

Bills Committee on Companies Bill
Committee Stage Amendments to the Companies Bill – Other Miscellaneous

Further to the miscellaneous Committee Stage Amendments (CSAs) proposed in the LegCo Paper No. CB(1)1979/11-12(03) “*Draft miscellaneous Committee Stage Amendments to the Companies Bill proposed by the Administration*”, the table below sets out other miscellaneous CSAs to different Parts of the Companies Bill (CB). In preparing the CSAs, the Administration has taken account of, *inter alia*, the views of Members, deputations and the Legislative Council Legal Adviser. Marked-up copy of the proposed CSAs in numerical order is at **Annex** for reference.

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

Bills Committee: Bills Committee on Companies Bill

CB: Companies Bill

CSA: Committee Stage Amendment

FS: Financial Secretary

LegCo: Legislative Council

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
Part 1 – Preliminary			
1	New Clause 5A Offering shares or debentures to public, etc.	Add a new clause.	<ul style="list-style-type: none"> To restate section 48A of CO, which seeks to clarify the construction of references to offering shares or debentures to the public in CO.
Part 4 – Share Capital			
2	Clause 137 Return of allotment	Amend clause 137(7) to “...即告終絕，而第(1)款在猶如提述一個月是提述該延長的限期的情況下，具有效力。”。	<ul style="list-style-type: none"> This CSA is proposed in response to the LegCo Legal Adviser’s comment to improve clarity of the provision.

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
Part 5 – Transactions in relation to Share Capital			
3	Clause 207 Offence if share capital is reduced in contravention of Division	Amend clause 207(2) to “即使某公司的一名或多於一名董事在為減少該公司的股本而作出償付能力陳述一事上，犯第 202 條所訂的罪行，該公司不會僅因此而就該項股本減少干犯本條所訂的罪行。”	<ul style="list-style-type: none"> The amendment “並不會僅” was considered and agreed by Members at the Bills Committee meeting on 30 April 2012. However, the LegCo Legal Adviser suggested further adding the word “干” between “減少” and “犯本條”. We agree with the LegCo Legal Adviser’s further suggestion and propose some further textual amendment to the clause for clarity.
Part 7 – Debentures			
4	Clause 303 Interpretation	Delete clause 303(2).	<ul style="list-style-type: none"> Clause 303(2) provides for the continuity of register of debenture holders. However, similar provisions for register of directors and register of company secretaries are provided for in Schedule 10. For consistency, clause 303(2) should be moved to Schedule 10.
5	Clause 313 Return of allotment	Amend clause 313(6) to “...即告終絕，而第(1)款在猶如提述一個月是提述該延長的限期的情況下，具有效力。”	<ul style="list-style-type: none"> Please see Item 2 above.
Part 9 – Accounts and Audit			
6	New clause 377A Provisions supplementary to sections 376 and	Amend subclause (2) to “The financial statements of the company for the financial year must comply with sections 366 and 377 as if the company were a public company.”	<ul style="list-style-type: none"> This is a textual amendment proposed in response to the LegCo Legal Adviser’s comments.

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
	377		
7	Clause 378 Notes to financial statements to contain information on directors' emoluments etc.	<p>(I) Add “or benefit provided” in the amended subclause (1)(c).</p> <p>(II) Replace “paid” in the amended subclause (1)(f) with “provided”.</p> <p>(III) Further amend the amended subclause (1A)(a) as: “(a) a reference to a director— (i) in the case of subsection (1)(b), includes a former director; and (ii) in the case of subsection (1)(c) includes a former director and shadow director; (iii) in the case of subsection (1)(d) and (e), includes a shadow director;”</p>	<ul style="list-style-type: none"> • This is a technical amendment proposed for clarity. • This is a technical amendment proposed for clarity. • This is a technical amendment to clarify our intention.
8	New clause 380A Provisions supplementary to section 380	Amend subclause (2) to “The directors’ report for the financial year is required to comply with section 380 as if the company were a public company.”.	<ul style="list-style-type: none"> • This is a textual amendment proposed in response to the LegCo Legal Adviser’s comments.
9	Clause 426 Company must send copies of financial	Amend the newly added subclause (4) to “...(as the case may be) had previously made another demand for the document...”.	<ul style="list-style-type: none"> • This is a textual amendment proposed in response to the LegCo Legal Adviser’s comments.

