall be stated the nature of the declaration or order for which application is made, and the grounds of the application, and which summons, unless otherwise ordered by the court, shall be served, in the manner in which an originating summons is required by the Rules of the High Court (Cap 4 sub. leg. A) to be served, on every person against whom an order is sought, not less than 8 days before the day named in the summons for hearing the application. Where the application is made by the Official Receiver or liquidator he may make a report to the court stating any facts and information on which he proceeds which are verified by affidavit, or derived from sworn evidence in the proceedings. Where the application is made by any other person it shall be supported by affidavit to be filed by him. (25 of 1998 s. 2)

A copy of every report and affidavit intended to be used in support of the summons shall be served on every person against whom an order is sought not less than 4 days before the hearing of the summons.

(2) On the return of the summons the court may give such directions as it shall think fit as to the taking of evidence wholly or in part by affidavit or orally, and the cross-examination either before a judge on the hearing in court or in chambers of any deponents to affidavits in support of or in opposition to the application and as to any report it may require the Official Receiver or liquidator to make and generally as to the procedure on the summons and for the hearing thereof.

[cf. R. 66]

Rule:	59	Use of depositions taken at public examinations		30/06/1997

Where in the course of the proceedings in a winding up by the court an order has been made for the public examination of persons named in the order pursuant to section 222 of the Ordinance, then in any proceedings subsequently instituted under any of the provisions of ~~the Ordinance mentioned~~ the Ordinance or the Companies Ordinance (of 2011) mentioned in rule 58(1), the verified notes of the examination of each person who was examined under the order shall, subject as hereinafter mentioned, and to any order or directions of the court as to the manner and extent in and to which the notes shall be used, and subject to all just exceptions to the admissibility in evidence against any particular person or persons of any of the statements contained in the notes of the examinations, be admissible in evidence against any of the persons against whom the application is made, who, under section 222 of the Ordinance, and the order for the public examination, was or had the opportunity of being present at and taking part in the examination:

Provided that before any such notes of a public examination shall be used on any such application, the person intending to use the same shall, not less than 15 days before the day appointed for hearing the application, give notice of such intention to each person against whom it is intended to use such notes, or any of them, specifying the notes or parts of the notes which it is intended to read against him, and furnish him with copies of such notes, or parts of notes (except notes of the person's own depositions), and provided also that every person against whom the application is made shall be at liberty to cross-examine or re-examine (as the case may be) any person the notes of whose examination are read, in all respects as if such person had made an affidavit on the application.

[cf. R. 69]

Rule:	60	Appointment and remuneration of shorthand writers		30/06/1997

WITNESSES AND DEPOSITIONS

(1) The court may at any time in any proceedings, if it considers that it would be desirable so to do, appoint a person (in these rules called a "shorthand writer") to take down, in shorthand or otherwise, the evidence of any witness examined at any public or private sitting, examination or meeting under the Ordinance.

(2) A shorthand writer (if any) attached to the Official Receiver's office shall be deemed to be duly appointed under paragraph (1), and it shall not be necessary to make any application to make such an appointment, and a general declaration by such shorthand writer adapted from Form 33 shall be deemed to apply to all proceedings in which notes are taken by him of any such evidence. (See Form 33)

(3) Any document purporting-

(a) to be a transcript of the notes taken by a shorthand writer appointed under paragraph (1) or by a shorthand writer attached to the Official Receiver's office; and

(b) to be signed by such shorthand writer,

shall until the contrary is proved be sufficient evidence that the questions and answers therein set forth were so put and answered respectively.

(4) Every person appointed to be a shorthand writer under this rule shall be paid a sum not exceeding $150 or otherwise as the court directs for each hour or part thereof during which he is engaged in such appointment or in the preparation of any transcript of the evidence that may be required. (L.N. 139 of 1985)

(5) The fees of a shorthand writer shall be paid by the party at whose instance the appointment was made, or out of the assets of the company, as may be directed by the court.

(6) If the person appointed to be the shorthand writer under this rule is a public servant the fees payable under paragraph (4) shall be paid forthwith by the person responsible for such fees to the Official Receiver for payment into the Treasury.

(L.N. 245 of 1977)

[cf. S.I. 1952/2113 rr. 69 & 70 U.K.]

Rule:	61	Committal of contumacious witness		30/06/1997

(1) If a person examined before a Registrar or other officer of the court who has no power to commit for contempt of court, refuses to answer to the satisfaction of the Registrar or officer any question which he may allow to be put, the Registrar or officer shall report such refusal to a judge, and upon report being made the person in default shall be in the same position, and be dealt with in the same manner as if he had made default in answering before the judge. (See Form 36)

(2) The report shall be in writing, but without affidavit and shall set forth the question put, and the answer (if any) given by the person examined.

(3) The Registrar or other officer shall, before the conclusion of the examination at which the default in answering is made, name the time when and the place where the default will be reported to a judge, and upon receiving the report a judge may take such action thereon as he shall think fit. If a judge is sitting at the time when the default in answering is made, such default may be reported immediately.

[cf. R. 71]

Rule:	62	Depositions at private examinations	46 of 2000	01/07/2000

(1) The Official Receiver or liquidator may attend in person, or by counsel or by solicitors employed for the purpose, any examination of a witness under section 221 of the Ordinance, on whosesoever application the same has been ordered, and may take notes of the examination for his own use, and put such question to the persons examined as the court may allow. (46 of 2000 s. 40)

(2) The notes of the depositions of a person examined under section 221 of the Ordinance, or under any order of the court before the court, or before any officer of the court, or person appointed to take such an examination (other than the notes of the depositions of a person examined at a public examination under section 222 of the Ordinance) shall not be filed, or be open to the inspection of any creditor, contributory, or other person, except the Official Receiver or liquidator, or any provisional liquidator other than the Official Receiver, while he is acting as provisional liquidator, unless and until the court shall so direct, and the court may from time to time give such general or special directions as it shall think expedient as to the custody and inspection of such notes and the furnishing of copies of or extracts therefrom.

[cf. R. 72]

Rule:	63	Disclaimer		30/06/1997

DISCLAIMER

(1) Any application for leave to disclaim any part of the property of a company pursuant to section 268(1) of the Ordinance shall be by ex parte summons. Such summons shall be supported by an affidavit showing who are the parties interested and what their interests are. On the hearing of the summons the court shall give such directions as it sees fit and in particular directions as to the notices to be given to the parties interested or any of them and the court may adjourn the application to enable any such party to attend. (See Forms 39 & 40)

(2) Where a liquidator disclaims a leasehold interest he shall forthwith file the disclaimer at the office of the

Registrar and, when the property is situate in Hong Kong, register a notice thereof in the Land Registry. The disclaimer shall contain particulars of the interest disclaimed and a statement of the persons to whom notice of the disclaimer has been given. Until the disclaimer is filed by the liquidator and, when the property is situate in Hong Kong, a notice thereof is registered in the Land Registry the disclaimer shall be inoperative. A disclaimer shall be in the Form 39 and a notice of disclaimer in the Form 40 in the Appendix with such variations as circumstances may require. (L.N. 201 of 1984; 8 of 1993 s. 30)

(3) Where any person claims to be interested in any part of the property of a company which the liquidator wishes to disclaim he shall at the request of the liquidator furnish a statement of the interest so claimed by him.

[cf. R. 73]

Rule:	64	Vesting of disclaimed property		30/06/1997

VESTING OF DISCLAIMED PROPERTY

(1) Any application under subsection (6) of section 268 of the Ordinance for an order for the vesting of any disclaimed property in or the delivery of any such property to any persons shall be supported by the affidavit filed on the application for leave to disclaim such property.

(2) Where such an application as aforesaid relates to disclaimed property of a leasehold nature and it appears that there is any under-lessee of such property or person entitled to a mortgage or charge in respect thereof, the court may direct that notice shall be given to such under-lessee or person so entitled that, if he does not elect to accept and apply for such a vesting order as aforesaid upon the terms required by the above-mentioned subsection and imposed by the court within a time to be fixed by the court and stated in the notice, he will be excluded from all interest in and security upon the property and the court may adjourn the application for such notice to be given and for such under-lessee or person so entitled to be added as a party to and served with the application and, if he sees fit, to make such election and application as is mentioned in the notice. If at the expiration of the time so fixed by the court such under-lessee or person so entitled fails to make such election and application, the court may make an order vesting the property in the applicant and excluding such under-lessee or person so entitled from all interest in or security upon the property. (L.N. 201 of 1984)

[cf. R. 74]

Rule:	65	Report by Official Receiver on arrangements and compromises		30/06/1997

ARRANGEMENTS WITH CREDITORS AND CONTRIBUTORIES IN A WINDING UP BY THE COURT

In a winding up by the court, if application is made to the court to sanction any compromises or arrangement, the court may, before giving its sanction thereto, hear a report by the Official Receiver as to the terms of the scheme, and as to the conduct of the directors and other officers of the company, and as to any other matters which, in the opinion of the Official Receiver, ought to be brought to the attention of the court. The report shall not be placed upon the file, unless and until the court shall direct it to be filed.

[cf. R. 75]

Rule:	66	Collection and distribution of company's assets by liquidator		30/06/1997

COLLECTION AND DISTRIBUTION OF ASSETS IN A WINDING UP BY THE COURT

(1) The duties imposed on the court by section 210(1) of the Ordinance, in a winding up by the court with regard to the collection of the assets of the company and the application of the assets in discharge of the company's liabilities, shall be discharged by the liquidator as an officer of the court subject to the control of the court.

(2) For the purpose of the discharge by the liquidator of the duties imposed by section 210(1) of the Ordinance, and paragraph (1) of this rule, the liquidator in a winding up by the court shall for the purpose of acquiring or retaining possession of the property of the company, be in the same position as if he were a receiver of the property appointed by the court, and the court may, on his application, enforce such acquisition or retention accordingly.

[cf. R. 76]

Rule:	67	Power of liquidator to require delivery of property		30/06/1997

The powers conferred on the court by section 211 of the Ordinance shall be exercised by the liquidator. Any contributory for the time being on the list of contributories, trustee, receiver, banker or agent or officer of a company which is being wound up under order of the court shall, on notice from the liquidator and within such time as he shall by notice in writing require, pay, deliver, convey, surrender or transfer to or into the hands of the liquidator any sum of money or balance, books, papers, estate or effects which happen to be in his hands for the time being and to which the company is prima facie entitled. (See Form 41)

[cf. R. 77]

Rule:	68	Liquidator to settle list of contributories		30/06/1997

LIST OF CONTRIBUTORIES IN A WINDING UP BY THE COURT

Unless the court shall dispense with the settlement of a list of contributories the liquidator shall with all convenient speed after his appointment settle a list of contributories of the company, and shall appoint a time and place for that purpose. The list of contributories shall contain a statement of the address of, and the number of shares or extent of interest to be attributed to each contributory and the amount called up and the amount paid up in respect of such shares or interest, and shall distinguish the several classes of contributories. As regards representative contributories the liquidator shall, so far as practicable, observe the requirements of section 210(2) of the Ordinance. (See Form 42)

[cf. R. 78]

Rule:	69	Appointment of time and place for settlement of list		30/06/1997

The liquidator shall give notice in writing of the time and place appointed for the settlement of the list of contributories to every person whom he proposes to include in the list, and shall state in the notice to each person in what character and for what number of shares or interest he proposes to include such person in the list, and what amount has been called up and what amount paid up in respect of such shares or interest. (See Forms 43 & 44)

[cf. R. 79]

Rule:	70	Settlement of list of contributories		30/06/1997

On the day appointed for settlement of the list of contributories the liquidator shall hear any person who objects to being settled as a contributory, and after such hearing shall finally settle the list, which when so settled shall be the list of contributories of the company. (See Form 45)

[cf. R. 80]

Rule:	71	Notice to contributories		30/06/1997

The liquidator shall forthwith give notice to every person whom he has finally placed on the list of contributories stating in what character and for what number of shares or interest he has been placed on the list and what amount has been called up and what amount paid up in respect of such shares or interest, and in the notice he shall inform such person that any application for the removal of his name from the list, or for a variation of the list, must be made to the court by summons within 21 days from the date of the service on the contributory or alleged contributory of notice of the fact that his name is settled on the list of contributories. (See Forms 46 & 48)

[cf. R. 81]

Rule:	72	Application to the court to vary the list		30/06/1997

(1) Subject to the power of the court to extend the time or to allow an application to be made notwithstanding the expiration of the time limited for that purpose, no application to the court by any person who objects to the list of

contributories as finally settled by the liquidator shall be entertained after the expiration of 21 days from the date of the service on such person of notice of the settlement of the list. (See Form 49)

(2) The Official Receiver shall not in any case be personally liable to pay any costs of or in relation to an application to set aside or vary his act or decision settling the name of a person on the list of contributories of a company.

[cf. R. 82]

Rule:	73	Variation of or addition to list of contributories		30/06/1997

The liquidator may from time to time vary or add to the list of contributories, but any such variation or addition shall be made in the same manner in all respects as the settlement of the original list. (See Form 47)

[cf. R. 83]

Rule:	74	Calls by liquidator		30/06/1997

CALLS

The powers and duties of the court in relation to making calls upon contributories conferred by section 214 of the Ordinance, shall and may be exercised, in a winding up by the court, by the liquidator as an officer of the court subject to the proviso to section 226 of the Ordinance, and to the following regulations-

(a) where the liquidator desires to make any call on the contributories, or any of them for any purpose authorized by the Ordinance, if there is a committee of inspection he may summon a meeting of such committee for the purpose of obtaining their sanction to the intended call; (See Form 50)

(b) the notice of the meeting shall be sent to each member of the committee of inspection in sufficient time to reach him not less than 7 days before the day appointed for holding the meeting, or such longer time as the court may appoint, and shall contain a statement of the proposed amount of the call, and the purpose for which it is intended. Notice of the intended call and the intended meeting of the committee of inspection shall also be advertised once at least in a Hong Kong daily newspaper. The advertisement shall state the time and place of the intended meeting of the committee of inspection, and that each contributory may either attend the said meeting and be heard, or make any communication in writing to the liquidator or members of the committee of inspection to be laid before the meeting, in reference to the said intended call; (See Form 51)

(c) at the meeting of the committee of inspection any statements or representations made either to the meeting personally or addressed in writing to the liquidator or members of the committee by any contributory shall be considered before the intended call is sanctioned;

(d) the sanction of the committee shall be given by resolution, which shall be passed by a majority of the members present; (See Form 52)

(e) where there is no committee of inspection, the liquidator shall not make a call without obtaining the leave of the court.

[cf. R. 84]

Rule:	75	Application to the court for leave to make a call		30/06/1997

In a winding up by the court an application to the court for leave to make any call on the contributories of a company, or any of them, for any purpose authorized by the Ordinance, shall be made by summons stating the proposed amount of such call, which summons shall be served 4 clear days at the least before the day appointed for making the call on every contributory proposed to be included in such call or such longer time as the court may appoint; or if the court so directs, notice of such intended call may be given by advertisement, without a separate notice to each contributory. (See Forms 54 to 57)

[cf. R. 85]

Rule:	76	Document making the call		30/06/1997

When the liquidator is authorized by resolution or order to make a call on the contributories he shall file with the

Registrar a document in the Form 58 with such variations as circumstances may require making the call. (See Form 58)

[cf. R. 86]

Rule:	77	Service of notice of a call		30/06/1997

When a call has been made by the liquidator in a winding up by the court, a copy of the resolution of the committee of inspection or order of the court (if any), as the case may be, shall forthwith after the call has been made be served upon each of the contributories included in such call, together with a notice from the liquidator specifying the amount or balance due from such contributory in respect of such call, but such resolution or order need not be advertised unless for any special reason the court so directs. (See Forms 52, 53, 57 & 59)

[cf. R. 87]

Rule:	78	Enforcement of call		30/06/1997

The payment of the amount due from each contributory on a call may be enforced by order of the court, to be made in chambers on summons by the liquidator. (See Forms 60, 61 & 62)

[cf. R. 88]

Rule:	79	Proof of debt		30/06/1997

PROOFS

In a winding up by the court every creditor shall prove his debt, unless a judge in any particular winding up shall give directions that any creditors or class of creditors shall be admitted without proof.

[cf. R. 89]

Rule:	80	Mode of proof		30/06/1997

A debt may be proved in any winding up by delivering or sending through the post a proof of debt in the prescribed form and accompanied by the prescribed fee as the case may require-

(a) in a winding up by the court, to the Official Receiver or, if a liquidator has been appointed, to the liquidator; or

(b) in any other winding up, to the liquidator. (See Form 63A)

(L.N. 225 of 1992)

Rule:	81	Verification of proof		30/06/1997

A proof of debt may be made by the creditor himself or by a person authorized by or on behalf of the creditor and having knowledge of the facts.

(L.N. 225 of 1992)

Rule:	82	Contents of proof		30/06/1997

(1) The creditor or the person authorized by or on behalf of the creditor shall declare in the proof of debt-

(a) the creditor's name and address;

(b) the total amount of his claim as at the date of the winding up order;

(c) whether or not that amount includes outstanding uncapitalised interest;

(d) particulars of how and when the debt was incurred by the debtor;

(e) particulars of any security held, the date when it was given and the value which the creditor puts upon it; and

(f) the name and the authority of the person signing the proof (if other than the creditor himself) and means of knowledge of the facts.

(2) There shall be specified in the proof any documents by reference to which the debt can be substantiated and

such documents or a copy of such documents shall be submitted together with the proof.

(3) The Official Receiver or the liquidator to whom the proof is sent may call for any document, which has not already been submitted, or other evidence to be produced to him, where he thinks it necessary for the purpose of substantiating the whole or any part of the claim made in the proof.

(L.N. 225 of 1992)

Rule:	83	Claim established by affidavit		30/06/1997

(1) The Official Receiver or the liquidator, as the case may be, may, if he thinks it necessary, require a claim of debt to be verified by affidavit in the prescribed form notwithstanding that a proof of debt has already been lodged. (See Form 63B)

(2) The affidavit may, in a winding up by the court, be sworn before the Official Receiver, an assistant official receiver or any person authorized to administer oaths or take statutory declarations.

(L.N. 225 of 1992)

Rule:	84	Surrender of security		30/06/1997

If it is found at any time that the proof made by or on behalf of a secured creditor has omitted to state that he is a secured creditor, the secured creditor shall surrender his security to the Official Receiver or, where a liquidator has been appointed, to the liquidator, for the general benefit of the creditors unless the court on application is satisfied that the omission has arisen from inadvertence in which case the court may allow the proof to be amended upon such terms as to the repayment of any dividends or otherwise as the court may consider just.

(L.N. 225 of 1992)

Rule:	85	Costs of proof		30/06/1997

A creditor shall bear the cost of proving his debt unless the court otherwise orders.

[cf. R. 95]

Rule:	86	Discount		30/06/1997

A creditor proving his debt shall deduct therefrom (a) all trade discounts, and (b) any discount, which he may have agreed to allow for payment in cash, in excess of 5 per cent on the net amount of his claim.

[cf. R. 96]

Rule:	87	Periodical payments		30/06/1997

When any rent or other payment falls due at stated periods, and the order or resolution to wind-up is made at any time other than one of those periods, the persons entitled to the rent or payment may prove for a proportionate part thereof up to the date of the winding-up order or resolution as if the rent or payment grew due from day to day:

Provided that where the liquidator remains in occupation of premises demised to a company which is being wound up, nothing herein contained shall prejudice or affect the right of the landlord of such premises to claim payment by the company, or the liquidator, of rent during the period of the company's or the liquidator's occupation.

[cf. R. 97]

Rule:	88	Interest	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) On any debt or sum certain, payable at a certain time or otherwise, whereon interest is not reserved or agreed for, and which is overdue at the appropriate date, the creditor may prove for interest at a rate not exceeding the rate specified in section 49 of the High Court Ordinance (Cap 4) to that date from the time when the debt or sum was payable, if the debt or sum is payable by virtue of a written instrument at a certain time, and if payable otherwise, then

from the time when a demand in writing has been made, giving notice that interest will be claimed from the date of the demand until the time of payment. (L.N. 286 of 1997; 25 of 1998 s. 2)

(2) The appropriate date referred to in paragraph (1) is-

(a) in the case of a voluntary winding up, the date of the commencement of the winding up;

(b) in the case of a winding up by the court-

(i) where the company has by special resolution resolved that the company be wound up by the court, the date of the resolution; and

(ii) in any other case, the date of the winding-up order. (L.N. 286 of 1997)

[cf. R. 98]

Rule:	89	Proof for debt payable at a future time		30/06/1997

A creditor may prove for a debt not payable at the date of the winding-up order or resolution, as if it were payable presently, and may receive dividends equally with the other creditors, deducting only thereout a rebate of interest at the rate of 8 per cent per annum computed from the declaration of a dividend to the time when the debt would have become payable according to the terms on which it was contracted.

[cf. R. 99]

Rule:	90	Workmen's wages		30/06/1997

In any case in which it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. Such proof shall have annexed thereto as forming part thereof, a schedule setting forth the names of the workmen and others, and the amounts severally due to them. Any proof made in compliance with this rule shall have the same effect as if separate proofs had been made by each of the said workmen and others. (See Form 64)

[cf. R. 101]

Rule:	91	Production of bills of exchange and promissory notes		30/06/1997

Where a creditor seeks to prove in respect of a bill of exchange, promissory note, or other negotiable instrument or security on which the company is liable, such bill of exchange, note, instrument, or security must, subject to any special order of the court made to the contrary, be produced to the Official Receiver, chairman of a meeting or liquidator, as the case may be, and be marked by him before the proof can be admitted either for voting or for any purpose.

[cf. R. 102]

Rule:	92	Transmission of proofs to liquidator		30/06/1997

Where a liquidator is appointed in a winding up by the court, all proofs of debts that have been received by the Official Receiver shall be handed over to the liquidator, but the Official Receiver shall first make a list of such proofs, and take a receipt thereon from the liquidator for such proofs.

[cf. R. 103]

Rule:	93	Notice to creditors to prove		30/06/1997

ADMISSION AND REJECTION OF PROOFS AND PREFERENTIAL CLAIMS, AND APPEAL TO THE COURT

(1) Subject to the provisions of the Ordinance, and unless otherwise ordered by the court, the liquidator in any winding up may from time to time fix a certain day, which shall be not less than 14 days from the date of the notice, on or before which the creditors of the company are to prove their debts or claims, and to establish any title they may have to priority under section 265 of the Ordinance or to be excluded from the benefit of the distribution made next after that date and from the benefit of any previous distribution or as the case may be from objecting to such

distribution, and the liquidator shall give notice in writing of the day so fixed by advertisement in such newspaper as he shall consider convenient, and in a winding up by the court to every person mentioned in the statement of affairs as a creditor, and who has not proved his debt, and to every person mentioned in the statement of affairs as a preferential creditor whose claim to be a preferential creditor has not been established and is not admitted, and in any other winding up to the last known address or place of abode of each person who, to the knowledge of the liquidator, claims to be a creditor or preferential creditor of the company and whose claim has not been admitted. (L.N. 376 of 1989)

(2) All the rules hereinafter set out as to admission and rejection of proofs shall apply with the necessary variation to any such claim to priority as aforesaid.

[cf. R. 104]

Rule:	94	Examination of proof		30/06/1997

The liquidator shall examine every proof of debt lodged with him, and the grounds of the debt, and in writing admit or reject it, in whole or in part, or require further evidence in support of it. If he rejects a proof he shall state in writing to the creditor the grounds of the rejection. (See Form 65)

[cf. R. 105]

Rule:	95	Appeal by creditor		30/06/1997

If a creditor or contributory is dissatisfied with the decision of the liquidator in respect of a proof, the court may, on the application of the creditor or contributory, reverse or vary the decision; but, subject to the power of the court to extend the time, no application to reverse or vary the decision of the liquidator in a winding up by the court rejecting a proof sent to him by a creditor, or person claiming to be a creditor, shall be entertained, unless notice of the application is given before the expiration of 21 days from the date of the service of the notice of rejection.

[cf. R. 106]

Rule:	96	Expunging at instance of liquidator		30/06/1997

If the liquidator thinks that a proof has been improperly admitted, the court may, on the application of the liquidator, after notice to the creditor who made the proof, expunge the proof or reduce its amount.

[cf. R. 107]

Rule:	97	Expunging at instance of creditor		30/06/1997

The court may also expunge or reduce a proof upon the application of a creditor or contributory if the liquidator declines to interfere in the matter.

[cf. R. 108]

Rule:	98	Oaths		30/06/1997

For the purpose of any of his duties in relation to proofs, the liquidator, in a winding up by the court, may administer oaths and take affidavits.

[cf. R. 109]

Rule:	99	Provisional liquidator's powers	46 of 2000	01/07/2000

In a winding up by the court the provisional liquidator, before the appointment of a liquidator, shall have all the powers of a liquidator with respect to the examination, admission, and rejection of proofs, and any act or decision of his in relation thereto shall be subject to the like appeal.

(46 of 2000 s. 40)

[cf. R. 110]

Rule:	100	Filing proofs by Official Receiver		30/06/1997

In a winding up by the court the Official Receiver, where no other liquidator is appointed, shall, before payment of a dividend, file all proofs tendered in the winding-up, with a list thereof, distinguishing in such list the proofs which were wholly or partly admitted, and the proofs which were wholly or partly rejected.

[cf. R. 111]

Rule:	101	Proofs to be filed		30/06/1997

Every liquidator in a winding up by the court other than the Official Receiver shall on the first day of every month, forward to the Registrar for filing a certified list of all proofs, if any, received by him during the month next preceding, distinguishing in such lists the proofs admitted, those rejected, and such as stand over for further consideration; and, in the case of proofs admitted or rejected, he shall cause the proofs to be filed with the Registrar. (See Form 66)

[cf. R. 112]

Rule:	102	Procedure where creditor appeals		30/06/1997

The liquidator in a winding up by the court, including the Official Receiver when he is liquidator, shall, within 3 days after receiving notice from a creditor of his intention to appeal against a decision rejecting a proof, file such proof with the Registrar, with a memorandum thereon of his disallowance thereof.

[cf. R. 113]

Rule:	103	Time for dealing with proofs by Official Receiver		30/06/1997

Subject to the power of the court to extend the time in a winding up by the court, the Official Receiver as liquidator, not later than 14 days from the latest date specified in the notice of his intention to declare a dividend as the time within which such proofs must be lodged, shall in writing either admit or reject wholly, or in part, every proof lodged with him, or require further evidence in support of it.

[cf. R. 114]

Rule:	104	Time for dealing with proofs by liquidator		30/06/1997

Subject to the power of the court to extend the time, the liquidator in a winding up by the court, other than the Official Receiver, within 28 days after receiving a proof, which has not previously been dealt with, shall in writing either admit or reject it wholly or in part, or require further evidence in support of it:

Provided that where the liquidator has given notice of his intention to declare a dividend, he shall within 14 days after the date mentioned in the notice as the latest date up to which proofs must be lodged, examine, and in writing admit or reject, or require further evidence in support of, every proof which has not been already dealt with, and shall give notice of his decision, rejecting a proof wholly or in part, to the creditors affected thereby. Where a creditor's proof has been admitted the notice of dividend shall be a sufficient notification of the admission.

[cf. R. 115]

Rule:	105	Cost of appeals from decisions as to proofs		30/06/1997

The Official Receiver shall in no case be personally liable for costs in relation to an appeal from his decision rejecting any proof wholly or in part.

[cf. R. 116]

Rule:	106	First meetings of creditors and contributories	46 of 2000	01/07/2000

GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO A WINDING UP BY THE COURT

Unless the court otherwise directs, the meetings of creditors and contributories under section 194 of the Ordinance (hereinafter referred to as the first meetings of creditors and contributories) shall be held within 3 months after the date of the winding-up order. The dates of such meetings shall be fixed and they shall be summoned by the provisional liquidator. (L.N. 139 of 1985)

(46 of 2000 s. 40)
[cf. R. 119]

Rule:	107	Notice of first meetings	46 of 2000	01/07/2000

The provisional liquidator shall forthwith give notice of the dates fixed by him for the first meetings of creditors and contributories by advertisement in the Gazette. (See Form 103(2))

(46 of 2000 s. 40)
[cf. R. 120]

Rule:	108	Summoning of first meetings		30/06/1997

The first meetings of creditors and contributories shall be summoned as hereinafter provided.

[cf. R. 121]

Rule:	109	Form of notices of first meetings		30/06/1997

The notices of first meetings of creditors and contributories may be in Forms 18 and 19 appended hereto, and the notices to creditors shall state a time within which the creditors must lodge their proofs in order to entitle them to vote at the first meeting. (See Forms 18 & 19)

[cf. R. 122]

Rule:	110	Notice of first meetings to officers of company	46 of 2000	01/07/2000

The provisional liquidator shall also give to each of the directors and other officers of the company who in his opinion ought to attend the first meetings of creditors and contributories 7 days' notice of the time and place appointed for each meeting. The notice may either be delivered personally or sent by prepaid post letter, as may be convenient. It shall be the duty of every director or officer who receives notice of such meeting to attend, if so required by the provisional liquidator, and if any such director or officer fails to attend the provisional liquidator shall report such failure to the court. (See Form 20)

(46 of 2000 s. 40)
[cf. R. 123]

Rule:	111	Summary of statement of affairs	46 of 2000	01/07/2000

(1) The provisional liquidator or liquidator shall also, as soon as practicable, send to each creditor mentioned in the company's statement of affairs, and to each person appearing from the company's books or otherwise to be a contributory of the company a summary of the company's statement of affairs, including the causes of its failure, and any observations thereon which the provisional liquidator or liquidator may think fit to make. The proceedings at a meeting shall not be invalidated by reason of any summary or notice required by these rules not having been sent or received before the meeting. (46 of 2000 s. 40)

(2) Where prior to the winding-up order the company has commenced to be wound up voluntarily the Official Receiver may, if in his absolute discretion he sees fit so to do, send to the persons aforesaid or any of them an account of such voluntary winding up showing how such winding up has been conducted and how the property of the company has been disposed of and any observations which the Official Receiver may think fit to make on such account or on the voluntary winding up.

[cf. R. 124]

Rule:	112	Liquidator's meetings of creditors and contributories		30/06/1997

GENERAL MEETINGS OF CREDITORS AND CONTRIBUTORIES IN RELATION TO A WINDING UP BY THE COURT AND OF CREDITORS IN RELATION TO A CREDITORS VOLUNTARY WINDING UP, INCLUDING A WINDING UP UNDER SECTION 228A

(L.N. 201 of 1984)

(1) In addition to the first meetings of creditors and contributories and in addition also to meetings of creditors and contributories directed to be held by the court under section 287 of the Ordinance (hereinafter referred to as court meetings of creditors and contributories), the liquidator in any winding up by the court may himself from time to time subject to the provisions of the Ordinance and the control of the court summon, hold and conduct meetings of the creditors or contributories (hereinafter referred to as liquidator's meetings of creditors and contributories) for the purpose of ascertaining their wishes in all matters relating to the winding up.

(2) In any creditors voluntary winding up the liquidator may himself from time to time summon, hold and conduct meetings of creditors for the purpose of ascertaining their wishes in all matters relating to the winding up (such meetings and all meetings of creditors which a liquidator or a company is by the Ordinance required to convene in or immediately before such a voluntary winding up and all meetings convened by a creditor in a voluntary winding up under these rules are hereinafter called voluntary liquidation meetings).

[cf. R. 125]

Rule:	113	Application of rules as to meetings		30/06/1997

Except where and so far as the nature of the subject-matter or the context may otherwise require the rules as to meetings hereinafter set out shall apply to first meetings, court meetings, liquidator's meetings of creditors and contributories, and voluntary liquidation meetings, but so nevertheless that the said rules shall take effect as to first meetings subject and without prejudice to any express provisions of the Ordinance and as to court meetings subject and without prejudice to any express directions of the court.

[cf. R. 126]

Rule:	114	Summoning of meetings		30/06/1997

(1) The Official Receiver or liquidator shall summon all meetings of creditors and contributories by giving not less than 7 days' notice of the time and place thereof in the Gazette and in one or more local papers; and shall not less than 7 days before the day appointed for the meeting send by post to every person appearing by the company's books to be a creditor of the company notice of the meeting of creditors, and to every person appearing by the company's books or otherwise to be a contributory of the company notice of the meeting of contributories. (See Form 75)

(2) The notice to each creditor shall be sent to the address given in his proof, or if he has not proved to the address given in the statement of affairs of the company, if any, or to such other address as may be known to the person summoning the meeting. The notice to each contributory shall be sent to the address mentioned in the company's books as the address of such contributory, or to such other address as may be known to the person summoning the meeting.

(3) In the case of meetings under section 245 of the Ordinance the continuing liquidator or if there is no continuing liquidator any creditor may summon the meeting.

(4) This rule shall not apply to meetings under section 241 or 248 of the Ordinance.

[cf. R. 127]

Rule:	115	Proof of notice		30/06/1997

A certificate by the Official Receiver or other officer of the court, or by the clerk of any such person, or an affidavit by the liquidator, or creditor, or his solicitor, or the clerk of either of such persons, or as the case may be by some officer of the company or its solicitor or the clerk of such company or solicitor that the notice of any meeting has been duly posted, shall be sufficient evidence of such notice having been duly sent to the person to whom the same

was addressed. (See Forms 76 & 77)

[cf. R. 128]

Rule:	116	Place of meetings		30/06/1997

Every meeting shall be held at such place as is in the opinion of the person convening the same most convenient for the majority of the creditors or contributories, or both. Different times or places or both may if thought expedient be named for the meetings of creditors and for the meetings of contributories.

[cf. R. 129]

Rule:	117	Costs of calling meeting	L.N. 170 of 1997	30/06/1997

The costs of summoning a meeting of creditors or contributories at the instance of any person other than the Official Receiver or liquidator shall be paid by the person at whose instance it is summoned who shall before the meeting is summoned deposit with the Official Receiver or liquidator (as the case may be) such sum as may be required by the Official Receiver or liquidator as security for the payment of such costs. The costs of summoning such meeting of creditors or contributories, which shall be deemed to include all disbursements for stationery, printing and postage within Hong Kong shall be $1560. Any charge for hiring a room outside the Official Receiver's Office by reason of the large number of creditors or contributories shall be additional to the said sum. (L.N. 170 of 1997)

The said costs, including the costs of summoning a meeting under ~~section 166 and of complying with the requirements of section 166A~~ section 661 of the Companies Ordinance (of 2011) and of complying with the requirements of section 662 of the Companies Ordinance (of 2011) in respect of such meeting, shall be repaid out of the assets of the company if the court shall by order or if the creditors or contributories (as the case may be) shall by resolution so direct. This rule shall not apply to meetings under sections 241 and 245 of the Ordinance. (L.N. 201 of 1984)

(L.N. 95 of 1996)
[cf. R. 130]

Rule:	118	Chairman of meeting		30/06/1997

Where a meeting is summoned by the Official Receiver or the liquidator, he or someone nominated by him shall be chairman of the meeting. At every other meeting of creditors or contributories the chairman shall be such person as the meeting by resolution shall appoint. This rule shall not apply to meetings under section 241 of the Ordinance. (See Form 79)

[cf. R. 131]

Rule:	119	Ordinary resolution of creditors and contributories		30/06/1997

At a meeting of creditors a resolution shall be deemed to be passed when a majority in value of the creditors present personally or by proxy and voting on the resolution have voted in favour of the resolution, and at a meeting of the contributories a resolution shall be deemed to be passed when a majority in value of the contributories present personally or by proxy, and voting on the resolution, have voted in favour of the resolution, the value of the contributories being determined according to the number of votes conferred on each contributory by the regulations of the company.

