

**立法會**  
**Legislative Council**

LC Paper No. CB(3) 463/12-13

Ref. : CB(3)/M/OR

Tel : 3919 3300

Date : 25 March 2013

From : Clerk to the Legislative Council

To : All Members of the Legislative Council

---

**Council meeting of 27 March 2013**

**Two proposed resolutions under the  
Interpretation and General Clauses Ordinance**

The Secretary for Financial Services and the Treasury will move, at the Council meeting of 27 March 2013, two proposed resolutions under section 34(2) of the Interpretation and General Clauses Ordinance (Cap. 1) in relation to the following two items of subsidiary legislation:

- (a) Companies (Directors' Report) Regulation, published in the Gazette as Legal Notice No. 10 of 2013 (**Appendix 1**); and
- (b) Companies (Summary Financial Reports) Regulation, published in the Gazette as Legal Notice No. 11 of 2013 (**Appendix 2**).

The President has directed that they be printed in the terms in which they were handed in on the Agenda of the Council.

2. The speeches, in both Chinese and English, which the Secretary will deliver when moving the two proposed resolutions are in **Appendices 3 and 4** respectively.

(Odelia LEUNG)  
for Clerk to the Legislative Council

Encl.

## Interpretation and General Clauses Ordinance

### Resolution

(Under section 34(2) of the Interpretation and General Clauses Ordinance  
(Cap. 1))

### Companies (Directors' Report) Regulation

**Resolved** that the Companies (Directors' Report) Regulation, published in the Gazette as Legal Notice No. 10 of 2013 and laid on the table of the Legislative Council on 6 February 2013, be amended as set out in the Schedule.

## Schedule

### Amendments to Companies (Directors' Report) Regulation

1. **Section 2 amended (interpretation)**
  - (1) Section 2, English text, definition of *reporting exemption*—  
**Repeal the full stop**  
**Substitute a semicolon.**
  - (2) Section 2—  
**Add in alphabetical order**  
*“parent company* (母公司) means a parent undertaking that is a company;  
*specified undertaking* (指明企業), in relation to a company, means—
    - (a) a parent company of the company;
    - (b) a subsidiary undertaking of the company; or
    - (c) a subsidiary undertaking of the company's parent company.”.
2. **Section 3 amended (directors' interest)**
  - (1) Section 3(1)—  
**Repeal paragraph (a)**  
**Substitute**  
“(a) to which the company or a specified undertaking of the company is a party; and”.
  - (2) Section 3(1)(b), after “shares in”—

**Add**

“, or debentures of,”.

- (3) Section 3(2)—

**Repeal paragraph (a)****Substitute**

“(a) to which the company or a specified undertaking of the company was a party; and”.

- (4) Section 3(2)(b), after “shares in”—

**Add**

“, or debentures of,”.

- (5) Section 3(3)(b), after “shares”—

**Add**

“or debentures”.

- (6) After section 3(3)—

**Add**

“(3A) Subsections (1) and (2) do not apply in respect of a company that falls within the reporting exemption for the financial year.”.

**3. Section 5A added**

After section 5—

**Add****“5A. Debentures issued**

If, in any financial year of a company, the company has issued any debentures, a directors’ report for the financial year must state—

- (a) the reason for making the issue;

- (b) the classes of debentures issued; and

- (c) for each class of debentures, the amount issued and the consideration received by the company for the issue.”.

**4. Section 7 amended (recommended dividend)**

Section 7, Chinese text—

**Repeal**

“述明該”

**Substitute**

“述明”.

**5. Section 8 substituted**

Section 8—

**Repeal the section****Substitute****“8. Reasons for resignation, etc.**

- (1) This section applies if—

- (a) a director of a company has in a financial year resigned from the office or refused to stand for re-election to the office; and

- (b) the company has received a notice in writing from the director specifying that the resignation or refusal is due to reasons relating to the affairs of the company (whether or not other reasons are specified).

- (2) A directors’ report for the financial year must contain a summary of the reasons relating to the affairs of the company.

- (3) This section does not apply in respect of a company that falls within the reporting exemption for the financial year.”

**6. Section 9 amended (permitted indemnity provision)**

- (1) Section 9(1), Chinese text—

**Repeal**

“由該公司訂立或其他人”

**Substitute**

“否由該公司”。

- (2) Section 9(2), Chinese text—

**Repeal**

“由該公司訂立或其他人”

**Substitute**

“否由該公司”。

**7. Section 10 added**

After section 9—

**Add**

**“10. Material interests in transaction, arrangement or contract**

- (1) A directors' report for a financial year of a company must state the particulars of any transaction, arrangement or contract—
- (a) entered into by a specified undertaking of the company; and
  - (b) in which a person who at any time in the financial year of the company was a director of the company had, directly or indirectly, a material interest.

