

L.N. 78 of 2013

Company Records (Inspection and Provision of Copies) Regulation

Contents

Section	Page
Part 1	
Preliminary	
1. Commencement	B2515
2. Interpretation	B2515
Part 2	
Place for Keeping Company Records etc.	
3. Prescribed place for keeping company records etc.	B2519
Part 3	
Inspection of Company Records	
4. Interpretation of Part 3	B2521
5. Prescribed manner for making request for inspection	B2521
6. Prescribed inspection fee	B2521
7. Making company records available for inspection	B2523
8. Making copy of company records during inspection	B2525
9. Order of Court relating to inspection of company records	B2525

Section

Page

Part 4

Provision of Copy of Company Records by Company

10.	Interpretation of Part 4	B2529
11.	Provision of copy of company records	B2529
12.	Prescribed fees for provision of copy of company records	B2531
13.	Order of Court relating to provision of copy of company records	B2533

Company Records (Inspection and Provision of Copies) Regulation

(Made by the Financial Secretary under sections 356 and 657 of the
Companies Ordinance (28 of 2012))

Part 1

Preliminary

1. Commencement

This Regulation comes into operation on the day on which section 356 of the Companies Ordinance (28 of 2012) comes into operation.

2. Interpretation

In this Regulation—

company records (公司紀錄)—

(a) in Parts 2 and 3—

(i) in relation to a company, means company records as defined by section 654 of the Ordinance; or

(ii) in relation to a registered non-Hong Kong company, means a copy of an instrument kept by the company under section 351(2) of the Ordinance or a register of charges kept by the company under section 353(1) of the Ordinance; and

(b) in Part 4, means—

(i) company records as defined by section 654 of the Ordinance; or

Company Records (Inspection and Provision of Copies) Regulation

Part 1
Section 2

L.N. 78 of 2013
B2517

- (ii) a trust deed as defined by section 657(6) of the Ordinance.
-

Part 2

Place for Keeping Company Records etc.

3. Prescribed place for keeping company records etc.

- (1) For the purposes of a relevant provision, the place prescribed for keeping company records or making company records available for inspection is a place in Hong Kong.
- (2) In this section—

relevant provision (相關條文) means a provision of the Ordinance which provides that the company records mentioned in that provision may be kept or made available for inspection at a place prescribed by regulations made under section 356 or 657 of the Ordinance.

Part 3

Inspection of Company Records

4. Interpretation of Part 3

In this Part—

company (公司) includes a registered non-Hong Kong company;
relevant provision (相關條文) means a provision of the Ordinance which provides that a person is entitled, on request made in the prescribed manner and on payment of a prescribed fee or without charge, to inspect the company records mentioned in that provision in accordance with regulations made under section 356 or 657 of the Ordinance.

5. Prescribed manner for making request for inspection

For the purposes of a relevant provision, a request for inspection of any company records of a company is to be made, either orally or in writing, to the company by identifying the records by reference to—

- (a) the type of the records; and
- (b) the date on which the records were made or the period covered by the records.

6. Prescribed inspection fee

For the purposes of a relevant provision, the fee prescribed for an inspection of company records is \$50.

Note—

Please also see sections 356(5)(b) and 657(5)(b) of the Ordinance which provide that nothing in any provision of the Ordinance or in the regulations made under section 356 or 657 of the Ordinance is to be construed as preventing a company from charging a lesser fee than that prescribed or none at all.

7. Making company records available for inspection

- (1) A company must make its company records available for inspection, by any person entitled to inspect those records under a relevant provision, during business hours (subject to any reasonable restrictions imposed by the company by resolution, as long as at least 2 hours per day are allowed for inspection).
- (2) Subsection (1) does not apply in relation to—
 - (a) (for inspection of a register of debenture holders) any part of the register that is closed under section 311 of the Ordinance;
 - (b) (for inspection of a register of members) any part of the register that is closed under section 632 of the Ordinance; and
 - (c) (for inspection of an index of members' names) any part of the index that is compiled by reference to a part of the register of members that is closed under section 632 of the Ordinance.
- (3) If subsection (1) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

(4) In this section—

index of members' names (成員的姓名或名稱索引) means an index of the names of the members of a company kept under section 630 of the Ordinance;

register of debenture holders (債權證持有人登記冊) means a register of debenture holders as defined by section 307 of the Ordinance;

register of members (成員登記冊) means a register of members kept under section 627 of the Ordinance.

8. Making copy of company records during inspection

- (1) If a company makes its company records available under section 7 for a person's inspection, the company must permit the person to make a copy of the whole or any part of those records in the course of inspection.
- (2) The company is not required to assist the person to make any copy of company records.
- (3) If subsection (1) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

9. Order of Court relating to inspection of company records

- (1) If in relation to a person entitled to inspect any company records of a company under a relevant provision, section 7(1) is contravened, the Court may, on application by the person—
 - (a) make an order to compel the company to permit an immediate inspection by the person of the company records concerned; and
 - (b) make an order as to the time, duration and manner of inspection.
- (2) If in relation to a person inspecting any company records of a company, section 8(1) is contravened, the Court may, on application by the person—
 - (a) make an order to compel the company to permit the person to make a copy of the whole or any part of the company records concerned in the course of inspection; and
 - (b) make an order as to the time, duration and manner of inspection, including the circumstances in which and the extent to which the copying of information is permitted in the course of inspection.

