

**Public Limited Companies Act, B.E. 2535 (1992)**

**Translation**

BHUMIBHOL ADULYADEJ, REX.

Given on the 29<sup>th</sup> Day of March B.E. 2535;

Being the 47<sup>th</sup> Year of the Present Reign

His Majesty King Bhumibhol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on public limited companies,

Be it, therefore, enacted by the King, by and with the advice and consent of the National Legislative Assembly acting as the National Assembly, as follows:

**Section 1**

This Act is called the "Public Limited Companies Act, B.E. 2535 (1992)".

**Section 2**

This Act shall come into force after sixty days from the date of its publication in the Government Gazette.

**Section 3**

The Public Limited Companies Act, B.E. 2521 (1978) shall be repealed.

**CHAPTER I**

**General Provisions**

**Section 4**

In this Act:

"company" means a public limited company established under this Act;

"private company" means a limited company established under the Civil and Commercial Code;

"board of directors" means the board of directors of a public limited company;

"chairman of the board" means the chairman of the board of directors of a public limited company;

"director" means a director of a public limited company;

"Registrar" means the Director-General of the Commercial Registration Department including the person entrusted by the Director-General of the Commercial Registration Department;

"competent official" means the person appointed by the Minister for the execution of this Act;

"Minister" means the Minister having charge and control of the execution of this Act.

**Section 5**

In the case where this Act prescribes that any person shall submit documents or report particulars within the prescribed period, if such person is unable to comply with the prescribed period for reasons of necessity and has applied for an extension or postponement of the period by describing reasons of necessity. The Registrar may extend or postpone such period, as he or she deems appropriate according to the necessity of the case.

## **Section 6**

In the case where this Act prescribes that any person have a duty to or may inform, warn, advertise or publish any statements relating to the information of any company for other persons or the public through a newspaper, such person shall have the statements published in a daily Thai language newspaper printed for distribution in the locality in which the head office of the said company is located for the period of not less than three consecutive days.

In the case where there is no such newspaper described in paragraph one, the said person shall have the statements published in a daily Thai language newspaper printed for distribution in the Bangkok Metropolis instead.

## **Section 7**

In the case where this Act prescribes that any person have a duty to send an order, warning, written notice, or any other document to other persons, the said person or such person's representative may directly deliver to the recipient or the recipient's representative or may send it by registered mail to the recipient at the address of the recipient given to the sender, or if no address has been given, it may be sent to the domicile of the recipient.

In the case where these are sent by registered mail, it shall be deemed that such order, warning, written notice, or document reaches the recipient at the time it should reach a recipient in the normal course of mailing unless proven otherwise.

## **Section 8**

Shareholders or the company may not take any benefits from any third persons based upon any statements or particulars which shall be registered under this Act, until the Registrar properly registers the statements or particulars. However, the shareholders or the company who have received payment of debts prior to registration need not return the property received in such payment of debts.

## **Section 9**

Among the shareholders or between the shareholders and the company, it shall be presumed that all the account books and documents of the company or of the liquidator are correct and accurate in all respects to the recorded details.

## **Section 10**

Any person who has paid the prescribed fee shall be entitled to inspect or to copy the contents of the register or the documents kept by the Registrar or to request the Registrar to make copies or photocopies of any documents together with a certification by the Registrar that they are correct or to request the Registrar to issue a certificate of any registered particulars.

## **Section 11**

The company shall do as follows:

- (1) use the name beginning with the term "Company" and ending with the term "Limited (Public)" or beginning with the abbreviation "PLC." instead of the term "Company" and "Limited (Public)" in Thai characters. In the case where a foreign language is used for the company name, words meaning "public limited company" as prescribed in the Ministerial Regulations may be used instead;
- (2) show the name, location of the office and registration number of the company on its letterhead, announcements, notifications, invoices, and receipts;
- (3) show the name of the company in its seal (if any);
- (4) have a name plate of the company placed in front of its head office and branch offices (if any), and have the said name plate removed when such places are not used as the head office or branch offices or when the dissolution of the company or its branches has been registered.

A company undertaking a type of business as prescribed in the Ministerial Regulations shall be exempt from compliance with (1).