(L.N. 245 of 1977)
[cf. R. 132]

Rule:	120	Copy of resolution to be filed		30/06/1997

The Official Receiver or as the case may be the liquidator shall file with the Registrar a copy certified by him of every resolution of a meeting of creditors or contributories in a winding up by the court.

[cf. R. 133]

Rule:	121	Non-reception of notice by a creditor		30/06/1997

Where a meeting of creditors or contributories is summoned by notice the proceedings and resolutions at the meeting shall unless the court otherwise orders be valid notwithstanding that some creditors or contributories may not have received the notice sent to them.

[cf. R. 134]

Rule:	122	Adjournment		30/06/1997

The chairman may with the consent of the meeting adjourn it from time to time and from place to place, but the adjourned meeting shall be held at the same place as the original place of meeting unless in the resolution for adjournment another place is specified or unless the court otherwise orders. (See Form 78)

[cf. R. 135]

Rule:	123	Quorum		30/06/1997

(1) A meeting may not act for any purpose except the election of a chairman, the proving of debts and the adjournment of the meeting unless there are present or represented thereat at least 3 creditors entitled to vote or three contributories or all the creditors entitled to vote or all the contributories, if the number of the creditors entitled to vote or the contributories as the case may be shall not exceed 3.

(2) If within half an hour from the time appointed for the meeting a quorum of creditors or contributories is not present or represented the meeting shall be adjourned to the same day in the following week at the same time and place or to such other day as the chairman may appoint not being less than 7 or more than 21 days, from the day from which the meeting was adjourned. (See Form 21)

[cf. R. 136]

Rule:	124	Creditors entitled to vote	46 of 2000	01/07/2000

Expanded Cross Reference:
125, 126, 127, 128

(1) In the case of a first meeting of creditors or of an adjournment thereof a person shall not be entitled to vote as a creditor unless he has duly lodged with the liquidator not later than the time mentioned for that purpose in the notice convening the meeting or adjourned meeting a proof of the debt which he claims to be due to him from the company. In the case of a court meeting or liquidator's meeting of creditors a person shall not be entitled to vote as a creditor unless he has lodged with the liquidator a proof of the debt which he claims to be due to him from the company and such proof has been admitted wholly or in part before the date on which the meeting is held: (46 of 2000 s. 40)

Provided that this and rules 125 to 128 shall not apply to a court meeting of creditors held prior to the first meeting of creditors. <* Note - Exp. X-Ref.: Rules 125, 126, 127, 128 *>

(2) This rule shall not apply to any creditors or class of creditors who by virtue of any direction given under these rules are not required to prove their debts or to any voluntary liquidation meeting.

[cf. R. 137]

Rule:	125	Cases in which creditors may not vote		30/06/1997

A creditor shall not vote in respect of any unliquidated or contingent debt, or any debt the value of which is not ascertained, nor shall a creditor vote in respect of any debt on or secured by a current bill of exchange or promissory note held by him unless he is willing to treat the liability to him thereon of every person who is liable thereon antecedently to the company, and against whom a Receiving Order in bankruptcy has not been made, as a security in his hands, and to estimate the value thereof, and for the purposes of voting, but not for the purposes of dividend, to deduct it from his proof.

[cf. R. 138]

Rule:	126	Votes of secured creditors		30/06/1997

For the purpose of voting, a secured creditor shall, unless he surrenders his security, state in his proof or in a voluntary liquidation in such a statement as is hereinafter mentioned the particulars of his security, the date when it was given, and the value at which he assesses it, and shall be entitled to vote only in respect of the balance (if any) due to him after deducting the value of his security. If he votes in respect of his whole debt he shall be deemed to have surrendered his security, unless the court on application is satisfied that the omission to value the security has arisen from inadvertence.

[cf. R. 139]

Rule:	127	Creditor required to give up security		30/06/1997

The Official Receiver or liquidator may within 28 days after a proof or in a voluntary liquidation a statement estimating the value of a security as aforesaid has been used in voting at a meeting require the creditor to give up the security for the benefit of the creditors generally on payment of the value so estimated with an addition thereto of 20 per cent:

Provided that where a creditor has valued his security he may at any time before being required to give it up correct the valuation by a new proof and deduct the new value from his debt, but in that case the said addition of 20 per cent shall not be made if the security is required to be given up.

[cf. R. 140]

Rule:	128	Admission and rejection of proofs for purpose of voting		30/06/1997

The chairman shall have power to admit or reject a proof for the purpose of voting, but his decision shall be subject to appeal to the court. If he is in doubt whether a proof should be admitted or rejected he shall mark it as objected to and allow the creditor to vote subject to the vote being declared invalid in the event of the objection being sustained.

[cf. R. 141]

Rule:	129	Statement of security		30/06/1997

For the purpose of voting at any voluntary liquidation meetings a secured creditor shall unless he surrender his security lodge with the liquidator or where there is no liquidator at the registered office of the company before the meeting a statement giving the particulars of his security, the date when it was given and the value at which he assesses it.

[cf. R. 142]

Rule:	130	Minutes of meeting		30/06/1997

(1) The chairman shall cause minutes of the proceedings at the meeting to be drawn up and fairly entered in a book kept for that purpose or in the file of proceedings and the minutes shall be signed by him or by the chairman of the next ensuing meeting.

(2) A list of creditors and contributories present at every meeting shall be made and kept as in Form 22. (See Form 22)

[cf. R. 143]

Rule:	131	Proxies		30/06/1997

PROXIES IN RELATION TO A WINDING UP BY THE COURT,
AND TO MEETINGS OF CREDITORS IN A CREDITORS
VOLUNTARY WINDING UP, INCLUDING A
WINDING UP UNDER SECTION 228A

(L.N. 201 of 1984)

A creditor or a contributory may vote either in person or by proxy. Where a person is authorized in manner provided by section 115 of the Ordinance, or section 596 or 597 of the Companies Ordinance (of 2011), to represent a corporation at any meeting of creditors or contributories such person shall produce to the Official Receiver or liquidator or other the chairman of the meeting a copy of the resolution so authorizing him. Such copy must either be under the seal of the corporation or must be certified to be a true copy by the ~~secretary~~ company secretary or a director of the corporation. The succeeding rules as to proxies shall not (unless otherwise directed by the court) apply to a court meeting of creditors or contributories prior to the first meeting.

[cf. R. 144]

Rule:	132	Form of proxies		30/06/1997

Every instrument of proxy shall be in accordance with the form in the Appendix and shall be signed by-

(a) the person giving the proxy;

(b) any manager or clerk or any other person in the regular employment of the person referred to in paragraph (a); or

(c) a solicitor employed by the person referred to in paragraph (a) in connection with the matter.

(L.N. 286 of 1997)

Rule:	133	Forms of proxy to be sent with notices		30/06/1997

General and special forms of proxy shall be sent to the creditors and contributories with the notice summoning the meeting, and neither the name nor description of the Official Receiver or liquidator or any other person shall be printed or inserted in the body of any instrument of proxy before it is so sent.

[cf. R. 146]

Rule:	134	General proxies		30/06/1997

A creditor or a contributory may give a general proxy to any person.

[cf. R. 147]

Rule:	135	Special proxies		30/06/1997

A creditor or a contributory may give a special proxy to any person to vote at any specified meeting or adjournment thereof-

(a) for or against the appointment or continuance in office of any specified person as liquidator or member of the committee of inspection; and

(b) on all questions relating to any matter other than those above referred to and arising at the meeting or an adjournment thereof.

[cf. R. 148]

Rule:	136	Solicitation by liquidator to obtain proxies		30/06/1997

Where it appears to the satisfaction of the court that any solicitation has been used by or on behalf of a liquidator in obtaining proxies or in procuring his appointment as liquidator except by the direction of a meeting of creditors or contributories, the court if it thinks fit may order that no remuneration be allowed to the person by whom or on whose behalf the solicitation was exercised notwithstanding any resolution of the committee of inspection or of the creditors or contributories to the contrary.

[cf. R. 149]

Rule:	137	Proxies to Official Receiver or liquidator		30/06/1997

A creditor or a contributory in a winding up by the court may appoint the Official Receiver or liquidator and in a voluntary winding up the liquidator or if there be no liquidator the chairman of a meeting to act as his general or special proxy.

[cf. R. 150]

Rule:	138	Holder of proxy not to vote on matter in which he is financially interested		30/06/1997

No person acting either under a general or a special proxy shall vote in favour of any resolution which would directly or indirectly place himself, his partner or employer in a position to receive any remuneration out of the assets of the company otherwise than as creditor rateably with the other creditors of the company:

Provided that where any person holds special proxies to vote for an application to the court in favour of the appointment of himself as liquidator he may use the said proxies and vote accordingly.

[cf. R. 151]

Rule:	139	Lodgment of proxies	46 of 2000	01/07/2000

(1) A proxy intended to be used at the first meeting of creditors or contributories, or an adjournment thereof, shall be lodged with the liquidator not later than the time mentioned for that purpose in the notice convening the meeting or the adjourned meeting, which time shall be not earlier than 12 o'clock at noon of the day but one before, nor later than 12 o'clock at noon of the day before the day appointed for such meeting, unless the court otherwise directs. (46 of 2000 s. 40)

(2) In every other case a proxy shall be lodged with the liquidator in a winding up by the court, with the company at its registered office for a meeting under section 241 of the Ordinance and with the liquidator or if there is no liquidator with the person named in the notice convening the meeting to receive the same in a voluntary winding up not later than 4 o'clock in the afternoon of the day before the meeting or adjourned meeting at which it is to be used. (46 of 2000 s. 40)

(2A) A proxy required to be lodged in accordance with paragraph (1) or (2) shall be deemed to have been so lodged if such proxy is sent by facsimile transmission to and received by the person specified in paragraph (1) or (2), as the case may be, within the time provided. (L.N. 286 of 1997)

(3) No person shall be appointed a general or special proxy who is a minor.

[cf. R. 152]

Rule:	140	Use of proxies by deputy		30/06/1997

Where the Official Receiver holds any proxies and cannot attend the meeting for which they are given, he may, in writing, depute some person under his official control to use the proxies on his behalf, and in such manner as he may direct.

[cf. R. 153]

Rule:	141	Filling in where creditor blind or incapable		30/06/1997

The proxy of a creditor blind or incapable of writing may be accepted, if such creditor has attached his signature or mark thereto in the presence of a witness, who shall add to his signature his description and residence:

Provided that all insertions in the proxy are in the handwriting of the witness and such witness shall have certified at the foot of the proxy that all such insertions have been made by him at the request of the creditor and in his presence before he attached his signature or mark.

[cf. R. 154]

Rule:	142	Dividends to creditors		30/06/1997

DIVIDENDS IN A WINDING UP BY THE COURT

(1) Not more than 4 months before declaring a dividend the liquidator in a winding up by the court shall, by publication in the Gazette, give notice of his intention to do so, and shall at the same time give notice to such of the creditors mentioned in the statement of affairs as have not proved their debts. Such notice shall specify the latest date up to which proofs must be lodged, which shall not be less than 14 days from the date of such notice. (See Forms 67,

70 & 103(4)) (L.N. 286 of 1997)

(2) Where any creditor, after the date mentioned in the notice of intention to declare a dividend as the latest date up to which proofs may be lodged, appeals against the decision of the liquidator rejecting a proof, notice of appeal shall, subject to the power of the court to extend the time in special cases, be given within 7 days from the date of the notice of the decision against which the appeal is made, and the liquidator may in such case make provision for the dividend upon such proof, and the probable costs of such appeal in the event of the proof being admitted. Where no notice of appeal has been given within the time specified in this rule, the liquidator shall exclude all proofs which have been rejected from participation in the dividend.

(3) Immediately after the expiration of the time fixed by this rule for appealing against the decision of the liquidator he shall proceed to declare a dividend, and shall, by publication in the Gazette, give notice of such dividend, and shall also send a notice of dividend to each creditor whose proof has been admitted. (See Forms 71 & 103(5)) (L.N. 286 of 1997)

(4) If it becomes necessary, in the opinion of the liquidator and the committee of inspection, to postpone the declaration of the dividend beyond the limit of 4 months, the liquidator shall, by publication in the Gazette, give a fresh notice of his intention to declare a dividend; but it shall not be necessary for the liquidator to give a fresh notice to such of the creditors mentioned in the statement of affairs as have not proved their debts. In all other respects the same procedure shall follow the fresh notice as would have followed the original notice. (L.N. 286 of 1997)

(5) Upon the declaration of a dividend the liquidator shall forthwith transmit to the Official Receiver a list of the proofs filed with the Registrar under rule 101, which list shall be in the Form 68 or 69, as the case may be, and the liquidator shall, if so required by the Official Receiver, transmit to him, office copies of all lists of proofs filed by him up to the date of the declaration of the dividend. (See Forms 68 & 69)

(6) Dividends may at the request and risk of the person to whom they are payable be transmitted to him by post.

(7) If a person to whom dividends are payable desires that they shall be paid to some other person he may lodge with the liquidator a document in the Form 72 which shall be a sufficient authority for payment of the dividend to the person therein named. (See Form 72)

(8) The Official Receiver when he is liquidator shall cause to be gazetted notice of his intention to declare a dividend and notice of his declaration thereof, and shall also at the same time give to creditors notice of such intention or of such declaration in like manner as notice thereof is required to be given by a liquidator other than the Official Receiver.

[cf. R. 117]

Rule:	143	Return of capital to contributories		30/06/1997

Every order by which the liquidator in a winding up by the court is authorized to make a return to contributories of the company shall, unless the court shall otherwise direct, contain or have appended thereto a schedule or list (which the liquidator shall prepare) setting out in a tabular form the full names and addresses of the persons to whom the return is to be paid, and the amount of money payable to each person, and particulars of the transfers of shares (if any) which have been made or the variations in the list of contributories which have arisen since the date of the settlement of the list of contributories and such other information as may be requisite to enable the return to be made. The schedule or list shall be in the Form 74 with such variations as circumstances shall require, and the liquidator shall send a notice of return to each contributory. (See Forms 73, 74 & 103(6))

[cf. R. 118]

Rule:	144	Attendance at proceedings		30/06/1997

ATTENDANCE AND APPEARANCE OF PARTIES

(1) Every person for the time being on the list of contributories of the company, and every person whose proof has been admitted shall be at liberty, at his own expense, to attend proceedings, and shall be entitled, upon payment of the costs occasioned thereby, to have notice of all such proceedings as he shall by written request desire to have notice of:

Provided that if the court shall be of opinion that the attendance of any such person upon any proceedings has occasioned any additional costs which ought not to be borne by the funds of the company, it may direct such costs, or a gross sum in lieu thereof, to be paid by such person; and such person shall not be entitled to attend any further

proceedings until he has paid the same.

(2) The court may from time to time appoint any one or more of the creditors or contributories to represent before the court, at the expense of the company, all or any class of the creditors or contributories, upon any question or in relation to any proceedings before the court, and may remove the person so appointed. If more than one person is appointed under this rule to represent one class, the persons appointed shall employ the same solicitor to represent them.

(3) No creditor or contributory shall be entitled to attend any proceedings in chambers unless and until he has entered in a book, to be kept by the Registrar for that purpose, his name and address, and the name and address of his solicitor (if any) and upon any change of his address or of his solicitor, his new address, and the name and address of his new solicitor.

[cf. R. 155]

Rule:	145	Attendance of liquidator's solicitor		30/06/1997

Where the attendance of the liquidator's solicitor is required on any proceeding in court or chambers, the liquidator need not attend in person, except in cases where his presence is necessary in addition to that of his solicitor, or the court directs him to attend.

[cf. R. 156]

Rule:	146	Remuneration of liquidator	46 of 2000	01/07/2000

LIQUIDATOR AND COMMITTEE OF INSPECTION

(1) Where the remuneration of a liquidator is determined by the committee of inspection, it may be in the nature of a commission or percentage of which one part shall be payable on the amount realized, after deducting the sums (if any) paid to secured creditors (other than debenture holders) out of the proceeds of their securities, and the other part on the amount distributed in dividend.

(2) If there is no committee of inspection, the remuneration of the liquidator shall, unless otherwise provided for under the Ordinance or ordered by the court, be fixed by the scale of fees and percentages for the time being payable on realizations and distributions by the Official Receiver as liquidator. (46 of 2000 s. 40)

(3) This rule shall only apply to a liquidator appointed in a winding up by the court.

(25 of 1985 s. 7)
[cf. R. 157]

Rule:	147	Limit of remuneration		30/06/1997

Except as provided by the Ordinance or the rules, a liquidator shall not under any circumstances whatever, make any arrangement for, or accept from any solicitor, auctioneer, or any other person connected with the company of which he is liquidator, or who is employed in or in connexion with the winding up of the company, any gift, remuneration, or pecuniary or other consideration or benefit whatever beyond the remuneration to which under the Ordinance and the rules he is entitled as liquidator, nor shall he make any arrangement for giving up, or give up any part of such remuneration to any such solicitor, auctioneer, or other person.

[cf. R. 158]

Rule:	148	Dealings with assets		30/06/1997

Neither the liquidator nor any member of the committee of inspection of a company shall, while acting as liquidator or member of such committee, except by leave of the court, either directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, become purchaser of any part of the company's assets. Any such purchase made contrary to the provisions of this rule may be set aside by the court on the application of the Official Receiver in a winding up by the court of any creditor or contributory in any winding up and the court may make such order as to costs as the court shall think fit.

[cf. R. 159]

Rule:	149	Restriction on purchase of goods by liquidator		30/06/1997

Where the liquidator carries on the business of the company, he shall not, without the express sanction of the court, purchase goods for the carrying on of such business from any person whose connexion with the liquidator is of such a nature as would result in the liquidator obtaining any portion of the profit (if any) arising out of the transaction.

[cf. R. 160]

Rule:	150	Committee of inspection not to make profit		30/06/1997

No member of a committee of inspection shall, except under and with the sanction of the court, directly or indirectly, by himself or any employer, partner, clerk, agent, or servant, be entitled to derive any profit from any transaction arising out of the winding up, or to receive out of the assets any payment for services rendered by him in connexion with the administration of the assets, or for any goods supplied by him to the liquidator for or on account of the company. In a winding up by the court, if it appears to the Official Receiver or in a voluntary winding up if it appears to the committee of inspection or to any meeting of creditors or contributories that any profit or payment has been made contrary to the provisions of this rule, they may disallow such payment or recover such profit, as the case may be, on the audit of the liquidator's accounts, or otherwise.

[cf. R. 161]

Rule:	151	Costs of obtaining sanction of court		30/06/1997

In any case in which the sanction of the court is obtained under rule 149 or 150, the cost of obtaining such sanction shall be borne by the person in whose interest such sanction is obtained, and shall not be payable out of the company's assets.

[cf. R. 162]

Rule:	152	Sanction of payments to committee		30/06/1997

Where the sanction of the court to a payment to a member of a committee of inspection for services rendered by him in connexion with the administration of the company's assets is obtained, the order of the court shall specify the nature of the services, and such sanction shall only be given where the service performed is of a special nature. Except by the express sanction of the court no remuneration shall, under any circumstances, be paid to a member of a committee for services rendered by him in the discharge of the duties attaching to his office as a member of such committee.

[cf. R. 163]

Rule:	153	Discharge of costs before assets handed to liquidator	46 of 2000	01/07/2000

(1) Where a liquidator is appointed by the court or under the Ordinance, and has notified his appointment to the registrar of companies, and given security to the satisfaction of the Official Receiver, the provisional liquidator shall forthwith put the liquidator into possession of all property of the company of which the provisional liquidator may have custody:

Provided that such liquidator shall have, before the assets are handed over to him by the provisional liquidator, discharged any balance due to the Official Receiver and provisional liquidator on account of fees, costs, and charges properly incurred by him, and on account of any advances properly made by him in respect of the company, together with interest on such advances at the rate of 8 per cent per annum; and the liquidator shall pay all fees, costs, and charges of the Official Receiver and provisional liquidator which may not have been discharged by the liquidator before being put into possession of the property of the company, and whether incurred before or after he has been put into such possession. (L.N. 587 of 1995)

(2) The Official Receiver and provisional liquidator shall be deemed to have a lien upon the company's assets until such balance shall have been paid and the other liabilities shall have been discharged.

(3) It shall be the duty of the Official Receiver and provisional liquidator, if so requested by the liquidator, to communicate to the liquidator all such information respecting the estate and affairs of the company as may be necessary or conducive to the due discharge of the duties of the liquidator.

(4) This rule and rule 154 shall apply only in a winding up by the court.

(46 of 2000 s. 40)
[cf. R. 164]

Rule:	154	Resignation of liquidator		30/06/1997

A liquidator who desires to resign his office shall summon separate meetings of the creditors and contributories of the company to decide whether or not the resignation shall be accepted. If the creditors and contributories by ordinary resolutions both agree to accept the resignation of the liquidator, he shall file with the Registrar a memorandum of his resignation, and shall send notice thereof to the Official Receiver, and the resignation shall thereupon take effect. In any other case the liquidator shall report to the court the result of the meetings and shall send a report to the Official Receiver and thereupon the court may, upon the application of the liquidator or the Official Receiver, determine whether or not the resignation of the liquidator shall be accepted, and may give such directions and make such orders as in the opinion of the court shall be necessary.

[cf. R. 165]

Rule:	155	Office of liquidator vacated by his insolvency		30/06/1997

If a ~~Receiving Order in bankruptcy is made against the liquidator, he shall thereby vacate his office, and for the purposes of the application of the Ordinance and rules shall be~~ bankruptcy order is made against the liquidator, the liquidator must thereby vacate office, and for the purposes of the application of the Ordinance, the rules and the Companies Ordinance (of 2011) is deemed to have been removed.

[cf. R. 166]

Rule:	156	Payments out of bank		30/06/1997

PAYMENTS INTO AND OUT OF A BANK

All payments out of the companies liquidation account shall be made in such manner as the Director of Accounting Services may from time to time direct.

(L.N. 16 of 1977)
[cf. R. 167]

Rule:	157	Special bank account	L.N. 239 of 1999	11/11/1999

(1) Where the liquidator in a winding up by the court is authorized to have a special bank account, he shall forthwith pay all moneys received by him into that account to the credit of the liquidator of the company. All payments out shall be made by cheque payable to order, and every cheque shall have marked or written on the face of it the name of the company, and shall be signed by the liquidator, and shall be countersigned by such other person, if any, as the committee of inspection may appoint. (30 of 1999 s. 44)

(2) Where application is made to the Official Receiver to authorize the liquidator in a winding up by the court to make his payments into and out of a special bank account, the Official Receiver may grant such authorization for such time and on such terms as he may think fit, and may at any time order the account to be closed if he is of opinion that the account is no longer required for the purposes mentioned in the application.

[cf. R. 168]

Rule:	158	Record of proceedings	46 of 2000	01/07/2000

BOOKS

In a winding up by the court the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a record in which he shall record all minutes, all proceedings had and resolutions passed at any meeting of creditors or contributories, or of the committee of inspection, and all such matters as may be necessary to give a correct view of his administration of the company's affairs, but he shall not be

bound to insert in the record any document of a confidential nature (such as the opinion of counsel on any matter affecting the interest of the creditors or contributories), nor need he exhibit such document to any person other than a member of the committee of inspection, or the Official Receiver.

(46 of 2000 s. 40)
[cf. R. 169]

Rule:	159	Cash Book	46 of 2000	01/07/2000

(1) In a winding up by the court, the provisional liquidator, until a liquidator is appointed under the Ordinance or by the court, and thereafter the liquidator, shall keep a book to be called the "Cash Book" (which shall be in such form as the Official Receiver may from time to time direct) in which he shall (subject to the provisions of the rules as to trading accounts) enter from day to day the receipts and payments made by him. (46 of 2000 s. 40)

(2) In a winding up by the court, a liquidator other than the Official Receiver, shall submit the record and Cash Book, together with any other requisite books and vouchers, to the committee of inspection (if any) when required, and not less than once every 3 months.

(3) In a creditors voluntary winding up the liquidator shall keep such books as the committee of inspection or if there is no such committee as the creditors direct and all books kept by the liquidator shall be submitted to the committee of inspection or if there is no such committee to the creditors with any other books documents papers and accounts in his possession relating to his office as liquidator or to the company as and when the committee of inspection or if there is no such committee the creditors direct.

[cf. R. 170]

Rule:	160	Investment of assets in securities, and realization of securities		30/06/1997

INVESTMENT OF FUNDS

(1) Where in a winding up by the court or in a creditors voluntary winding up, the committee of inspection are of opinion that any part of the cash balance standing to the credit of the account of the company should be invested, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly.

(2) Where the committee of inspection in any such winding up are of opinion that it is advisable to sell any of the securities in which the moneys of the company's assets are invested or to withdraw any money of the company's assets held on deposit, they shall so advise the liquidator and the liquidator shall inform the Official Receiver in writing accordingly. (L.N. 197 of 1987)

(3) Where there is no committee of inspection in any such winding up as is mentioned in paragraphs (1) and (2) and members' voluntary winding up a case has in the opinion of the liquidator arisen under section 295 of the Ordinance for an investment of funds of the company, a withdrawal of funds of the company held on deposit in a bank or a sale of securities in which the company's funds have been invested, the liquidator shall inform the Official Receiver in writing accordingly, stating the facts on which his opinion is founded and requesting the Official Receiver to make the investment, withdrawal or sale. (L.N. 197 of 1987)

(L.N. 247 of 1994)
[cf. R. 171]

Rule:	161	Audit of Cash Book		30/06/1997

ACCOUNTS AND AUDIT IN A WINDING UP BY THE COURT

The committee of inspection shall not less than once every 3 months audit the liquidator's Cash Book and certify therein under their hands the day on which the said book was audited. (See Form 86)

[cf. R. 172]

Rule:	162	Official Receiver's audit of liquidator's accounts		30/06/1997

(1) The liquidator shall, at the expiration of 6 months from the date of the winding up order, and at the expiration of every succeeding 6 months thereafter until his release, transmit to the Official Receiver a copy of the

Cash Book for such period in duplicate, together with the necessary vouchers and copies of the certificates of audit by the committee of inspection. He shall also forward with the first accounts, a summary of the company's statement of affairs, showing thereon in red ink the amounts realized, and explaining the cause of the non-realization of such assets as may be unrealized. The liquidator shall also at the end of every 6 months forward to the Official Receiver, with his accounts, a report upon the position of the liquidation of the company in such form as the Official Receiver may direct.

(2) When the assets of the company have been fully realized and distributed, the liquidator shall forthwith send in his accounts to the Official Receiver, although the 6 months may not have expired.

(3) The accounts sent in by the liquidator shall be certified to be correct by him in writing. (L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 173]

Rule:	163	Liquidator carrying on business		30/06/1997

(1) Where the liquidator carries on the business of the company, he shall keep a distinct account of the trading, and shall incorporate in the Cash Book the total weekly amounts of the receipts and payments on such trading account.

(2) The trading account shall from time to time, and not less than once in every month, be certified to be correct by the liquidator in writing, and the liquidator shall thereupon submit such account to the committee of inspection (if any) or such member thereof as may be appointed by the committee for that purpose, who shall examine and certify the same. (See Forms 88 & 89) (L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 174]

Rule:	164	Copy of accounts to be filed		30/06/1997

When the liquidator's account has been audited, the Official Receiver shall certify the fact upon the account, and thereupon the duplicate copy, bearing a like certificate, shall be filed with the Registrar.

[cf. R. 175]

Rule:	165	Summary of accounts		30/06/1997

(1) Subject to the proviso to section 203(5) of the Ordinance, the liquidator shall transmit to the Official Receiver with his accounts a summary of such accounts in such form as the Official Receiver may from time to time direct, and, on the approval of such summary by the Official Receiver, shall forthwith obtain, prepare, and transmit to the Official Receiver so many printed copies thereof, duly stamped for transmission by post, and addressed to the creditors and contributories, as may be required for transmitting such summary to such creditor and contributory. (L.N. 201 of 1984)

(1A) Where under the said proviso the Official Receiver dispenses with compliance with section 203(5) of the Ordinance, he may, if he thinks fit, give a written certificate to that effect which shall be filed with the proceedings in the winding up and shall render an application to the court unnecessary. (L.N. 201 of 1984)

(2) The cost of printing and posting such copies shall be a charge upon the assets of the company.

[cf. R. 176]

Rule:	166	Statement of no receipts		30/06/1997

Where a liquidator has not since the date of his appointment or since the last audit of his accounts, as the case may be, received or paid any sum of money on account of the assets of the company, he shall, at the time when he is required to transmit his accounts to the Official Receiver, forward to the Official Receiver a statement of no receipts or payments certified to be correct by him.

(L.N. 50 of 1964; L.N. 247 of 1994)

[cf. R. 177]

Rule:	167	Proceedings on resignation, &c., of liquidator		30/06/1997

(1) Upon a liquidator resigning, or being released or removed from his office, he shall deliver over to the

Official Receiver, or as the case may be, to the new liquidator, all books kept by him, and all other books, documents, papers, and accounts in his possession relating to the office of liquidator. The release of a liquidator shall not take effect unless and until he has delivered over to the Official Receiver, or as the case may be to the new liquidator, all the books, papers, documents, and accounts which he is by this rule required to deliver on his release.

(2) The court may, at any time during the progress of the liquidation, on the application of the liquidator or the Official Receiver, direct that such of the books, papers, and documents of the company or of the liquidator as are no longer required for the purpose of the liquidation, may be sold, destroyed, or otherwise disposed of.

[cf. R. 178]

Rule:	168	Expenses of sales		30/06/1997

Where property forming part of a company's assets is sold by the liquidator through an auctioneer or other agent, the gross proceeds of the sale shall be paid over by such auctioneer or agent, and the charges and expenses connected with the sale shall afterwards be paid to such auctioneer or agent, on the production of the necessary certificate of the taxing officer. Every liquidator by whom such auctioneer or agent is employed, shall, unless the court otherwise orders, be accountable for the proceeds of every such sale.

[cf. R. 179]

Rule:	169	Taxation of costs payable by or to Official Receiver or liquidator or by company		30/06/1997

TAXATION OF COSTS

Every solicitor, manager, accountant, auctioneer, broker, or other person employed by an Official Receiver or liquidator in a winding up by the court shall on request by the Official Receiver or liquidator (to be made a sufficient time before the declaration of a dividend) deliver his bill of costs or charges to the Official Receiver or liquidator for the purpose of taxation; and if he fails to do so within the time stated in the request, or such extended time as the court may allow, the liquidator shall declare and distribute the dividend without regard to such person's claim, and subject to any order of the court the claim shall be forfeited. The request by the Official Receiver or liquidator shall be in the Form 90. (See Form 90)

[cf. R. 180]

Rule:	170	Notice of appointment		30/06/1997

Where a bill of costs or charges in any winding up has been lodged with the taxing officer, he shall give notice of an appointment to tax the same, in a winding up by the court to the Official Receiver, and in every winding up to the liquidator, and to the person to or by whom the bill or charges is or are to be paid (as the case may be).

[cf. R. 181]

Rule:	171	Lodgment of bill	46 of 2000	01/07/2000

The bill or charges, if incurred in a winding up by the court prior to the appointment of a liquidator, shall be lodged with the provisional liquidator, and if incurred after the appointment of a liquidator, shall be lodged with the liquidator. The provisional liquidator or the liquidator, as the case may be, shall lodge the bill or charges with the taxing officer.

(46 of 2000 s. 40)
[cf. R. 182]

Rule:	172	Copy of the bill to be furnished		30/06/1997

Every person whose bill or charges in a winding up by the court is or are to be taxed shall, on application either of the Official Receiver or the liquidator, furnish a copy of his bill or charges so to be taxed, on payment at the rate of 75 cents per folio, which payment shall be charged on the assets of the company. The Official Receiver shall call the attention of the liquidator to any items which, in his opinion, ought to be disallowed or reduced, and may attend or be

represented on the taxation.

(L.N. 50 of 1964)
[cf. R. 183]

Rule:	173	Applications for costs		30/06/1997

Where any party to, or person affected by, any proceeding, ~~other than a proceeding under section 168A of the Ordinance,~~ desires to make an application for an order that he be allowed his costs, or any part of them, incident to such proceeding, and such application is not made at the time of the proceeding- (L.N. 178 of 1978)

(a) such party or person shall serve notice of his intended application on the Official Receiver or on the liquidator, as the case may be;
(b) the Official Receiver or liquidator may appear on such application and object thereto;
(c) no costs of or incident to such application shall be allowed to the applicant, unless the court is satisfied that the application could not have been made at the time of the proceeding.

[cf. R. 184]

Rule:	174	Certificate of taxation		30/06/1997

Upon the taxation of any bill of costs, charges, or expenses being completed, the taxing officer shall issue to the person presenting such bill for taxation his allowance or certificate of taxation. The bill of costs, charges, and expenses, together with the allowance or certificate, shall be filed with the Registrar. (See Form 91)

[cf. R. 185]

Rule:	175	Certificate of employment		30/06/1997

Where the bill or charges of any solicitor, manager, accountant, auctioneer, broker, or other person employed by an Official Receiver or liquidator, is or are payable out of the assets of the company, a certificate in writing, signed by the Official Receiver or liquidator, as the case may be, shall on the taxation be produced to the taxing officer setting forth whether any, and if so what, special terms of remuneration have been agreed to, and in the case of the bill of costs of a solicitor, a copy of the resolution or other authority sanctioning the employment of a solicitor to assist the liquidator in the performance of his duties, and the instructions given to such solicitor by the liquidator.

[cf. R. 186]

Rule:	176	Costs and taxation		30/06/1997

If the bill of costs, charges and disbursements of a person employed by the Official Receiver or the liquidator, incurred in a winding up by the court, exceed $3000 in the aggregate, such bill of costs, charges and disbursements shall be taxed by the Registrar.

(L.N. 286 of 1997)

Rule:	177	Review of taxation and appeals thereon	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

The procedure and practice of the High Court shall be observed in all reviews of taxation.

(25 of 1998 s. 2)
[cf. R. 190]

Rule:	178	Liquidator's charges		30/06/1997

COSTS AND EXPENSES PAYABLE OUT OF THE ASSETS OF THE COMPANY

(1) Where a liquidator or special manager in a winding up by the court receives remuneration for his services as

such, no payment shall be allowed on his accounts in respect of the performance by any other person of the ordinary duties which are required by Ordinance or rules to be performed by himself.

(2) Where a liquidator is a solicitor he may contract that the remuneration for his services as liquidator shall include all professional services.

[cf. R. 191]

Rule:	179	Costs payable out of the assets	46 of 2000	01/07/2000

(1) The assets of a company in a winding up by the court, remaining after payment of the fees and expenses properly incurred in preserving, realizing or getting in the assets, including where the company has previously commenced to be wound up voluntarily such remuneration, costs, and expenses as the court may allow to a liquidator appointed in such voluntary winding up shall, subject to any order of the court, be liable to the following payments, which shall be made in the following order of priority, namely-

First.-The fees, percentages and charges payable to, or costs, charges and expenses incurred by or authorized by, the Official Receiver, whether acting as Official Receiver or liquidator, including the costs of any person properly employed by him.

Next.-The taxed costs of the petition, including the taxed costs of any person appearing on the petition whose costs are allowed by the court but excluding the interest on such costs. (46 of 2000 s. 40)

Next.-The remuneration of and any fees, disbursements and expenses properly incurred by the special manager (if any). (46 of 2000 s. 40)

Next.-The costs and expenses of any person who makes or concurs in making, the company's statement of affairs.

Next.-The taxed charges of any shorthand writer appointed to take an examination:

Provided that where the shorthand writer is appointed at the instance of the Official Receiver the cost of the shorthand notes shall be deemed to be an expense incurred by the Official Receiver in getting in and realizing the assets of the company.