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
	statements etc. to members and others on demand		
10	Clause 442 Financial Secretary may make regulation regarding disclosures of certain information	Delete “that are specified in the regulations” in the amended clause.	<ul style="list-style-type: none"> • This is a textual amendment proposed in response to the LegCo Legal Adviser’s comments.
Part 19 – Investigations and Enquiries			
11	Clause 833 Financial Secretary may give directions to terminate or suspend investigation	Amend clause 833(2)(b) to “(b) the giving of the directions is approved by the Court.”.	<ul style="list-style-type: none"> • We originally proposed to amend section 833(2) (see LegCo Paper CB(1)1763/11-12(02) “<i>Draft Committee Stage amendments in relation to Part 19 (Investigations and Enquiries) of the Bill proposed by the Administration</i>” as follows: <ul style="list-style-type: none"> (2) If the inspector is appointed under section 829(1), the Financial Secretary must not give directions under subsection (1)(a) unless it appears to the Financial Secretary that— <ul style="list-style-type: none"> (a) <u>it appears to the Financial Secretary that—</u> <ul style="list-style-type: none"> (i) matters have come to light in the course of the investigation which suggest that a criminal offence under the laws of Hong Kong has been committed; and (b) (b) (ii) those matters have been referred to a law enforcement agency; or-

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
			<p><u>(b) the Court by order declares that the company's affairs no longer ought to be investigated.</u></p> <ul style="list-style-type: none"> At the Bills Committee meeting on 7 May 2012, Members agreed that the Court should be empowered to allow FS to terminate the investigation ordered by the Court under clause 829(1) but considered that the proposed wording of the new subclause (b) should be revised to provide flexibility for the Court in exercising its power to terminate the investigation. The revised proposal to change to “(b) the giving of the directions is approved by the Court” should address Members’ concern as the Court may impose conditions as it sees fit in giving approval for FS’ giving of directions.
Part 20 – Miscellaneous			
12	<p>Clause 887</p> <p>Registrar may give notice to suspected offender about not instituting proceedings under certain conditions</p>	<p>Amend clause 887(2)(b) as follows:</p> <p>In the English text:</p> <p>(b) <u>contains—</u></p> <p><u>(i) in the case of an offence mentioned in subsection (5), contains the terms of the notice by reference to that subsection (5) or (6); or</u></p> <p><u>(ii) in the case of an offence mentioned in subsection (6), the terms of the notice by reference to that subsection;</u></p> <p>In the Chinese text:</p> <p>(b) <u>藉提述第(5)或(6)款載有該通知的條款；視乎有關的罪行—</u></p>	<ul style="list-style-type: none"> The proposed CSA to both texts is intended to address the LegCo Legal Adviser’s comment that the original version in both texts was not sufficiently aligned.

Item	Relevant provision in CB	Proposed Committee Stage Amendment	Remarks
		(i) 屬第(5)款所述的罪行；抑或 (ii) 屬第(6)款所述的罪行， 而參照該款載有該通知的條款；	
Part 21 – Consequential Amendments, and Transitional and Saving Provisions			
13	Clause 902 Extended effect of saving provision	Add subclause (3A).	<ul style="list-style-type: none"> The new subclause (3A) provides for a general saving provision for fees payable under section 304 of and the Eighth Schedule to CO. Following this amendment, the reference to section 304 of and the Eighth Schedule to CO in sections 3 and 12 of Schedule 10 of CB will be deleted.
Schedule 8 – Amendments relating to Paperless Holding and Transfer of Shares and Debentures			
14	Section 13 Section 626 amended (Register to be proof in the absence of contrary evidence)	Amend section 13 of Schedule 8 as follows: (1) <u>Section 626—</u> <u>Renumber the section as section 626(1).</u> (2) After section 626(1)— Add “(1A2) Without limiting subsection (1), in the absence of evidence to the contrary, an entry in the register of members recording a person as holding any share is proof of the person’s title to the share.”	<ul style="list-style-type: none"> The CSA to Schedule 8 is proposed in response to another CSA to delete the original subclause 626(2). As a result of the deletion, the new subclause to be added by virtue of section 13 of Schedule 8 can be renumbered as subclause 626(2) instead of subclause 626(1A).

5A. Offering shares or debentures to public, etc.