- (2) The particulars referred to in subsection (1) are—
- (a) the principal terms of the transaction, arrangement or contract;
  - (b) the fact that the transaction, arrangement or contract was entered into or subsisted in the financial year;
  - (c) the names of the parties to the transaction, arrangement or contract;
  - (d) the name of the director having the material interest and the nature of that interest; and
  - (e) (if the director is treated as having the material interest by virtue of subsection (3)) the name of the director's connected entity and the nature of the connection.
- (3) For the purposes of this section, a director of a public company is treated as having a material interest in a transaction, arrangement or contract entered into by a specified undertaking of the company if a connected entity of that director has a material interest in that transaction, arrangement or contract.
- (4) In this section, a reference to a transaction, arrangement or contract is a reference to a transaction, arrangement or contract that is significant in relation to the company's business.
- (5) For the purposes of subsection (4), a transaction, arrangement or contract is not significant in relation to the company's business if, after consideration, the directors of the company are of the opinion that it is not significant in relation to the company's business.
- (6) For the purposes of this section, an interest that a director of a company has in a transaction, arrangement

or contract is not material if, after consideration, the directors of the company are of the opinion that it is not material.

- (7) This section does not apply in respect of—
- (a) a company that falls within the reporting exemption for the financial year;
  - (b) a transaction, arrangement or contract unless it was entered into in the financial year or subsisted at any time in that year;
  - (c) a transaction, arrangement or contract between the company and its specified undertaking in which a director of the company has a material interest; or
  - (d) a director's contract of service.
- (8) In this section—
- (a) a reference to a director includes a shadow director; and
  - (b) a reference to a connected entity, in relation to a director, is a reference to an entity connected with the director within the meaning of section 486 of the Ordinance.”.

## Interpretation and General Clauses Ordinance

### Resolution

(Under section 34(2) of the Interpretation and General Clauses Ordinance  
(Cap. 1))

### Companies (Summary Financial Reports) Regulation

**Resolved** that the Companies (Summary Financial Reports) Regulation, published in the Gazette as Legal Notice No. 11 of 2013 and laid on the table of the Legislative Council on 6 February 2013, be amended as set out in the Schedule.

## Schedule

### Amendments to Companies (Summary Financial Reports) Regulation

1. **Section 3 amended (form and contents of summary financial report: general)**
  - (1) Section 3(3)(d), Chinese text—  
**Repeal**  
everything after “表)該”  
**Substitute**  
“獨立綜合收益表所包含的一切資料及詳情；及”。
  - (2) Section 3(3)(e)(ii)—  
**Repeal**  
“in relation to a director’s material interests in a transaction, arrangement or contract”。
2. **Section 4 amended (form and contents of summary financial report: auditor’s report and opinion)**  
Section 4(5)(a), Chinese text—  
**Repeal**  
“互相抵觸”  
**Substitute**  
“相符”。
3. **Section 5 amended (form and contents of summary financial report: other matters)**  
Section 5—

**Repeal subsections (1) and (2).**

( *English translation* )

**Meeting of the Legislative Council on 27 March 2013  
Resolution under the Interpretation and General Clauses Ordinance**

**Amendment to the Companies (Directors' Report) Regulation  
(L.N. 10 of 2013)**

***Speech by the Secretary for Financial Services and the Treasury***

President,

I move that the first motion under my name, as printed on the Agenda, be passed to amend the Companies (Directors' Report) Regulation. The Regulation was laid before this Council on 6 February 2013.

The Companies (Directors' Report) Regulation was made pursuant to section 452(3) of the new Companies Ordinance ("CO") to prescribe the matters to be contained in a directors' report. This Regulation basically restates the requirements under section 129D of the existing CO (Cap.32). In the course of scrutiny of this Regulation, the relevant sub-committee of the Legislative Council has offered some views on the specific provisions. We have given careful considerations and accordingly proposed the amendments as set out in the motion. I will now briefly introduce these amendments.

First, the existing CO requires a company to disclose in its directors' report the information of any arrangement for a director to acquire benefits by way of acquisition of debentures, as well as the particulars of debentures issued by the company. It was originally proposed not to restate such disclosure requirements concerning debentures under this Regulation as they were considered unnecessary given that debentures are just one of the many ways for raising fund from the perspective of a company. However, in light of views from the sub-committee that the disclosure of such information would help enhancing corporate transparency, we agree to amend section 3 and add section 5A to the Regulation so as to implement the sub-committee's suggestion on this front.