Next.-The necessary disbursements of any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance, other than expenses properly incurred in preserving, realizing or getting in the assets heretofore provided for. (46 of 2000 s. 40)

Next.-The costs of any person properly employed by any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.-The remuneration of any liquidator, other than the Official Receiver, appointed in the winding up by the court or under the Ordinance. (46 of 2000 s. 40)

Next.-The actual out-of-pocket expenses necessarily incurred by the committee of inspection, subject to the approval of the Official Receiver.

(2) No payments in respect of bills or charges of solicitors, managers, accountants, auctioneers, brokers, or other persons, other than payments for costs and expenses incurred and sanctioned under rule 43, and payments of bills which have been taxed and allowed under orders made for the taxation thereof, shall be allowed out of the assets of the company without proof that the same have been considered and allowed by the Registrar. The taxing officer shall satisfy himself before passing such bills or charges that the employment of the solicitor or other person in respect of the matters mentioned in the bills or charges has been duly sanctioned:

Provided that the Official Receiver when acting as liquidator may without taxation pay and allow the costs and charges of any person other than a solicitor employed by him where such costs and charges are within the scale usually allowed by the court and do not exceed the sum of $3000. (L.N. 50 of 1964; L.N. 433 of 1993; L.N. 286 of 1997)

(3) Nothing contained in this rule shall apply to or affect costs which, in the course of legal proceedings by or against a company which is being wound up by the court, are ordered by the court in which such proceedings are pending or a judge thereof to be paid by the company or the liquidator, or the rights of the person to whom such costs are payable.

(L.N. 245 of 1977)

[cf. R. 192]

Rule:	180	Conclusion of winding up		30/06/1997

STATEMENTS BY LIQUIDATOR TO THE REGISTRAR OF COMPANIES

The winding up of a company shall, for the purposes of section 284 of the Ordinance, be deemed to be concluded-

(a) in the case of a company wound up by order of the court, at the date on which the order dissolving the company has been reported by the liquidator to the Registrar of Companies or at the date of the order of the court releasing the liquidator pursuant to section 205 of the Ordinance;

(b) in the case of a company wound up voluntarily, at the date of the dissolution of the company, unless at such date any funds or assets of the company remain unclaimed or undistributed in the hands or under the control of the liquidator, or any person who has acted as liquidator, in which case the winding up shall not be deemed to be concluded until such funds or assets have either been distributed or paid into the companies liquidation account. (L.N. 201 of 1984)

[cf. R. 193]

Rule:	181	Times of sending liquidator's statements, and regulations applicable thereto		30/06/1997

In a voluntary winding up, the statements with respect to the proceedings in and position of a liquidation of a company, the winding up of which is not concluded within a year after its commencement, shall be sent to the Registrar of Companies twice in every year as follows- (L.N. 201 of 1984)

(a) the first statement commencing at the date when a liquidator was first appointed and brought down to the end of 12 months from the commencement of the winding up, shall be sent within 30 days from the expiration of such 12 months, or within such extended period as the court may sanction, and the subsequent statements shall be sent at intervals of half a year, each statement being brought down to the end of the half-year for which it is sent. In cases in which the assets of the company have been fully realized and distributed before the expiration of a half-yearly interval a final statement shall be sent forthwith;

(b) subject to rule 182, Form 92, and where applicable Forms 94, 95 and 96, with such variations as circumstances may require, shall be used, and the directions specified in the Form shall (unless the court otherwise directs) be observed in reference to every statement; (See Forms 92, 94, 95 & 96)

(c) every statement shall be certified to be correct by the liquidator in writing. (L.N. 247 of 1994)

[cf. R. 194]

Rule:	182	Affidavit of no receipts or payments		30/06/1997

Where in a voluntary winding up a liquidator has not during any period for which a statement has to be sent received or paid any money on account of the company, he shall at the period when he is required to transmit his statement, send to the Registrar of Companies the prescribed statement in Form 92, which statement shall-

(a) contain the particulars therein required with respect to the proceedings in and position of the liquidation; and

(b) be certified to be correct by the liquidator in writing. (See Form 92)

(L.N. 201 of 1984; L.N. 247 of 1994)

[cf. R. 195]

Rule:	183	Payment of undistributed and unclaimed money into companies liquidation account		30/06/1997

UNCLAIMED FUNDS AND UNDISTRIBUTED ASSETS IN THE HANDS OF A LIQUIDATOR

(1) All money in the hands or under the control of a liquidator of a company representing unclaimed dividends, which for 6 months from the date when the dividend became payable have remained in the hands or under the control of the liquidator, shall forthwith, on the expiration of the 6 months, be paid into the companies liquidation account.

(2) In a voluntary winding up all other money in the hands or under the control of a liquidator of a company, representing unclaimed or undistributed assets, which under section 285(1) of the Ordinance, the liquidator is to pay into the companies liquidation account, shall be ascertained as on the date to which the statement of receipts and

payments sent in to the Registrar of Companies is brought down, and the amount to be paid to the companies liquidation account shall be the minimum balance of such money which the liquidator has had in his hands or under his control during the 6 months immediately preceding the date to which the statement is brought down, less such part (if any) thereof as the Official Receiver may authorize him to retain for the immediate purposes of the liquidation. Such amount shall be paid into the companies liquidation account within 14 days from the date to which the statement of account is brought down. (L.N. 201 of 1984)

(3) Notwithstanding anything in this rule, any moneys representing unclaimed or undistributed assets or dividends in the hands of the liquidator at the date of the dissolution of the company shall forthwith be paid by him into the companies liquidation account.

(4) A liquidator whose duty it is to pay into the companies liquidation account money representing unclaimed or undistributed assets of the company shall pay in the same through the Official Receiver and shall be entitled to a certificate of receipt for the money so paid in Form 105. (See Form 105)

(5) In a voluntary winding up money invested or deposited at interest by a liquidator shall be deemed to be money under his control, and when such money forms part of the minimum balance payable into the companies liquidation account pursuant to paragraph (2), the liquidator shall realize the investment or withdraw the deposit, and shall pay the proceeds into the companies liquidation account, provided that where the money is invested in Government securities, or such securities as the court may direct, such securities, may, with the permission of the court, be transferred to the control of the Official Receiver instead of being forthwith realized and the proceeds thereof paid into the companies liquidation account. In the latter case, if and when the money represented by the securities is required wholly or in part for the purposes of the liquidation, the Official Receiver may realize the securities wholly or in part and pay the proceeds of realization into the companies liquidation account and deal with the same in the same way as other moneys paid into the said account may be dealt with. (L.N. 201 of 1984)

[cf. R. 196]

Rule:	184	Liquidator to furnish information to Official Receiver		30/06/1997

In a voluntary winding up, every person who has acted as liquidator of any company, whether the liquidation has been concluded or not, shall furnish to the Official Receiver particulars of any money in his hands or under his control representing unclaimed or undistributed assets of the company and such other particulars as the Official Receiver may require for the purpose of ascertaining or getting in any money payable into the companies liquidation account at the bank. The Official Receiver may require such particulars to be verified by affidavit. (See Form 97)

(L.N. 201 of 1984)

[cf. R. 197]

Rule:	185	Official Receiver may call for verified accounts		30/06/1997

(1) In a voluntary winding up, the Official Receiver may at any time order any such person to submit an account verified by affidavit of the sums received and paid by him as liquidator of the company and may direct and enforce an audit of the account. (See Forms 92 to 96) (L.N. 201 of 1984)

(2) For the purposes of section 285 of the Ordinance, and the rules, the court shall have, and, at the instance of the Official Receiver, may exercise all the powers conferred by the Bankruptcy Ordinance (Cap 6) with respect to the discovery and realization of the property of a debtor, and the provisions of Part I of that Ordinance with respect thereto shall, with any necessary modification, apply to proceedings under section 285 of the Ordinance.

[cf. R. 198]

Rule:	186	Application to the court for enforcing an account, and getting in money		30/06/1997

An application by the Official Receiver for the purpose of ascertaining and getting in money payable into the bank pursuant to section 285 of the Ordinance, shall be made by motion.

[cf. R. 199]

Rule:	187	Application for payment out by person entitled		30/06/1997

An application by a person claiming to be entitled to any money paid into the bank in pursuance of section 285 of the Ordinance, shall be made in such form and manner as the Official Receiver may from time to time direct, and shall, unless the Official Receiver otherwise directs, be accompanied by the certificate of the liquidator that the person claiming is entitled and such further evidence as the Official Receiver may direct.

[cf. R. 200]

Rule:	188	Application by liquidator for payment out		30/06/1997

A liquidator who requires to make payments out of money paid into the bank in pursuance of section 285 of the Ordinance, either by way of distribution or in respect of the cost and expenses of the proceedings, shall apply in such form and manner as the Official Receiver may direct, and the Official Receiver may thereupon either pay to the liquidator the sum required by him for the purposes aforesaid, or may direct cheques to be issued to the liquidator for transmission to the persons to whom the payments are to be made.

(L.N. 50 of 1964)
[cf. R. 201]

Rule:	189	Proceedings for release of liquidator		30/06/1997

RELEASE OF LIQUIDATOR IN A WINDING UP BY THE COURT

(1) A liquidator in a winding up by the court before making application to the court for his release, shall give notice of his intention so to do to all the creditors who have proved their debts and to all the contributories, and shall send with the notice a summary of all receipts and payments in the winding up. (See Forms 98, 99 & 100)

(2) When the court has granted to a liquidator his release, a notice of the order granting the release shall be gazetted. The liquidator shall provide the requisite payment for the Gazette, which he may charge against the company's assets.

[cf. R. 202]

Rule:	190	Disposal of books and papers		30/06/1997

DISPOSAL OF BOOKS AND PAPERS

(L.N. 50 of 1964)

(1) The court may order that the books and papers of a company which has been wound up shall not be destroyed for such period (not exceeding 5 years from the dissolution of the company) as the court thinks proper.

(2) Any creditor or contributory may make representations to the court with regard to the destruction of such books and papers.

(3) A resolution for the destruction of the books and papers of such a company within the said period of 5 years or any shorter period fixed by an order of the court in force at the date of such resolution shall not take effect until the expiration of such period 5 years or of such shorter period unless the court shall otherwise direct.

(4) At least one week's notice shall be given to the Official Receiver of any application to the court for an order for destruction of the books and papers of a company before the expiration of such period of 5 years or shorter period.

[cf. R. 203]

Rule:	191	Appointment	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

OFFICIAL RECEIVERS

(1) Judicial notice shall be taken of the appointment of the Official Receivers appointed by the Chief

Executive.

(2) When the Chief Executive appoints any officer to act as deputy for or in the place of an Official Receiver notice thereof shall be given in the Gazette.

(3) Any person so appoints shall, during his tenure of office, have all the status, rights, and powers, and be subject to all the liabilities of an Official Receiver.

(23 of 1999 s. 3)
[cf. R. 204]

Rule:	192	Removal	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

Where an Official Receiver is removed from his office by the Chief Executive, notice of the order removing him shall be published in the Gazette.

(23 of 1999 s. 3)
[cf. R. 205]

Rule:	193	Personal performance of duties		30/06/1997

The court may, by general or special directions determine what acts or duties of the Official Receiver in relation to the winding up of companies are to be performed by him in person, and in what cases he may discharge his functions through the agency of his clerks or other persons in his regular employ, or under his official control.

[cf. R. 206]

Rule:	194	Assistant official receivers	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

An assistant official receiver, appointed by the Chief Executive, shall be an officer of the court, as fully as the Official Receiver to whom he is assistant, and, subject to the directions of the court, he may represent the Official Receiver in all proceedings in court, or in any administrative or other matter. Judicial notice shall be taken of the appointment of an assistant official receiver and he may be removed in the same manner as is provided in the case of an Official Receiver.

(23 of 1999 s. 3)
[cf. R. 207]

Rule:	195	Power of certain officers and Official Receivers' clerks in certain cases to act for Official Receivers	23 of 1999	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 23 of 1999 s. 3

In the absence of the Official Receiver any officer duly authorized for the purpose by the Chief Executive, and any clerk of the Official Receiver duly authorized by him in writing, may by leave of the court act on behalf of the Official Receiver, and take part for him in any public or other examination and in any unopposed application to the court.

(23 of 1999 s. 3)
[cf. R. 208]

Rule:	196	Duties where no assets		30/06/1997

Where a company against which a winding-up order has been made has no available assets, the Official Receiver shall not be required to incur any expense in relation to the winding up without the express directions of the court.

[cf. R. 209]

Rule:	197	Accounting by Official Receiver		30/06/1997

(1) Where a liquidator is appointed by the court in a winding up by the court, the Official Receiver shall account to the liquidator.

(2) If the liquidator is dissatisfied with the account or any part thereof, he may report the matter to the court, which shall take such action (if any) thereon as it may deem expedient.

(3) The provisions of these rules as to liquidators and their accounts shall not apply to the Official Receiver when he is liquidator, but he shall account in such manner as the court may from time to time direct.

[cf. R. 210]

Rule:	198	Official Receiver to act as committee of inspection where no committee of inspection appointed		30/06/1997

Where there is no committee of inspection in a winding up by the court any functions of the committee of inspection which devolve on the court may, subject to the directions of the court, be exercised by the Official Receiver.

[cf. R. 211]

Rule:	199	Appeals from Official Receiver		30/06/1997

An appeal to the court from an act or decision of the Official Receiver acting otherwise than as liquidator of a company, shall be brought within 21 days from the time when the decision or act appealed against is done, pronounced, or made.

[cf. R. 212]

Rule:	200	Applications under ss. 204 & 277(3) of the Ordinance		30/06/1997

(1) An application by the Official Receiver to the court to examine on oath the liquidator or any other person pursuant to section 204 of the Ordinance or to confer on the Official Receiver or on any person designated by him for the purpose with respect to the company concerned the powers of investigating the affairs of the company, mentioned in section 277(3) of the Ordinance shall be made ex parte, and shall be supported by a report to the court filed with the Registrar, stating the circumstances in which the application is made.

(2) The report shall be signed by the Official Receiver; and shall for the purposes of such application be prima facie evidence of the statement therein contained.

[cf. R. 213]

Rule:	201	Books to be kept by officers of the court		30/06/1997

BOOKS TO BE KEPT AND RETURNS MADE BY OFFICERS OF THE COURT

(1) The Registrar of the court shall keep books according to the Forms in the Appendix, and the particulars given under the different heads in such books shall be entered forthwith after each proceeding has been concluded.

(2) The books shall at all times be open to inspection by the Official Receiver, and the officers of the court whose duty it is to keep the books prescribed by these rules shall furnish the Official Receiver with such information and returns as the Official Receiver may from time to time require. (See Forms 101 & 102)

[cf. R. 214]

Rule:	202	Gazetting notices		30/06/1997

GAZETTING IN A WINDING UP BY THE COURT

(1) All notices subsequent to the making by the Court of a winding-up order in pursuance of the Ordinance or

the rules requiring publication in the Gazette shall be gazetted by the Official Receiver or the liquidator, as may be appropriate. (See Forms 103, (1) to (9))

(2) Where any winding-up order is amended, and also in any case in which any matter which has been gazetted has been amended or altered, or in which a matter has been wrongly or inaccurately gazetted, the Official Receiver or the liquidator, as may be appropriate, shall re-gazette such order or matter with the necessary amendments and alterations in the prescribed form, at the expense of the company's assets, or otherwise as the court may direct.

(L.N. 286 of 1997)

[cf. R. 215]

Rule:	203	Filing memorandum of Gazette notices		30/06/1997

(1) Whenever the Gazette contains any advertisement relating to any winding-up proceedings the Official Receiver or liquidator as the case may be shall file with the proceedings a memorandum referring to and giving the date of the advertisement. (See Form 104)

(2) In the case of an advertisement in a local paper, the Official Receiver or liquidator as the case may be shall keep a copy thereof and a memorandum referring to and giving the date of the advertisement shall be placed on the file.

(3) For this purpose one copy of each local paper in which any advertisement relating to any winding-up proceeding in the court is inserted, shall be left with the Official Receiver or liquidator as the case may be by the person who inserts the advertisement.

(4) A memorandum under this rule shall be prima facie evidence that the advertisement to which it refers was duly inserted in the issue of the Gazette or newspaper mentioned in it.

[cf. R. 216]

Rule:	204	To whom warrants may be addressed		30/06/1997

ARRESTS AND COMMITMENTS

A warrant of arrest, or any other warrant issued under the provisions of the Ordinance and rules, may be addressed to such bailiff or officer of the court or police officers of Hong Kong as the court may in each case direct.

[cf. R. 217]

Rule:	205	Prison to which person arrested on warrant is to be taken		30/06/1997

Where the court issues a warrant for the arrest of a person under any of the provisions of the Ordinance or rules, he shall be committed, unless the court shall otherwise order, to the prison used by the court in cases of commitment made in the exercise by the court of its ordinary jurisdiction.

[cf. R. 218]

Rule:	206	Prison to which a person arrested is to be conveyed, and production and custody of persons arrested		30/06/1997

Where a person is arrested under a warrant of commitment issued under any of the provisions of the Ordinance and rules, other than sections 221 and 224 of the Ordinance, and rule 56 of the rules he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to the prison used by the court in cases of commitment made in the exercise by the court of its ordinary jurisdiction and kept therein for the time mentioned in the warrant of commitment, unless sooner discharged by the order of the court or otherwise by law. Where a person is arrested under a warrant, issued under section 221 or 224 of the Ordinance, or under rule 56 of the rules, he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to such prison as aforesaid; and the Commissioner of Correctional Services shall produce such person before the court as it may from time to time direct, and shall safely keep him until such time as the court shall otherwise order, or such person shall be otherwise discharged by law.

[cf. R. 220]

Rule:	207	Disposal of moneys received after execution	L.N. 267 of 2003	13/02/2004

MISCELLANEOUS MATTERS

(1) Where any money is seized or received by the bailiff in part satisfaction of an execution against the goods of a company the same shall be paid into court to the credit of a ledger account in the name of the bailiff with a sub-title in the matter of the action and if, before the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the bailiff that a provisional liquidator has been appointed or that a winding-up order has been made or that a resolution for voluntary winding-up has been passed or that a winding-up statement made under section 228A of the Ordinance has been delivered to the Registrar of Companies under that section, the bailiff shall forthwith inform the Registrar of the service of such notice and the Registrar shall, on being so required, deliver any money so seized or received in part satisfaction of the execution to the liquidator after deducting therefrom the costs of the execution.

(2) Where under an execution in respect of a judgment for a sum exceeding $200 the goods of a company are sold or money is paid in order to avoid a sale, the proceeds of sale or money paid in order to avoid a sale shall be paid into court to the credit of a ledger account in the name of the bailiff with a sub-title in the matter of the action and shall be retained for 14 days from the date of such sale or payment in order to avoid sale, and if within such 14 days notice is served on the bailiff of a petition for the winding up of the company having been presented or of a winding-up statement made under section 228A of the Ordinance having been delivered to the Registrar of Companies under that section or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the company, the bailiff shall forthwith notify the Registrar of the service of such notice and if an order is made or a resolution is passed, as the case may be, for the winding up of the company, the Registrar shall deduct the costs of the execution and shall pay the balance to the liquidator.

(3) Payment by the bailiff into court in pursuance of this rule shall be a good discharge to him as against the liquidator.

(L.N. 201 of 1984; 28 of 2003 s. 125)

[cf. R. 22A]

Rule:	208	Enlargement or abridgment of time		30/06/1997

The court may, in any case in which it shall see fit, extend or abridge the time appointed by the rules or fixed by any order of the court for doing any act or taking any proceeding.

[cf. R. 222]

Rule:	209	Formal defect not to invalidate proceedings		30/06/1997

(1) No proceedings under ~~the Ordinance or the rules~~ the Ordinance, the pre-amended Ordinance or the rules shall be invalidated by any formal defect or by any irregularity, unless the court is of opinion that substantial injustice has been caused by the defect or irregularity, and that the injustice cannot be remedied by any order of the court. (L.N. 235 of 1996)

(2) No defect or irregularity in the appointment or election of an Official Receiver, liquidator, or member of a committee of inspection shall vitiate any act done by him in good faith.

[cf. R. 223]

Rule:	210	Application of existing procedure		30/06/1997

In all proceedings in or before the court, or any Registrar or officer thereof, or over which the court has jurisdiction under the Ordinance and rules, where no other provision is made by the Ordinance or rules, the practice, procedure and regulations shall, unless the court otherwise in any special case directs, be in accordance with the rules and practice of the court.

[cf. R. 224]

Rule:	211	Citation		30/06/1997

These rules may be cited as the Companies (Winding-up) Rules.

[cf. R. 227]

Appendix:		APPENDIX	L.N. 267 of 2003	13/02/2004

FORMS

FORM 1 [rule 7]

FORM OF SUMMONS *(General)*

(Title)

Let [(a)] attend at on the day of 19 , at o'clock in the noon on the hearing of an application of [(b)] for an order that [(c)]

Dated the day of , 19 .

This summons was taken out by of Solicitors for To

(a) Name of Respondent.

(b) Name and description of applicant.

(c) State object of application.

NOTE-If you do not attend, either in person or by your solicitor, at the time and place above-mentioned, such order will be made, and proceedings taken as the court may think just and expedient.

(L.N. 50 of 1964)

FORM 2 [rule 22]

PETITION

(Title)

To the High Court of Hong Kong.

The humble petition of [(a)] showeth as follows-

1. The Company, Limited (hereinafter called the company), was in the month of , incorporated under the ~~Companies Ordinance (Chapter 32)~~ *Companies Ordinance 1865 (1 of 1865)/*Companies Ordinance 1911 (58 of 1911)/*Companies Ordinance (Chapter 32)/*Companies Ordinance (of 2011). (*delete the inapplicable words).

2. The registered office of the company is at [(b)]

(a) Insert full name, title, etc., of petitioner.

(b) State the full address of the registered office so as sufficiently to show where it is situate.

3.

~~The nominal capital of the company is $, divided into shares of $ each.~~ The share capital of the company is divided into shares. The amount of the capital paid up or credited as paid up is $

4. The objects for which the company was established are as follows-

To

and other objects set forth in the ~~memorandum~~ articles of association thereof.

[*Here set out in paragraphs the facts on which the petitioner relies, and conclude as follows*]:-

Your petitioner therefore humbly prays as follows-

(1) That the Company, Limited, may be wound up by the court under the provisions ~~of the Companies Ordinance~~ of the Companies (Winding Up and Miscellaneous Provisions) Ordinance.

(2) Or that such other order may be made in the premises as shall be just.

NOTE-(d) It is intended to serve this petition on.

(d) This note will be unnecessary if the Company is petitioner.

(L.N. 201 of 1984; 25 of 1998 s. 2)

FORM 3 [rule 22]

PETITION BY UNPAID CREDITOR ON SIMPLE CONTRACT

(Title)

Paragraphs 1, 2, 3, and 4 as in Form 2.

5. The company is indebted to your petitioner in the sum of $ for [(a)]

6. Your petitioner has made application to the company for payment of his debt, but the company has failed and neglected to pay the same or any part thereof.

7. The company is [insolvent and] unable to pay its debts.

8. In the circumstances it is just and equitable that the company should be wound up.

Your petitioner, therefore, &c. [as in Form 2].

(a) State consideration for the debt, with particulars so as to establish that the debt claimed is due.

FORM 3A [rule 22]

PETITION BY MINORITY SHAREHOLDER

(Title)

Paragraphs 1, 2, 3 and 4 as in Form 2.

[*Then set out in paragraphs the facts on which the petitioner relies and continue as follows*]:-

In these circumstances your petitioner submits that the affairs of the company are being conducted in a manner unfairly prejudicial to a part of the members of the company including your petitioner.

Your petitioner therefore humbly prays as follows:-

(1) [*Here set out remedy sought and conclude*]

(2) Or that such other order may be made in the premises as shall be just.

NOTE-It is intended to serve this petition on.

(L.N. 178 of 1978)

FORM 4 [rule 24]

ADVERTISEMENT OF PETITION

(Title)

Notice is hereby given that a petition for the winding up of the above-named company by the High Court of Hong Kong was, on the day of , 19 , presented to the said court by the said company [*or, as the case may be*]. And that said petition is directed to be heard before the court at .m. on the day of , 19 ; and any creditor or contributory of the said company desirous to support or oppose the making of an order on the said petition may appear at the time of hearing by himself or his counsel for that purpose; and a copy of the petition will be furnished to any creditor or contributory of the said company requiring the same by the undersigned on payment of the regulated charge for the same.

Signed [b] [Name] [c]
[Address] [c]

NOTE-Any person who intends to appear on the hearing of the said petition must serve on or send by post to the above-named, notice in writing of his intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their solicitor (if any), and must be served, or if posted, must be sent by post in sufficient time to reach the above-named not later than 6 o'clock in the afternoon of the of 19 .

(b) To be signed by the solicitor to the petitioner or by the petitioner if he has no solicitor.
(c) The name and address of the petitioner and the solicitor, if any, to the petitioner should be stated.

(L.N. 201 of 1984; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 4A [rule 24]

ADVERTISEMENT OF PETITION BY MINORITY SHAREHOLDER

(Title)

Notice is hereby given that a petition for an Order that [a] or for such other order as shall be just was presented to the High Court of Hong Kong on the day of 19 by [b]. And that the said petition is directed to be heard before the Court at on the day of 19 ; and any creditor or contributory of the said company desirous to support or oppose the making of an order on the said petition may appear at the time of hearing in person or by his counsel for that purpose; and a copy of the petition will be furnished by the undersigned to any creditor or contributory of the said company requiring such copy on payment of the regulated charge for the same.

Signed [c] [Name]
[Address]

NOTE-Any person who intends to appear on the hearing of the said petition must serve on or send by post to the above-named, notice in writing of this intention so to do. The notice must state the name and address of the person, or, if a firm, the name and address of the firm, and must be signed by the person or firm, or his or their solicitor (if any), and must be served, or if posted, must be sent by post in sufficient time to reach the above-named not later than 6 o'clock in the afternoon of the of , 19 .

(a) Insert remedy sought in prayer of petition.
(b) Insert name and address of petitioner.

(c) To be signed by the solicitor to the petitioner or by the petitioner if he has no solicitor.

(L.N. 178 of 1978; 25 of 1998 s. 2)

FORM 5 [rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON MEMBERS, OFFICERS, OR SERVANTS, &C.

(Title)

In the matter of a petition dated

I, , of , make oath and say-

1. [*In the case of service of petition on a company by leaving it with a member, officer, or servant at the registered office, or if no registered office at the principal or last known principal place of business of the company.*]

That I did on day, the day of , 19 , serve the above-named company with the above-mentioned petition by delivering to and leaving with [name and description] a member (or officer) (or servant) of the said company a copy of the above-mentioned petition, duly sealed with the seal of the court, at [*office or place of business as aforesaid*], before the hour of in the noon.

2. [*In the case of no member, officer, or servant of the company being found at the registered office or place of business.*]

That I did on day, the day of , 19 , having failed to find any member, officer, or servant of the above-named company at [*here state registered office or place of business*], leave there a copy of the above-mentioned petition, duly sealed with the seal of the court, before the hour of in the noon [*add with whom such sealed copy was left, or where, e.g. affixed to door of offices, or placed in letter box, or otherwise*].

3. [*In the case of directions by the court as to the member, or members, officer, or servant of the company to be served.*]

That I did on day, the day of , 19 , serve [*name or names and description*] with a copy of the above-mentioned petition, duly sealed with the seal of the court, by delivering the same personally to the said , at [*place*] before the hour of in the noon.

4. The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 6 [rule 25]

AFFIDAVIT OF SERVICE OF PETITION ON LIQUIDATOR

(Title)

In the matter of a petition, dated , for winding up the above company [by] *or* [under the supervision of] the court [*as the case may be*].

I, , of , make oath and say-

That I did on day, the day of , 19 , serve [*name and description*] the liquidator of the above-named company, with a copy of the above-mentioned petition, duly sealed with seal of the

court, by delivering the same personally to the said
at [*place*], before the hour of in the noon.

The said petition is now produced and shown to me, marked "A".

Sworn at, &c.

FORM 7 [rule 26]

AFFIDAVIT VERIFYING PETITION

(Title)

I, *A.B.*, of &c., make oath and say, that such of the statements in the petition now produced and shown to me, and marked with the letter "A", as relate to [(a)] my own acts and deeds are true, and such of the said statements as relate to the acts and deeds of any other person or persons I believe to be true.

(a) If the petition is by a firm, insert "the acts and deeds of my said firm".

Sworn, &c.

FORM 8 [rule 26]

AFFIDAVIT VERIFYING PETITION OF A LIMITED COMPANY

(Title)

I, *A.B.*, of, &c., make oath and say as follows-

1. I am (a director) ~~(the secretary)~~ (the company secretary) of Company, Limited, the petitioner in the above matter, and am duly authorized by the said petitioner to make this affidavit on its behalf.

2. That such of the statements in the petition now produced and shown to me marked with the letter "A", as relate to the acts and deeds of the said petitioner or to my own acts and deeds, are true, and such of the statements in the said petition as relate to the acts and deeds of any other corporation, person or persons, I believe to be true.

Sworn, &c.

FORM 9 [rule 28]

ORDER APPOINTING A PROVISIONAL LIQUIDATOR AFTER PRESENTATION OF PETITION, AND BEFORE ORDER TO WIND UP

the day
of , 19 .

(Title)

Upon the application, &c., and upon reading, &c., the court doth hereby appoint the Official Receiver (or as may be) to be provisional liquidator of the above-named company. And the court doth hereby limit and restrict the powers of the said provisional liquidator to the following acts, that

is to say [*describe the acts which the provisional liquidator is to be authorized to do and the property of which he is to take possession*].

NOTE-It will be the duty of the person who is at the time ~~secretary~~ company secretary or chief officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs as the Official Receiver or provisional liquidator may require, to attend on the Official Receiver or provisional liquidator at such time and place as he may appoint and to give him all information he may require.

(46 of 2000 s. 40)

FORM 10 [rule 30]

NOTICE OF INTENTION TO APPEAR ON PETITION

(Title)

Take notice that *A.B.*, of [(a)] a creditor for $ of (or contributory holding [(b)] shares in) the above company intends to appear on the hearing of the petition advertised to be heard on the day of , 19 , and to support (*or* oppose) such petition.

(a) State full name, or if a firm, the name of the firm and address.
(b) State number and class of shares held.

(Signed) [(c)]

(c) To be signed by the person or his solicitor or agent.

To [*Address*]

FORM 11 [rule 31]

LIST OF PARTIES ATTENDING THE HEARING OF A PETITION

(Title)

The following are the names of those who have given notice of their intention to attend the hearing of the petition herein, on the day of , 19 .

Name	Address	Name and address of solicitor of party who has given notice	Creditors. Amount of debt	Contributories. Number of shares	Opposing	Supporting

FORM 12 [rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF WINDING-UP ORDER

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[*or, as the case may be*] for winding up the under-mentioned company under the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

FORM 13 [rule 34]

NOTIFICATION TO OFFICIAL RECEIVER OF ORDER PRONOUNCED FOR APPOINTMENT OF PROVISIONAL LIQUIDATOR PRIOR TO WINDING-UP ORDER BEING MADE

(Title)

To the Official Receiver

(Address)

Order pronounced this day by
[*or, as the case may be*] for the appointment of the Official Receiver (or, as the case may be, the name, address and description of the person appointed) as provisional liquidator prior to any winding-up order being made.

Name of company	Registered office of company	Petitioner's solicitor	Date of presentation of petition

FORM 14 [rule 35]

ORDER FOR WINDING UP BY THE COURT

day of , 19 .

(Title)

Upon the petition of the above-named company (or *A.B.*, of &c., a creditor (or contributory) of the above-named company), on the day of , 19 , preferred unto the court, and upon hearing for the petitioner, and for and upon reading the said petition, an affidavit of (the said petitioner), filed, &c., verifying the said petition, an affidavit of L.M., filed the day of , 19 , the *Gazette* of the day of , 19 , the newspaper of the day of (enter any other papers), each containing an advertisement of the said petition (enter any other evidence), this court doth order that the said company be wound up by this court under the provisions of the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

And it is ordered that the costs of of the said petition be taxed and paid out of the assets of the said company.

NOTE-It will be the duty of the ~~secretary~~ company secretary and of every officer of the company and of such of the persons who are liable to make out or concur in making out the company's statement of affairs, as the Official Receiver or provisional liquidator may require, to attend on the Official Receiver or provisional liquidator at such time and place as he may appoint and to give him all information he may require.

(L.N. 201 of 1984; 46 of 2000 s. 40)

FORM 15
(Repealed L.N. 201 of 1984)

FORM 16 [rule 36(1)]

NOTICE OF ORDER TO WIND UP (FOR NEWSPAPER)

~~THE COMPANIES ORDINANCE~~ COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

(Chapter 32)

In the matter
of , Limited.

Winding-up order made ,

19 .

Date and place of first meetings-

Creditors ,
19 , at

Contributories ,
19 , at

Official Receiver and
Provisional Liquidator

FORM 17 [rule 38]

AFFIDAVIT BY SPECIAL MANAGER VERIFYING ACCOUNT

(Title)

I, , of
make oath and say as follows-

1. The account hereunto annexed, marked with the letter "A", produced and shown to me at the time of swearing this my affidavit, and purporting to be my account as special manager of the estate or business of the above-named company, contains a true account of all and every sums and sum of money received by me or by any other person or persons by my order or to my knowledge or belief for my use on account or in respect of the said estate or business.

2. The several sums of money mentioned in the said account hereby verified to have been paid or allowed have been actually and truly so paid and allowed for the several purposes in the said account mentioned.

3. The said account is just and true in all and every items and particulars therein contained, according to the best of my knowledge and belief.

Sworn, &c.

(L.N. 587 of 1995)

FORM 18 [rule 109]

NOTICE TO CREDITORS OF FIRST MEETING

(Title)

(Under the order for winding up the above-named company, dated the
day of , 19 .)

Notice is hereby given that the first meeting of creditors in the above matter will be held at
on the day of 19 , at
o'clock in the noon.

To entitle you to vote thereat your proof must be lodged with me not later than
o'clock on the day of , 19 .

Forms of proof and of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than o'clock on the
day of , 19 .

Address

(The statement of the company's affairs [(a)])

(a) Here insert "has not been lodged" or "has been lodged, and summary is enclosed".

Note

At the first meetings of the creditors and contributories they may amongst other things-

1. By resolution determine whether or not an application is to be made to the court to appoint a liquidator in place of the provisional liquidator.

2. By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(46 of 2000 s. 40)

FORM 19 [rule 109]

NOTICE TO CONTRIBUTORIES OF FIRST MEETING

(Title)

Notice is hereby given that the first meeting of the contributories in the above matter will be held at on the day of , 19 , at o'clock in the noon.

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged with me not later than o'clock on the day of , 19 .

Dated this day of , 19 .

Address

(The company's statement of affairs [(a)]).

(a) Here insert "has not been lodged" or "has been lodged, and summary is enclosed".

Note

At the first meetings of creditors and contributories they may amongst other things-

1. By resolution determine whether or not an application shall be made to the court to appoint a liquidator in place of the provisional liquidator.

2. By resolution determine whether or not an application shall be made to the court for the appointment of a committee of inspection to act with the liquidator, and who are to be the members of the committee if appointed.

(46 of 2000 s. 40)

FORM 20 [rule 110]

NOTICE TO DIRECTORS AND OFFICERS OF COMPANY TO ATTEND FIRST MEETING OF CREDITORS OR CONTRIBUTORIES

(Title)

Take notice that the first meeting of creditors [or contributories] will be held on the

day of , 19 , at o'clock at [a] and that you are required to attend thereat, and give such information as the meeting may require.