- (3) If the company records of a company are kept at the office of a person other than the company, and because of any default of that other person, section 7(1) or 8(1) is contravened, then the power of the Court under subsection (1) or (2) extends to the making of an order against that other person and that other person's officers and other employees.
-

Part 4

Provision of Copy of Company Records by Company

10. Interpretation of Part 4

In this Part—

relevant provision (相關條文) means a provision of the Ordinance which provides that a person is entitled, on request and on payment of a prescribed fee, to be provided with a copy of the company records mentioned in that provision in accordance with regulations made under section 657 of the Ordinance.

11. Provision of copy of company records

- (1) If by making a request and paying the fee prescribed in section 12, a person is entitled under a relevant provision to be provided with a copy of the whole or any part of any company records of a company, the company must, within 5 business days after the date of receipt of the request or payment (whichever is the later), provide the copy to the person.
- (2) For the purposes of subsection (1)—
 - (a) if the person requests the copy to be in hard copy form, the company must provide the copy in hard copy form; and
 - (b) if the person requests the copy to be in electronic form, the company must provide the copy in any electronic form that the company thinks fit.
- (3) Subsections (1) and (2) do not require a company to provide a copy in electronic form if it keeps the company records concerned in hard copy form only.

(4) If subsection (1) is contravened, the company, and every responsible person of the company, commit an offence, and each is liable to a fine at level 4.

(5) In this section—

business day (辦公日) 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);

in electronic form (電子形式) has the meaning given by section 655(7) of the Ordinance;

in hard copy form (印本形式) has the meaning given by section 655(7) of the Ordinance.

12. Prescribed fees for provision of copy of company records

(1) For the purposes of a relevant provision, the fee prescribed for a copy of company records that is a register is the aggregate of the following—

- (a) the amount calculated by reference to the number of entries in the register that are requested to be copied, and the rate is—
 - (i) for the first 2 000 of the entries, \$5 for each 10 entries (or any part of those 10 entries); and
 - (ii) for the remainder of the entries, \$1 for each 100 entries (or any part of those 100 entries); and

(b) any reasonable costs to be incurred by the company in delivering the copy to the person requesting it.

(2) For the purposes of a relevant provision, the fee prescribed for a copy of company records that is not a register is the aggregate of the following—

- (a) \$5 for each page (or a portion of a page) of the company records requested to be copied; and

- (b) any reasonable costs to be incurred by the company in delivering the copy to the person requesting it.

Note—

Please also see section 657(5)(b) of the Ordinance which provides that nothing in any provision of the Ordinance or in the regulations made under section 657 of the Ordinance is to be construed as preventing a company from charging a lesser fee than that prescribed or none at all.

13. Order of Court relating to provision of copy of company records

- (1) If in relation to a person entitled to be provided with a copy of any company records of a company under a relevant provision, section 11(1) is contravened, the Court may, on application by the person, make an order to compel the company to provide the person with a copy of the company records concerned in any form that the Court thinks fit.
- (2) If the company records of a company are kept at the office of a person other than the company, and because of any default of that other person, section 11(1) is contravened, then the power of the Court under subsection (1) extends to the making of an order against that other person and that other person's officers and other employees.

John TSANG
Financial Secretary

16 May 2013

Explanatory Note

The main objectives of this Regulation are to—

- (a) prescribe the place for companies or registered non-Hong Kong companies to keep company records or make company records available for inspection under the Companies Ordinance (28 of 2012) (*the Ordinance*);
 - (b) provide for the obligation of companies and registered non-Hong Kong companies to make company records available for inspection;
 - (c) provide for the obligation of companies to provide copies of company records or trust deeds or any other documents securing the issue of debentures; and
 - (d) prescribe the fees payable for an inspection or a copy of company records.
2. Part 1 provides for commencement of the Regulation and contains a definition that is necessary for the interpretation of the Regulation.
 3. Part 2 prescribes the place where a company or registered non-Hong Kong company may keep their company records or make their company records available for inspection under the Ordinance.
 4. Part 3 provides for the inspection of company records. Section 5 prescribes the manner in which a request for inspection of company records under the Ordinance is to be made. Section 6 prescribes the fee payable for making an inspection of company records. Section 7 provides for the obligation of companies and registered non-Hong Kong companies to make their company records available for inspection during business hours. Under section 8, companies and registered non-Hong Kong companies are obliged to permit a copy of company records to be made in the course of inspection. Section 9 empowers the Court of First Instance to make certain orders relating to the inspection of company records.

5. Part 4 provides for the obligation of companies to provide copies of company records or trust deeds or any other documents securing the issue of debentures (section 11). Section 11 also states the period within which, and the form in which, such copies are to be provided. Section 12 prescribes the fees payable for a copy of company records. Section 13 empowers the Court of First Instance to make certain orders relating to the provision of a copy of company records.