(1) In this Ordinance, a reference to offering shares or debentures of a company to the public includes offering them to a section of the public, whether selected—

(a) as members or debenture holders of the company;

(b) as clients of the person making the offer; or

(c) in any other manner.

(2) In this Ordinance and in a company's articles, a reference to an invitation to the public to subscribe for shares or debentures of a company includes an invitation to a section of the public, whether selected—

(a) as members or debenture holders of the company;

(b) as clients of the person making the invitation; or

(c) in any other manner.

(3) Neither subsection (1) nor subsection (2) operates to treat a private offer of shares or debentures, or a private invitation to subscribe for shares or debentures, as an offer or invitation made to the public.

(4) In particular—

(a) a provision in a company's articles prohibiting invitations to the public to subscribe for shares or debentures is not to be regarded as prohibiting a private invitation to subscribe for shares or debentures to be made to members or debenture holders; and

(b) the provisions of this Ordinance relating to private companies are to be construed accordingly.

(5) In this section, an offer of shares or debentures, or an invitation to subscribe for shares or debentures, is a private offer or invitation if the offer or invitation can properly be regarded, in all the circumstances, as being—

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- (a) not 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
- (b) a domestic concern of the persons making and receiving the offer or invitation.¹

¹ Item 1 / 第 1 項

137. 配發申報書

- (1) 有限公司須在股份配發後的一個月內，將符合第(2)款的配發申報書交付處長登記。
- (2) 申報書 —
 - (a) 須符合指明格式；
 - (b) 須載有一項以配發的日期的狀況為準的股本說明，該項說明須符合第 196 條；
 - (c) 須述明 —
 - (i) 所配發的股份的數目；
 - (ii) 每名獲配發者的姓名或名稱及地址；及
 - (iii) (如公司的已發行股本因該項配發而增加)增加的款額；
 - (d) 須就在有代價下(不論全部或部分屬金錢代價或非金錢代價)配發的任何股份 —
 - (i) 述明已為或視作已為每一股份繳付的款額，以及(如有的話)尚未為或視作尚未為每一股份繳付的款額；
 - (ii) (如屬全部或部分為非金錢代價而按根據第 13 部第 2 分部作出的安排進行的配發)載有認許該安排的原訟法庭的命令的詳情；及
 - (iii) (如屬在任何其他情況下全部或部分為非金錢代價而進行的配發)載有該等股份配發所關乎的售賣合約的詳情，或為服務或其他代價而訂立的合約的詳情；及
 - (e) 須就入帳列為已繳足股款(不論有否經過資本化)的所配發股份 —

- (i) 述明視作已為每一股份繳付的款額；及
 - (ii) 載有授權進行該項資本化或配發的決議的詳情。
- ~~(3) 如公司的已發行股本因某項配發而增加，則須就登記有關申報書繳付根據第 897 條訂立的規例所訂明的費用。~~
- (4) 如有限公司違反第(1)款，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款\$700。
 - (5) 如有限公司沒有在股份配發後的一個月內，交付符合第(2)款的申報書，原訟法庭可應有關公司或其責任人的申請，將交付該申報書的限期延長一段由原訟法庭決定的期間。
 - (6) 原訟法庭須信納以下事項，方可根據第(5)款延長限期 —
 - (a) 有關公司沒有交付有關申報書，屬意外或無心之失；或
 - (b) 延長限期是公正公平的。
 - (7) 如原訟法庭延長交付申報書的限期，有關公司或其責任人已就第(4)款所指的罪行招致的法律責任，即告終絕，而第(1)款在猶如提述一個月是提述該延長的限期的情況下，²具有效力。

² Item 2 / 第 2 項

207. 如有違反本分部而減少股本屬罪行

- (1) 如公司在違反本分部的情況下減少其股本，該公司及其每名責任人，即屬犯罪 —
 - (a) 一經循公訴程序定罪，可各處罰款\$1,250,000 及監禁 5 年；或
 - (b) 一經循簡易程序定罪，可各處罰款\$150,000 及監禁 12 個月。
- (2) 即使某公司的一名或多於一名董事在為減少該公司的股本而作出有償付能力陳述為減少公司股本而作出，而該公司的一名或多於一名董事就該陳述一事上，犯第 202 條所訂的罪行，該公司並不會僅因此而就該項股本減少王³犯本條所訂的罪行。
- (3) 如按照第 4 分部進行股份贖回或股份回購，因而導致股本減少，或因本條例的其他規定而導致股本減少，則不屬犯本條所訂的罪行。