Dated this day of , 19 .

To [b]

NOTE-The failure of any director or officer to attend will be reported to the court.

(a) Here insert place where meeting will be held.

(b) Insert name of person required to attend.

(46 of 2000 s. 40)

FORM 21 [rule 123(2)]

MEMORANDUM OF PROCEEDINGS AT ADJOURNED FIRST MEETING

(No quorum)

(Title)

Before at on the day of , 19 , at o'clock.

Memorandum-The adjourned meeting of [a] in the above matter was held at the time and place above-mentioned; but it appearing that there was not a quorum of [a] qualified to vote present or represented, no resolution was passed, and the meeting was not further adjourned.

Chairman

(a) Insert "creditors" or "contributories", as the case may be.

FORM 22 [rule 130]

LIST OF CREDITORS [a] PRESENT TO BE USED AT EVERY MEETING

(a) "or contributories".

(Title)

Meeting held at this day of , 19 .

Number	Names of creditors [a] present or represented	Amount of proof [b]	
		$	¢
1			
2			
3			
4			
5			
6			

(b) In case of contributories insert "number of shares" and "number of votes according to the regulations of the company".

7				
7	Total number of creditors [(a)] present or represented.			

_____

FORM 23

Rule 39 of the Companies (Winding-up) Rules

IN THE HIGH COURT OF HONG KONG
COMPANIES (WINDING-UP) NO. _____ of 19 _____

In the matter of _____
and
~~In the matter of the Companies Ordinance~~ In the matter of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32).

STATEMENT OF AFFAIRS on the _____ day of _____ 19 _____ , the date of the Winding-up Order (or such other date as the liquidator has for special reasons directed).

Notes

(1) Please complete this Statement of Affairs and such of the attached lists A, B, C, D, E, F, G, H, I and J as are applicable. If there is a dispute about any amount due to or by the wound-up company please specify this in the relevant list and supply details in a separate schedule which should be signed and attached as part of the Statement of Affairs.

(2) Please do not insert figures in the shaded areas.

I-AS REGARDS CREDITORS

List Reference	Particulars	Amount $	Amount $
	ASSETS		
A	(1) Various assets		
B	(2) Debts due to the company		
C	(3) Excess value of assets pledged as security to creditors fully secured		
D	(4) Unpaid calls		
	(5) Total Assets, i.e. total of items (1) to (4) above		
	LIABILITIES		
E	(6) Claims and amounts due to employees and Government departments		
F	(7) Debenture holders		
	(8) Subtotal, i.e. total of items (6) and (7) above		
C	(9) Secured creditors (net of security)-i.e. after deducting the amount of the security		
G	(10) Unsecured creditors and other liabilities		
H	(11) Contingent liabilities		
	(12) Subtotal, i.e. total of items (9) to (11) above		
	(13) Total Liabilities, i.e. total of items (8) and (12) above		
	(14) Estimated surplus/(deficiency) subject to cost of liquidation carried forward to item (15) on page 2, i.e. total assets as in item (5) less total		

	liabilities as in item (13).	$

II-AS REGARDS CONTRIBUTORIES

List Reference	Particulars	Amount $	Amount $
	(15) Estimated surplus/(deficiency) brought forward from page 1		
	CAPITAL ISSUED AND ALLOTTED, viz:- ~~(16) Ordinary Shares of $ _____ per share~~ (16) Ordinary Shares of $ _____ each at nominal value (only applicable to shares with nominal value)		
I	(17) No. of Ordinary Shares issued as fully paid _____ (specify no. of shares)		
I	(18) No. of Ordinary Shares issued as partially paid, i.e. amount called up for _____ shares at $ _____ (specify no. of shares) per share		
	(19) Total for ordinary share capital fully paid and called up, i.e. total of items (17) and (18) above		
I	(20) Any other type of shares or capital issued (give particulars)		
	(21) Subtotal for item (20)		
	(22) Total of items (19) and (21) above		
	(23) TOTAL SURPLUS/(DEFICIENCY) AS PER ITEM (15) OF THE DEFICIENCY ACCOUNT IN LIST J i.e. item (15) less item (22)		$

AFFIDAVIT OR AFFIRMATION

Notes: (1) The Commissioner is particularly requested, before swearing the Affidavit or making the Affirmation, to ascertain that the full name, address and description of the Deponent are stated, and to initial all crossings-out or other alterations on the printed form. A deficiency in the Affidavit/Affirmation in any of the above respects will entail its refusal by the court, and will necessitate it being re-sworn/re-affirmed.

(2) Where the liquidator has directed any date other than the date of the winding-up order, substitute such other date.

(3) An asterisk (*) signifies that the inapplicable words should be deleted.

I/We, _____ , of _____ * _____ make oath and say _____ that the
* solemnly and sincerely affirm
foregoing Statement and the several Lists hereunto annexed marked _____ are, to the best of my/our knowledge and belief, a full, true, and complete statement of affairs of the above-named Company, on the _____ day of _____ 19 _____, the date of the Winding-up Order (see Note 2).

*Sworn at/*Affirmed at _____ in Hong Kong.
this _____ day of _____ 19 _____.

Before me.

A Commissioner, etc.

_____
(Signature)

LIST A

VARIOUS ASSETS

Full particulars of every description of assets not included in any other lists should be specified in this list. If the space allotted to items (a) to (h) below is not adequate, please provide the requisite information by attaching additional schedule(s) and completing item (j) below.

	Particulars	Estimated to produce $
(a) Cash at bank (Please specify the name(s) of the bank(s) and all account numbers)	_____	_____
(b) Cash in hand	_____	_____
(c) Stock in trade	_____ Cost $ _____	_____
(d) Plant and machinery	_____ Cost $ _____	_____
(e) Investment in stocks or shares, etc. (Please provide details)	_____ Cost $ _____	_____
(f) Land and buildings	_____ Cost $ _____	_____
(g) Security held by the company in respect of loans granted to others (Please provide details)	_____	_____
(h) Any other assets (Please provide details)	_____	_____
(i) Total (show the total under "Assets" on page 1 of the Statement of Affairs)	**$**	

(j) *_____ additional schedule(s) are attached/*No additional schedule(s) are attached.
(specify no.)

Dated this day of 19 .
(Signature)

(*delete the inapplicable words)

Page 1

LIST B

DEBTS DUE TO THE COMPANY

Show the total of column (vi) of $ ..... under "Assets" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of debtor	(iii) Address	(iv) Amount of debt $	(v) Date when contracted	(vi) Estimated to produce $	(vii) Folio of ledger or other book where particulars to be found	(viii) Nature of debt and particulars of any securities held for debt
1.	.....	.....	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....	.....

Dated this day of 19 . (Signature)

Notes: (1) If the company is also indebted to any of the above-mentioned debtor(s), please specify in column (iii) both the amount of the company's debt due to the debtor and the amount due from the debtor. The net amount due to the company by the debtor should be inserted in columns (iv) and (vi). If, however, the amount owed by the company to the "debtor" is greater than the amount that the debtor owes the company, do not insert any amount in this list but use **List G** for the purpose.

(2) To substantiate the amount of debt, copies of the relevant source documents should be attached.

LIST B (CONTINUED)

DEBTS DUE TO THE COMPANY

(i) No.	(ii) Name of debtor	(iii) Address	(iv) Amount of debt $	(v) Date when contracted	(vi) Estimated to produce $	(vii) Folio of ledger or other book where particulars to be found	(viii) Nature of debt and particulars of any securities held for debt
	.....	.....	.....	.....	.....	.....	.....
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	.....	.....	.....	.....	.....	.....	.....

Dated this day of 19 . (Signature)

LIST C

SECURED CREDITORS (either fully or partly secured but excluding debenture holders for whom List F should be used)/**EXCESS VALUE OF ASSETS PLEDGED AS SECURITY TO CREDITORS**

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount owed to creditor $	(v) Date when contracted	(vi) Particulars of the asset being held or claimed or pledged as security	(vii) Date when security given	(viii) Estimated value of the asset in column (vi) $	(ix) Estimated excess i.e. (viii) less (iv) $	(x) Net indebtedness i.e. (iv) less (viii) $
1.	.....	.....	.....	.....	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....	.....	.....	.....
Total amount owed to creditors, i.e. total of column (iv)				Total value of security, i.e. total of column (viii)					
Show the total of column (ix) under "Assets" at item (3) on page 1 of the Statement of Affairs									
Show the total of column (x) under "Liabilities" at item (9) on page 1 of the Statement of Affairs									

Dated this day of 19 . (Signature)

Note: If the amount due to the fully-secured creditor (as stated in column (iv) above) is the same as the estimated value of security (as stated in column (viii) above), please specify a "Nil" amount in columns (ix) and (x). If any estimated surplus from security as reflected in column (ix) above is further pledged to any other creditor as partial security, that surplus should be deleted from column (ix) and shown in column (viii) for that other creditor instead. Such surplus should then be deducted from the relevant amount due to that other creditor before extending the amount to either column (ix) or (x), whichever is appropriate.

LIST D

UNPAID CALLS (i.e. amount called up but not yet paid by the shareholder)

(i) No.	(ii) No. in share register	(iii) Name of Shareholder	(iv) Address	(v) No. of shares held	(vi) Amount of call per share unpaid $	(vii) Total amount due i.e. (vi) multiplied by (v) $	(viii) Estimated to realize $
1.	.....	.....	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....	.....
Totals (show the total of column (viii) under "Assets" on page 1 of the Statement of Affairs)					**$**		

Dated this day of 19 . (Signature)

LIST E

CLAIMS AND AMOUNTS DUE TO EMPLOYEES AND GOVERNMENT DEPARTMENTS (e.g. Wages, Rates, Taxes, etc.)

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Nature of claim	(v) Period during which claim accrued	(vi) Due date for payment	(vii) Amount of claim $
1.	.....	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....
Show the total of column (vii) under "Liabilities" on page 1 of the Statement of Affairs					**$**	

Dated this day of 19 . (Signature)

LIST F

DEBENTURE HOLDERS (excluding Secured Creditors for whom List C should be used)

Should there be more than one issue of debentures, separate list must be provided of holders of each issue of debenture.

(i) No.	(ii) Date of debenture	(iii) Name of debenture holder	(iv) Address	(v) Amount $	(vi) Description of assets over which security extends
1.	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....
Show the total of column (v) under "Liabilities" on page 1 of the Statement of Affairs				**$**	

Dated this day of 19 . (Signature)

Page 1

LIST G

UNSECURED CREDITORS AND OTHER LIABILITIES

Show the total of column (iv) of $ ..... under "Liabilities" on page 1 of the Statement of Affairs

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount $	(v) Date when contracted	(vi) Consideration and the nature of liability
1.	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....

Dated this day of 19 . (Signature)

Notes: (1) If any creditor is also indebted to the company, please specify in column (iii) both the amount due to the creditor and the amount owed by the creditor. The net amount due by the company to the creditors should be inserted in column (iv). If however, the amount owed to the company by the "creditor" is more than the amount that the company owes the creditor, do not insert any amount in this list but use **List B** for the purpose.

(2) The particulars of any bills of exchange and promissory notes held by a creditor should be inserted immediately below the name of such creditor.

(3) The names of any creditors who are also contributories, or alleged to be contributories, of the company must be shown separately and described as such at the end of the list.

LIST G (CONTINUED)

UNSECURED CREDITORS AND OTHER LIABILITIES

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount $	(v) Date when contracted	(vi) Consideration and the nature of liability
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....
	.....	.....	.....	.....	.....

Dated this day of 19 . (Signature)

LIST H

CONTINGENT LIABILITIES

(i) No.	(ii) Name of creditor or claimant	(iii) Address	(iv) Amount $	(v) Date when contracted	(vi) Consideration and the nature of liability
1.	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....

9.	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....
Show the total of column (iv) under "Liabilities" on page 1 of the Statement of Affairs		$			

Dated this day of 19 . (Signature)

LIST I

LIST OF SHAREHOLDERS

Type of Shares - ~~*Ordinary Shares of $ _____ each nominal value~~*Ordinary Shares of $ _____ each at nominal value (only applicable to shares with nominal value)

(*delete whichever - ~~*Preference Shares of $ _____ each at _____ % nominal value~~*Preference Shares of $ _____ each at _____ % nominal value (only applicable to shares with nominal value)

is inapplicable) - *Others (please specify) _____

(i) No.	(ii) No. in share register	(iii) Name of shareholder	(iv) Address	(v) No. of shares held	(vi) Amount per share fully paid/called up $	(vii) Total amount i.e. (vi) multiplied by (v) Fully paid $	(vii) Called up $	(viii) Total amount not called up (if any) $
1.	.....	.....	.....	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....	.....	.....	.....
6.	.....	.....	.....	.....	.....	.....	.....	.....
7.	.....	.....	.....	.....	.....	.....	.....	.....
8.	.....	.....	.....	.....	.....	.....	.....	.....
9.	.....	.....	.....	.....	.....	.....	.....	.....
10.	.....	.....	.....	.....	.....	.....	.....	.....
11.	.....	.....	.....	.....	.....	.....	.....	.....
12.	.....	.....	.....	.....	.....	.....	.....	.....
13.	.....	.....	.....	.....	.....	.....	.....	.....
14.	.....	.....	.....	.....	.....	.....	.....	.....
15.	.....	.....	.....	.....	.....	.....	.....	.....
Totals (show the totals of column (vii) under "Capital Issued and Allotted" on page 2 of the Statement of Affairs)					$			

Dated this day of 19 . (Signature)

Notes: Separate list(s) should be used to provide a list of shareholders for each type of share capital, i.e. use separate list(s) for ordinary shareholders, preference shareholders, etc.

Page 1

LIST J

DEFICIENCY ACCOUNT

			$
(1)	Excess/(Deficiency) of Assets over Capital and Liabilities as per the company's latest audited balance sheet as at ..... (This and the previous balance sheet to be annexed or handed to Official Receiver)		
(2)	Gross profit (loss) arising from carrying on business from the date mentioned in (1) above or date of incorporation (whichever is the later) to date of winding-up order (as per Trading Account annexed)		
(3)	Receipts, if any, during the same period as per item (2) from the following sources (see note):-		
	(a) Interest on loans	$	
	(b) Interest on deposits		
	(c) Other receipts (please specify)		
	(d) Amounts paid on shares issued and subsequently forfeited (as per list annexed)		
(4)	Subtotal of items (3)(a) to (3)(d) above		
(5)	Total of items (1), (2) and (4)		

LESS

(6) Expenditure incurred and payments, if any, during the same period as per item (2):-

	(i) Amount paid $	(ii) Amount outstanding at date of winding-up order $	(iii) Total i.e. (i) + (ii) $
(a) Salaries			
(b) Wages not charged in Trading Account			
(c) Rent			
(d) Rates and taxes			
(e) Legal costs			
(f) Commission			
(g) Interest on loans			

(h) Interest on debentures			
(i) Miscellaneous expenditure (as per details annexed)			
(j) Directors' fees			
(k) Dividends declared during same period			
(7) Subtotal of items (6)(a) to (6)(k) above			
(8) Amount carried forward to item (9) on next page, i.e. item (5) less item (7)			$

LIST J

DEFICIENCY ACCOUNT (CONTINUED)

		$
(9) Amount brought forward from previous page		
(10) Losses and depreciation, if any, written off in the company's books during the same period as per item (2) (see note):-		
	$	
(a) Bad debts		
(b) Losses on investments		
(c) Depreciation of property		
(d) Preliminary expenses written off		
(e) Others (please specify)		
(11) Subtotal of items (10)(a) to (10)(e) above		
(12) Losses and depreciation not written off in company's books, now written off in the Statement of Affairs (see note):-		
(a) Bad debts		
(b) Losses on investments		
(c) Depreciation of property		
(d) Preliminary expenses written off		
(e) Others (please specify)		
(13) Subtotal of items (12)(a) to (12)(e) above		
(14) Total of items (11) and (13)		
(15) SURPLUS/(DEFICIENCY) AS PER ITEM (23) IN PART II OF THE STATEMENT OF AFFAIRS i.e. item (9) less item (14)		$

Note: Where particulars are numerous they should be inserted in a separate schedule.

Dated this day of 19 .
(Signature)

(L.N. 24 of 1995; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 24 [rule 45]

REPORT OF RESULT OF MEETING OF CREDITORS OR CONTRIBUTORIES

In the matter, &c.

I, *A.B.*, the Official Receiver of the court [*or as the case may be*] chairman of a meeting of the creditors [*or* contributories] of the above-named company summoned by advertisement [*or* notice] dated the day of , 19 , and held on the day of 19 , at , in the , do hereby report to the court the result of such meeting as follows-

The said meeting was attended, either personally or by proxy, by creditors whose proofs of debt against the said company were admitted for voting purposes, amounting in the whole to the value of $ [*or* by contributories, holding in the whole shares in the said company, and entitled respectively by the regulations of the company to the number of votes hereinafter mentioned].

The question submitted to the said meeting was, whether the creditors [*or* contributories] of the said company wished that [*here state proposal submitted to the meeting*].

The said meeting was unanimously of opinion that the said proposal should [*or* should not] be adopted; [or the result of the voting upon such question was as follows:] [(a)]

(a) Here set out the majorities by which the respective resolutions were carried.

Resolutions at meetings	Voting on resolutions			
	For		Against	
	No.	Amount	No.	Amount
(State the substance of any resolutions passed and give names of committee of inspection (if any), and amount of their proofs if creditors or shares if contributories). CREDITORS-				

	No.	Shares	Votes	No.	Shares	Votes
CONTRIBUTORIES-						

Dated this , 19 .
day of

(Signed) *H. T.*

Chairman

FORM 25 [rule 45]

ORDER APPOINTING LIQUIDATOR

(Title)

the day of

Upon the application of the provisional liquidator of the above-named company, by summons dated and upon hearing the applicant in person and upon reading the order to wind up the said company dated , and the reports of the provisional liquidator of the results of the meetings of creditors and contributories made to the court and respectively dated the [(a)][, and the affidavit of as to the fitness of the liquidator hereinafter named filed]. It is ordered that of be appointed liquidator of the above-named company.

(a) To be inserted only if such affidavit is required.

[(b)] It is also ordered that the following persons be appointed a committee of inspection to act with the said liquidator, namely-

(b) To be struck out if no committee of inspection appointed.

And it is ordered that the said liquidator do within 7 days from the date of this order give security to the satisfaction of the provisional liquidator as provided by the Companies (Winding-up) Rules.

And notice of this order is to be gazetted and advertised in the [(c)].

(c) State name of newspaper (if any).

(L.N. 286 of 1997; 46 of 2000 s. 40)

FORM 26 [rule 47]

CERTIFICATE THAT LIQUIDATOR OR SPECIAL MANAGER HAS GIVEN SECURITY

(Title)

This is to certify that *A.B.*, of , who was on the day of , 19 , appointed liquidator [*or* special manager] of the above-named company, has duly given security to the satisfaction of the Official Receiver.

Dated this day of , 19 .

(Signed)

J.S.

Official Receiver

FORM 27 [rule 45]

ADVERTISEMENT OF APPOINTMENT OF LIQUIDATOR

In the matter of , Limited.

By order of the , dated the day of 19 Mr. of has been appointed liquidator of the above-named company with [or without] a committee of inspection.

Dated this day of , 19 .

FORM 28
(Repealed 28 of 2003 s. 126)

FORM 29 [rules 50-52]

ORDER DIRECTING A PUBLIC EXAMINATION

(Title)

Upon reading the reports of the Official Receiver or liquidator, as the case may be, in the above matter, dated respectively the day of 19 , the day of 19 and

It is ordered that the several persons whose names and addresses are set forth in the schedule

hereto do attend before the court on a day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company, and as to the conduct of the business of the company, and as to their conduct and dealings as directors or officers of the company.

THE SCHEDULE REFERRED TO

Name	Address	Connexion with the company

(46 of 2000 s. 40)

FORM 30 [rule 54]

ORDER APPOINTING A TIME FOR PUBLIC EXAMINATION

(Title)

Upon the application of the Official Receiver or liquidator, as the case may be, in the above matter, it is ordered that the public examination of who, by the order of the court dated the day of 19 , was directed to attend before the court to be publicly examined, be held at the Courts of Justice on the day of 19 , at o'clock in the noon.

And it is ordered that the above-named do attend at the place and time above-mentioned.

Dated this day of , 19 .

NOTE-Notice is hereby given that if you, the above-named fail, without reasonable excuse, to attend at the time and place aforesaid, you will be liable to be committed to prison without further notice.

(46 of 2000 s. 40)

FORM 31 [rule 54]

NOTICE TO ATTEND PUBLIC EXAMINATION

(Title)

Whereas by an order of this court, made on the day of 19 , it was ordered that you, the undermentioned should attend before the court on the day and at a place to be named for the purpose, and be publicly examined as to the promotion or formation of the company, and as to the conduct of the business of the company, and as to your conduct and dealings as [(a)]

(a) Insert director or officer [or as the case may be.]

And whereas the day of 19 , at o'clock, in the noon, before the sitting at has been appointed as the time and place for holding the said examination.

Notice is hereby given that you are required to attend at the said time and place, and at any adjournments of the examination which may be ordered, and to bring with you and produce all books, papers, and writing and other documents in your custody or power in any way relating to the above-named company.

And take notice that if you fail, without reasonable excuse, to attend at such time and place, and at the adjournments of the said public examination which may be ordered, you will be liable to be committed to prison without further notice.

Dated this day of , 19 .

To

Official Receiver or liquidator, as the case may be

(46 of 2000 s. 40)

FORM 32 [rule 60]

APPLICATION FOR APPOINTMENT OF SHORTHAND WRITER TO TAKE DOWN NOTES OF PUBLIC EXAMINATION AND ORDER THEREON

(Title)

Ex parte the Official Receiver or liquidator, as the case may be.

I, the Official Receiver or liquidator, as the case may be, herein, do hereby, pursuant to rule 60 of the Companies (Winding-up) Rules, apply to the court for an order for the appointment of
of
to take down in shorthand the notes of examination of
at their public examination, the costs of taking such notes, and of making a transcript thereof, to be paid in accordance with rule 60.

Dated this day of , 19 .

Official Receiver or liquidator, as the case may be

Before

Upon the application of the Official Receiver or liquidator, as the case may be, the court hereby appoints of to take down in shorthand the notes of examination of the persons mentioned in the above application at their public examination, or at any adjournment thereof pursuant to rule 60 of the Companies (Winding-up) Rules, the costs of taking such notes, and of making a transcript thereof, to be paid in accordance with rule 60.

Dated this day of , 19 .

(46 of 2000 s. 40)

FORM 33 [rule 60]

DECLARATION BY SHORTHAND WRITER

(Title)

Before

I, , of , the shorthand writer appointed by this court to take down the examination of , do solemnly and sincerely declare that I will truly and faithfully take down the questions and answers put to and given by the said in this matter, and will deliver true and faithful transcripts thereof as the court may direct.

Dated this day of , 19 .

[Declared before me at the time and place above-mentioned.]

FORM 34 [rule 57]

NOTES OF PUBLIC EXAMINATION WHERE A SHORTHAND WRITER IS APPOINTED

(Title)

Public examination of [(a)]

Before at the court this day of 19 .

The above-named , being sworn and examined at the time and place above-mentioned, upon the several questions following being put and propounded to him, gave the several answers thereto respectively following each question, that is say:-

A.

These are the notes of the public examination referred to in the memorandum of public examination of , taken before me this day of 19 .

(a) Mr. an officer [*or as the case may be*] of the above-named company.

FORM 35 [rule 57]

NOTES OF PUBLIC EXAMINATION WHERE A SHORTHAND WRITER IS NOT APPOINTED

(Title)

Public examination of [a]

Before at the court

Dated this day of 19 .

The above-named , being sworn and examined at the time and place above-mentioned, upon his oath saith as follows-

A.

These are the notes of the public examination referred to in the memorandum of public examination of , taken before me this day of 19 .

(a) Mr. an officer [*or as the case may be*] of the above-named company.

FORM 36 [rule 61]

REPORT TO THE COURT WHERE PERSON EXAMINED REFUSES TO ANSWER TO SATISFACTION OF REGISTRAR OR OFFICER

(Title)

At the examination of [a] held before me this day of , 19 , the following question was [allowed by me to be] put to the said [ ].

Q. [b]

The [c] refused to answer the said question.

(*or*) The [c] answered the said question as follows:-

A. [d]

I thereupon named the day of , 19 , at as the time and place for such [refusal to] answer to be reported to the Hon. Mr. Justice [*or* His Honour Mr. Justice].

Dated this day of , 19 .

Registrar

[*or as the case may be*]

(a) *e.g. A.B.*, a person ordered to attend for examination.

(b) Here state question.

(c) Witness.

(d) Here insert answers (if any).

FORM 37 [section 222]

ORDER ON PERSONS TO ATTEND AT CHAMBERS TO BE EXAMINED

(Title)

A.B. of &c., and *E.F.* of &c., are hereby severally ordered to attend at [(a)] on the day of , at of the clock in the noon, to be examined on the part of the Official Receiver [*or* the liquidator] for the purpose of proceedings directed by the court to be taken in the above matter. [And the said *A.B.* is hereby required to bring with him and produce, at the time and place aforesaid, the documents mentioned in the schedule hereto, and all other books, papers, deeds, writings, and other documents in his custody or power in anywise relating to the above-named company.]

(a) State place of examination.

Dated this day of , 19 .

This order was made on the application of *Messrs. C.* and *D.*, of
Solicitors for

The schedule above referred to

FORM 38 [rule 56]

WARRANT AGAINST PERSON WHO FAILS
TO ATTEND EXAMINATION

(Title)

To the bailiff of our said court, and to each and all the police officers of Hong Kong and to the Commissioner of Correctional Services.

WHEREAS by an order of this court, made on the day of , 19 , [(a)] was ordered to attend before the court on a day and at a place to be named for the purpose of being publicly examined.

(a) Name of person required to attend.

AND WHEREAS by evidence taken upon oath, it hath been made to appear to the satisfaction of the court that the day of , 19 , at o'clock in the noon before the court sitting at the Courts of Justice was appointed as the time and place for holding the said examination, and that notice of the said order and of the said time and place so appointed was duly served upon the said [(a)]

(AND WHEREAS the said [(a)] did without good cause fail to attend on the said day of , 19 , for the purpose of being examined, according to the requirements of the said order of this court made on the day of , 19 , directing him so to attend.) (or, and that the said [(a)] has absconded (or, and that there is good reason to believe that the said [(a)] is about to abscond) with a view to avoiding examination under the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32)).

THESE ARE THEREFORE to require you the said bailiff and police officers to take the said

(a)

and to deliver him to the Commissioner of Correctional Services, and you the said Commissioner of Correctional Services to receive the said [(a)] and him safely keep in prison until such time as this Court may order.

Dated the day of , 19 .

Registrar

(L.N. 201 of 1984)

FORM 38A [rule 56]

ORDER FOR WARRANT OF ARREST OF PERSON WHO HAS FAILED TO ATTEND PUBLIC EXAMINATION

(Title)

Upon the application of S.W. the Official Receiver or Liquidator of the above-named company, as the case may be by summons dated the day of , 19 , and upon hearing the applicant in person and upon reading the order to wind up the said company dated the order dated ..... and the affidavit of *C.D.* filed ..... and the exhibits therein referred to and by which said affidavit it has been made to appear to the court that by the said order dated *A.B.* was directed to attend before the court on a day to be named for the purpose and be publicly examined as to the matters referred to in the said order and that the ..... day of ....., at ..... o'clock in the ..... noon at the Courts of Justice, Hong Kong, were appointed as the day, time and place for holding the said examination and it has also been duly proved by the said affidavit of *C.D.* that the said order dated the ..... and the notice to attend such examination on the ..... at ..... o'clock respectively had been duly served upon the said *A.B.* and it appearing that the said *A.B.* without good cause failed to attend on the ..... in pursuance of the said order of the (date). IT IS ORDERED that a warrant do issue for the arrest of the said *A.B.*

Dated the day of , 19 .

Registrar

(25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 39 [rule 63]

DISCLAIMER

(Title)

Pursuant to an order for the court dated the day of , 19 ,

I, the liquidator of the above-named company, hereby disclaim all interest in the lease dated the

day of , 19 , whereby the premises [a] were demised to at a rent of $ *per annum* for a term of . Notice of this disclaimer has been given to

(a) Insert description of the property disclaimed.

Dated this day of , 19 .

Liquidator

FORM 40 [rule 63]

NOTICE OF DISCLAIMER OF LEASE

(Title)

Take notice that, pursuant to an order of the court dated the day of , 19 , I, , the liquidator of the above-named company, by writing under my hand bearing date the day of , 19 , disclaimed all interest in the lease dated the day of , 19 , whereby the premises [a] were demised to at a rent of $ *per annum* for a term of

(a) Insert description of the property disclaimed.

The above-mentioned disclaimer has been filed at the office of the Registrar at the Courts of Justice and notice thereof filed in the Land Registry.

Dated this day of , 19 .

Liquidator

To

(address)

(8 of 1993 s. 30)

FORM 41 [rule 67]

NOTICE BY LIQUIDATOR REQUIRING PAYMENT OF MONEY OR DELIVERY OF BOOKS, &C., LIQUIDATOR

(Title)

Take notice that I, the undersigned [a] have been appointed liquidator of the above-named company, and that you, the under-mentioned [b] , are required, within

(a) Name of liquidator.
(b) Name of person to whom notice is

days after service hereof, to pay to me [*or* deliver, convey, surrender, or transfer to or into my hands] as liquidator of the said company at my office, situate at [(c)] &c., the sum of $, being the amount of debt appearing to be due from you on your account with the said company [*or* any sum or balance, books, papers, estate or effects], [*or specifically describe the property*] now being in your hands, and to which the said company is entitled [*or otherwise as the case may be*].

addressed.
(c) Address of liquidator's office.

Dated this day of , 19 .

(Signed)

Liquidator

To [(b)]

(*Address*)

FORM 42 [rule 68]

PROVISIONAL LIST OF CONTRIBUTORIES TO BE MADE OUT BY LIQUIDATOR

(Title)

The following is a list of members of the company liable to be placed on the list of contributories of the said company, made out by me from the books and papers of the said company, together with their respective addresses and the number of shares [*or* extent of interest] to be attributed to each and the amount called up and the amount paid up in respect of such shares (or interest) so far as I have been able to make out or ascertain the same.

In the first part of the list, the persons who are contributories in their own right are distinguished.

In the second part of the said list, the persons who are contributories as being representatives of, or being liable to the debts of others, are distinguished.

FIRST PART-CONTRIBUTORIES IN THEIR OWN RIGHT

Serial No.	Name	Address	Description	Number of shares [*or* extent of interest]	Amount called up (a)	Amount paid up (a)
					$	$

SECOND PART-CONTRIBUTORIES AS BEING REPRESENTATIVES OF, OR LIABLE TO

THE DEBTS OF, OTHERS

Serial No.	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (a)	Amount paid up (a)
						$	$

(a) At date of commencement of winding up.

FORM 43 [rule 69]

NOTICE TO CONTRIBUTORIES OF APPOINTMENT TO SETTLE LIST OF CONTRIBUTORIES

(Title)

Take notice that I, the liquidator of the above-named company, have appointed the day of , 19 , at of the clock in the noon, at (a) , to settle the list of the contributories of the above-named company, made out by me, pursuant to the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), and the rules thereunder, and that you are included in such list. The character and the number of shares [*or* extent of interest] in and for which you are included and the amount called up and the amount paid up in respect of such shares (or interest) is stated below; and if no sufficient cause is shown by you to the contrary at the time and place aforesaid, the list will be settled, including you therein.

(a) Insert place of appointment.

Dated this day of , 19 .

Liquidator

To Mr. *A.B.* [and to Mr. *C.D.*, his solicitor].

No. on	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (a)	Amount paid up (a)

List							
						$	$

(a) At date of commencement of winding up.

FORM 44 [rule 69]

AFFIDAVIT OF POSTAGE OF NOTICES OF APPOINTMENT TO SETTLE LIST OF CONTRIBUTORIES

(Title)

I , a [(a)] make oath and say as follows:-

1. That I did on the day of , 19 , send to each contributory mentioned in the list of contributories made out by the [Official Receiver and] liquidator on the day of , 19 , and now on the file of proceedings of the above-named company, at the address appearing in such list, a notice of the time and place of the appointment to settle the list of contributories in the form hereunto annexed, marked "A", except that in the tabular form at the foot of such copies respectively I inserted the number, name, address, description, in what character included and [(b)] the amount called up and the amount paid up in respect of the shares (or interest) of the person on whom such copy of the said notice was served.

2. That I sent the said notices by putting the same prepaid into the post office at before the hour of o'clock in the noon on the said day .

Sworn, &c.

(a) State the description of the deponent.

(b) "Number of shares" or "extent of interest".

FORM 45 [rule 70]

CERTIFICATE OF LIQUIDATOR OF FINAL SETTLEMENT OF THE LIST OF CONTRIBUTORIES

(Title)

Pursuant to the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), and to the rules made thereunder, I, the undersigned, being the liquidator of the above-named company, hereby certify that the result of the settlement of the list of contributories of the above-named company, so far as the said list has been settled, up to the date of this certificate, is as follows-

1. The several persons whose names are set forth in the second column of the First Schedule hereto have been included in the said list of contributories as contributories of the said company in

respect of the [(a)] set opposite the names of such contributories respectively in the said schedule.

(a) "Number of shares" *or* "extent of interest".

I have, in the first part of the said schedule, distinguished such of the said several persons included in the said list as are contributories in their own right.

I have, in the second part of the said schedule, distinguished such of the said several persons included in the said list as are contributories as being representatives of or being liable to the debts of others.

2. The several persons whose names are set forth in the second column of the Second Schedule hereto, and were included in the provisional list of contributories, have been excluded from the said list of contributories.

3. I have, in the sixth column of the first part of the First Schedule and in the seventh column of the second part of the First Schedule and in the same column of the Second Schedule, set forth opposite the name of each of the several persons respectively the date when such person was included in or excluded from the said list of contributories.

4. I have in the seventh and eighth columns of the first part of the First Schedule hereto and in the eighth and ninth columns of the second part of the said schedule, set forth opposite the names of each of the said persons respectively the amount called up at the date of the commencement of the winding up and the amount paid at such date in respect of their shares (or interest).

5. Before settling the said list, I was satisfied by the affidavit of , clerk to , duly filed with the proceedings herein, that notice was duly sent by post to each of the persons mentioned in the said list, informing him that he was included in such list in the character and for the[(a)] stated therein and of the amount called up and the amount paid up in respect of such shares (or interest) and of the day appointed for finally settling the said list.

Dated this day of , 19 .

In the matter of Limited.

The FIRST SCHEDULE above referred to

FIRST PART-CONTRIBUTORIES IN THEIR OWN RIGHT

Serial No. in List	Name	Address	Description	Number of shares [*or* extent of interest]	Date when included in the List	Amount called up	Amount paid up
						$	$

In the matter of Limited.

SECOND PART-CONTRIBUTORIES AS BEING REPRESENTATIVES OF OR LIABLE TO THE DEBTS OF OTHERS

Serial No. in List	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Date when included in the List	Amount called up	Amount paid up
							$	$

In the matter of Limited.