On the other hand, in order to enhance the transparency of the



internal management of a company so as to promote better corporate governance, this Regulation introduces a new requirement on the contents of a directors' report. Specifically, in the case of resignation of a director of the company on grounds of disagreement with the board of directors, if that director has given the reasons of disagreement, the company will be obliged to provide a summary of such reasons in the directors' report. Members supported the proposal in principle but were of the view that the requirement should apply to a wider scope of circumstances. They also suggested several refinements to the disclosure regime. In this regard, we adopted Members' suggestion to amend section 8 such that it will no longer limit the reasons of resignation subject to disclosure to those about disagreement with the board. Instead, it will be stipulated that a company shall provide a summary of reasons of resignation whenever such reasons are given in writing and are in relation to the affairs of the company.

Apart from the two issues mentioned above, we have also proposed a number of technical amendments for the sub-committee's consideration. Among them, our original proposal was to require a company to disclose, in the notes to financial statements, the information about material interests of directors in all transactions, arrangements and contracts. However, taking into account the views from the accounting sector from the operational angle, we propose to reinstate the existing arrangement insofar as transactions, arrangements and contracts other than those entered into by the reporting company are concerned. This means that a company will be required to disclose such information in the directors' report, rather than in the notes to financial statements. In addition, we have made some technical changes to the Chinese text of the Regulation to better align with the English text and the principal ordinance.

President, the sub-committee has scrutinised and discussed all the amendments to the Companies (Directors' Report) Regulation as set out in this motion, and has expressed support for them. Lastly, I wish to highlight that the subsidiary legislation made under the new CO, which provides for various relevant administrative, technical and procedural matters, forms part of our new company law that serves as a modernised legal framework for the incorporation and operation of companies in Hong Kong. The objectives of such a new framework are to enhance corporate governance, improve regulation, facilitate business and modernise the law with a view to strengthening Hong Kong's competitiveness as a corporate domicile and enhancing its status as a major international business and financial centre. The sub-committee

has a heavy workload in scrutinising more than ten pieces of subsidiary legislation, but their work is significant and meaningful to our economic development. In this regard, may I express my heartfelt thanks to the Chairman, Hon. Wong Ting-kwong and other members of the sub-committee. I look forward to collaborating further with the sub-committee to complete the scrutiny of remaining pieces of subsidiary legislation, with a view to bringing the new CO into operation in the first quarter of 2014.

I hope Members would support the passage of the motion. I so submit. Thank you, President.

\* \* \* \*

( *English translation* )

**Meeting of the Legislative Council on 27 March 2013**  
**Resolution under the Interpretation and General Clauses Ordinance**

**Amendments to the Companies (Summary Financial Reports)**  
**Regulation (L.N. 11 of 2013)**

***Speech by the Secretary for Financial Services and the Treasury***

President,

I move that the second motion under my name, as printed on the Agenda, be passed to amend the Companies (Summary Financial Reports) Regulation. The Regulation was laid before this Council on 6 February 2013.

Apart from the Companies (Directors' Report) Regulation, we also need to amend another piece of subsidiary legislation made under the new Companies Ordinance ("CO"), namely the Companies (Summary Financial Reports) Regulation. In gist, under sections 129D, 161, 161A and 161B of the existing CO, a company is required to provide various pieces of information about benefits to directors in its reporting documents. These include payments by a company in respect of directors' services, loans and other transactions in favour of directors, as well as material interests of directors in contracts. The Companies (Summary Financial Reports of Listed Companies) Regulation (Cap.32M) further stipulates that if a company prepares a summary financial report, such information should also be reproduced in that summary report.

Under the new CO, if a company prepares a summary financial report in accordance with the Companies (Summary Financial Reports) Regulation, that report should also reproduce the various pieces of information about benefits to directors mentioned above. During scrutiny of the Regulation by the sub-committee, we have put forward our proposal to amend sections 3 and 5 so as to more accurately reflect the aforesaid requirement. In addition, we have also proposed technical amendments to two provisions in the Chinese text to better align with the English text.

President, the sub-committee has scrutinised and discussed all the amendments to the Companies (Summary Financial Reports) Regulation as set out in this motion, and has expressed support for them. I hope Members would support the passage of the motion.

I so submit. Thank you, President.

\* \* \* \*