The fixing or the removal of the name plate in (4) shall be made within fourteen days as from the date of registration of the company, or of the date such place is no longer used as the head office or a branch office, or of the date of registration of the dissolution of the company or of a branch, as the case may be.

### **Section 12**

No company shall become a partner in any ordinary partnership or a partner with unlimited liability in any limited partnership.

Any agreement made in violation of paragraph one shall be void.

### **Section 13**

If the Registrar is of the opinion that the name of any company which has applied for registration, regardless of whether it is in Thai or in a foreign language, is the same as or similar to the name of a company or a private company which has been previously submitted or registered, the Registrar shall reject such application and notify the applicant thereof.

### **Section 14**

The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint competent officials, prescribe forms and issue Ministerial Regulations on the following matters:

- (1) prescription of rules and procedures relating to the application for registration and the acceptance of registration under this Act;
- (2) prescription of the rates of fees not exceeding the rates attached hereto;
- (3) granting exemption from fees;
- (4) prescription of any other activity for enforcement under this Act.

Such Ministerial Regulations shall come into force upon their publication in the Government Gazette.

## **CHAPTER II**

### **Formation of a Company**

### **Section 15**

A public limited company is a company established for the purpose of offering shares for sale to the public and the shareholders shall have the liability limited up to the amount to be paid on shares. The said purpose shall be indicated in the memorandum of association of the company.

### **Section 16**

Fifteen or more natural persons may form a company by preparing a memorandum of association of the company and otherwise complying with this Act.

### **Section 17**

The promoters shall:

- (1) be *sui juris*;
- (2) have a place of residence in the Kingdom of not less than half of their total number;
- (3) subscribe for shares which shall be paid up in money and the total number of which shall be not less than five percent of the registered capital;

- (4) not be incompetent or quasi-incompetent persons or not be or have been bankrupts and;
- (5) not have been imprisoned by a final judgment to a term of imprisonment for an offense against property with dishonest intent.

### **Section 18**

The memorandum must contain at least the following particulars:

- (1) the name of the company under Section 11 (1);
- (2) the purpose of the company in offering shares for sale to the public;
- (3) the objects of the company, including a clear statement of the categories of business;
- (4) the registered capital, including the type, number and value of shares;
- (5) the location of the head office indicating the locality in the Kingdom in which it will be located;
- (6) the names, dates of birth, nationalities and addresses of the promoters, and the number of shares subscribed by each promoter.

The name of the company shall not be under any of the prohibitions as prescribed in the Ministerial Regulations.

### **Section 19**

The memorandum shall be signed by all the promoters and shall be applied for registration to the Registrar.

Any amendment of the memorandum of which has already been registered by the Registrar prior to the registration of the company may be made only with the consent of all the promoters and shall be applied for registration of the amendment to the Registrar. However, that shall be done prior to the offer for sale of shares to the public or to any person.

### **Section 20**

In the case where a promoter dies or withdraws prior to the completion of the statutory meeting, and the remaining promoters propose to proceed further, they shall:

- (1) replace the promoter within one month as from the date of the death or withdrawal of the promoter, unless the remaining promoters, not less than the number prescribed in Section 16, agree not to replace the promoter;
- (2) notify the subscribers in writing within fourteen days as from the date of replacement or of the date the remaining promoters agree not to replace the promoter;
- (3) apply to register the amendment of particulars relating to the number of and the names of the persons who are the promoters stated in the memorandum within three months as from the date of the death or withdrawal of the promoter.

The withdrawal from being a promoter of the company shall receive the consent of all the promoters.

In the case where the remaining promoters do not want to proceed further or do not comply with (1) or (3), the memorandum which has already been registered by the Registrar shall become ineffective as from the date of the death or withdrawal of the said promoter or on the date of expiration of the period prescribed in (1) or (3), as the case may be, and the promoters shall notify the Registrar and the subscribers within fourteen days as from the date on which the memorandum becomes ineffective.

### **Section 21**

In the case where any promoter dies or withdraws, the subscribers may withdraw their subscription by sending a written notice to the promoters within seven days as from the date of receipt of the notification under Section 20 (2).