The SECOND SCHEDULE above referred to

Serial No. in List	Name	Address	Description	In what character proposed to be included	Number of shares [*or* extent of interest]	Date when excluded from the List

FORM 46 [rule 71]

NOTICE TO CONTRIBUTORY OF FINAL SETTLEMENT OF LIST OF CONTRIBUTORIES AND THAT HIS NAME IS INCLUDED

(Title)

Take notice that I, , the liquidator of the above-named company, have, by certificate, dated the day of , 19 , under my hand, finally settled the list of contributories of the said company, and that you

are included in such list. The character and the number of shares [*or* extent of interest] in and for which you are included and the amount called up and the amount paid up in respect of such shares (or interest) is stated below.

Any application by you to vary the said list of contributories or, that your name be excluded therefrom, must be made by you to the court by summons within 21 days from the service on you of this notice, or the same will not be entertained.

The said list may be inspected by you at the chambers of the Registrar at the Courts of Justice on any day between the hours of
and

Dated this day of , 19 .

(Signed)

Liquidator

to Mr.
[*or* to Mr.
his solicitor].

No. in List	Name	Address	Description	In what character included	Number of shares [*or* extent of interest]	Amount called up (a)	Amount paid up (a)
						$	$

(a) At date of commencement of winding up.

FORM 47 [rule 73]

SUPPLEMENTAL LIST OF CONTRIBUTORIES

(Title)

1. The following is a list of persons who, since making out the list of contributories herein,

dated the day of , 19 , I have ascertained are, or have been, holders of shares in [*or* members of] the above-named company, and to the best of my judgment are contributories of the said company.

2. The said supplemental list contains the names of such persons together with their respective addresses and the number of shares [*or* extent of interest] and the amount called up at the commencement of the winding up and the amount paid at such date in respect of the shares (or interest) to be attributed to each.

3. In the first part of the said list such of the said persons as are contributories in their own right are distinguished.

4. In the second part of the said list such of the said persons as are contributories as being representatives of, or being liable to the debts of others, are distinguished.

[*The supplemental list is to be made out in the same form as the original list.*]

FORM 48 [rule 71]

AFFIDAVIT OF SERVICE OF NOTICE TO CONTRIBUTORY

(Title)

I , [(a)] of , make oath and say as follows:-

(a) State full description of the deponent.

1. I did on the day of , 19 , in the manner hereinafter mentioned, serve a true copy of the notice now produced and shown to me and marked "A", upon each of the respective persons whose names, addresses, and descriptions appear in the second, third, and fourth columns of the First Schedule to the list of contributories of the said company made out by the [Official Receiver and] liquidator of the company on the day of , 19 , and now on the file of proceedings of the said company. In the tabular form at the foot of such copies respectively I inserted the number on list, name, address, description, in what character included, and [(b)] and the amount paid up and the amount called up at the date of the commencement of the winding up in respect of the shares (or interest) of the person on whom such copy of the said notice was served, in the same words and figures as the same particulars are set forth in the said schedule.

(b) "Number of shares" or "extent of interest".

2. I served the said respective copies of the said notice, by putting such copies respectively, duly addressed to such persons respectively, according to their respective names and addresses appearing in the said schedule, and by placing the same prepaid in the Post Office at before the hour of o'clock in the noon of the said day of , 19 .

Sworn, &c.

FORM 49 [rule 72]

ORDER ON APPLICATION TO VARY LIST OF CONTRIBUTORIES

(Title)

Upon the application of *W.N.*, by summons dated the day of , 19 , for an order that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the name of the applicant therefrom [*or as the case may be*], and upon hearing, &c., and upon reading &c., it is ordered, that the list of contributories of the company and the liquidator's certificate finally settling the same be varied by excluding the name of the said *W.N.* from the said list of contributories, or by including the name of the said *W.N.* as a contributory in the said list for shares, [*or as the case may be*] [*or* the court does not think fit to make any order on the said application, except that the said *W.N.* do pay to the liquidator of the said company his costs of this application, to be taxed in case the parties differ].

FORM 50 [rule 74(a)]

NOTICE TO EACH MEMBER OF COMMITTEE OF
INSPECTION OF MEETING FOR SANCTION TO PROPOSED CALL

(Title)

Take notice that a meeting of the committee of inspection of the above company will be held at on the [(a)] day of , 19 , at o'clock in the noon, for the purpose of considering and obtaining the sanction of the committee to a call of $ per share proposed to be made by the liquidator on the contributories.

(a) To be a date not less than seven days from the date when the notice will in course of post reach the person to whom it is addressed.

Annexed hereto is a statement showing the necessity for the proposed call and the amount required.

Dated this day of , 19 .

(Signed)

Liquidator

STATEMENT

1. The amount due in respect of proofs admitted against the company, and the estimated amount of the costs, charges, and expenses of the winding up, form in the aggregate the sum of $ or thereabouts.

2. The assets of the company are estimated to realize the sum of $. There are no other assets, except the amount due from certain of the contributories to the company, and in my opinion it will not be possible to realize in respect of the said amounts more than $.

3. The list of contributories has been duly settled, and persons have been settled on the list in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the company, and of paying the costs, charges, and expenses, of the winding up, I estimate that a sum of $

will be required in addition to the amount of the company's assets hereinbefore mentioned.

5. In order to provide the said sum of $ it is necessary to make a call on the contributories, and having regard to the probability that some of them will partly or wholly fail to pay the amount of the call, I estimate that for the purpose of realizing the amount required it is necessary that a call of $ per share should be made.

(Annex tabular statement showing amounts of debts, costs, &c., and of assets.)

FORM 51 [rule 74(b)]

ADVERTISEMENT OF MEETING OF COMMITTEE
OF INSPECTION TO SANCTION PROPOSED CALL

(Title)

Notice is hereby given that the undersigned liquidator of the above-named company proposes that a call should be made "on all the contributories of the said company", *or, as the case may be,* of $ per share, and that he has summoned a meeting of the committee of inspection of the company, to be held at on the day of , 19 , at o'clock in the noon, to obtain their sanction to the proposed call.

Each contributory may attend the meeting, and be heard or make any communication in writing to the liquidator or the members of the committee of inspection in reference to the intended call.

A statement showing the necessity of the proposed call and the purpose for which it is intended may be obtained on application to the liquidator at his office at [(a)].

Dated this day of , 19 .

(a) Insert address.

Liquidator

FORM 52 [rule 74(d)]

RESOLUTION OF COMMITTEE OF INSPECTION
SANCTIONING CALL

(Title)

Resolved, that a call of $ per share be made by the liquidator on all the contributories of the company [*or, as the case may be*].

(signed)

Members of the Committee
of Inspection

Dated this day of , 19 .

FORM 53 [rule 77]

NOTICE OF CALL SANCTIONED BY COMMITTEE OF INSPECTION TO BE SENT TO CONTRIBUTORY

(Title)

Take notice that the committee of inspection in the winding up of this company have sanctioned a call of per share on all the contributories of the company.

The amount due from you in respect of the call is the sum of $ .This sum should be paid by you direct to me at my office [(a)] on or before the day of , 19 .

(a) Insert address.

Dated this day of , 19 .

To Mr.

Liquidator

NOTE-If you do not pay the sum due from you by the date mentioned interest will be claimed on such sum at the rate of 8 per cent per annum from the said date until payment.

FORM 54 [rule 75]

SUMMONS FOR LEAVE TO MAKE A CALL

(Title)

Let the several persons whose names and addresses are set forth in the second column of the schedule hereto, being contributories of the above-named company, as shown in the third column of the said schedule, attend at on the day of , 19 , at o'clock in the noon, on the hearing of an application on the part of the [Official Receiver and] liquidator of the company for an order that he may be at liberty to make a call to the amount of per share on all the contributories [*or as the case may be*] of the said company.

Dated the day of , 19 .

This summons was taken out by of Solicitors for the [Official Receiver and] liquidator.

To

NOTE-If you do not attend either in person or by your solicitor, at the time and place above-mentioned, such order will be made and proceedings taken as the court may think just and expedient.

SCHEDULE

Number on List	Name and address	In what character included

FORM 55 [rule 75]

AFFIDAVIT OF LIQUIDATOR IN SUPPORT OF
PROPOSAL FOR CALL

(Title)

I, of, &c., the liquidator of the above-named company, make oath and say as follows-

1. I have in the schedule now produced and shown to me, and marked with the letter "A", set forth a statement showing the amount due in respect of the debts proved and admitted against the said company, and the estimated amount of the costs, charges, and expenses of and incidental to the winding up the affairs thereof, and which several amounts form in the aggregate the sum of $ or thereabouts.

2. I have also in the said schedule set forth a statement of the assets in hand belonging to the said company, amounting to the sum of $ and no more. There are no other assets belonging to the said company, except the amounts due from certain of the contributories of the said company, and, to the best of my information and belief, it will be impossible to realize in respect of the said amounts more than the sum of $ or thereabouts.

3. persons have been settled by me on the list of contributories of the said company in respect of the total number of shares.

4. For the purpose of satisfying the several debts and liabilities of the said company and of paying the costs, charges, and expenses of and incidental to the winding up the affairs thereof, I believe the sum of $ will be required in addition to the amount of the assets of the said company mentioned in the said Schedule A, and the said sum of $.

5. In order to provide the said sum of $, it is necessary to make a call upon the several persons who have been settled on the list of contributories as before-mentioned, and, having regard to the probability that some of such contributories will partly or wholly fail to pay the amount of such call, I believe that, for the purpose of realizing the amount required as before-mentioned, it is necessary that a call of $ per share should be made.

Sworn, &c.

FORM 56 [rule 75]

ADVERTISEMENT OF APPLICATION FOR LEAVE TO MAKE A CALL

In the matter of

Notice is hereby given that the High Court has appointed the day of 19 , at o'clock in the noon, at the Courts of Justice, to hear an application for leave to make a call on all the contributories of the said company [*or as the case may be*] and that the liquidator of the said company proposes that such call shall be for $ per share. All persons interested are entitled to attend at such day, hour, and place, to offer objection to such call.

Dated this day of , 19 .

Liquidator

(25 of 1998 s. 2)

FORM 57 [rule 75]

The day of 19 .

ORDER GIVING LEAVE TO MAKE A CALL

The day of 19 .

(Title)

Upon the application of the [Official Receiver and] liquidator of the above-named company, the order to wind up the above-named company, the list of contributories of the said company and the liquidator's certificate of the final settlement of the same, and the affidavit of the said [Official Receiver and] liquidator, filed the day of 19 , and the exhibit marked "A" therein referred to, and an affidavit of filed the day of 19 .

It is ordered that leave be given to the [Official Receiver and] liquidator to make a call of $ per share on all the contributories of the said company [(a)].

And it is ordered that each such contributory do on or before the day of 19 , pay to the [Official Receiver and] liquidator of the company, the amount which will be due from him or her in respect of such call.

(a) *Or as the case may be.*

FORM 58 [rule 76]

DOCUMENT MAKING A CALL

(Title)

I, the [Official Receiver and] liquidator of the above-named company, in pursuance of [(a)] made (or passed) this day of

(a) An order of court, or resolution of the committee of inspection.

19 , hereby make a call of per share on all the contributories of the company, which sum is to be paid at my office [(b)] on the day of 19 .

Dated this day of , 19 .

(b) Insert address.

(L.N. 587 of 1995)

FORM 59 [rule 77]

NOTICE TO BE SERVED WITH THE ORDER SANCTIONING A CALL

(Title)

The amount due from you, *A.B.*, in respect of the call made pursuant to leave given by the above [*or* within] order is the sum of $, which sum is to be paid by you to me as the liquidator of the said company at my office, [(a)].

(a) Insert address.

In default of payment interest at the rate of 8 *per cent per annum* will be charged upon the amount unpaid from the day of until payment.

Dated this day of , 19 .

To Mr. *A.B.*

Liquidator

FORM 60 [rule 78]

AFFIDAVIT IN SUPPORT OF APPICATION FOR ORDER FOR PAYMENT OF CALL

(Title)

I, of, &c., the liquidator of the above-named company, make oath and say as follows:-

1. None of the contributories of the said company, whose names are set forth in the schedule hereto annexed, marked "A", have paid or caused to be paid the sums set opposite their respective names in the said schedule, which sums are the amounts now due from them respectively under the call of per share, duly made under the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) dated the day of 19 .

2. The respective amount or sums set opposite the names of such contributories respectively in such schedule are the true amounts due and owing by such contributories respectively in respect of the said call.

A

THE SCHEDULE ABOVE REFERRED TO

No. on List	Name	Address	Description	In what character included	Amount due	
					$	¢

Sworn, &c.

NOTE-In addition to the above affidavit, an affidavit of the service of the application for the call will be required in cases in which the committee of inspection of the court has authorized a call to be made.

FORM 61 [rule 78]

ORDER FOR PAYMENT OF CALL DUE FROM A CONTRIBUTORY

The day of , 19 .

(Title)

Upon the application of the liquidator of the above-named company, and upon reading an affidavit of filed the day of , 19 , and an affidavit of the liquidator filed the day of , 19 , it is ordered that *C.D.*, of, &c., [*or E.F.*, of, &c., the legal personal representative of *L.M.*, late of, &c., deceased], one of the contributories of the said company [*or, if against several contributories*, the several persons named in the second column of the schedule to this order, being respectively contributories of the said company], do, on or before the day of , 19 , or within 4 days after service of this order, pay to *A.B.*, the liquidator of the said company at his office, [(a)] , the sum of $ [*if against a legal personal representative add*, out of the assets of the said *L.M.* deceased, in his hands as such legal personal representative as aforesaid, to be administered in due course of administration, if the said *E.F.* has in his hands so much to be administered, *or, if against several contributories*, the several sums of money set opposite to the respective names in the sixth column of the said schedule hereto], such sum [*or* sums] being the amount [*or* amounts] due from the said *C.D.* [*or L.M.*], [*or* the said several persons respectively], in respect of the call of $ per share duly made, dated the day of , 19 .

(a) Insert address.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the said *A.B.*, as such liquidator as aforesaid, interest at the rate of 8 *per cent per annum* on the amounts specified in the sixth column of the said schedule from day of to the date of payment.

And it is ordered that the said several persons do within the like period and at the place aforesaid pay to the said *A.B.*, as such liquidator as aforesaid, the several sums set opposite their respective names in the seventh column of the said schedule, such sums being the proportion of the applicant's costs of the said application payable by such several persons respectively.

[Add appropriate paragraphs as to amounts payable by legal personal representatives, if any.]

THE SCHEDULE REFERRED TO IN THE FOREGOING ORDER

No. on List	Name	Address	Description	In what character included	Amount due	
					$	¢

NOTE-The copy for service of the above order must be endorsed as follows-

"If you, the undermentioned A.B., neglect to obey this order by the time mentioned therein you will be liable to process of execution, for the purpose of compelling you to obey the same."

(L.N. 286 of 1997)

FORM 62 [rule 78]

AFFIDAVIT OF SERVICE OF ORDER FOR PAYMENT OF CALL

(Title)

I, *F.B.*, of, &c., make oath and say as follows-

1. I did on the day of 19 , personally serve *G.F.*, of , &c., with an order made in this matter by this court, dated the day of , 19 , whereby it was ordered [*set out the order*] by delivering to and leaving with, the said *G.F.*, at , a true copy of the said order, and at the same time producing and showing unto him, the said *G.F.*, the said original order.

2. There was endorsed on the said copy when so served the following words, that is to say, "*If you, the undermentioned G.F., neglect to obey this order by the time mentioned therein, you will be liable to process of execution for the purpose of compelling you to obey the same*".

Sworn, &c.

FORM 63A [rule 80]

PROOF OF DEBT-GENERAL FORM

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No. of 19

Except in the case of

IN THE MATTER of the ~~Companies Ordinance~~ Companies (Winding

claims for wages or salary, where the debt proved for exceeds $250 a fee of $15 must be paid hereon otherwise the proof cannot be admitted.

Up and Miscellaneous Provisions) Ordinance

and

IN THE MATTER of

_____

Date of Winding-up Order

1	Name of creditor	
2	Address of creditor	
3	Total amount of claim, including any outstanding uncapitalised interest as at the date of the winding-up order	(Analysis of claim can be supplied on separate sheet signed by creditor or person authorized to act on his behalf) $
4	Details of any documents by reference to which the debt can be substantiated [Note: Either the originals or copies of documentary evidence should be submitted. Bills of exchange or other negotiable securities must be produced before the proof can be admitted. The Official Receiver or liquidator may call for any document or evidence to substantiate the claim at his discretion.]	
5	If total amount above includes outstanding uncapitalised interest please state amount	
6	Particulars of how and when debt incurred	
7	Particulars of any security held, the value of the security, and the date it was given	
8	I hereby declare that the particulars set out in this Proof of Debt are, to the best of my knowledge and belief, true and correct. Signature of creditor or person authorized to act on his behalf _____ Name in BLOCK LETTERS _____ Position with or relation to creditor and means of knowledge of the matters declared herein _____	

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

Admitted to vote for
$
Date
Official Receiver/Provisional Liquidator

Admitted preferentially for
$
Date
Liquidator

Admitted non-preferentially for
$
Date
Liquidator

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

Note: The proof cannot be admitted for voting at the first meeting unless it is properly completed and lodged with the liquidator not later than 24 hours before the time specified in the notice convening the meeting.

(L.N. 225 of 1992; L.N. 306 of 1996; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 63B [rule 83]

AFFIDAVIT OF DEBT

IN THE HIGH COURT OF HONG KONG

COMPANIES WINDING-UP No. of 19

IN THE MATTER of the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance

and

IN THE MATTER of

I, [(a)] ,
of
make oath and say-

(1) [(b)] That I am [(c)]
of the under-mentioned creditor, and that I am duly authorized by [(d)]
to make this affidavit, and that it is within my own knowledge that the debt hereinafter deposed to was incurred and that such debt, to the best of my knowledge and belief, still remains unpaid and unsatisfied.

(2) That the above-named company was, at the date of the order for winding up the same, viz., the day of 19 , and still is justly and truly indebted to [(e)]
in the sum of dollars as shown in the proof of debt exhibited hereto marked "A".

(a) Fill in full name, address and occupation of deponent.
(b) If proof made by creditor personally strike out clause (1).
(c) State capacity, e.g. director, ~~secretary~~ company secretary, solicitor, etc.
(d) State full name and address of creditor.
(e) Insert "me" or in case of a firm "me and *C.D.* and *E.F.*, my co-partners trading as", or, if by clerk or agent etc. insert name, address and description of principal.

Debt.....$:

Sworn at
this day of } [Deponent's Signature.]
19

Before me,

[Notary Public/
Commissioner for Oaths/
other authorized person+]

+ Delete as appropriate.

Warning: A person convicted of making a false statement in respect of a proof of debt shall be liable to a fine at level 6 and imprisonment for 6 months. (sections 349 and 351)

To be returned to the provisional liquidator or, if a liquidator has been appointed, to the liquidator.

(L.N. 225 of 1992; L.N. 306 of 1996; 47 of 1997 s. 10; 25 of 1998 s. 2; 46 of 2000 s. 40)

FORM 64 [rule 90]

PROOF OF DEBT OF WORKMEN

(Title)

I [(a)] of [(b)]

make an oath and say:

1. That the above-named company was on the day of 19 , and still is justly and truly indebted to the several persons whose names, addresses, and descriptions appear in the schedule endorsed hereon in sums severally set against their names in the sixth column of such schedule for wages due to them respectively as workmen or others in the employ of the company in respect of services rendered by them respectively to the company during such periods as are set out against their respective names in the fifth column of such schedule, for which said sums, or any part thereof, I say that they have not, nor hath any of them had or received any manner of satisfaction or security whatsoever.

(a) Fill in full name, address, and occupation of deponent.

(b) On behalf of the workmen and others employed by the above-named company.

Sworn at
in Hong Kong
this
day of
19
Before me } } Deponent's Signature.

SCHEDULE referred to on the other side

1 No.	2 Full name of workman	3 Address	4 Description	5 Period over which wages due	6 Amount due	
					$	¢

Signature of Deponent.

(L.N. 201 of 1984)

FORM 65 [rule 94]

NOTICE OF REJECTION OF PROOF OF DEBT

(Title)

Take notice, that, as [Official Receiver and] liquidator of the above-named company, I have

this day rejected your claim against the company [a] [to the extent of $] on the following grounds-

(a) If proof wholly rejected strike out works underlined.

And further take notice that subject to the power of the court to extend the time, no application to reverse or vary my decision in rejecting your proof will be entertained after the expiration of [b] days from this date.

(b) 21 days or 7 days as the case may be.

Dated this day of , 19 .

Signature

Address

To

[Official Receiver and] Liquidator

FORM 66 [rule 101]

LIST OF PROOFS TO BE FILED UNDER RULE 101

(Title)

I hereby certify that the following is a correct list of all proofs tendered to me in the above matter during the past month.

Dated this day of , 19 .

Liquidator

Name of creditor	Proofs tendered				
	Amount of proofs		Whether admitted, rejected, or standing over for further consideration	If admitted, amount	
	$	¢		$	¢

FORM 67 [rule 142(1)]

NOTICE TO CREDITORS OF INTENTION TO DECLARE DIVIDEND

(Title)

A [(a)] dividend is intended to be declared in the above matter. You are mentioned in the statement of affairs, but you have not yet proved your debt.

(a) Insert here "first" *or* "second", *or* "final", *or as the case may be*.

If you do not prove your debt by the day of 19 , you will be excluded from this dividend.

Dated this day of , 19 .

Liquidator

To [Address]

FORM 68 [rule 142(5)]

CERTIFIED LIST OF PROOFS UNDER RULE 142(5)
COMPANIES (WINDING-UP) RULES, AND APPLICATION
FOR ISSUE OF CHEQUES FOR DIVIDEND ON
COMPANIES LIQUIDATION ACCOUNT

Companies Liquidation Account.
Ledger Folio

Re No.

I hereby certify that the following list has been compared with the proofs filed, and that the names of the creditors and the amounts for which the proofs are admitted are correctly stated.

(Signature)

Dated the day of , 19 .

I certify that by my books the sum of $ stands to the credit of the above company with the companies liquidation account at the bank and that the sum of $ is required to meet the undermentioned dividends, on proofs which have been duly made and admitted to rank for dividend upon the company, and I have to request that orders for payment may be issued to me.

The dividend is payable on the day of 19 , and notice of declaration thereof was forwarded to the Official Receiver for insertion in the *Gazette*, on the day of 19 .

Liquidator

Date 19 .

{ Address to which cheques and money orders should be sent.

To the Official Receiver.

No.	Surname	Christian name	Town on which Post Office money order should be drawn	Amount of proof		Amount of dividend			
						Sums under $20		Sums of $20 and above	
				$	¢	$	¢	$	¢

FORM 69 [rule 142(5)]

CERTIFIED LIST OF PROOFS FILED UNDER RULE 142(5) COMPANIES (WINDING-UP) RULES, SPECIAL BANK CASE

(Title)

I hereby certify that the following list has been compared with the proofs filed, and that the names of the creditors and the amounts for which the proofs are admitted are correctly stated.

(Signature)

Dated the day of , 19 .

I hereby certify that a dividend of *per cent* has been declared, and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names.

Liquidator

Dated this day of , 19 .

To the Official Receiver.

Surname	Christian name	Amount of proof		Amount of dividend	
		$	¢	$	¢

FORM 70 [rule 142(1)]

NOTICE TO PERSONS CLAIMING TO BE CREDITORS OF
INTENTION TO DECLARE FINAL DIVIDEND

(Title)

Take notice that a final dividend is intended to be declared in the above matter, and that if you do not establish your claim to the satisfaction of the court on or before the day of , 19 , or such later day as the court may fix, your claim will be expunged, and I shall proceed to make a final dividend without regard to such claim.

Dated this day of , 19 .

Liquidator

To *X. Y.* [Address]

FORM 71 [rule 142(3)]

NOTICE OF DIVIDEND

Dividend cheques are cancelled at the expiration of 6 months from date of issue
and money orders at the expiration of 12 months from date of issue.
[Please bring this Dividend Notice with you.]
(Title)
Dividend of *per cent*
[Address]
[Date]

Notice is hereby given that a dividend of *per cent* has been declared in this matter, and that the same may be received at my office, as above, on the day of , 19 , or on any subsequent between, the hours of and

Upon applying for payment **this notice must be produced entire,** together with any bills of exchange, promissory notes or other negotiable securities held by you. If you desire the dividend to be paid to some other person you can sign and lodge with the liquidator an authority in the prescribed Form 72. Otherwise if you do not attend personally you must fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

To

(Signed)

Liquidator

NOTE-The receipt or authority should, in the case of a firm, be signed in the firm's name, or in the case of a limited company by an officer of the company, so described.

RECEIPT

19 .

Received of in this matter the sum of dollars and cents , being the amount payable to me/us in respect of the dividend of *per cent* on my/our claim against this company.

Payee's Signature

$

AUTHORITY FOR DELIVERY [(a)]

Sir,

Please deliver *to me/us by post, at my/our risk or* to the Bearer [(b)], ..., a specimen of whose signature is appended hereunder, the cheque or money order for the dividend payable to me/us in this matter.

....

Specimen signature of Bearer *Payee's signature*

To the [Official Receiver and] Liquidator.

Date
19

Notes: *(a)* *This is an authority only to deliver the cheque or money order,* NOT *to make it payable to another person.*

(b) *Strike out words inapplicable. If not to be sent by post strike out words in italics and insert the name of the person who is to receive the cheque or money order.*

(L.N. 50 of 1964)

FORM 72 [rule 142(7)]

AUTHORITY TO LIQUIDATOR TO PAY DIVIDENDS
TO ANOTHER PERSON

(Title)

To the [Official Receiver and] Liquidator.

SIR,

I/We hereby authorize and request you to pay to M of (a specimen of whose signature is given below), all dividends as they are declared in the above-named matter, and which may become due and payable to me/us in respect of the proof of debt for the sum of $, against the above-named company, made [by Mr.] on my/our behalf.

And I/we further request that the cheque or cheques drawn in respect of such dividends may be made payable to the order of the said M whose receipt shall be sufficient authority to you for the issue of such cheque or cheques in his name.

It is understood that this authority is to remain in force until revoked by me/us in writing.

Signatures

Witness to the signature of

Witness to the signature
of

Date

Specimen of signature of person appointed as above.

Witness to the signature
of

Witness to the signature of person appointed as above.

FORM 73 [rule 143]

NOTICE OF RETURN TO CONTRIBUTORIES

Cheques are cancelled at the expiration of 6 months from date of issue, and money orders at the expiration of 12 months from month of issue.

[*Please bring this notice with you.*]

(Title)

Return of $ per share.

[Address]

[Date]

Notice is hereby given that a return of per share has been declared in this matter, and that the same may be received at my office, as above, on the day of , 19 , or on any subsequent day, except Saturday, between the hours of

Upon applying for payment **this notice must be produced entire,** together with the share certificate. If you do not attend personally you must forward the share certificate and fill up and sign the subjoined forms of RECEIPT and AUTHORITY TO DELIVER, when a cheque or money order payable to your order will be delivered in accordance with the AUTHORITY.

(Signed)

Liquidator

NOTE-The receipt should be signed by the contributory personally, or in the case of joint contributories by each, and in the case of a limited company by an officer of the company, so described.

RECEIPT

No.

19 .

Received of the in this matter the sum of dollars and cents being the amount payable to in respect of the return of per share held by in this company.

Contributory's signature

$

AUTHORITY FOR DELIVERY

SIR,

PLEASE deliver to

(Insert the name of the person who is to receive the cheque or money order, or the words "me/us by post," at "my/our risk", if you wish it sent to you in that way.)

the cheque or money order for the return payable to me/us in this matter.

Contributory's signature

To the [Official Receiver and] Liquidator.

FORM 74 [rule 143]

SCHEDULE OR LIST OF CONTRIBUTORIES HOLDING PAID-UP SHARES TO WHOM A RETURN IS TO BE PAID [(a)]

In the matter of No. of 19 .

Number in settled List	Name of contributory as in settled List	Address	Number of shares held as per settled List	Total called-up value		Total paid-up value		Arrears of calls at date of return		Previous return of capital appropriated by liquidator for arrears of calls		Amount of return payable at per share		Net return payable		Date and particulars of transfer of interest or other variation in List
				$	¢	$	¢	$	¢	$	¢	$	¢	$	¢	

(a) Where the articles provide that the amount divisible among the members or any class of the members shall be divisible in proportion to the amount paid up or which ought to have been paid up at the date of winding up, or contain any other provision which will necessitate further information before a return can be made, columns should be added showing the amount called up and the amount paid up at such date in respect or shares then held by such members or class of members or such other facts as may be requisite.

FORM 75 [rule 114]

NOTICE OF MEETING [*General Form*]

(Title)

Take notice that a meeting of creditors [*or* contributories] in the above matter will be held at on the day of , 19 , at o'clock in the noon.

Agenda [(a)]

Dated this day of , 19 .

(a) [Here insert purpose for which meeting called.]

(Signed) [(b)]

(b) "Liquidator" or "Official Receiver".

Forms of general and special proxies are enclosed herewith. Proxies to be used at the meeting must be lodged not later than o'clock on the day of , 19 .

FORM 76 [rule 115]

AFFIDAVIT OF POSTAGE OF NOTICES OF MEETING

(Title)

I, a [(a)] , make oath and say as follows:-

1. That I did on the day of , 19 , send to each creditor mentioned in the company's statement of affairs [*or* to each contributory mentioned in the register of members of the company] a notice of the time and the place of the [(b)] in the form hereunto annexed marked "A".

2. That the notices for creditors were addressed to the said creditors respectively, according to their respective names and addresses appearing in the statement of affairs of the company or the last known addresses of such creditors.

3. That the notices for contributories were addressed to the contributories respectively according to their respective names and registered or last known addresses appearing in the register of the company.

4. That I sent the said notices by putting the same prepaid into the post office at before the hour of o'clock in the noon on the said day.

Sworn, &c.

(a) State the description of the deponent.

(b) Insert here "general" or "adjourned general" or "first" meeting of creditors [or contributories *as the case may be*].

FORM 77 [rule 115]

CERTIFICATE OF POSTAGE OF NOTICES (GENERAL)

(Title)

I,
a clerk in the office of the Official Receiver, hereby certify-

1. That I did on the day of , 19 , send to [(a)]
a notice of the time and the place of the first meeting, or [(b)]
in the form hereunto annexed marked "A".

[Paragraphs 2, 3 and 4 as in last preceding form.]

Signature

Dated this day of , 19 .

(a) Each creditor mentioned in the statement of affairs, or each contributory mentioned in the register of members of the company, *or as the case may be*.

(b) "A general meeting", *or* "adjourned general meeting", *or as the case may be*.

FORM 78 [rule 122]

MEMORANDUM OF ADJOURNMENT OF MEETING

(Title)

Before at on the day of , 19 , at o'clock.

Memorandum.-The [(a)] meeting of [(b)] in the above matter was held at the time and place above-mentioned; but it appearing that [(c)] the meeting was adjourned until the day of , 19 , at o'clock in the noon, then to be held at the same place.

Chairman

(a) "First" *or as the case may be*.
(b) Insert "creditors" or "contributories" *as the case may be*.
(c) Here state reason for adjournment.

FORM 79 [rule 118]

AUTHORITY TO DEPUTY TO ACT AS CHAIRMAN OF MEETING AND USE PROXIES

(Title)

I, the Official Receiver [*or* the liquidator] do hereby nominate Mr. of to be chairman of the meeting of creditors [*or* contributories] in the above matter, appointed to be held at on the day of , 19 , [and I depute him [(a)] to attend such meeting and use, on my behalf, any proxy or proxies held by me in this matter].

Dated this day of , 19 .

Official Receiver,
or Liquidator

(a) Where authority given by the Official Receiver. *Here insert* "being a person under my official control".

FORM 80 [rule 132]

GENERAL PROXY

(Title)

I/We, of , a creditor (*or* contributory) hereby appoint (1) to be my/our general proxy to vote at the meeting of creditors (*or* contributories) to be held in the above matter on the day of , , or at any adjournment hereof.

Dated this day of , .

(Signed) (2)

Notes-(1) The person appointed general proxy may be the Official Receiver, the liquidator, or such other person as the creditor (or contributory) may approve, and the proxy form when signed must be lodged by the time and at the address named for that purpose in the notice convening the meeting at which it is to be used.

(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the appointor is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be stated.

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting may but the Official Receiver may not be appointed proxy. The proxy form will be altered accordingly.

(L.N. 286 of 1997)

FORM 81 [rule 132]

SPECIAL PROXY

(Title)

I/We, of , a creditor (*or* contributory), hereby appoint (1) as my/our proxy at the meeting of creditors (*or* contributories) to be held on the day of , , or at any adjournment thereof, to vote [(a)] in the resolution numbered in the .

Dated this day of , .

(a) Here insert the word "for" or the word "against" as the case may require, and specify the particular resolution.

(Signed) (2)

Notes-(1) The person appointed proxy may be the Official Receiver, the liquidator, or such other person as the creditor (or contributory) may approve, and the proxy form when signed must be lodged by the time and at the address named for that purpose in the notice convening the meeting at which it is to be used. A creditor (or contributory) may give a special proxy to any person to vote at any specified meeting or adjournment thereof on all or any of the following matters-

(a) for or against the appointment or continuance in office of any specified person as liquidator or as member of the committee of inspection;

(b) on all questions relating to any matter, other than those above referred to, arising at a specified meeting or adjournment thereof.

(2) If a firm, sign the firm's trading title, and add "by A.B., a partner in the said firm". If the appointor is a corporation, then the form of proxy must be under its common seal or under the hand of some officer duly authorized in that behalf, and the fact that the officer is so authorized must be stated.

In a voluntary winding up the liquidator or if there is no liquidator the chairman of a meeting

may but the Official Receiver may not be appointed proxy. The proxy form will be altered accordingly.

(L.N. 286 of 1997)

FORMS 82-83
(Repealed 30 of 1999 s. 44)

FORMS 84-85
(Repealed L.N. 247 of 1994)

FORM 86 [rule 161]

CERTIFICATE BY COMMITTEE OF INSPECTION AS TO AUDIT OF LIQUIDATOR'S ACCOUNTS

(Title)

We, the undersigned, members of the committee of inspection in the winding up of the above-named company, hereby certify that we have examined the foregoing account with the vouchers, and that to the best of our knowledge and belief the said account contains a full, true, and complete account of the liquidator's receipts and payments.

Dated this day of , 19 .

_____ }
_____ Committee of Inspection.
_____

FORM 87
(Repealed L.N. 247 of 1994)

FORM 88 [rule 163]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 203

(Title)

G.H. the liquidator of the above-named company in account with the estate.

RECEIPTS PAYMENTS

Dr. *Cr.*

Date				*Date*			

Liquidator
(Date)

We have examined this account with the vouchers and find the same correct, and we are of opinion the expenditure has been proper.

Dated this day of , 19 .

Committee of Inspection
[*or* member of the Committee of Inspection]

FORM 89
(Repealed L.N. 247 of 1994)

FORM 90 [rule 169]

REQUEST TO DELIVER BILL FOR TAXATION

(Title)

I hereby request that you will, within days of this date, or such further time as the court may allow, deliver to me for taxation by the proper officer your bill of costs [*or* charges] as [(a)] failing which, I shall, in pursuance of the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32) and rules proceed to declare and distribute a dividend without regard to any claim which you may have against the assets of the company, and your claim against the assets of the company will be liable to be forfeited.

(a) Here state nature of employment.

Dated this day of , 19 .

FORM 91 [rule 174]

CERTIFICATE OF TAXATION

(Title)

I hereby certify that I have taxed the bill of costs [*or* charges] [*or* expenses] of Mr. *C.D.* [*here state capacity in which employed or engaged*] [*where necessary add* "pursuant to an order of the court dated the day of , 19 "], and have allowed the same at the sum of $ [*where necessary add* "which sum is to be paid to the said *C.D.* by as directed by the said order"].