附註一

例如股本減少，可以是因原訟法庭根據第 13 部作出的命令導致發生的。

303. Interpretation

(1) In this Part—

branch register (登記支冊) means a branch register kept under section 309;

debenture (債權證), in relation to a company—

- (a) includes bonds and any other debt securities of the company, whether or not constituting a charge on the assets of the company; and
- (b) except in sections 304, 308(2)(a), 309 and 328(1)(a) and Divisions 3 and 4, includes debenture stock;

register of debenture holders (債權證持有人登記冊) means a register kept under section 304.

~~(2) For the purposes of this Part, a register of holders of debentures kept under section 74A of the predecessor Ordinance is to be regarded as a register of debenture holders kept under section 304.⁴~~

⁴ Item 4 / 第 4 項

313. 配發申報書

- (1) 公司須在債權證或債權股證配發後的一個月內，將符合第(2)款的配發申報書交付處長登記。
- (2) 申報書 —
 - (a) 須符合指明格式；及
 - (b) 須述明 —
 - (i) 所配發的債權證或債權股證的款額；
 - (ii) 每名獲配發者的姓名或名稱及地址；
 - (iii) 該等債權證或債權股證的配發日期；及
 - (iv) 該等債權證或債權股證的贖回日期。
- (3) 如公司違反第(1)款，該公司及其每名責任人均屬犯罪，可各處第 4 級罰款，如有關罪行是持續的罪行，則可就該罪行持續期間的每一日，另各處罰款\$700。
- (4) 如公司沒有在債權證或債權股證配發後的一個月內，交付符合第(2)款的申報書，原訟法庭可應該公司或其責任人的申請，將交付該申報書的限期延長一段由原訟法庭決定的期間。
- (5) 原訟法庭須信納以下事項，方可根據第(4)款延長限期 —
 - (a) 有關公司沒有交付申報書，屬意外或無心之失；或
 - (b) 延長限期是公正公平的。
- (6) 如原訟法庭延長交付申報書的限期，有關公司或其責任人已就第(3)款所指的罪行招致的法律責任，即告終絕，而第(1)

款在猶如提述一個月是提述該延長的限期的情況下，⁵具有效力。

⁵ Item 5 / 第 5 項

377A. Provisions supplementary to sections 376 and 377

- (1) This section applies if at any time during a financial year of a private company—
- (a) the company registers any transfer of shares in the company in contravention of the restrictions imposed by the company's articles;
 - (b) the membership of the company exceeds the number specified in section 10(1)(a)(ii); or
 - (c) the company makes an invitation to the public to subscribe for any shares or debentures of the company.
- (2) The financial statements of the company for the financial year must comply with sections 366 and 377 as if the company were a public company.⁶
- (3) The Court may, on the application of the company or a person interested in the matter, order that subsection (2) does not apply.
- (4) The Court may make the order on any terms and conditions that the Court thinks just and expedient.
- (5) The Court must not make the order unless the Court is satisfied that—
- (a) the occurrence of the event mentioned in subsection (1)(a), (b) or (c) was accidental;
 - (b) it was due to inadvertence or to some other sufficient cause that the event occurred; or
 - (c) it is just and equitable to grant the relief on other grounds.

⁶ Item 6 / 第 6 項

378. Notes to financial statements to contain information on directors' emoluments etc.

(1) The financial statements for a financial year must contain, in the notes to the statements, the information prescribed by the Regulation for the purposes of this subsection about the following—

- (a) the directors' emoluments;
- (b) the directors' retirement benefits;
- (c) compensation to payments made or benefit provided⁷ in respect of the termination of the service of directors, whether in the capacity of directors or in any other capacity while directors; ~~directors for loss of office;~~
- (d) loans, quasi-loans and other dealings in favour of—
 - (i) ~~directors~~ of the company and of a holding company of the company;
 - (ii) bodies corporate controlled by such directors; and
 - (iii) entities connected with such directors;
- (e) material interests of directors in transactions, arrangements or contracts entered into by the company or another company in the same group of companies;
- (f) consideration provided⁸ to or receivable by third parties for making available the services of a person as director or in any other capacity while director.