## **Section 22**

In the case where a subscriber dies, his or her heir may withdraw the application for subscription by sending a written notice to the promoters within fourteen days as from the date of the subscriber's death, unless payment on shares has already been made in full at the time of subscription or the promoters have already issued a written notice calling for the statutory meeting.

## **Section 23**

Subject to Section 24, after the Registrar registers the memorandum of the company, the promoters may offer shares for sale to the public or to any person.

### **CHAPTER III**

#### **Offer of Shares for Sale to the Public**

## **Section 24**

The offer of shares for sale to the public or to any person shall be in accordance with the law on securities and stock exchange.

## **Section 25**

The promoters or the company shall submit to the Registrar a copy of the documents relating to the offer of shares for sale to the public which shall be prepared and submitted to authorities under the law on securities and stock exchange, within fifteen days as from the date of submission to such authorities in accordance with the rules, procedures and conditions prescribed by the Registrar.

### **CHAPTER IV**

#### **Statutory Meeting and Registration of a Company**

## **Section 26**

Unless otherwise prescribed, the promoters shall not dispose of the property received as payment on subscription for shares of the company or expend the money received from such payment for any purpose.

## **Section 27**

The promoters shall call the statutory meeting of the company when the subscription of shares reaches the number specified in the prospectus or a public offering document which shall not be less than fifty percent of the number of shares specified in the memorandum. The notice of such meeting shall be given within two months as from the date on which the subscription for shares reaches the specified number but shall not be later than six months from the date on which the Registrar registers the memorandum.

In the necessary case where it is impossible to call the statutory meeting within the period prescribed under paragraph one, if the promoters wish to proceed further, they shall apply in writing for an extension of the period, describing the reasons to the Registrar not less than seven days prior to the expiration of such period. In the case where the Registrar deems appropriate, he or she may permit an extension of not less than one month but not more than three months from the expiration of the prescribed period.

If the statutory meeting cannot be completed within the period prescribed under this Section, the memorandum shall be ineffective after such prescribed period has elapsed and within fourteen days as from the date of ineffectiveness of the memorandum, the promoters shall return the payment on subscription for shares to the subscribers.

## **Section 28**

In calling for the statutory meeting, the promoters shall:

- (1) send the notice calling for the meeting to the subscribers to whom shares have already been allotted, not less than fourteen days prior to the date of the meeting, together with the following documents:
  - (a) the agenda of the meeting;
  - (b) documents relating to the matters to be ratified or approved by the statutory meeting which shall be certified as accurate by two promoters;
  - (c) the draft articles of association of the company;
- (2) prepare a list of subscribers indicating names, nationalities, addresses and the number of subscribed shares which has been accepted by the promoters, for examination by the subscribers on the date of the statutory meeting, at the place of the statutory meeting.

After sending the notice calling for the meeting and the abovementioned documents to the subscribers, the promoters shall send a copy of the said notice of meeting and the said documents to the Registrar not less than seven days prior to the date of the meeting.

## **Section 29**

In sending the notice calling for the meeting by registered mail, if there is a failure of not more than five percent of the number of shares allotted to subscribers and of not more than five percent of the number of subscribers to whom shares have been allotted, and the notice calling for the meeting has been published in a newspaper for not less than three days prior to the date of the meeting, it shall be deemed that the notice of meeting has been duly served.

## **Section 30**

The articles of association of the company shall not contradict the memorandum of association, the provisions of this Act and shall specify at least the following matters:

- (1) the issuance and the transfer of shares;
- (2) meeting of shareholders;
- (3) the number, method of election, term of office, vacation from office prior to the expiration of term, meetings, and powers of directors;
- (4) accounting, finance and audit procedures;
- (5) the issuance of preference shares (if any);
- (6) the conversion of preference shares into ordinary shares (if any).

## **Section 31**

Subject to Section 19 paragraph two, the company may amend the memorandum or the articles of association of the company only when a resolution therefore has been passed at the meeting of shareholders by not less than three-fourths of the total number of votes of shareholders attending the meeting and having the right to vote.

For amending the memorandum of association or the articles of association of the company, the company shall apply to register the amendment within fourteen days as from the date on which the resolution was passed at the meeting.