Dated this day of , 19 .

Registrar

$

FORM 92 [rules 181 and 182]

STATEMENT OF RECEIPTS AND PAYMENTS AND GENERAL DIRECTION AS TO STATEMENTS

(Name of company)

(1) Every statement must be on sheets 210 x 297 mm in size. Size of sheets.

(2) Every statement must contain a detailed account of all the liquidator's realizations and disbursements in respect of the company. The statement of realizations should contain a record of all receipts derived from assets existing at the date of the winding-up order or resolution and subsequently realized, including balance in bank, book debts and calls collected, property sold, &c.; and the account of disbursements should contain all payments for costs and charges, or to creditors, or contributories. Where property has been realized, the gross proceeds of sale must be entered under realizations, and the necessary payments incidental to sales must be entered as disbursements. These accounts should not contain payments into the companies liquidation account (except unclaimed dividend-*see* para. 5) or payments into or out of bank, or temporary investments by the liquidator, or the proceeds of such investments when realized, which should be shown separately- Form and contents of statement.

(a) by means of the bank pass book;

(b) by a separate detailed statement of moneys invested by the liquidator, and investments realized.

Interest allowed or charged by the bank, bank commission, &c., and profit or loss upon the realization of temporary investments, should, however, be inserted in the accounts of realizations or disbursements, as the case may be. Each receipt and payment must be entered in the account in such a manner as sufficiently to explain its nature. The receipts and payments must severally be added up at the foot of each sheet, *and the totals carried forward from one account to another without any intermediate balance, so that the gross totals shall represent the total amounts received and paid by the liquidator respectively*.

(3) When the liquidator carries on a business, a trading account must be forwarded as a distinct account, and the totals of receipts and payments on the trading account must alone be set out in the statement. Trading account.

(4) When dividends or instalments of compositions are paid to creditors, or a return of surplus Dividends, etc.

assets is made to contributories, the total amount of each dividend, or instalment of composition, or return to contributories, actually paid, must be entered in the statement of disbursements as one sum; and the liquidator must forward separate accounts showing in lists the amount of the claim of each creditor, and the amount of dividend or composition payable to each creditor, and of surplus assets payable to each contributory, distinguishing in each list the dividends or instalments of composition and shares of surplus assets actually paid and those remaining unclaimed. Each list must be on sheets 210 x 297 mm in size.

(5) When unclaimed dividends, instalments of compositions or returns of surplus assets are paid into the companies liquidation account, the total amount so paid in should be entered in the statement of disbursements as one sum.

(6) Credit should not be taken in the statement of disbursements for any amount in respect of liquidator's remuneration unless it has been duly allowed by resolution of the committee of inspection or of the creditors or of the company in general meeting, or by order of court as the case may require.

LIQUIDATOR'S STATEMENT OF ACCOUNT

~~Pursuant to section 284 of the Companies Ordinance~~ Pursuant to section 284 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance
(Chapter 32)

Name of company.

Nature of proceedings (whether wound up by the court, or under the supervision of the court, or voluntarily). }

Date of commencement of winding up.

Date of which statement is brought down.

Name and address of liquidator.

LIQUIDATOR'S STATEMENT OF ACCOUNT PURSUANT TO SECTION 284 OF ~~THE COMPANIES ORDINANCE~~ THE COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE (Chapter 32)

REALIZATIONS					DISBURSEMENTS				
Date	Of whom received	Nature of assets realized	Amount		Date	Of whom paid	Nature of disbursements	Amount	
		Brought forward	$	¢			*Brought forward .....*	$	¢

			*						
		Carried forward					*Carried forward .....*		

* *NOTE-No balance should be shown on this account, but only the total realizations and disbursements, which should be carried forward to the next account.*

ANALYSIS OF BALANCE

		$ ¢
Total realizations		
" disbursements		
Balance		$ ¢

The Balance is made up as follows-

		$
1. Cash in hands of liquidator		
2. Total payments into Bank, including balance at date of commencement of winding up (*as per Bank Book*)	$ ¢	
Total withdrawals from Bank		
Balance at Bank		
3. Amount in companies liquidation account		
4. Amounts invested by liquidator	$ ¢	
Less amounts realized from same		
Balance		
Total balance as shown above		$

Note-Full details of investments should be given in a separate statement.

Note-The liquidator shall also state-

(1) The amount of the estimated assets and liabilities at the date of the

Assets (after deducting amounts charged to secured creditors and debenture holders)... $

commencement of the winding up.	}	Liabilities {	secured creditors ..... $ debenture holders ..... $ unsecured creditors .. $
(2) The total amount of the capital paid up at the date of the commencement of the winding up.	}	Paid up in cash ..... $ Issued as paid up otherwise than for cash ..... $	
(3) The general description and estimated value of outstanding assets (if any).	}		
(4) The causes which delay the termination of the winding up.	}		
(5) The period within which the winding up may probably be completed.	}		

(L. N. 397 of 1984; L.N. 247 of 1994)

FORM 93 [rule 185]

AFFIDAVIT VERIFYING STATEMENT OF LIQUIDATOR'S ACCOUNT UNDER SECTION 284

(Name of company)

,
,
the liquidator of the above-named company, make oath and say-That **the account hereunto annexed marked "B", contains a full and true account of my receipts and payments in the winding up of the above-named company*, from the day of 19 , to the day of 19 , inclusive, **and that* I have not, nor has any other person by my order or for my use during such period, received or paid any moneys on account of the said company, **other than and except the items mentioned and specified in the said account*.

I further say that the particulars given in the annexed Form 92, marked "B", with respect to the proceedings in and position of the liquidation, are true to the best of my knowledge and belief.

Sworn at }

* *NOTE-If no receipts or payments, strike out the words in italics.*

(L.N. 247 of 1994)

FORM 94 [rules 181 and 185]

LIQUIDATOR'S TRADING ACCOUNT UNDER SECTION 284

(Name of company)

Insert here the name of the company.
Insert here the name of the liquidator.

the liquidator of the above-named company in account with the estate.

This account is required in duplicate in addition to Form 92.

RECEIPTS PAYMENTS

Dr. *Cr.*

Date				*Date*			

Date Liquidator

FORM 95 [rules 181 and 185]

LIST OF DIVIDENDS OR COMPOSITION

(Name of company)

I hereby certify that a dividend (or composition) of *per cent* was declared payable on and after the day of 19 , and that the creditors whose names are set forth below are entitled to the amounts set opposite their respective names, and have been paid such amounts except in the cases specified as unclaimed.

Liquidator

Dated the day of , 19 .

To the Official Receiver.

Surname	Christian name	Amount of proof		Amount of dividend (or composition)			
				Paid		Unclaimed	
		$	¢	$	¢	$	¢

This List is required in duplicate.

FORM 96 [rules 181 and 185]

LIST OF AMOUNTS PAID OR PAYABLE TO CONTRIBUTORIES

(Name of company)

I hereby certify that a return of surplus assets was declared payable to contributories on and after the day of 19 , at the rate of per share, and that the contributories whose names are set forth below are entitled to the amounts set opposite their respective names, and have been paid such amounts except in the cases specified as unclaimed.

Liquidator

Dated the day of , 19 .

To the Official Receiver.

Surname	Christian name	No. of shares	Amount returned on shares			
			Paid		Unclaimed	
			$	¢	$	¢

This List is required in duplicate.

FORM 97 [rule 184]

AFFIDAVIT VERIFYING ACCOUNT OF UNCLAIMED AND UNDISTRIBUTED FUNDS

(Title)

I, of make oath and say that the particulars entered in the statement hereunto annexed, marked "A", are correct, and truly set forth all money in my hands or under my control, representing unclaimed or undistributed assets of the above company, and that the amount due by me to the companies liquidation account in respect of unclaimed dividends and undistributed funds is $

Signature

Sworn, &c.

FORM 98 [rule 189]

NOTICE TO CREDITORS AND CONTRIBUTORIES OF INTENTION TO APPLY FOR RELEASE

(Title)

Take notice that I, the undersigned liquidator of the above-named company, intend to apply to the court for my release, and further take notice that any objection you may have to the granting of my release must be notified to the court within 21 days of the date hereof.

A summary of my receipts and payments as liquidator is hereto annexed.

Dated this day of , 19 .

Liquidator

To

Note-Section 205(3) of the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (Chapter 32), enacts that "An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the company, or otherwise in relation to his conduct as liquidator, but any such other may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact."

FORM 99 [rule 189]

APPLICATION BY LIQUIDATOR TO THE COURT FOR RELEASE

(Title)

I , the liquidator of the above-named company, do hereby report to this Honourable Court as follows-

1. That the whole of the property of the company has been realized for the benefit of the creditors and contributories [and a dividend to the amount of $ *per cent* has been paid as shown by the statement hereunto annexed, and a return of per share has been made to the contributories of the company];

[*or* That so much of the property of the company as can, according to the joint opinion of myself and the committee of inspection, hereunto annexed, in writing under our hands, be realized without needlessly protracting the liquidation, has been realized, as shown by the statement hereunto annexed, and a dividend to the amount of $ *per cent* has been paid, together with a return of per share to the contributories of the company]; [(a)]

(a) Add if necessary, "That the rights of the contributories between themselves have been adjusted".

2. I hereby make application to this Honourable Court, (i) that it cause a report on my accounts to be prepared, and (ii) that on my complying with all the requirements of the court, it take into consideration the report and make an order granting my release.

Dated this day of , 19 .

Liquidator

(L.N. 50 of 1964)

FORM 100 [rule 189]

STATEMENT TO ACCOMPANY NOTICE OF APPLICATION FOR RELEASE

(Title)

Statement showing position of company at date of application for release

Dr.			Receipts						Payments		*Cr.*
			$	¢					$	¢	
	Estimated to produce as per company's statement of affairs				By court fees (including stationery, printing, and postages in respect of contributories, creditors, and debtors, and fee for audit)						
						$	¢				
					Law costs of petition						
					Law costs of solicitor to liquidator						
					Other law costs						
					Liquidator's remuneration, viz.-						
	$	¢				$	¢				
To total receipts from date of winding-up order, viz.- *(State particulars under the several headings specified in the statement of affairs.)*					*per cent* on $ assets realized						
					per cent on $ assets distributed in dividend						
Receipts per trading account					Shorthand writer's charges						
					Special manager's charges						
					Person appointed to assist in preparation of statement of affairs						
Other receipts					Auctioneer's charges as taxed						
					Other taxed costs						
Total					Costs of possession and maintenance of estate						
	$	¢			Costs of notices in *Gazette* and local papers						
Less-					Incidental outlay						
Payments to redeem securities					Total costs and charges .....$						
Costs of execution ...						$	¢				
Payments per trading account					Creditors, viz.-						
					(a) Preferential						(a) State number of creditors.
					(a) Unsecured: dividend of $ *per cent*						
		$									
Net realizations		$			*The estimate of amount expected to rank for*						
Amounts received from calls on contributories made by the liquidator					Amount returned to contributories						
					Balance						
		$					$				

Assets not yet realized, including calls, estimated to produce $

(Add here any special remarks the liquidator thinks desirable).

Creditors can obtain any further information by inquiry at the office of the liquidator.

Dated this day of , 19 .

(Signature of Liquidator)

(Address)

FORM 101 [rule 201]

REGISTER OF WINDING-UP ORDERS TO BE KEPT IN THE COURT

Number of Winding-up Order	Number of Petition	Date of Petition	Date of Winding-up Order	Dates of Public Examinations (if any)	Liquidator

---

FORM 102 [rule 201]

REGISTER OF PETITIONS TO BE KEPT IN THE COURT

No. of Petition	Name of Company	Address of registered office	Description of Company	Date of Petition	Petitioner	Date of Winding-up Order

---

FORM 103 [rule 202]

NOTICES FOR GAZETTE

(1) NOTICE OF WINDING-UP ORDER

(rule 36(1)(c))

Name of company
Address of registered office
Number of matter
Date of order
Date of presentation of petition*

(Where it is known that a voluntary winding up preceded the presentation of the petition, the date of the resolution for voluntary winding up should also be given)*

---

(2) NOTICE OF FIRST MEETING

(rule 107)

Name of company
Address of registered office
Number of matter
Creditors, Date
Hour
Place
Contributories, Date
Hour
Place

---

(3) NOTICE OF DAY APPOINTED FOR PUBLIC EXAMINATION

(rule 55(1))

Name of company
Address of registered office
Number of matter
Date fixed for examination
Names of persons to be examined
Hour
Place

---

(4) NOTICE OF INTENDED DIVIDEND

(rule 142(1))

Name of company
Address of registered office
Number of matter
Last day for receiving proofs
Name of liquidator
Address

---

(5) NOTICE OF DIVIDEND

(rule 142(3))

Name of company
Address of registered office
Number of matter
Amount *per cent*
First and final or otherwise
When payable
Where payable

---

(6) NOTICE OF RETURN TO CONTRIBUTORIES

(rule 143)

Name of company
Address of registered office
Number of matter
Amount per share
First and final or otherwise
When payable

Where payable

---

(7) NOTICE OF APPOINTMENT OF LIQUIDATOR

(rule 45(5))

Name of company	Address of registered office
Number of matter	Liquidator's name
Address	Date of appointment

---

(8) NOTICE OF REMOVAL OF LIQUIDATOR

(rule 45(7))

Name of company	Address of registered office
Number of matter	Liquidator's name
Liquidator's address	Date of removal

---

(9) NOTICE OF RELEASE OF LIQUIDATOR

(rule 189(2))

Name of company	Address of registered office
Number of matter	Liquidator's name
Liquidator's address	Date of release

FORM 104 [rule 203]

MEMORANDUM OF ADVERTISEMENT OR GAZETTING

(Title)

Name of paper	Date of issue	Date of filing	Nature of order, &c.

(Signed)

FORM 105 [rule 183(4) and section 285(1)]

CERTIFICATE OF RECEIPT FOR MONEY PAID INTO COMPANIES LIQUIDATION ACCOUNT

(Title)

This is to certify that Mr. , liquidator of the above-named company has this day paid into the companies liquidation account through me the sum of
representing unclaimed or undistributed assets of the above-named company or money held by the company in trust in respect of dividends or other sums due to members of the company.

Dated this day of , 19 .

Official Receiver

(L.N. 201 of 1984)

Chapter:	32I	COMPANIES (DISQUALIFICATION ORDERS) REGULATION	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 168R)

[15 July 1994]

(Originally L.N. 422 of 1994)

Section:	1	Interpretation	46 of 2000	01/07/2000

In this Regulation-

"grant of leave" (批給許可) means a grant by the court of leave referred to in section 168Q of the Ordinance to any person in relation to a disqualification order.

(Enacted 1994. 46 of 2000 s. 40)

Section:	2	Application		30/06/1997

This Regulation applies in relation to a disqualification order made after the coming into operation of this Regulation and to a grant of leave, or any action taken by a court in consequence of which a disqualification order is varied or ceases to be in force, made or taken after that date, in relation to a disqualification order made before, on or after that date.

(Enacted 1994)

Section:	3	Officers of court to furnish particulars to Registrar	L.N. 12 of 2003	01/04/2003

(1) The following officers of the court shall furnish to the Registrar the particulars specified in section 4(1)(a) and (b) in the form and manner there specified-

(a) where a disqualification order or grant of leave is made by the Court of First Instance, the Chief Judicial Clerk; (25 of 1998 s. 2)

(aa) where a disqualification order is made by the Tribunal within the meaning of section 2 of the repealed Ordinance (within the meaning of section 168R(5) of the Ordinance) or the Market Misconduct Tribunal within the meaning of section 1 of Part 1 of Schedule 1 to the Securities and Futures Ordinance (Cap 571), the clerk to the Tribunal concerned, except that, where there is no clerk to the first-mentioned Tribunal, then the clerk to the second-mentioned Tribunal; (5 of 2002 s. 407)

(b) where a disqualification order is made by the District Court, the Registrar of the District Court;

(c) where a disqualification order is made by a magistrate, the First Clerk.

(2) Where a disqualification order is made by any of the courts mentioned in subsection (1) and subsequently any action is taken by a court in consequence of which that order is varied or ceases to be in force the officer of the first-mentioned court specified in subsection (1) shall furnish to the Registrar the particulars specified in section 4(1)(c) in the form and manner there specified.

(Enacted 1994)

Section:	4	Particulars to be furnished by officers of court		30/06/1997

(1) The form in which the particulars are to be furnished is-

(a) that set out in Schedule 1 with such variations as circumstances require and the particulars contained therein are the particulars specified for that purpose;

(b) that set out in Schedule 2 with such variations as circumstances require when a grant of leave is made by the court, and the particulars contained therein are the particulars specified for that purpose;

(c) that set out in Schedule 3 with such variations as circumstances require when any action is taken by a court in consequence of which a disqualification order is varied or ceases to be in force, and the

particulars contained therein are the particulars specified for that purpose.

(2) A prescribed officer of the court is to furnish the Registrar with the said particulars as soon as practically possible.

(Enacted 1994)

Schedule:	1		L.N. 12 of 2003	01/04/2003

[section 4(1)(a)]

FORM D.O. 1

~~COMPANIES ORDINANCE~~ COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

(Cap 32)

Particulars of a disqualification order

Pursuant to section 168R

To the Registrar of Companies

I furnish the following particulars of a disqualification order made against a person as required by the Companies (Disqualification Orders) Regulation-

(1) Section of the ~~Companies Ordinance ("CO")~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance (***C(WUMP)O***), the repealed Securities (Insider Dealing) Ordinance ("SIDO") or the Securities and Futures Ordinance ("SFO") under which the order was made+-

Section 168E of ~~CO~~ C(WUMP)O	
Section 168F of ~~CO~~ C(WUMP)O	
Section 168G of ~~CO~~ C(WUMP)O	
Section 168H of ~~CO~~ C(WUMP)O	
Section 168J of ~~CO~~ C(WUMP)O	
Section 168L of ~~CO~~ C(WUMP)O	
Section 23(1)(a) of SIDO	
Section 24(1) of SIDO	
Section 214(2)(d) of SFO	
Section 257(1)(a) of SFO	
Section 258(1) of SFO	
Section 303(2)(a) of SFO	

(2) Particulars of the person against whom the order was made-

(a) if an individual

Forename (Note 2) _____ * ( )

Surname (Note 3) _____ * ( )

Usual residential address at the date of the order (Note 4) _____

	_____
	_____
Hong Kong identity card No., if any (Note 5)	_____
Number and issuing country of any passport (Note 6)	_____
	_____

(b) if a body corporate

Corporate name	_____
	_____
Registered No.	_____
Address of registered or principal office in Hong Kong at the date of the order	_____
	_____
	_____

(3) Date on which the order was made-

Day	Month	Year

(4) Period of disqualification specified in the order-

Signed _____ Date _____

Name _____ Position _____

Court++ _____

\+ Please tick appropriate box
* Note 1
++ Please state full name

Notes

1. In the case of a Chinese individual, the Chinese characters for any forename or surname, if they are used by such individual, must be included.
2. "Forename" includes a Christian or given name.
3. "Surname" in the case of a person usually known by a title different from his surname, means that title.
4. Usual residential address must be given. "Residential address" does not include an address at a hotel unless the person to whom it relates is stated to have no other permanent address nor does it include a post office box number unless coupled with a residential address.
5. "Identity card" means an identity card issued under the Registration of Persons Ordinance (Cap 177). If none, please state "None".
6. If the Hong Kong identity card number of the person has been given, there is no need to give this information.

(Enacted 1994. 46 of 2000 s. 40; 5 of 2002 s. 407)

Schedule:	2			30/06/1997

[section 4(1)(b)]

FORM D.O. 2

~~COMPANIES ORDINANCE~~COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

(Cap 32)

Particulars of the grant of leave in relation
to a disqualification order

Pursuant to section 168R

To the Registrar of Companies

I furnish the following particulars of the grant of leave in relation to a disqualification order as required by the Companies (Disqualification Orders) Regulation-

(1) Date of disqualification order in relation to which leave was granted-

Day	Month	Year

(2) Court which made the disqualification order in relation to which leave was granted-

(3) Particulars of the person to whom leave was granted-

(a) if an individual

Forename (Note 2) _____ * ( )

Surname (Note 3) _____ * ( )

Hong Kong identity card
No., if any (Note 4) _____

Number and issuing country
of any passport (Note 5) _____
_____

(b) if a body corporate

Corporate name _____
_____
_____

Registered No. _____

(4) If the name in which the disqualification order was made was different from that at item (3), the name in which that order was made-

(a) if an individual

Forename (Note 2) _____ * ( )

Surname (Note 3) _____ * ( )

Hong Kong identity card No., if any (Note 4) _____

Number and issuing country of any passport (Note 5) _____

(b) if a body corporate

Corporate name _____

Registered No. _____

(5) Name of company in respect of which leave was granted, or in the case of leave to promote or form a company, the proposed name of the company where it is available, or if not, a brief description of the activities of the company-

_____

(6) Date on which leave was granted-

Day	Month	Year

(7) Activity for which leave was granted+-

Promotion	
Formation	
Directorship or other participation in management	
Liquidation	
Receivership or management of the property of the company	

Signed _____ Date _____

Name _____ Position _____

Court++ _____

* Note 1
\+ Please tick appropriate box(es)
++ Please state full name

Notes
1. In the case of a Chinese individual, the Chinese characters for any forename or surname, if they are used by such individual, must be included.
2. "Forename" includes a Christian or given name.
3. "Surname" in the case of a person usually known by a title different from his surname, means that title.
4. "Identity card" means an identity card issued under the Registration of Persons Ordinance (Cap 177). If none, please state "None".
5. If the Hong Kong identity card number of the person has been given, there is no need to give this information.

(Enacted 1994)

Schedule:	3		L.N. 12 of 2003	01/04/2003

[section 4(1)(c)]

FORM D.O. 3

~~COMPANIES ORDINANCE~~ COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

(Cap 32)

Particulars of the variation or cessation
of a disqualification order

Pursuant to section 168R

To the Registrar of Companies

I furnish the following particulars of the action taken by a court whereby a disqualification order made by this court under the ~~Companies Ordinance~~ Companies (Winding Up and Miscellaneous Provisions) Ordinance, the repealed Securities (Insider Dealing) Ordinance (Cap 395) or the Securities and Futures Ordinance (Cap 571) was varied or ceased to be in force-

(1) Date on which the disqualification order was made by this court-

Day	Month	Year

(2) Particulars of the person against whom the disqualification order was made-

(a) if an individual

Forename (Note 2) _____ * ( )

Surname (Note 3) _____ * ( )

Hong Kong identity card _____

No., if any (Note 4)	_____
Number and issuing country of any passport (Note 5)	_____ _____

(b) if a body corporate

Corporate name	_____ _____
Registered No.	_____

(3) Name of court by which action was taken whereby the disqualification order was varied or ceased to be in force-

(4) Result of such action+-

(a) order ceased to be in force ☐

(b) order varied ☐

if (b), state period of disqualification now specified in the order (to run from the date on which the order was originally made)

(5) Date on which the new order was made-

Day	Month	Year

Signed _____ Date _____

Name _____ Position _____

Court++ _____

* Note 1
\+ Please tick appropriate box
++ Please state full name

Notes

1. In the case of a Chinese individual, the Chinese characters for any forename or surname, if they are used by such individual, must be included.
2. "Forename" includes a Christian or given name.
3. "Surname" in the case of a person usually known by a title different from his surname, means that title.
4. "Identity card" means an identity card issued under the Registration of Persons Ordinance (Cap 177). If none, please state "None".
5. If the Hong Kong identity card number of the person has been given, there is no need to give this

information.

(Enacted 1994. 46 of 2000 s. 40; 5 of 2002 s. 407)

Chapter:	32J	COMPANIES (REPORTS ON CONDUCT OF DIRECTORS) REGULATION	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 168S(2))

[15 July 1994]

(Originally L.N. 423 of 1994)

Section:	1	Interpretation		30/06/1997

In this Regulation-

"commencement date" (生效日期) means the date when this Regulation comes into operation;

"liquidator" (清盤人) includes a provisional liquidator.

(Enacted 1994)

Section:	2	Reports required under section 168I(3) of the Ordinance	L.N. 239 of 1999	11/11/1999

(1) This section applies to a report made to the Official Receiver under section 168I(3) of the Ordinance by-

(a) a liquidator (other than the Official Receiver) of a company to which Part IVA of the Ordinance applies the winding up of which commences on or after the commencement date; or (30 of 1999 s. 44)

(b) a receiver of a company appointed on or after the commencement date.

(2) The report shall be made in Form D1 set out in the Schedule and in the manner and to the extent required by that form.

(Enacted 1994)

Section:	3	Return by office-holder	L.N. 267 of 2003	13/02/2004

(1) This section applies where it appears to a liquidator of a company as mentioned in section 2(1)(a) or to a receiver as mentioned in section 2(1)(b) (each of whom is here referred to as "office-holder") that the company has at any time become insolvent within the meaning of section 168H(2) of the Ordinance.

(2) Subject as follows there may be furnished to the Official Receiver by an office-holder at any time during the period of 6 months from the relevant date (defined in subsection (4)) a return with respect to every person who-

(a) was, on the relevant date a director or shadow director of the company; or

(b) had been a director or shadow director of the company at any time in the 3 years immediately preceding that date.

(3) The return shall be made in Form D2 set out in the Schedule, and in the manner and to the extent required by that form.

(4) For the purposes of this section, "the relevant date" (有關日期) means-

(a) in the case of a company being wound up by the court, the date of the winding up order;

(b) in the case of a voluntary winding up by reason of inability to continue business under section 228A of the Ordinance, the date of the delivery to the Registrar of the statutory declaration made under that section;

(c) in the case of a company in creditors' voluntary winding up (there having been no certificate of solvency issued by the directors under section 233 of the Ordinance), the date of the passing of the resolution for voluntary winding up; (28 of 2003 s. 127)

(d) in the case of a company in members' voluntary winding up, the date on which the liquidator forms the opinion that, at the time when the company went into liquidation, its assets were insufficient for the payment of its debts and other liabilities and the expenses of winding up;

(e) in the case of the receiver, the date of his appointment.

(5) The responsible office-holder shall furnish a return complying with subsections (2) and (3) to the Official Receiver not later than the expiry of the period of 6 months from the relevant date where no return has been so furnished by a day one week before the expiry of that period, and for the purposes of this subsection the responsible office-holder shall be the person in office in relation to the company on the day specified above or where no person is in office on that day the office-holder who vacated office nearest to that day.

(6) A return need not be provided under this section if an office-holder has, since the relevant date, made reports to the Official Receiver under section 168I(3) of the Ordinance with respect to all the persons falling within subsection (2) and (apart from this subsection) required to be the subject of return.

(7) If a responsible office-holder without reasonable excuse fails to comply with the duty imposed by subsection (5), he is liable to a fine not exceeding $5000.

(Enacted 1994)

Schedule:		SCHEDULE		30/06/1997

[sections 2(2) & 3(3)]

FORM D1

INSOLVENT COMPANY IN *LIQUIDATION/RECEIVERSHIP

REPORT ON CONDUCT OF DIRECTORS UNDER SECTION 168I(3)
OF THE ~~COMPANIES ORDINANCE~~ COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE (CAP 32)

* Delete as appropriate.

		Official Use
Company number		
Name of company		
Registered office address		
Nature of business		
Trading names		
Principal place of business		
Date of *liquidation/ appointment of receiver		
Name of *liquidator/receiver		
*Liquidator's/Receiver's address		

Period covered by report From: _____

To: _____

1. I am the *liquidator/receiver of the company which is insolvent and it appears to me that the persons listed in the Schedule were either directors or shadow directors of the company and were the only such directors of the company during the period covered by this report.

2. It further appears to me that the conduct of each of the persons in respect of whom I have marked "Y" in column 5 in the Schedule as a director of the company, either considered in relation to this company alone or taken together with his conduct as a director of any other company, makes him unfit to be concerned in the management of a company. Details of his conduct are provided in Annex B of this report.

SCHEDULE

1	2	3	4		5
Full name and other known names	Last known address	Mark "X" if shadow director	Period as director		If you have attached supplementary details please mark "Y"
			From	To	

* Liquidator's/Receiver's signature _____

Date _____

Remember to attach Annex A and Annex B.

_____

ANNEX A

FURTHER DETAILS OF THE COMPANY

NAME OF COMPANY

3. Date of incorporation
4. Period of trading From _____To _____
5. Estimated distribution(s) to creditors

· preferential:
· unsecured:

6. Summary of statement of affairs

	$
Gross assets:	_____
Gross liabilities to creditors:	_____
Estimated total deficiency as regards creditors:	_____
	_____
Called-up capital:	_____

7. Approximate number and value of unsecured creditors distinguishing between

	No.	$
Trade and expense:	_____	_____
Depositor or consumer pre-paid:	_____	_____
Connected companies:	_____	_____
Other:	_____	_____

8. Details of other connected companies with which the company has had any dealings.

The above is correct to the best of my knowledge, information and belief.

* Liquidator's/Receiver's signature _____

Date _____

A separate Annex B is to be completed for each director to be reported upon.

_____

ANNEX B

NAME OF COMPANY

FULLER DETAILS OF THE INDIVIDUAL DIRECTOR SUBJECT TO THIS REPORT

9. Full name of director:

10. Date of birth:

11. Occupation, trade or profession:

12. Position(s) held within company:

13. Give details (on such additional pages as necessary) of the conduct of the director, which makes it appear to you that the conditions of section 168H(1) of the Ordinance are satisfied. You should have particular regard to the Fifteenth Schedule of the Ordinance.

14. List the remuneration and other benefits during each of the 3 years to the relevant date in relation to the company as defined in section 3(4) of this Regulation-

Period ended	Remuneration received	Remuneration voted	Cash expenses	Benefits in kind

	$	$	$	$

15. (a) Other companies of which the director is or was during the 3 years to the relevant date in relation to the company as defined in section 3(4) of this Regulation also a director or shadow director.

Name of company	Company No.	Are you also the liquidator or receiver of that company (Yes/No)	Mark "X" here if you are to submit a conduct report in respect of the company or enter date of report if already submitted

(b) Give details of any other companies not listed at paragraph 8 or subparagraph (a) with which the director may have had an association which you feel may be relevant to the consideration of his conduct.

16. Give brief details of any civil or criminal proceedings in relation to the company taken or likely to be taken against the director.

17. Are there any other matter(s) which you consider the Official Receiver should take into consideration.

The details given in Annex B (comprising ..... pages) are correct to the best of my knowledge, information and belief.

* Liquidator's/Receiver's signature _____

Date _____

_____

FORM D2

INSOLVENT COMPANY IN *LIQUIDATION/RECEIVERSHIP

RETURN OF DIRECTORS UNDER SECTION 3(3) OF THE COMPANIES (REPORTS ON CONDUCT OF DIRECTORS) REGULATION

* Delete as appropriate.

	Official Use
Company number _____	
Name of company _____	
_____	

Registered office address	
Nature of business	
Trading names	
Principal place of business	
Date of *liquidation/ appointment of receiver	
Name of *liquidator/receiver	
*Liquidator's/Receiver's address	

Mark with an "X" the statement which applies.

1. (i) I have not submitted a report in this case because:
   (a) ☐ the company has sufficient assets to pay its debts and other liabilities and the expenses of any winding-up
   (b) ☐ as at the date of this return I have not become aware of any matters which would require me to make a report under section 168I(3) of the Ordinance
   (c) ☐ sufficient information is not yet to hand (see below).

   (ii) I have not submitted a report on all of the directors in this case because:
   (d) ☐ as at the date of this return I have not become aware of any matters which would require me to make a report under section 168I(3) of the Ordinance on the remaining directors
   (e) ☐ sufficient information is not yet to hand (see below).

   If you have marked box (c) or (e) please indicate the likely date when the report, if any, will be submitted:

   Month _____ Year _____

2. The persons listed in the Schedule were to the best of my knowledge and belief all the persons who were directors or shadow directors of the company during the 3 years prior to the relevant date in relation to the company as defined in section 3(4) of the Companies (Reports on Conduct of Directors) Regulation:

SCHEDULE

Full name and other known names	Last known address	Mark "X" if shadow director	Period as director	
			From	To

* Liquidator's/Receiver's signature _____

Date _____

(Enacted 1994)

Chapter:	32K	COMPANIES (DISQUALIFICATION OF DIRECTORS) PROCEEDINGS RULES	Gazette Number	Version Date

		Empowering section		30/06/1997

(Cap 32, section 168S(1))

[15 July 1994]

(Originally L.N. 427 of 1994)

Rule:	1	Interpretation	10 of 2005	08/07/2005

In these Rules-

"Registrar" (司法常務官) means the Registrar of the High Court and includes a senior deputy registrar, deputy registrar or assistant registrar of the High Court.

(Enacted 1994. 10 of 2005 s. 174)

Rule:	2	Application		30/06/1997

These Rules apply with respect to an application for a disqualification order to which section 168P(1) of the Ordinance applies, where made on or after the date on which these Rules come into force.

(Enacted 1994)

Rule:	3	Form of application	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

An application to which these Rules apply shall be made to the court by originating summons (Form No. 10 in Appendix A to the Rules of the High Court (Cap 4 sub. leg. A), with such adaptation as may be appropriate), and the Rules of the High Court (Cap 4 sub. leg. A) apply accordingly, except where these Rules make provision to inconsistent effect.

(Enacted 1994. 25 of 1998 s. 2)

Rule:	4	The case against the respondent		30/06/1997

(1) There shall, at the time when the summons is issued, be filed in court evidence in support of the application for a disqualification order; and copies of the evidence shall be served with the summons on the respondent.

(2) The evidence shall be by one or more affidavits, except where the applicant is the Official Receiver, in which case it may be in the form of one or more written reports (with or without affidavits by other persons) which shall be treated as if it had been verified by affidavit by him and shall be prima facie evidence of any matter contained in it.

(3) In an application made under ~~section 168I(1) or 168J of the Ordinance~~ section 168I(1) of the Ordinance or section 867(6) of the Companies Ordinance (of 2011), there shall in the affidavit or affidavits or (as the case may be) the Official Receiver's report or reports (as the case may be) be included a statement of the matters by reference to which the respondent is alleged to be unfit to be concerned in the management of a company.

(Enacted 1994)

Rule:	5	Endorsement on summons		30/06/1997

There shall on the summons be endorsed information to the respondent as follows-

(a) that the application is made in accordance with these Rules;

(b) the maximum, and minimum if applicable, period of disqualification under the section under which the

application is made;

(c) that the application for a disqualification order may, in accordance with these Rules, be heard and determined summarily, without further or other notice to the respondent, and that, if it is so heard and determined, the court may impose disqualification for a period of up to 5 years;

(d) that if at the hearing of the application the court, on the evidence then before it, is minded to impose, in the respondent's case, disqualification for any period longer than 5 years, it will not make a disqualification order on that occasion but will adjourn the application to be heard (with further evidence, if any) at a later date to be notified; and

(e) that any evidence which the respondent wishes to be taken into consideration by the court must be filed in court in accordance with the time limits imposed under rule 7 (the provisions of which shall be set out on the summons).

(Enacted 1994)

Rule:	6	Service and acknowledgment	25 of 1998	01/07/1997

Remarks:
Adaptation amendments retroactively made - see 25 of 1998 s. 2

(1) The summons shall be served on the respondent by sending it by post to his last known address; and the date of service shall, unless the contrary is shown, be deemed to be the 7th day next following that on which the summons was posted.

(2) Where any process or order of the court or other document is required under proceedings subject to these Rules to be served on any person who is not in Hong Kong, the court may order service on him of that process or order or other document to be effected within such time and in such manner as it thinks fit, and may also require such proof of service as it thinks fit.