(1A) In subsection (1)—

- (a) a reference to a director—

⁷ Item 7(I) / 第 7(I) 項

⁸ Item 7(II) / 第 7(II) 項

- (i) in the case of subsection (1)(b), includes a former director; and
- (ii) in the case of subsection (1)(c) includes a former director and shadow director;
- (iii) in the case of subsection (1)(d) and (e), includes a shadow director;⁹
- (b) a reference to a body corporate controlled by a director has the meaning given by section 482A; and
- (c) a reference to an entity connected with a director has the meaning given by section 477.
- (2) Despite subsection (1)(d), the financial statements for a financial year are not required to contain the information prescribed by the Regulation for the purposes of that subsection about loans, quasi loans and other dealings in favour of directors if the company complies with the requirements prescribed by the Regulation for the purposes of this subsection.
- (3) The notes to any financial statements must also comply with other requirements prescribed by the Regulation.
- (4) A person who is, or has been during the preceding 5 years, a director or shadow director of a company must give notice to the company of any matter that—
- (a) is prescribed by the Regulation;
 - (b) relates to the person; and
 - (c) is necessary for the purposes of subsection (1).
- (5) A person who contravenes subsection (4) commits an offence and is liable to a fine at level 5.

⁹ Item 7(III) / 第 7(III) 項

380A. Provisions supplementary to section 380

- (1) This section applies if at any time during a financial year of a private company—
- (a) the company registers any transfer of shares in the company in contravention of the restrictions imposed by the company's articles;
 - (b) the membership of the company exceeds the number specified in section 10(1)(a)(ii); or
 - (c) the company makes an invitation to the public to subscribe for any shares or debentures of the company.
- (2) The directors' report for the financial year is required to comply with section 380 as if the company were a public company.¹⁰
- (3) The Court may, on the application of the company or a person interested in the matter, order that subsection (2) does not apply.
- (4) The Court may make the order on any terms and conditions that the Court thinks just and expedient.
- (5) The Court must not make the order unless the Court is satisfied that—
- (a) the occurrence of the event mentioned in subsection (1)(a), (b) or (c) was accidental;
 - (b) it was due to inadvertence or to some other sufficient cause that the event occurred; or
 - (c) it is just and equitable to grant the relief on other grounds.

¹⁰ Item 8 / 第 8 項

426. Company must send copies of financial statements etc. to members and others on demand

- (1) Within 7 days after a demand is made by a member or a member's personal representative, a company must send to the member or personal representative—
 - (a) one copy of the latest financial statements;
 - (b) one copy of the latest directors' report; or
 - (c) one copy of the auditor's report on those latest financial statements.
- (2) A copy of a document that a person is entitled to be sent under subsection (1) is in addition to any copy of the document that the person is entitled to be sent under section 421.
- (3) If a company contravenes subsection (1), the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 5 and, in the case of a continuing offence, to a further fine of \$1,000 for each day during which the offence continues.
- (4) If a person is charged with an offence under subsection (3), it is a defence to establish that the member or member's personal representative (as the case may be) had previously made another demand for the document concerned and had been provided with a copy of the document.¹¹

¹¹ Item 9 / 第 9 項

442. Financial Secretary may make regulation regarding disclosures of certain information

~~————(1)——~~The Financial Secretary may make regulations prescribing ~~the following requirements~~ for the purposes of section 378(2)~~—.~~

~~————(a)——~~a requirement that the financial statements for the financial year are to contain a statement showing the ~~particulars of the loans, quasi loans and other dealings in favour of directors information about the matter mentioned in section 378(1)(d) that are specified in the regulations~~¹²;

~~————(b)——~~a requirement that the company is to enter into a register any particulars that would, but for section 378(2), be required by section 378(1)(d) to be contained in the notes to the financial statements for the financial year.

~~(2)——~~The regulations may —

~~————(a)——~~ provide for —

~~————(i)——~~ the maintenance and inspection of such a register;

~~————(ii)——~~ the keeping of particulars in the register; and

~~————(iii)——~~ the supply of a copy of the register by the company to a member of the company; and

~~————(b)——~~ provide that any of the following is an offence —

~~————(i)——~~ a failure to take all reasonable steps to secure compliance with a specified provision of the regulations; or

~~————(ii)——~~ a contravention of a specified provision of the regulations.