## **Section 32**

The statutory meeting shall be held in the locality where the head office of the company will be located or in a nearby *Changwat* and subscribers holding shares totaling not less than one half of the number of subscribed shares attending the meeting, shall constitute a quorum.

In the case where the subscribers attending the meeting do not constitute a quorum under paragraph one, the promoters shall send a written notice calling for another meeting to the subscribers within fourteen days as from the date of the first meeting but not less than seven days prior to the date of the other meeting.

### **Section 33**

Subscribers to whom shares have already been allotted by the promoters shall be entitled to attend and vote at the statutory meeting.

Any subscriber who has a vested interest in any matter shall not be entitled to vote on such matter, except for voting on the election of directors.

The resolution of the statutory meeting shall be by majority of votes of the subscribers attending the meeting and entitled to vote. In the case of an equality of votes, the person presiding over of the meeting shall have an additional vote as a casting vote.

In voting, the subscribers shall have votes equal to the number of subscribed shares. One share is entitled to one vote.

Voting shall be made openly, unless at least five subscribers request a secret vote and the meeting resolves accordingly. The method for the secret vote shall be stipulated by the chairman of the meeting.

### **Section 34**

In a meeting of subscribers, a subscriber may appoint any other person who is *sui juris* as proxy to attend the meeting and vote on his or her behalf. The appointment shall be made in writing and signed by the principal, and it shall be submitted to the person designated by the promoters at the place of the meeting before the proxy attends the meeting.

The proxy form shall be as prescribed by the Registrar and shall contain at least the following particulars:

- (1) the number of shares held by the principal;
- (2) the name of the proxy;
- (3) the serial number of the meeting which the proxy is authorized to attend and at which the proxy is authorized to vote.

In voting, it shall be deemed that the proxy has votes equal to the total number of votes of the principal, unless the proxy has declared to the meeting prior to the vote that he or she will vote on behalf of only certain of those principals, indicating the names of those principals and the number of shares held by each of them.

### **Section 35**

The matters to be considered at the statutory meeting are:

- (1) the consideration of the articles of the association of the company;
- (2) the ratification of the business done by the promoters and the approval of the expenses spent in the establishment of the company;
- (3) the determination of the amount of money to be paid to the promoters, if it is so stipulated in the prospectus;
- (4) the specification of the nature of the preference shares (if any);
- (5) the fixing of the number of ordinary shares or preference shares to be issued to any person as if the payments therefore had been fully made because of such persons having rendered property other than money or having given or having permitted the use of copyright in any literary, artistic or scientific works, patents, trademarks, designs or models, drawing, formulae or secret processes or having provided information relating to experience in the field of industry, commerce or science;
- (6) the election of directors;
- (7) the election of the auditor and the determination of audit fees.

### **Section 36**

The election of directors shall be in accordance with Section 70.

### **Section 37**

The promoters shall transfer the business and all the documents of the company to the board of directors within seven days as from the date of the statutory meeting.

After assuming the administration of the business and documents, the board of directors shall issue a written notice calling on the subscribers to make full payment on their shares within the period specified in the notice which shall not be less than fourteen days from the date of receipt of the notice and also calling on the subscribers who make payment on shares by property other than money to transfer the ownership of such property to the company or to make any documentation available to the company to enable its use of other rights, according to the methods and within the period specified in the notice which shall not be less than one month from the date of registration of the company.

In making payment on shares, the subscribers shall not set-off any debts with the promoters or the company.

### **Section 38**

If a subscriber does not make payment on shares or transfer the ownership of property to the company under Section 37 paragraph two, the board of directors shall send a notice reminding the subscriber to make complete payment on his shares or to transfer the ownership of the property to the company or to make any documentation available to enable its use of the other rights to the company within fourteen days as from the date of sending the notice and also notify that if no action is taken in accordance with the methods and within the prescribed period, the board of directors will sell the shares by public auction.

At the expiration of the period prescribed under paragraph one, if the said subscriber has still failed to complete payment on his or her shares or has still not transferred the ownership of the property to the company, or made the documentation available to the company to enable its use of the other rights, the board of directors shall sell such shares by public auction within seven days as from the lapse of such period.