(3) The summons served on the respondent shall be accompanied by a form of acknowledgment of service, to be returned by him to the court within 14 days from the date of service, and for this purpose the practice and procedure of the court relating to acknowledgments of service shall apply to an application for an order under these Rules in the court, save that any reference to Form No. 15 in Appendix A to the Rules of the High Court (Cap 4 sub. leg. A) shall relate to the form as modified by these Rules. (25 of 1998 s. 2)

(4) The form of acknowledgment of service shall, where appropriate, state that the respondent should indicate-

(a) whether he contests the application on the grounds that, in the case of any particular company-

(i) he was not a director, shadow director, officer or liquidator of the company, and neither was he a receiver or manager of its property, at a time when conduct of his, or of other persons, in relation to that company is in question; or

(ii) his conduct as such director, shadow director, officer, liquidator, receiver or manager was not as alleged in support of the application for a disqualification order;

(b) whether, in the case of any conduct of his, he disputes the allegation that such conduct makes him unfit to be concerned in the management of a company; and

(c) whether he, while not resisting the application for a disqualification order, intends to adduce mitigating factors with a view to justifying only a short period of disqualification.

(Enacted 1994)

Rule:	7	Evidence		30/06/1997

(1) The respondent shall, within 28 days from the date of service of the summons, file in court any affidavit evidence in opposition to the application he wishes the court to take into consideration and shall forthwith serve upon the applicant a copy of such evidence.

(2) The applicant shall, within 21 days from receiving the copy of the respondent's evidence, file in court any further evidence in reply he wishes the court to take into consideration and shall forthwith serve a copy of that evidence upon the respondent.

(Enacted 1994)

Rule:	8	The hearing of the application		30/06/1997

(1) The date fixed for the hearing of the application shall be not less than 8 weeks from the date of issue of the summons.

(2) The hearing shall in the first instance be before the Registrar in open court.

(3) The Registrar shall either determine the case on the date fixed or adjourn it.

(4) The Registrar shall adjourn the case for further consideration if-

(a) he forms the provisional opinion that a disqualification order ought to be made, and that a period of disqualification longer than 5 years is appropriate; or

(b) he is of opinion that questions of law or fact arise which are not suitable for summary determination.

(5) If the Registrar adjourns the case for further consideration he shall-

(a) direct whether the case is to be heard by a Registrar or, if he thinks it appropriate, by a judge, for determination by him;

(b) state the reasons for the adjournment; and

(c) give directions as to the following matters-

(i) the manner in which and the time within which notice of the adjournment and the reasons for it are to be given to the respondent;

(ii) the filing in court and the service of further evidence (if any) by the parties;

(iii) such other matters as the Registrar thinks necessary or expedient with a view to an expeditious disposal of the application; and

(iv) the time and place of the adjourned hearing.

(6) Where a case is adjourned other than to a judge, it may be heard by the Registrar who originally dealt with the case or by another Registrar.

(Enacted 1994)

Rule:	9	Making and setting aside of disqualification order		30/06/1997

(1) The court may make a disqualification order against the respondent, whether or not the latter appears, and whether or not he had completed and returned the acknowledgment of service of the summons, or filed evidence in accordance with rule 7.

(2) Any disqualification order made in the absence of the respondent may be set aside or varied by the court on such terms as it thinks just.

(Enacted 1994)

Rule:	10	Commencement of disqualification order		30/06/1997

Unless the court otherwise orders, a disqualification order takes effect at the beginning of the 21st day after the day on which the order is made.

(Enacted 1994)

Chapter:	32L	COMPANIES ~~ORDINANCE~~ (EXEMPTION OF COMPANIES AND PROSPECTUSES FROM COMPLIANCE WITH PROVISIONS) NOTICE	Gazette Number	Version Date

		Empowering section	L.N. 76 of 2001	11/05/2001

(Cap 32, sections 38A and 342A)

[11 May 2001]

(Originally L.N. 76 of 2001)

Section:	1	(Omitted as spent)	L.N. 76 of 2001	11/05/2001

(Omitted as spent)

Section:	2	Interpretation	L.N. 12 of 2003	01/04/2003

In this Notice-

"GEM" (創業板) means the recognized stock market called the Growth Enterprise Market;

"listing rules" (《上市規則》) means the rules made under section 23 of the Securities and Futures Ordinance (Cap 571) by a recognized exchange company that governs the listing of securities on a stock market it operates. (5 of 2002 s. 407)

Section:	3	(Repealed L.N. 181 of 2004)	L.N. 181 of 2004	07/01/2005

Section:	4	Exemptions from bilingual prospectus requirements	L.N. 12 of 2003	01/04/2003

(1) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally; and

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates, (5 of 2002 s. 407)

then, subject to the conditions specified in subsection (3), the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance to the extent that it does not have to be in the English language and contain a Chinese translation, or to be in the Chinese language and contain an English translation, as the case may be.

(2) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong by a prospectus issued generally; and

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates, (5 of 2002 s. 407)

then, subject to the conditions specified in subsection (3), the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance to the extent that it does not have to be in the English language and contain a Chinese translation, or to be in the Chinese language and contain an English translation, as the case may be.

(3) The conditions referred to in subsections (1) and (2) are that-

(a) the company must be a new applicant in the context of the listing rules applicable to the stock market referred to in subsection (1)(b) or (2)(b), as the case may be; and (5 of 2002 s. 407)

(b) copies of the prospectus in the English language and of its Chinese translation, or copies of the prospectus in the Chinese language and of its English translation, as the case may be, must be made available to the public at the same time at each place where the prospectus is distributed by or on behalf of the company.

(4) For the purposes of subsections (1) and (2), the exemption in respect of sections 38(1) and 342(1)(b) of the

Ordinance under this section has no effect with regard to the requirements of the Third Schedule to the Ordinance.

Section:	5	Exemptions for GEM companies	L.N. 12 of 2003	01/04/2003

(1) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally; and

(b) the shares or debentures have been approved by the recognized exchange company that operates GEM for listing on GEM, (5 of 2002 s. 407)

the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance, in relation to paragraphs 27 and 31 and, if applicable, paragraphs 32 and 33 of the Third Schedule to the Ordinance, if it complies with the requirements of those paragraphs as modified by subsection (3).

(2) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong by a prospectus issued generally; and

(b) the shares or debentures have been approved by the recognized exchange company that operates GEM for listing on GEM, (5 of 2002 s. 407)

the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance, in relation to paragraphs 27 and 31 and, if applicable, paragraphs 32 and 33 of the Third Schedule to the Ordinance, if it complies with the requirements of those paragraphs as modified by subsection (3).

(3) For the purposes of subsections (1) and (2), paragraphs 27, 31, 32 and 33 of the Third Schedule to the Ordinance are modified so that for any reference to "3 preceding years", "3 financial years" and "3 years" in those paragraphs, there is substituted a reference to "2 preceding years", "2 financial years" and "2 years" respectively.

Section:	6	Exemptions for valuation of operating leases	L.N. 12 of 2003	01/04/2003

(1) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally; and

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates, (5 of 2002 s. 407)

then, subject to the conditions specified in subsection (3), the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance, in relation to paragraph 34(2) of the Third Schedule to the Ordinance, with respect to any interest of the company, or any of its subsidiaries, in land or buildings as a lessee under an operating lease.

(2) Where-

(a) it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong by a prospectus issued generally; and

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates, (5 of 2002 s. 407)

then, subject to the conditions specified in subsection (3), the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance, in relation to paragraph 34(2) of the Third Schedule to the Ordinance, with respect to any interest of the company, or any of its subsidiaries, in land or buildings as a lessee under an operating lease.

(3) The conditions referred to in subsections (1) and (2) are that-

(a) the value of the interest of the company, or any of its subsidiaries, in the land or buildings has been determined by an independent qualified valuer as required by the listing rules applicable to the stock market referred to in subsection (1)(b) or (2)(b), as the case may be; (5 of 2002 s. 407)

(b) the value of the interest so determined is zero;

(c) a report of the valuer setting out the particulars required by paragraph 34(2) of the Third Schedule to the Ordinance-

(i) has been made available to the recognized exchange company referred to in subsection (1)(b) or (2)(b), as the case may be before the prospectus is issued; and (5 of 2002 s. 407)

(ii) is referred to in the prospectus and made available to the public for inspection; and

(d) a summary of all interests of the company and its subsidiaries in the land or buildings covered by the exemption is included in the prospectus.

(4) In this section-

"operating lease" (營運租約) means a lease under which an interest in land or buildings is leased, and-

(a) the lease confers on the lessee no unilateral right to transfer, sublet, mortgage or otherwise dispose of the interest without the consent of the lessor;

(b) the term of the lease is for a period substantially less than the estimated useful economic life of the land or buildings; and

(c) the substantive risks and rewards of ownership of the land or buildings have not been, and are not proposed to be, transferred from the lessor to the lessee.

Section:	7	(Repealed L.N. 181 of 2004)	L.N. 181 of 2004	07/01/2005

Section:	8	Exemptions for prospectuses relating to offers of debentures not proposed to be listed	L.N. 85 of 2003	23/05/2003

(1) Where-

(a) it is proposed to offer any debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally; and

(b) the debentures will not be listed on a recognized stock market,

then, subject to subsection (3), the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance, in relation to paragraphs 4, 5, 12(1), 13, 14, 15, 16, 19, 22, 26(b), 31 and 45 of the Third Schedule to the Ordinance.

(2) Where-

(a) it is proposed to offer any debentures of a company incorporated outside Hong Kong by a prospectus issued generally; and

(b) the debentures will not be listed on a recognized stock market,

then, subject to subsection (3), the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance, in relation to paragraphs 4, 5, 12(1), 13, 14, 15, 16, 19, 22, 26(b), 31 and 45 of the Third Schedule to the Ordinance.

(3) For the purposes of subsections (1) and (2)-

(a) the exemption in relation to paragraph 12(1) of the Third Schedule to the Ordinance shall not have effect with respect to that part of paragraph 12(1)(c) of that Schedule concerning short particulars of any transaction relating to the property completed within the 2 preceding years in which any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company concerned had any interest direct or indirect;

(b) the exemption in relation to paragraph 31 of the Third Schedule to the Ordinance shall have effect subject to the condition that there are set out in the prospectus-

(i) the auditor's report and the audited financial statements of the company and of any guarantor corporation referred to in the prospectus for the 2 financial years immediately preceding the issue of the prospectus; or

(ii) if the auditor's report or the audited financial statements of either the company or such guarantor corporation for the financial year immediately preceding the issue of the prospectus are not available at the time of the issue of the prospectus, a statement of that fact and the auditor's report and the audited financial statements of the company and of any such guarantor corporation for the 2 financial years immediately preceding that financial year,

and, if no ~~accounts have been made up~~ financial statements have been prepared in respect of any part of the period of 2 years ending on a date 3 months before the issue of the prospectus, a statement of that fact; and

(c) the exemption in relation to paragraph 45 of the Third Schedule to the Ordinance shall have effect only for the purposes of the interpretation of paragraph 6 of that Schedule and subject to the condition that

the business address of the natural person in question is disclosed in substitution for the place of his usual residence.

(L.N. 85 of 2003)

Section:	9	Exemptions for prospectuses relating to offers of debentures proposed to be listed	L.N. 85 of 2003	23/05/2003

(1) Where-

(a) it is proposed to offer any debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally;

(b) the debentures have been approved by a recognized exchange company for listing on a stock market it operates; and

(c) the debentures constitute debt securities and are regulated as such under the relevant listing rules,

then-

(d) subject to subsection (3)(a) and (c), the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance, in relation to paragraphs 4, 5, 12(1), 13, 14, 15, 16, 19, 22, 26(b) and 45 of the Third Schedule to the Ordinance; and

(e) subject to subsection (3)(b) and the condition specified in subsection (4), the prospectus is exempted from compliance with the requirements of section 38(1) of the Ordinance, in relation to paragraphs 1, 2, 8, 10, 11, 18, 23, 24, 25, 26(a) and (c), 27, 29, 30, 31, 32, 33(1) and 43 of the Third Schedule to the Ordinance.

(2) Where-

(a) it is proposed to offer any debentures of a company incorporated outside Hong Kong by a prospectus issued generally;

(b) the debentures have been approved by a recognized exchange company for listing on a stock market it operates; and

(c) the debentures constitute debt securities and are regulated as such under the relevant listing rules,

then-

(d) subject to subsection (3)(a) and (c), the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance, in relation to paragraphs 4, 5, 12(1), 13, 14, 15, 16, 19, 22, 26(b) and 45 of the Third Schedule to the Ordinance; and

(e) subject to subsection (3)(b) and the condition specified in subsection (4), the prospectus is exempted from compliance with the requirements of section 342(1)(b) of the Ordinance, in relation to paragraphs 1, 2, 8, 10, 11, 18, 23, 24, 25, 26(a) and (c), 27, 29, 30, 31, 32, 33(1) and 43 of the Third Schedule to the Ordinance.

(3) For the purposes of subsections (1) and (2)-

(a) the exemption in relation to paragraph 12(1) of the Third Schedule to the Ordinance shall not have effect with respect to that part of paragraph 12(1)(c) of that Schedule concerning short particulars of any transaction relating to the property completed within the 2 preceding years in which any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company concerned had any interest direct or indirect;

(b) the exemption in relation to paragraphs 31, 32 and 33(1) of the Third Schedule to the Ordinance shall have effect only in relation to prospectuses issued by an issuer who has previously offered by a prospectus issued generally shares or debentures that have been approved for listing on a recognized stock market and such shares or debentures continue to be listed on that recognized stock market; and

(c) the exemption in relation to paragraph 45 of the Third Schedule to the Ordinance shall have effect only for the purposes of the interpretation of paragraph 6 of that Schedule and subject to the condition that the business address of the natural person in question is disclosed in substitution for the place of his usual residence.

(4) The condition referred to in subsections (1)(e) and (2)(e) is that the prospectus complies with-

(a) the specified requirements without any waiver, modification or other dispensation thereof having been granted by the relevant recognized exchange company (and to the extent that the prospectus so complies with only some of the specified requirements, the exemptions under subsections (1)(e) and (2)(e) shall have effect only in relation to those paragraphs of the Third Schedule to the Ordinance referred to in subsections (1)(e) and (2)(e) that impose requirements which are the same as or similar to

those specified requirements); and

(b) all other requirements of the relevant listing rules applicable to the prospectus (except to the extent that compliance with such requirements is, in accordance with those rules, waived, modified or otherwise dispensed with by the relevant recognized exchange company).

(5) In this section-

(a) "debt securities" (債務證券) has the meaning assigned to it in the relevant listing rules;

(b) "relevant listing rules" (《有關上市規則》) means the listing rules applicable to the stock market referred to in subsection (1)(b) or (2)(b) (as the case may be);

(c) "relevant recognized exchange company" (有關認可交易所) means the recognized exchange company that makes the relevant listing rules; and

(d) "specified requirements" (指明規定) means those requirements of the relevant listing rules which-

(i) apply to the content of prospectuses offering debt securities; and

(ii) are the same as or similar to those imposed by virtue of paragraphs 1, 2, 8, 10, 11, 18, 23, 24, 25, 26(a) and (c), 27, 29, 30, 31, 32, 33(1) and 43 of the Third Schedule to the Ordinance,

and, for the purpose of determining whether a requirement of the relevant listing rules is the same as or similar to a requirement imposed by virtue of any of paragraphs 1, 2, 8, 10, 11, 18, 23, 24, 25, 26(a) and (c), 27, 29, 30, 31, 32, 33(1) and 43 of the Third Schedule to the Ordinance, it is immaterial that the requirement of the relevant listing rules imposes a more or less onerous obligation than the requirement of paragraph 1, 2, 8, 10, 11, 18, 23, 24, 25, 26(a) or (c), 27, 29, 30, 31, 32, 33(1) or 43 of the Third Schedule to the Ordinance if they relate to the same matter.

(L.N. 85 of 2003)

Section:	9A	Exemptions from requirement to issue form of application for shares or debentures with prospectus	L.N. 158 of 2010	01/02/2011

(1) Where—

(a) it is proposed to offer any shares in or debentures of a company incorporated under ~~the Ordinance~~ a former Companies Ordinance or the Companies Ordinance (of 2011) by a prospectus issued generally;

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates; and

(c) a form of application for the shares or debentures in printed form is issued,

then, subject to the conditions specified in subsection (3), the offeror is exempted from compliance with the requirements of section 38(3) of the Ordinance to the extent that the offeror may issue the printed application form without it being accompanied by a printed form prospectus relating to the offer.

(2) Where—

(a) it is proposed to offer any shares in or debentures of a company incorporated outside Hong Kong by a prospectus issued generally;

(b) the shares or debentures have been approved by a recognized exchange company for listing on a stock market it operates; and

(c) a form of application for the shares or debentures in printed form is issued,

then, subject to the conditions specified in subsection (3), the offeror is exempted from compliance with the requirements of section 342(3) of the Ordinance to the extent that the offeror may issue the printed application form without it being accompanied by a printed form prospectus relating to the offer.

(3) The conditions referred to in subsections (1) and (2) are—

(a) during the period of 5 business days prior to the commencement of the offer period, adequate disclosure is made to the public that a printed application form will be issued without it being accompanied by a printed form prospectus relating to the offer;

(b) throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;

(c) throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed;

(d) throughout the offer period, the electronic form prospectus relating to the offer is in a form which is reasonably tamper-resistant;

(e) the electronic form prospectus is readily accessible by the public—

(i) at the commencement of the offer period, from both the company's designated website and the recognized exchange company's designated website; and

(ii) at any time during the offer period after its commencement, subject to subsection (5), from either the company's designated website or the recognized exchange company's designated website;

(f) the electronic form prospectus that is on the company's designated website is directly linked from—

(i) the homepage of that designated website; or

(ii) another webpage within that designated website that is directly linked from the homepage;

(g) the webpage (other than the homepage) within the company's designated website displaying—

(i) the link to the electronic form prospectus; or

(ii) the electronic form prospectus,

does not contain any promotional information about the offeror or the offer;

(h) when the electronic form prospectus is accessed from the company's designated website, a notice is to be displayed stating that the securities are being offered solely on the basis of the information provided in the prospectus;

(i) the typeface, format and contents of the electronic form prospectus are identical to those of the printed form prospectus;

(j) each of the electronic form prospectus and the printed form prospectus contains, in a prominent place on the face of the prospectus, a statement in a clear and legible form—

(i) that the contents of the electronic form prospectus and the printed form prospectus are identical;

(ii) that throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;

(iii) of the particulars of the specified locations; and

(iv) that throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed; and

(k) the printed application form is to state in a prominent place—

(i) that throughout the offer period, prospective investors may access and download the electronic form prospectus from either the company's designated website or the recognized exchange company's designated website;

(ii) the address of each of the designated websites, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;

(iii) that throughout the offer period, copies of the printed form prospectus are available for collection at specified locations, free of charge, upon request by any member of the public;

(iv) the particulars of the specified locations;

(v) that throughout the offer period, at least 3 copies of the printed form prospectus are available for inspection at every location where the printed application forms are distributed; and

(vi) that prospective investors should read the prospectus prior to submitting an application.

(4) For the purposes of subsection (3)(a), adequate disclosure is regarded as having been made during the period of 5 business days prior to the commencement of the offer period if—

(a) an announcement is published in accordance with the requirements of the relevant listing rules on at least one of those 5 business days; and

(b) the announcement contains the following information—

(i) that the offeror proposes to offer shares in or debentures of a company by a prospectus issued generally;

(ii) that the shares or debentures are the subject of an application to a recognized exchange company for listing;

(iii) that the offeror intends to rely on this section and issue a printed application form for the shares or debentures without it being accompanied by a printed form prospectus relating to the offer;

(iv) that throughout the offer period, prospective investors may access and download the electronic form prospectus relating to the offer from either the company's designated website or the recognized exchange company's designated website;

(v) the address of each of the designated websites, the place on the website where the electronic form prospectus may be accessed and how that prospectus may be accessed;

(vi) that throughout the offer period, copies of the printed form prospectus will be available for collection at specified locations, free of charge, upon request by any member of the public;

(vii) the particulars of the specified locations; and

(viii) that throughout the offer period, at least 3 copies of the printed form prospectus will be available for inspection at every location where the printed application forms are distributed.

(5) The condition specified in subsection (3)(e)(ii) is regarded as being satisfied even if the electronic form prospectus relating to the offer is, for a period of less than 4 consecutive hours during the offer period after its commencement, not readily accessible by the public from both the company's designated website and the recognized exchange company's designated website.

(6) For the purposes of subsection (5)—

(a) an hour, or part of an hour, falling on a Saturday, Sunday or public holiday; or

(b) an hour, or part of an hour, between midnight and 6:00 a.m. from Monday to Friday,

is not included in determining the time during which the electronic form prospectus is not readily accessible by the public.

(7) If, after the offeror has published an announcement in accordance with subsection (4), the offeror knows that any of the conditions specified in subsection (3) will not be satisfied or is not satisfied in relation to the offer, the offeror—

(a) must, as soon as practicable, publish a suspension announcement in accordance with the rules of the recognized exchange company; and

(b) must not issue the printed application form during the offer period without it being accompanied by a printed form prospectus relating to the offer.

(8) After the publication of a suspension announcement under subsection (7)(a), the offeror may, during the offer period, issue the printed application form without it being accompanied by a printed form prospectus relating to the offer if—

(a) each of the conditions specified in subsection (3) has been or is satisfied in relation to the offer; and

(b) it has published a resumption announcement in accordance with the rules of the recognized exchange company.

(9) In this section—

business day (營業日) means a day other than—

(a) a public holiday;

(b) a Saturday; or

(c) a gale warning day or a black rainstorm warning day as defined in section 71(2) of the Interpretation and General Clauses Ordinance (Cap 1);

designated website (指定網站)—

(a) in relation to a company, means a website designated by the company for the purposes of this section;

(b) in relation to a recognized exchange company, means the website of the company designated by it;

offer period (要約期), in relation to an offer of shares in or debentures of a company by a prospectus, means the period during which the shares or debentures are offered;

offeror (要約人), in relation to an offer of shares in or debentures of a company by a prospectus, means any company that makes the offer;

printed application form (印刷本申請表格), in relation to an offer of shares in or debentures of a company by a prospectus, means the form of application for the shares or debentures in printed form;

printed form prospectus (印刷本招股章程) means the printed version of a prospectus offering shares in or debentures of a company which—

(a) complies with the relevant listing rules of the recognized exchange company concerned;

(b) complies with—

(i) if the company is incorporated ~~under the Ordinance~~ under a former Companies Ordinance or the Companies Ordinance (of 2011), Part II of the Ordinance; or

(ii) if the company is incorporated outside Hong Kong, Part XII of the Ordinance; and

(c) without limiting paragraph (b), has been registered under—

(i) if the company is incorporated ~~under the Ordinance~~ under a former Companies Ordinance or the Companies Ordinance (of 2011), section 38D of the Ordinance; or

(ii) if the company is incorporated outside Hong Kong, section 342C of the Ordinance;

relevant listing rules (有關上市規則) means the listing rules applicable to the stock market referred to in subsection (1)(b) or (2)(b);

relevant stock market (有關證券市場) means the stock market referred to in subsection (1)(b) or (2)(b);

specified locations (指明地點) means—

(a) for an offer of shares in a company by a prospectus—

(i) if any of the shares in the company are already listed on the relevant stock market, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the receiving banks specified in the prospectus, if any, and the place of business of the company's approved share registrar in Hong Kong; or

(ii) if none of the shares in the company are listed on the relevant stock market, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the receiving banks specified in the prospectus, if any, and the principal place of business of the sponsors acting in respect of the application for listing of the shares; or

(b) for an offer of debentures of a company by a prospectus, the depository counter of Hong Kong Securities Clearing Company Limited, the designated branches of the placing banks specified in the prospectus and the principal place of business of the co-ordinator for the offer specified in the prospectus.

(10) For the purposes of this section, an electronic form prospectus is readily accessible from a website if it is capable of being viewed, downloaded, retained and printed as a copy from the website in its entirety, whether as a single file or as multiple files, by the public without a password or paying any charges.

(L.N. 158 of 2010)

Section:	10	Prospectus to state exemptions relied on	L.N. 85 of 2003	23/05/2003

Where a prospectus is issued in reliance of any exemption under this Notice, it must contain a statement identifying the exemptions that the issuer of the prospectus has relied on under this Notice.

(L.N. 85 of 2003)

Chapter:	32M	COMPANIES (SUMMARY FINANCIAL REPORTS OF LISTED COMPANIES) REGULATION	Gazette Number	Version Date

		Empowering section	L.N. 300 of 2001	04/01/2002

(Cap 32, section 359A(2))

[4 January 2002] *L.N. 300 of 2001*

(Originally L.N. 249 of 2001)

Section:	1	(Omitted as spent)	L.N. 300 of 2001	04/01/2002

(Omitted as spent)

Section:	2	Interpretation	L.N. 300 of 2001	04/01/2002

In this Regulation, unless the context otherwise requires-

"general meeting" (大會), in relation to a listed company, means a general meeting in which a copy of the relevant financial documents is required to be laid before the company;

"notice of intent" (意願通知書) means a notice in writing which-

(a) is sent by an entitled person of a listed company to the company; and

(b) indicates whether the person-

(i) agrees to be sent a copy of the relevant financial documents for the purposes of a general meeting of the company; or

(ii) agrees to be sent a copy of the summary financial report in place of a copy of the relevant financial documents for the purposes of a general meeting of the company;

"notification" (通告) means a notification referred to in section 6.

Section:	3	Period specified for purposes of section 141CB of Ordinance	L.N. 300 of 2001	04/01/2002

Periods specified for purposes of Ordinance

The period specified for the purposes of section 141CB of the Ordinance shall be a period of 30 days beginning immediately after the date on which the relevant listed company sends a notification to the relevant entitled person.

Section:	4	Period specified for purposes of section 141CC of Ordinance	L.N. 300 of 2001	04/01/2002

The period specified for the purposes of section 141CC(1) and (2) of the Ordinance shall be a period beginning on the first day on which the relevant listed company sends the relevant notification to an entitled person of the company and ending 30 days after the last day on which the company sends the notification to an entitled person of the company.

Section:	5	Form and contents of summary financial reports	L.N. 300 of 2001	04/01/2002

Summary financial reports-form and contents

(1) A summary financial report of a listed company shall contain all the information and particulars included in the company's balance sheet and profit and loss account as they appear in the relevant financial documents.

(2) The balance sheet and profit and loss account referred to in subsection (1) of a listed company shall be the company's consolidated balance sheet and consolidated profit and loss account if the company is presenting group accounts.

(3) In addition, a summary financial report of a listed company shall-

~~(a) contain such information and particulars as included in the directors' report of the company and specified in section 129D(3) of the Ordinance;~~

~~(b) if the auditors' report of the company contains any of the following statements-~~

~~(i) a statement that proper books of account have not been kept by the company;~~

~~(ii) a statement that proper returns adequate for the auditors' audit have not been received from branches of the company not visited by the auditors;~~

~~(iii) a statement that the company's balance sheet and (unless it is framed as a consolidated profit and loss account) profit and loss account referred to in subsection (1) are not in agreement with the books of account and returns;~~

~~(iv) a statement that the auditors failed to obtain all the information and explanations which, to the best of their knowledge and belief, are necessary for the purposes of their audit,~~

~~set out that statement;~~

~~(c) contain a statement from the company's auditors as to whether the auditors' report concerned is qualified or otherwise modified, and (if the auditors' report is qualified or otherwise modified) set out the full auditors' report and any further material necessary for the understanding of the qualification or other modification;~~

~~(d) contain an opinion from the company's auditors as to whether the summary financial report is consistent with the relevant financial documents from which it is derived and whether it complies with the requirements of this section;~~

~~(e) include a fair review of the development of the business of the company and its subsidiaries (if any) during the financial year concerned and of the position at the end of that year;~~

~~(f) include particulars of all important events which have occurred since the end of the financial year concerned and affected the company and (if applicable) the group of companies to which the company belongs;~~

~~(g) indicate the likely future developments of the business of the company;~~

~~(h) include particulars specified under sections 161, 161A and 161B of the Ordinance;~~

~~(i) contain in a prominent position-~~

~~(i) on the front cover of the report;~~

~~(ii) (if there is more than one cover purporting to be the front cover) on every such cover;~~

~~(iii) (if the report has no cover or no front cover) on the first page of the report; or~~

~~(iv) (if the report has no cover and there is more than one page purporting to be the front page) on every such page,~~

~~a statement to the effect that the summary financial report only gives a summary of the information and particulars contained in the company's relevant financial documents from which it is derived and an entitled person of the company may obtain free of charge a copy of those relevant financial documents;~~

~~(j) contain in a prominent position in the report a statement as to how an entitled person of the company may obtain free of charge a copy of the company's relevant financial documents from which the report is derived;~~

~~(k) contain in a prominent position in the report a statement as to the manner in which an entitled person of the company may in future notify the company of his wishes in relation to the sending to the person a copy of a summary financial report in place of a copy of the relevant financial documents from which it is derived; and~~

~~(l) state the names of the directors who have signed the report on behalf of the board of directors of the company.~~

~~(4) Subject to the provisions of this Regulation, a listed company may specify such other requirements in relation to the form of its summary financial report as the company thinks fit.~~

~~Section:~~	~~6~~	~~Notification from companies to entitled persons regarding provision of copies of summary financial reports~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~Form and contents of notification used for purposes of ascertaining wishes of entitled persons~~

~~(1) For the purposes of ascertaining the wishes of an entitled person of a listed company in relation to the~~

~~sending to the person, for the purposes of a general meeting of the company, a copy of a summary financial report in place of a copy of the relevant financial documents from which it is derived, the company may send to the person a notification which shall—~~

~~(a) include a general statement as to the contents and function of a summary financial report;~~

~~(b) contain a statement to the effect that a summary financial report only gives a summary of the information and particulars contained in the relevant financial documents from which it is derived;~~

~~(c) contain a statement to the effect that the person to whom the notification is addressed may send a notice of intent to the company notifying the company as to whether the person agrees to be sent a copy of the relevant financial documents, or agrees to be sent a copy of the summary financial report in place of those relevant financial documents, for the purposes of a general meeting of the company;~~

~~(d) contain a statement to the effect that a notice of intent may be in such form and sent in such manner as specified in the notification; and~~

~~(e) contain a statement as to the effect of sending and of not sending a notice of intent to the company.~~

~~(2) Nothing in subsection (1) shall be construed as prohibiting the company from including in its notification such other information as the company thinks fit.~~

~~(3) A notification under this section shall have attached to it a card or document which may be used by an entitled person of the company for the purposes of sending a notice of intent to the company.~~

~~(4) If—~~

~~(a) a notification is in paper form; and~~

~~(b) the address of the entitled person of the relevant company to which the notification is to be sent is an address in Hong Kong,~~

~~the card or document mentioned in subsection (3) shall be a postage prepaid card or document, in which case the person may use it for sending in Hong Kong a notice of intent to the company without having to pay the relevant postage fee.~~

~~Section:~~	~~7~~	~~Sending of notices of intent~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~Effects of notices of intent~~

~~An entitled person of a listed company may, on his own accord or in response to a notification sent to the person by the company, send a notice of intent to the company.~~

~~Section:~~	~~8~~	~~Notices of intent received not less than 15 days before relevant date of general meeting~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~(1) Subject to subsection (2), if a notice of intent is received by a listed company not less than 15 days before the relevant date of a general meeting of the company, the notice—~~

~~(a) shall have effect in respect of the meeting; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the relevant entitled person to the company which has effect in respect of such a subsequent general meeting.~~

~~(2) If 2 or more notices of intent are received by a listed company from the same entitled person not less than 15 days before the relevant date of a general meeting of the company, the latest of such notices received shall prevail.~~

~~Section:~~	~~9~~	~~Notices of intent received within 14 days before relevant date of general meeting~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~(1) Subject to subsection (2), if a notice of intent is received by a listed company within 14 days before the relevant date of a general meeting of the company, the notice shall—~~

~~(a) in respect of the meeting—~~

~~(i) have no effect as such a notice; and~~

~~(ii) subject to subsection (3), be treated as a request under section 141CD(1) of the Ordinance; and~~

~~(b) have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the relevant entitled person to the company which has effect in respect of such a subsequent general meeting.~~

~~(2) If an entitled person of a listed company sends a notice of intent to the company within the period referred to in section 3, then, and notwithstanding that the notice is received by the company within 14 days before the relevant date of a general meeting of the company, the notice-~~

~~(a) shall have effect in respect of the meeting; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the person to the company which has effect in respect of such a subsequent general meeting.~~

~~(3) A notice of intent received by a listed company within 14 days before the relevant date of a general meeting of the company shall be treated as a request under section 141CD(1) of the Ordinance by virtue of subsection (1)(a)(ii) only if-~~

~~(a) the notice indicates that the relevant entitled person agrees to be sent a copy of the relevant financial documents; and~~

~~(b) (i) an earlier notice of intent which indicates that the person agrees to be sent a copy of the summary financial report has effect in respect of the meeting; or~~

~~(ii) a notice of intent treated by virtue of section 141CB of the Ordinance as having been sent by the person has effect in respect of the meeting.~~

~~Section:~~	~~10~~	~~Notices of intent received on or after relevant date of general meeting~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~If a notice of intent is received by a listed company on or after the relevant date of a general meeting of the company, the notice-~~

~~(a) shall have no effect in respect of the meeting; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the relevant entitled person to the company which has effect in respect of such a subsequent general meeting.~~

~~Section:~~	~~11~~	~~No notice of intent sent within period referred to in section 3~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~(1) Subject to subsections (2) and (3), if an entitled person of a listed company does not send any notice of intent to the company within the period referred to in section 3, the notice of intent treated by virtue of section 141CB of the Ordinance as having been sent by the person-~~

~~(a) shall have effect in respect of the first general meeting of the company to be held after the sending of the relevant notification by the company; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the person to the company which has effect in respect of such a subsequent general meeting.~~

~~(2) If an entitled person of a listed company only sends a notice of intent to the company after the period referred to in section 3 and the notice is received by the company not less than 15 days before the relevant date of a general meeting of the company, the notice-~~

~~(a) shall have effect in respect of the meeting; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the person to the company which has effect in respect of such a subsequent general meeting.~~

~~(3) If an entitled person of a listed company only sends a notice of intent to the company after the period referred to in section 3 and the notice is received by the company within 14 days before the relevant date, or received by the company on or after the relevant date of a general meeting of the company, the notice-~~

~~(a) shall have no effect in respect of the meeting; and~~

~~(b) shall have effect in respect of any subsequent general meeting of the company unless and until there is a further notice of intent sent by the person to the company which has effect in respect of such a subsequent general meeting.~~

~~Section:~~	~~12~~	~~Meaning of "relevant date" for purposes of sections 8, 9, 10 and 11~~	~~L.N. 300 of 2001~~	~~04/01/2002~~

~~For the purposes of sections 8, 9, 10 and 11, "relevant date" (有關日期), in relation to a general meeting of a listed company, means~~

~~(a) the first day on which copies of the relevant financial documents required to be laid before the company in the meeting are sent to the entitled persons of the company; or~~

~~(b) if no copies of those documents mentioned in paragraph (a) are required to be sent to the entitled persons of the company, the first day on which copies of the summary financial report in relation to the meeting are sent to the entitled persons of the company.~~

Chapter:	32N	COMPANIES (REVISION OF ACCOUNTS AND REPORTS) REGULATION	Gazette Number	Version Date

		Empowering section		

(Cap 32, section 359A)