~~————(3)——~~ The maximum fine that may be prescribed for an offence is level 4 and the maximum imprisonment is 6 months. In

¹² Item 10 / 第 10 項

~~addition, in the case of a continuing offence, a further fine not exceeding \$700 for each day during which the offence continues may be prescribed.~~

~~(4) The regulations may provide for defences to any such offence.~~

~~(5) The regulations may provide that the Court may order—~~

~~(a) if an offence is committed for a failure to allow inspection of a register, that the register be opened to inspection; or~~

~~(b) if an offence is committed for a failure to provide a copy of a register to a member, that such a copy be sent to the member.~~

833. Financial Secretary may give directions to terminate or suspend investigation

- (1) Without limiting section 831, the Financial Secretary may, at any time before the completion of an investigation, direct the inspector—
- (a) to terminate the investigation; or
 - (b) to suspend the investigation for a period as specified by the Financial Secretary.
- (2) If the inspector is appointed under section 829(1), the Financial Secretary must not give directions under subsection (1)(a) unless ~~it appears to the Financial Secretary that~~—
- (a) it appears to the Financial Secretary that—
 - (i) matters have come to light in the course of the investigation which suggest that a criminal offence under the laws of Hong Kong has been committed; and
 - ~~(b)~~
 - (ii) those matters have been referred to a law enforcement agency; ~~or~~
 - (b) the giving of the directions is approved by the Court.¹³

887. Registrar may give notice to suspected offender about not instituting proceedings under certain conditions

- (1) If the Registrar has reason to believe that a person has committed an offence specified in Schedule 7, the Registrar may give the person a notice in writing that—
 - (a) alleges that the person has committed an offence specified in the Schedule, and contains the particulars of the offence;
 - (b) contains—
 - (i) in the case of an offence mentioned in subsection (5), contains the terms of the notice by reference to that subsection (5) or (6); or
 - (ii) in the case of an offence mentioned in subsection (6), the terms of the notice by reference to that subsection;¹⁴
 - (c) specifies the period and amount for the purposes of that subsection; and
 - (d) contains any other information that the Registrar thinks fit.
- (2) A notice may be given only before the proceedings on the offence commence.
- (3) The Registrar may, by a further notice in writing, extend the period specified under subsection (1)(c). This power is exercisable within, or after the end of, that period.
- (4) A notice under subsection (1) may not be withdrawn within the period specified in the notice or that period as extended under subsection (3).
- (5) Where the offence is an offence constituted by a failure to do an act or thing—

¹⁴ Item 12 / 第 12 項

- (a) no proceedings will be instituted against the person in respect of that offence if, within the period specified in a notice under subsection (1) or that period as extended under subsection (3), the person pays to the Registrar the amount specified in the notice and does the act or thing; or
 - (b) proceedings may be instituted against the person in respect of that offence if, within the period specified in a notice under subsection (1) or that period as extended under subsection (3), the person has not paid to the Registrar the amount specified in the notice or has not done the act or thing.
- (6) Where the offence is not an offence constituted by a failure to do an act or thing—
 - (a) no proceedings will be instituted against the person in respect of that offence if, within the period specified in a notice under subsection (1) or that period as extended under subsection (3), the person pays to the Registrar the amount specified in the notice; or
 - (b) proceedings may be instituted against the person in respect of that offence if, within the period specified in a notice under subsection (1) or that period as extended under subsection (3), the person has not paid to the Registrar the amount specified in the notice.
- (7) The payment of an amount specified in a notice given to a person under subsection (1) is not to be regarded as an admission by the person of any liability for the offence alleged in the notice to have been committed by the person.

887. 處長可向涉嫌違例者發出通知，提出在某些條件下可不起訴

- (1) 處長如有理由相信某人犯了附表 7 指明的罪行，則可向該人發出符合以下說明的書面通知 —
 - (a) 指稱該人犯了附表指明的罪行，並載有該罪行的詳情；
 - (b) 藉提述第(5)或(6)款載有該通知的條款；視乎有關的罪行—
 - (i) 屬第(5)款所述的罪行；抑或
 - (ii) 屬第(6)款所述的罪行，
而參照該款載有該通知的條款；¹⁵
 - (c) 為該款的目的指明限期及款額；及
 - (d) 載有處長認為合適的任何其他資料。
- (2) 上述通知只可在針對有關罪行的法律程序展開之前發出。
- (3) 處長可藉另一書面通知，延展第(1)(c)款指明的限期。此項權力可在該限期內行使，亦可在該限期終結後行使。
- (4) 第(1)款所指的通知，不可在該通知指明的限期或在根據第(3)款延展的限期內被撤回。
- (5) 凡有關罪行屬由沒有作出某作為或事情所構成的罪行 —
 - (a) 如有關的人在第(1)款所指的通知指明的限期或在根據第(3)款延展的限期內，向處長繳付該通知指明的款額並作出該作為或事情，則不會就該罪行而針對該人提起法律程序；或
 - (b) 如有關的人在第(1)款所指的通知指明的限期或在根據第(3)款延展的限期內，沒有向處長繳付該通知指明的

¹⁵ Item 12 / 第 12 項

款額或沒有作出該作為或事情，則可就該罪行而針對該人提起法律程序。

- (6) 凡有關罪行不屬由沒有作出某作為或事情所構成的罪行 —
- (a) 如有關的人在第(1)款所指的通知指明的限期或在根據第(3)款延展的限期內，向處長繳付該通知指明的款額，則不會就該罪行而針對該人提起法律程序；或
 - (b) 如有關的人在第(1)款所指的通知指明的限期或在根據第(3)款延展的限期內，沒有向處長繳付該通知指明的款額，則可就該罪行而針對該人提起法律程序。
- (7) 繳付根據第(1)款向某人發出的通知所指明的款額，不得視為該人承認該人須就該通知指稱該人所犯的罪行負上任何法律責任。

902. Extended effect of saving provision

- (1) This section applies if a provision of the predecessor Ordinance is repealed by section 900 but has a continuing effect under Schedule 10, or by virtue of section 23 of the Interpretation and General Clauses Ordinance (Cap. 1), or both, after the repeal.
- (2) The saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance extends to any other provision of the predecessor Ordinance—
 - (a) that defines an expression used in the provision; or
 - (b) in accordance with which the provision is to be construed.
- (3) The saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance that creates an offence extends to the entry relating to that provision in the Twelfth Schedule to the predecessor Ordinance.
- (3A) The saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance extends to section 304(1) and (2) of, and a Part of the table in the Eighth Schedule to, the predecessor Ordinance if, immediately before the provision was repealed by section 900, a fee specified in that Part was payable to the Registrar in respect of a matter that was required, or authorized, by or under the provision.¹⁶
- (4) Subject to subsections (6) and (8), the saving as mentioned in subsection (1) for the effect of a provision of the predecessor Ordinance that refers to a prescribed or specified form, or refers to a prescribed manner, extends to the form or manner and to the power under which it is prescribed or specified.
- (5) If the provision of the predecessor Ordinance refers to a specified form, the Registrar may—

¹⁶ Item 13 / 第 13 項

- (a) specify another form for the purpose; and
 - (b) determine a date in relation to that other form for the purposes of subsection (6)(b).
- (6) If the Registrar exercises the powers under subsection (5), the effect of the provision of the predecessor Ordinance is to be construed as—
 - (a) also referring to the form specified under subsection (5)(a) before the date determined under subsection (5)(b); and
 - (b) only referring to that form on or after that date.
- (7) If the provision of the predecessor Ordinance requires a person, in relation to a particular purpose of that Ordinance, to state or furnish any matter, particulars or information to the Registrar, but does not require the matter, particulars or information to be stated or furnished in a specified form, the Registrar may—
 - (a) specify a form for the purpose; and
 - (b) determine a date in relation to the form for the purposes of subsection (8).
- (8) If the Registrar exercises the powers under subsection (7), the effect of the provision of the predecessor Ordinance is to be construed as requiring the matter, particulars or information to be stated or furnished in the form specified under subsection (7)(a) on or after the date determined under subsection (7)(b).

Schedule 8

[s. 896]

**Amendments relating to Paperless Holding and
Transfer of Shares and Debentures**

**13. Section 626 amended (Register to be proof in the absence of
contrary evidence)**

(1) Section 626—

Renumber the section as section 626(1).¹⁷

(2) After section 626(1)—

Add

“(A2)¹⁸ Without limiting subsection (1), in the absence of evidence to the contrary, an entry in the register of members recording a person as holding any share is proof of the person’s title to the share.”.

¹⁷ Item 14 / 第 14 項

¹⁸ Item 14 / 第 14 項