[This Regulation (except Part 4) } 20 April 2007 *L.N. 24 of 2007*

Part 4 } 14 December 2007 *L.N. 188 of 2007*]

(Originally L.N. 24 of 2007)

Part:	1	PRELIMINARY	L.N. 24 of 2007; L.N. 188 of 2007	14/12/2007

Section:	1	(Omitted as spent)	L.N. 24 of 2007; L.N. 188 of 2007	14/12/2007

(1)-(2) (Omitted as spent)

Section:	2	Interpretation	L.N. 24 of 2007	20/04/2007

(1) In this Regulation, unless the context otherwise requires—

"audit report" (核數報告) means a report on revised accounts referred to in section 10(1) or (2);

"date of revision" (修訂日期)—

(a) in relation to any revised accounts, means the date on which the revised accounts are approved by the board of directors of the company under section 129B(1) or 129C(2) of the Ordinance;

(b) in relation to a revised directors' report, means the date on which the revised directors' report is approved by the board of directors of the company under section 129D(2) or 141D(1)(d) of the Ordinance;

(c) in relation to a revised summary financial report, means the date on which the revised summary financial report is approved by the board of directors of the listed company under section 141CF(1)(c) of the Ordinance;

"date of the original accounts" (原帳目日期) means the date on which the original accounts are approved by the board of directors of the company under section 129B(1) or 129C(2) of the Ordinance;

"date of the original directors' report" (原董事報告書日期) means the date on which the original directors' report is approved by the board of directors of the company under section 129D(2) or 141D(1)(d) of the Ordinance;

"date of the original summary financial report" (原財務摘要報告日期) means the date on which the original summary financial report is approved by the board of directors of the listed company under section 141CF(1)(c) of the Ordinance;

"original accounts" (原帳目) means the accounts that are the subject of revision by revised accounts;

"original directors' report" (原董事報告書) means the directors' report that is the subject of revision by a revised directors' report;

"original summary financial report" (原財務摘要報告) means the summary financial report that is the subject of revision by a revised summary financial report;

"revised accounts" (經修訂帳目)—

(a) in relation to Part 2, means—

(i) in the case of a revision under section 141E of the Ordinance by replacement, the accounts replacing the original accounts for the purpose of the revision; or

(ii) in the case of a revision under that section by supplementary note, the original accounts, together

~~with the supplementary note for the purpose of the revision;~~

~~(b) in relation to Parts 3 and 4, means—~~

~~(i) in the case of a revision under section 336A of the Ordinance by replacement, the accounts replacing the original accounts for the purpose of the revision; or~~

~~(ii) in the case of a revision under that section by supplementary note, the original accounts, together with the supplementary note for the purpose of the revision;~~

~~"revised balance sheet" (經修訂資產負債表) means—~~

~~(a) in the case of a revision under section 141E of the Ordinance by replacement, the balance sheet replacing the original balance sheet for the purpose of the revision; or~~

~~(b) in the case of a revision under that section by supplementary note, the original balance sheet, together with the supplementary note for the purpose of the revision;~~

~~"revised directors' report" (經修訂董事報告書) means—~~

~~(a) in the case of a revision under section 141E of the Ordinance by replacement, the directors' report replacing the original directors' report for the purpose of the revision; or~~

~~(b) in the case of a revision under that section by supplementary note, the original directors' report, together with the supplementary note for the purpose of the revision;~~

~~"revised summary financial report" (經修訂財務摘要報告) means—~~

~~(a) in the case of a revision under section 141E of the Ordinance by replacement, the summary financial report replacing the original summary financial report for the purpose of the revision; or~~

~~(b) in the case of a revision under that section by supplementary note, the original summary financial report, together with the supplementary note for the purpose of the revision.~~

~~(2) In this Regulation—~~

~~(a) a reference to revision of any accounts or report by replacement means revision by the preparation of a replacement set of accounts or report in substitution for the accounts or report; and~~

~~(b) a reference to revision of any accounts or report by supplementary note means revision by the preparation of a note indicating revisions made to the accounts or report.~~

~~(3) For the purposes of this Regulation, a translation of any document, revised accounts or supplementary note is a certified translation of the document, accounts or note if—~~

~~(a) it is certified to be a correct translation by the person making the translation; and~~

~~(b) the appropriate person, referred to in paragraph 6(2) of the Companies (Forms) Regulations (Cap 32 sub. leg. B), certifies that he believes the person making the translation is competent in translating a document into English or Chinese, as the case may be.~~

~~(4) Nothing in this Regulation is to be construed as affecting any right accrued, or any obligation or liability incurred, in relation to any original accounts, original directors' report or original summary financial report.~~

~~Part:~~	~~2~~	~~ACCOUNTS AND REPORTS REVISED UNDER SECTION 141E OF ORDINANCE~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~Section:~~	~~3~~	~~Matters to be included in revised accounts~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) A provision of the Ordinance as to the matters to be included in the accounts of a company applies to revised accounts, as it applies to the original accounts, as if the revised accounts were approved by the board of directors of the company on the date of the original accounts.~~

~~(2) Without prejudice to the generality of subsection (1), sections 123(1) and 126(1) of the Ordinance apply to revised accounts, as they apply to the original accounts, so as to require those revised accounts to give a true and fair view of the matters mentioned in those provisions.~~

~~(3) If the directors of a company cause the accounts of the company to be revised under section 141E of the Ordinance by replacement, the directors shall cause to be made in a prominent position in the revised accounts—~~

~~(a) a statement that the revised accounts replace the original accounts for the financial year specified in the statement;~~

~~(b) a statement that the revised accounts—~~

~~(i) are taken as having been approved by the board of directors on the date of the original accounts instead of the date of revision; and~~

~~(ii) accordingly do not deal with events between those 2 dates; and~~

~~(c) a statement as to—~~

~~(i) the respects in which the original accounts did not, as appears to the directors, comply with the Ordinance; and~~

~~(ii) the material revisions to the accounts that are made under section 141E of the Ordinance.~~

~~(4) If the directors of a company cause the accounts of the company to be revised under section 141E of the Ordinance by supplementary note, the directors shall cause to be made in a prominent position in the supplementary note—~~

~~(a) a statement that the note—~~

~~(i) revises in certain respects the original accounts of the company; and~~

~~(ii) is to be treated as forming part of those accounts; and~~

~~(b) a statement that the revised accounts—~~

~~(i) are taken as having been approved by the board of directors on the date of the original accounts instead of the date of revision; and~~

~~(ii) accordingly do not deal with events between those 2 dates.~~

~~(5) When approving any revised accounts under section 129B(1) or 129C(2) of the Ordinance, the board of directors of the company shall cause the date of approval to be stated in—~~

~~(a) in the case of a revision by replacement, the revised accounts; or~~

~~(b) in the case of a revision by supplementary note, the supplementary note.~~

~~(6) Subject to subsection (8), a director of a company commits an offence if, as respects any revised accounts, he fails to take all reasonable steps to secure compliance with—~~

~~(a) subsection (3), (4) or (5);~~

~~(b) a provision of the Ordinance as to the matters to be included in those accounts; or~~

~~(c) section 123(1) or 126(1) of the Ordinance.~~

~~(7) Subject to subsection (8), if, as respects any revised accounts, a company fails to satisfy an obligation imposed on it by section 128(5) or (5A) or 129(5) or (5A) of the Ordinance, the company, and every officer of the company who is in default, commit an offence.~~

~~(8) If the shareholders of the company have agreed, for the purposes of section 141D of the Ordinance, that that section applies with respect to a financial year of that company, subsections (6) and (7) do not apply to any revised accounts for that financial year.~~

~~(9) A director of a company who commits an offence under subsection (6) is liable to imprisonment for 12 months and a fine of $300000.~~

~~(10) A person who commits an offence under subsection (7) is liable to a fine at level 6 and, in the case of a conviction for the offence after continued failure, to a further fine of $300 for each day during which the failure is continued.~~

~~(11) A reference in subsection (1), (2), (6)(b) or (c) or (7) to a provision of the Ordinance is to be construed, where the provision has been amended after the date of the original accounts but before the date of revision, as a reference to the provision as in force at the date of the original accounts.~~

~~Section:~~	4	~~Matters to be included in revised directors' reports~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) A provision of the Ordinance as to the matters to be included in a directors' report applies to a revised directors' report, as it applies to the original directors' report, as if the revised directors' report was approved by the board of directors of the company on the date of the original directors' report.~~

~~(2) If the directors of a company make revisions to a directors' report under section 141E of the Ordinance by replacement, the directors shall cause to be made in a prominent position in the revised directors' report—~~

~~(a) a statement that the revised directors' report replaces the original directors' report for the financial year specified in the statement;~~

~~(b) a statement that the revised directors' report—~~

~~(i) is taken as having been approved by the board of directors on the date of the original directors' report instead of the date of revision; and~~

~~(ii) accordingly does not deal with events between those 2 dates; and~~

~~(c) a statement as to the material revisions to the original directors' report that are made under section 141E of the Ordinance.~~

~~(3) If the directors of a company make revisions to a directors' report under section 141E of the Ordinance by~~

~~supplementary note, the directors shall cause to be made in a prominent position in the supplementary note—~~

~~(a) a statement that the note—~~

~~(i) revises in certain respects the original directors' report; and~~

~~(ii) is to be treated as forming part of that report; and~~

~~(b) a statement that the revised directors' report—~~

~~(i) is taken as having been approved by the board of directors on the date of the original directors' report instead of the date of revision; and~~

~~(ii) accordingly does not deal with events between those 2 dates.~~

~~(4) When approving a revised directors' report under section 129D(2) or 141D(1)(d) of the Ordinance, the board of directors of the company shall cause the date of approval to be stated in—~~

~~(a) in the case of a revision by replacement, the revised directors' report; or~~

~~(b) in the case of a revision by supplementary note, the supplementary note.~~

~~(5) A director of a company commits an offence if, as respects a revised directors' report, he fails to take all reasonable steps to secure compliance with—~~

~~(a) subsection (2), (3) or (4); or~~

~~(b) a provision of the Ordinance as to the matters to be included in that directors' report.~~

~~(6) Subject to subsection (7), a director of a company who commits an offence under subsection (5) is liable to imprisonment for 6 months and a fine of $150000.~~

~~(7) If the shareholders of the company have agreed, for the purposes of section 141D of the Ordinance, that that section applies with respect to a financial year of that company, a director of the company who commits an offence under subsection (5) as respects a revised directors' report for that financial year is liable to imprisonment for 6 months and a fine at level 5.~~

~~(8) A reference in subsection (1) or (5)(b) to a provision of the Ordinance is to be construed, where the provision has been amended after the date of the original directors' report but before the date of revision, as a reference to the provision as in force at the date of the original directors' report.~~

~~Section:~~	~~5~~	~~Matters to be included in revised summary financial reports~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) A provision of the Ordinance or the relevant Regulation as to the matters to be included in a summary financial report applies to a revised summary financial report, as it applies to the original summary financial report, as if the revised summary financial report was approved by the board of directors of the listed company on the date of the original summary financial report.~~

~~(2) If the directors of a listed company make revisions to a summary financial report under section 141E of the Ordinance by replacement, the directors shall cause to be made in a prominent position in the revised summary financial report—~~

~~(a) a statement that the revised summary financial report replaces the original summary financial report for the financial year specified in the statement;~~

~~(b) a statement that the revised summary financial report—~~

~~(i) is taken as having been approved by the board of directors on the date of the original summary financial report instead of the date of revision; and~~

~~(ii) accordingly does not deal with events between those 2 dates; and~~

~~(c) a statement as to the material revisions to the original summary financial report that are made under section 141E of the Ordinance.~~

~~(3) If the directors of a listed company make revisions to a summary financial report under section 141E of the Ordinance by supplementary note, the directors shall cause to be made in a prominent position in the supplementary note—~~

~~(a) a statement that the note—~~

~~(i) revises in certain respects the original summary financial report; and~~

~~(ii) is to be treated as forming part of that report; and~~

~~(b) a statement that the revised summary financial report—~~

~~(i) is taken as having been approved by the board of directors on the date of the original summary financial report instead of the date of revision; and~~

~~(ii) accordingly does not deal with events between those 2 dates.~~

~~(4) When approving a revised summary financial report under section 141CF(1)(c) of the Ordinance, the board of directors of the listed company shall cause the date of approval to be stated in—~~

~~(a) in the case of a revision by replacement, the revised summary financial report; or~~

~~(b) in the case of a revision by supplementary note, the supplementary note.~~

~~(5) A revised summary financial report of a listed company is not to be issued, circulated or published by the listed company to any other person unless the revised summary financial report—~~

~~(a) complies with subsection (2) or (3);~~

~~(b) complies with a provision of the Ordinance or the relevant Regulation as to the matters to be included in that summary financial report; and~~

~~(c) has the date of approval stated in the revised summary financial report or the supplementary note in accordance with subsection (4).~~

~~(6) If subsection (5) is contravened, then unless there is reasonable excuse—~~

~~(a) the listed company commits an offence and is liable to a fine of $300000; and~~

~~(b) every officer of the listed company commits an offence and each is liable to imprisonment for 12 months and a fine of $300000.~~

~~(7) If there is a conviction for an offence under this section, the court may—~~

~~(a) by order prohibit the listed company and any person from issuing, circulating or publishing the revised summary financial report concerned to any other person for such period as the court specifies; and~~

~~(b) in making the order impose conditions.~~

~~(8) In this section, "relevant Regulation" (《有關規例》) means the Companies (Summary Financial Reports of Listed Companies) Regulation (Cap 32 sub. leg. M).~~

~~(9) A reference in subsection (1) or (5)(b) to a provision of the Ordinance or the relevant Regulation is to be construed, where the provision has been amended after the date of the original summary financial report but before the date of revision, as a reference to the provision as in force at the date of the original summary financial report.~~

~~Section:~~	~~6~~	~~Approval and signature of revised accounts~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) Section 129B of the Ordinance applies to a revised balance sheet, as it applies to the original balance sheet, except that, in the case of a revision by supplementary note, it applies as if it required a signature on the supplementary note instead of on the balance sheet of the company.~~

~~(2) A revised balance sheet is not to be issued, circulated or published unless the revised balance sheet has been signed as required by section 129B of the Ordinance.~~

~~(3) If subsection (2) is contravened, the company, and every officer of the company who is in default, commit an offence, and each is liable to a fine at level 4.~~

~~(4) Section 129C of the Ordinance applies in relation to a revised balance sheet except that—~~

~~(a) both of the following are required to be annexed to the revised balance sheet—~~

~~(i) the profit and loss account or, where the profit and loss account has been revised under section 141E of the Ordinance, the profit and loss account so revised;~~

~~(ii) so far as not incorporated in the balance sheet or profit and loss account, any group accounts laid before the company in general meeting or, where such group accounts have been revised under section 141E of the Ordinance, such group accounts so revised; and~~

~~(b) the audit report on the revised accounts, instead of the auditor's report on the original accounts, is required to be attached to the revised balance sheet.~~

~~(5) A revised balance sheet is not to be issued, circulated or published—~~

~~(a) without having annexed to it—~~

~~(i) the profit and loss account or revised profit and loss account; and~~

~~(ii) any group accounts or revised group accounts,~~

~~required by section 129C of the Ordinance to be so annexed; and~~

~~(b) without having attached to it the audit report on the revised accounts.~~

~~(6) If subsection (5) is contravened, the company, and every officer of the company who is in default, commit an offence, and each is liable to a fine of $150000.~~

~~(7) In this section, "original balance sheet" (原資產負債表) means the balance sheet that is the subject of revision by a revised balance sheet.~~

~~Section:~~	~~7~~	~~Approval and signature of revised directors' reports~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) Section 129D(2) or 141D(1)(d) of the Ordinance applies to a revised directors' report, as it applies to the original directors' report, except that, in the case of a revision by supplementary note, it applies as if it required a signature on the supplementary note instead of on the directors' report.~~

~~(2) A director of a company commits an offence if, as respects a revised directors' report, he fails to take all reasonable steps to secure compliance with—~~

~~(a) section 129D(2) of the Ordinance; or~~

~~(b) section 141D(1)(d) of the Ordinance.~~

~~(3) A director of a company—~~

~~(a) who commits an offence under subsection (2)(a) is liable to imprisonment for 6 months and a fine of $150000; or~~

~~(b) who commits an offence under subsection (2)(b) is liable to imprisonment for 6 months and a fine at level 5.~~

~~Section:~~	~~8~~	~~Approval of revised summary financial reports~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) Section 141CF(1)(c) of the Ordinance applies to a revised summary financial report, as it applies to the original summary financial report.~~

~~(2) A revised summary financial report of a listed company is not to be issued, circulated or published by the listed company to any other person unless the revised summary financial report complies with section 141CF(1)(c) of the Ordinance.~~

~~(3) If subsection (2) is contravened, then unless there is reasonable excuse—~~

~~(a) the listed company commits an offence and is liable to a fine of $300000; and~~

~~(b) every officer of the listed company commits an offence and each is liable to imprisonment for 12 months and a fine of $300000.~~

~~Section:~~	~~9~~	~~Effect of revision after approval of revised accounts, directors' reports or summary financial reports~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) On the board of directors of a company approving any revised accounts under section 129B(1) or 129C(2) of the Ordinance, and complying with section 3(3) or (4), as the case may require, and with section 3(5), the Ordinance has effect with respect to the revised accounts as if the revised accounts were, as from the date of revision, the accounts of the company in place of the original accounts.~~

~~(2) Without prejudice to the generality of subsection (1), if, as at the date of revision, section 109, 122(1) or (2), 124(1) or 129G(2) of the Ordinance has yet to be complied with, the revised accounts are, as from that date, the accounts of the company for the relevant financial year for the purposes of that section.~~

~~(3) On the board of directors of a company approving a revised directors' report under section 129D(2) or 141D(1)(d) of the Ordinance, and complying with section 4(2) or (3), as the case may require, and with section 4(4), the Ordinance has effect with respect to the revised directors' report as if the revised directors' report was, as from the date of revision, the directors' report of the company in place of the original directors' report.~~

~~(4) Without prejudice to the generality of subsection (3), if, as at the date of revision, section 109, 129D(1) or 129G(2) of the Ordinance has yet to be complied with, the revised directors' report is, as from that date, the directors' report for the relevant financial year for the purposes of that section.~~

~~(5) On the board of directors of a listed company approving a revised summary financial report under section 141CF(1)(c) of the Ordinance, and complying with section 5(2) or (3), as the case may require, and with section 5(4), the Ordinance has effect with respect to the revised summary financial report as if the revised summary financial report was, as from the date of revision, the summary financial report of the listed company in place of the original summary financial report.~~

~~(6) Without prejudice to the generality of subsection (5), the revised summary financial report is, as from the date of revision, the summary financial report for the purposes of sections 141CC and 141CE of the Ordinance.~~

~~Section:~~	~~10~~	~~Audit report on revised accounts~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) Subject to subsection (2), the current auditor of a company shall make a report to the members of the company on the revised accounts.~~

~~(2) Where the auditors' report on the original accounts has been made by a person other than the current auditor of the company, the directors of the company may resolve that the report on the revised accounts is to be made by that person if the person —~~

~~(a) agrees to do so; and~~

~~(b) would be qualified under the Professional Accountants Ordinance (Cap 50) for, and would not be disqualified under section 140 of the Ordinance from, appointment as auditor of the company.~~

~~(3) An audit report on any revised accounts —~~

~~(a) is to be read before the company in the general meeting at which the revised accounts are laid; and~~

~~(b) is open to inspection by any member.~~

~~(4) Subject to subsection (5), an audit report on any revised accounts is to state whether in the opinion of the person making the audit report —~~

~~(a) in the case of a company that is entitled to avail itself, and has availed itself, of the benefit of Part III of the Tenth Schedule to the Ordinance —~~

~~(i) the revised accounts have been properly prepared in accordance with the provisions of the Ordinance applicable to the company; and~~

~~(ii) on that basis, the revised accounts give a true and fair view, seen as at the date of the original accounts, with respect to the matters set out in section 141(3)(b)(i), (ii) or (iii) of the Ordinance; or~~

~~(b) in the case of any other company —~~

~~(i) the revised accounts have been properly prepared in accordance with the provisions of the Ordinance; and~~

~~(ii) the revised accounts give a true and fair view, seen as at the date of the original accounts, with respect to the matters set out in section 141(3)(a)(i), (ii) or (iii) of the Ordinance.~~

~~(5) If the shareholders of the company have agreed, for the purposes of section 141D of the Ordinance, that that section applies with respect to a financial year of that company, an audit report on any revised accounts for that financial year is to state —~~

~~(a) whether or not the person making the audit report has obtained all the information and explanations that he has required; and~~

~~(b) in the case where the audit report refers to a revised balance sheet, whether, in that person's opinion, the revised balance sheet is properly drawn up so as to exhibit a true and correct view, seen as at the date of the original balance sheet, of the state of the company's affairs according to the best of his information and the explanations given to him, and as shown by the books of the company.~~

~~(6) Section 141(4), (5), (6), (7) and (8) of the Ordinance —~~

~~(a) applies to an audit report on any revised accounts, as it applies to a report made by an auditor under that section 141 on the original accounts; and~~

~~(b) applies to a person making an audit report on any revised accounts, as it applies to an auditor making a report under that section 141 on the original accounts.~~

~~(7) In this section —~~

~~"date of the original balance sheet" (原資產負債表日期) means the date on which the original balance sheet is approved by the board of directors of the company under section 129B(1) of the Ordinance;~~

~~"original balance sheet" (原資產負債表) means the balance sheet that is the subject of revision by a revised balance sheet.~~

~~(8) A reference in subsection (4) to a provision of the Ordinance is to be construed, where the provision has been amended after the date of the original accounts but before the date of revision, as a reference to the provision as in force at the date of the original accounts.~~

~~Section:~~	~~11~~	~~Supplementary provisions for audit report on revised accounts~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) Section 133(1) of the Ordinance applies to a person making an audit report on any revised accounts of a company, as it applies to the auditors of the company, so that a duty towards the auditors imposed on a person by that~~

~~section is also imposed on that person towards the person making an audit report on the revised accounts.~~

~~(2) If a subsidiary or holding company, as mentioned in section 133 of the Ordinance, fails to comply with subsection (1) of that section as having effect under this Part, the subsidiary or holding company, and every officer of it who is in default, commit an offence, and each is liable to a fine at level 3.~~

~~(3) If an auditor of a subsidiary, as mentioned in section 133 of the Ordinance, fails without reasonable excuse to comply with subsection (1)(a) of that section as having effect under this Part, the auditor commits an offence and is liable to a fine at level 3.~~

~~(4) An officer of a company shall not knowingly or recklessly make to a person making an audit report a relevant statement that is misleading, false or deceptive in a material particular.~~

~~(5) If an officer of a company contravenes subsection (4), he commits an offence and is liable —~~

~~(a) on conviction on indictment to imprisonment for 2 years and a fine of $150000; or~~

~~(b) on summary conviction to imprisonment for 6 months and a fine at level 5.~~

~~(6) In this section, "relevant statement" (相關陳述), in relation to a person making an audit report, means an oral or written statement that conveys, or purports to convey, any information or explanation that the person requires, or is entitled to require, as a person making an audit report.~~

~~Section:~~	~~12~~	~~Distribution of revised accounts or directors' reports~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) If the directors of a company cause the accounts of the company to be revised, or make revisions to a directors' report, under section 141E of the Ordinance, the company shall, within 28 days after the date of revision —~~

~~(a) send to every person entitled to be sent a copy of the original accounts or directors' report under section 129G of the Ordinance —~~

~~(i) in the case of a revision of accounts by replacement, a copy of the revised accounts together with a copy of the audit report on those accounts;~~

~~(ii) in the case of a revision of a directors' report by replacement, a copy of the revised directors' report;~~

~~(iii) in the case of a revision of accounts by supplementary note, a copy of the note together with a copy of the audit report on the revised accounts; or~~

~~(iv) in the case of a revision of a directors' report by supplementary note, a copy of the note; and~~

~~(b) send a copy of the revised accounts together with a copy of the audit report on those accounts, or a copy of the revised directors' report, as the case may be, to every other person who, at the date of revision —~~

~~(i) is —~~

~~(A) a member of the company;~~

~~(B) a holder of a debenture of the company; or~~

~~(C) a person entitled to receive notices of general meetings of the company; and~~

~~(ii) is not a person to whom the company shall send a copy of a summary financial report in compliance with section 141CA of the Ordinance.~~

~~(2) Subsection (1)(b) does not require a company not having a share capital to send a copy of any document mentioned in that subsection to a member of the company, or a holder of a debenture of the company, who is not entitled to receive notices of general meetings of the company.~~

~~(3) Subsection (1)(b) does not require a company to send a copy of any document mentioned in that subsection —~~

~~(a) to a member of the company who is not entitled to receive notices of general meetings of the company and of whose address the company is unaware;~~

~~(b) to a holder of a debenture of the company who is not entitled to receive notices of general meetings of the company and of whose address the company is unaware;~~

~~(c) in the case of joint holders of any shares or debentures none of whom are entitled to receive notices of general meetings of the company, to more than one of the joint holders; or~~

~~(d) in the case of joint holders of any shares or debentures some of whom are, and some of whom are not, entitled to receive notices of general meetings of the company, to the joint holders who are not so entitled.~~

~~(3A) For the purposes of section 168BAH(3)(c) of the Ordinance, a notification is to be sent within 28 days after the date of revision concerned. (12 of 2010 s. 37)~~

~~(3B) The period specified for the purposes of section 168BAH(3)(d)(i) of the Ordinance is the period beginning~~

~~on a date falling within 28 days after the date of revision concerned and ending on the date of the following general meeting in which relevant financial documents are required to be laid before the listed company under the Ordinance or in accordance with a direction of the court. (12 of 2010 s. 37)~~

~~(4) If a company fails to comply with subsection (1), the company, and every officer of the company who is in default, commit an offence, and each is liable to a fine at level 3.~~

~~(5) In this section, "summary financial report" (財務摘要報告) includes a revised summary financial report.~~

~~Section:~~	~~13~~	~~Notifying recipients of summary financial reports after revision of accounts~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~(1) This section applies if—~~

~~(a) the directors of a listed company cause the accounts of the listed company to be revised under section 141E of the Ordinance; and~~

~~(b) a copy of the summary financial report concerned is sent to a person in compliance with section 141CA of the Ordinance.~~

~~(2) If the directors have not made revisions to the summary financial report under section 141E of the Ordinance, the listed company shall, within 28 days after the date of revision in relation to the revised accounts, send a note that complies with subsection (3), together with a copy of the audit report on the revised accounts, to—~~

~~(a) every person who was sent a copy of the summary financial report; and~~

~~(b) every person to whom the listed company shall, as at the date of revision in relation to the revised accounts, send a copy of the summary financial report for the current financial year in compliance with section 141CA of the Ordinance.~~

~~(3) The note is to state that the accounts of the listed company for the financial year specified in the note have been revised in a way that has no bearing on the summary financial report for that financial year.~~

~~(4) If the directors have made revisions to the summary financial report under section 141E of the Ordinance, the listed company shall, within 28 days after the date of revision in relation to the revised accounts, send a copy of the revised summary financial report, together with a statement of the revisions made and their effect, to—~~

~~(a) every person who was sent a copy of the summary financial report concerned; and~~

~~(b) every person to whom the listed company shall, as at the date of revision in relation to the revised accounts, send a copy of the summary financial report for the current financial year in compliance with section 141CA of the Ordinance.~~

~~(4A) For the purposes of section 168BAH(3)(c) of the Ordinance, a notification is to be sent within 28 days after the date of revision concerned. (12 of 2010 s. 38)~~

~~(4B) The period specified for the purposes of section 168BAH(3)(d)(i) of the Ordinance is the period beginning on a date falling within 28 days after the date of revision concerned and ending on the date of the following general meeting in which relevant financial documents are required to be laid before the listed company under the Ordinance or in accordance with a direction of the court. (12 of 2010 s. 38)~~

~~(5) If a listed company fails to comply with subsection (2) or (4), the listed company, and every officer of the listed company who is in default, commit an offence, and each is liable to a fine at level 3 and, in the case of a conviction for the offence after continued failure, to a further fine of $300 for each day during which the failure is continued.~~

~~Section:~~	~~14~~	~~(Repealed 12 of 2010 s. 39)~~	~~L.N. 132 of 2010~~	~~10/12/2010~~

~~Section:~~	~~15~~	~~Laying of revised accounts or directors' reports before general meetings~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) If—~~

~~(a) the directors of a company cause the accounts of the company to be revised, or make revisions to a directors' report, under section 141E of the Ordinance; and~~

~~(b) the original accounts or directors' report has been laid before the company at its general meeting under section 122, 124 or 129D of the Ordinance,~~

~~the directors shall lay before the first general meeting of the company held after the date of revision the revised~~

~~accounts together with the audit report on those accounts, or the revised directors' report, as the case may be.~~

~~(2) If, as respects any revised accounts, a director of the company fails to take all reasonable steps to secure compliance with subsection (1), he commits an offence and is liable to imprisonment for 12 months and a fine of $300000.~~

~~(3) If, as respects a revised directors' report, a director of the company fails to take all reasonable steps to secure compliance with subsection (1), he commits an offence and is liable to imprisonment for 6 months and a fine of $150000.~~

~~Section:~~	~~16~~	~~Revised accounts or directors' reports to be forwarded to Registrar~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) This section applies if—~~

~~(a) the directors of a company cause the accounts of the company to be revised, or make revisions to a directors' report, under section 141E of the Ordinance; and~~

~~(b) a copy of the original accounts or directors' report has been forwarded to the Registrar under section 109 of the Ordinance.~~

~~(2) Within 28 days after the date of revision, the company shall—~~

~~(a) forward to the Registrar—~~

~~(i) in the case of a revision of accounts by replacement, a certified copy of the revised accounts together with a certified copy of the audit report on those accounts;~~

~~(ii) in the case of a revision of a directors' report by replacement, a certified copy of the revised directors' report;~~

~~(iii) in the case of a revision of accounts by supplementary note, a certified copy of the note together with a certified copy of the audit report on those accounts; or~~

~~(iv) in the case of a revision of a directors' report by supplementary note, a certified copy of the note; and~~

~~(b) if a document forwarded to the Registrar is not in English or Chinese, annex to the document a certified translation of the document.~~

~~(3) If a company fails to comply with subsection (2), the company, and every officer and shadow director of the company who is in default, commit an offence, and each is liable to a fine at level 5 and, in the case of a conviction for the offence after continued failure, to a further fine of $700 for each day during which the failure is continued.~~

~~(4) In this section, "certified copy" (核證副本), in relation to any accounts, report or note, means a copy, certified by a director or the manager or the secretary of the company to be a true copy of the accounts, report or note.~~

~~Part:~~	~~3~~	~~ACCOUNTS OF OVERSEA COMPANIES REVISED UNDER SECTION 336A OF ORDINANCE~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~Section:~~	~~17~~	~~(Omitted as expired)~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~Remarks:~~

~~This section expired at the end of the day immediately before the day on which Part 4 came into operation. Part 4 came into operation on 14 December 2007.~~

~~Section:~~	~~18~~	~~(Omitted as expired)~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~Remarks:~~

~~This section expired at the end of the day immediately before the day on which Part 4 came into operation. Part 4 came into operation on 14 December 2007.~~

~~Section:~~	~~19~~	~~(Omitted as spent)~~	~~L.N. 24 of 2007;~~	~~14/12/2007~~

			~~L.N. 188 of 2007~~	

~~Part:~~	~~4~~	~~ACCOUNTS OF NON-HONG KONG COMPANIES REVISED UNDER SECTION 336A OF ORDINANCE~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~Section:~~	~~20~~	~~Delivery of revised accounts to Registrar~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~(1) If the directors of a non-Hong Kong company have caused the accounts of the company to be revised under section 336A of the Ordinance, the company shall comply with subsection (2) or (3) within 28 days after whichever is the earlier of the following—~~

~~(a) the revised accounts are published;~~

~~(b) copies of the revised accounts are delivered to a person in whose office the revised accounts may be inspected as of right by members of the public.~~

~~(2) In the case of a revision by replacement, the non-Hong Kong company shall—~~

~~(a) cause to be made in a prominent position in the revised accounts—~~

~~(i) a statement that the revised accounts replace the original accounts for the financial year specified in the statement; and~~

~~(ii) a statement as to—~~

~~(A) the respects in which the original accounts did not, as appears to the directors, comply with the relevant requirements; and~~

~~(B) the material revisions to the accounts that are made under section 336A of the Ordinance; and~~

~~(b) deliver to the Registrar for registration—~~

~~(i) a certified copy of the revised accounts that comply with the relevant requirements; or~~

~~(ii) if the revised accounts are not in English or Chinese, a certified translation of the revised accounts, in English or Chinese, that comply with the relevant requirements.~~

~~(3) In the case of a revision by supplementary note, the non-Hong Kong company shall—~~

~~(a) cause to be made in a prominent position in the supplementary note a statement that the note—~~

~~(i) revises in certain respects the original accounts of the non-Hong Kong company; and~~

~~(ii) is to be treated as forming part of those accounts; and~~

~~(b) deliver to the Registrar for registration—~~

~~(i) a certified copy of the supplementary note that complies with the relevant requirements; or~~

~~(ii) if the supplementary note is not in English or Chinese, a certified translation of the supplementary note, in English or Chinese, that complies with the relevant requirements.~~

~~(4) If a non-Hong Kong company fails to comply with this section, the company, and every officer or agent of the company who authorizes or permits the default, commit an offence, and each is liable to a fine at level 5 and, in the case of a conviction for the offence after continued failure, to a further fine of $700 for each day during which the failure is continued.~~

~~(5) In this section—~~

~~"certified copy" (核證副本), in relation to any revised accounts or supplementary note, means a copy of the accounts or note certified as a true copy of the accounts or note by the appropriate person referred to in paragraph 3(2) of the Companies (Forms) Regulations (Cap 32 sub. leg. B);~~

~~"relevant requirements" (有關規定) has the meaning assigned to it by section 336A(4) of the Ordinance.~~

~~Section:~~	~~21~~	~~Effect of revision after delivery of revised accounts to Registrar~~	~~L.N. 24 of 2007; L.N. 188 of 2007~~	~~14/12/2007~~

~~(1) If a non-Hong Kong company complies with section 20 with respect to any revised accounts, Part XI of the Ordinance has effect with respect to the revised accounts as if the revised accounts were, as from the date of their registration with the Registrar, the accounts of the company in place of the original accounts.~~

~~(2) Without prejudice to the generality of subsection (1), if, as at the date of registration of the revised accounts~~

~~with the Registrar, section 336 of the Ordinance has yet to be complied with, the revised accounts are, as from that date, the accounts of the non-Hong Kong company for the relevant financial year for the purposes of that section.~~

~~Part:~~	~~5~~	~~MISCELLANEOUS~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~Section:~~	~~22~~	~~Defences~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~(1) If a person is charged under section 3(6), 4(5), 7(2) or 15(2) or (3) for failure to take all reasonable steps to secure compliance with the relevant provision, it is a defence to prove that he had reasonable ground to believe, and did believe, that a competent and reliable person—~~

~~(a) was charged with the duty of seeing that provision was complied with; and~~

~~(b) was in a position to discharge that duty.~~

~~(2) In this section, "relevant provision" (有關條文) means a provision of this Regulation or of the Ordinance.~~

~~Section:~~	~~23~~	~~No imprisonment for offence unless committed wilfully~~	~~L.N. 24 of 2007~~	~~20/04/2007~~

~~Unless satisfied that the offence was committed wilfully, a court shall not sentence a person to imprisonment for an offence under section 3(6), 4(5), 7(2) or 15(2) or (3).~~