After the shares have been sold under paragraph two, if the amount paid for such shares is less than the full value of the shares, the board of directors shall demand the difference from the said subscriber without delay.

### **Section 39**

After having received the payment on shares up to the number prescribed in Section 27, the board of directors shall apply to register the company within three months as from the date of the statutory meeting, by submitting the following particulars:

- (1) the paid-up capital which shall indicate the total amount of money;
- (2) the total number of shares sold and classified into:
  - (a) ordinary shares and preference shares (if any) which have been paid-up in money;
  - (b) ordinary shares or preference shares (if any) which have been paid-up by property other than money, with the basis of valuation of such property also stated;
  - (c) ordinary shares or preference shares (if any) which have been paid-up according to the method prescribed in Section 35 (5), with the brief particulars also stated;
- (3) the names, dates of birth, nationalities, and addresses of the directors;
- (4) the names and number of the directors who have the power to sign on behalf of the company, and the restrictions on their power (if any) specified in the articles of association;
- (5) the location of the head office and branch offices (if any).

In applying for registration under paragraph one, the board of directors shall simultaneously submit the articles of association and the list of shareholders which indicate names, nationalities, addresses, number of shares held and share certificate serial numbers, including the minutes of the statutory meeting.

#### **Section 40**

In the case where there is an alteration of any particular submitted according to Section 39 paragraph one, the company shall apply to register such amendment within fourteen days as from the date of the alteration.

#### **Section 41**

A company registered under this Act shall be a juristic person as from the date of acceptance of registration by the Registrar.

#### **Section 42**

The company has the power to carry out the activities within the scope of its objectives and, unless the articles of association provide otherwise, such power shall include the power to:

- (1) be a plaintiff, make a complaint and carry out proceedings on behalf of the company;
- (2) purchase, procure, accept, hire, hire-purchase, own, possess, improve, use and otherwise manage any property as well as the interest thereof;
- (3) sell, transfer, mortgage, pledge, exchange, and otherwise dispose of property;
- (4) borrow money, guarantee, issue, transfer and endorse bills or other negotiable instruments;
- (5) request the provisional release of a director, member of staff or employee who is being charged with a criminal offence relating to the performance of his or her duties for the company;
- (6) hold shares, manage other companies or private companies, and engage in any specific business in cooperation with other companies or private companies;
- (7) engage in any other activity which a natural person may be able to do, except an act that can only be done by a natural person, within the scope of the objects of the company.

#### **Section 43**

Subject to Section 44, the board of directors may not dispose of the property received as payment on the subscription of shares of the company or expend the money received from payment on the subscription of shares in any business before the Registrar accepted the registration of the company, except for expenses approved by the statutory meeting.

#### **Section 44**

If an application to register the company is not made within the period prescribed under Section 39 or if the Registrar has given an order rejecting the registration thereof and such order is final, it shall be deemed that the company has not been established and the board of directors shall:

- (1) return the money of subscription of shares to the subscribers if payments on shares were made in money;
- (2) transfer the ownership of the property back to the subscribers if payments on shares were made by property other than money;
- (3) return the copyright in any literary, artistic or scientific works, patents, trademarks, designs or models, drawings, formulae, or secret processes, or return information relating to experience in the field of industry, commerce or science back to the grantors or the persons who permitted their use. If it is not returnable, a reasonable amount of money shall be given for compensation based on their value, or if there is a contract providing for monetary compensation, it shall be complied with.

That is, within one month, as from such prescribed period has elapsed.

In the case where the company is not established as a result of an order of the Registrar and not by the fault of the promoters or the board of directors, before returning the payments on shares to the subscribers under (1), the board of directors may deduct expenses approved at the statutory meeting.

#### **Section 45**

The directors shall be jointly and unlimitedly liable for failure to comply with Section 44 and shall pay interest calculated as from the lapse of period prescribed under Section 44.

In the case where any director can prove that the non-compliance with Section 44 was not his or her fault, such director is not liable under paragraph one.

#### **Section 46**

The promoters shall be jointly liable for any activity done in connection with the establishment of the company if they cannot complete the statutory meeting, and shall be jointly and unlimitedly liable for all debts and payments that have not been approved at the statutory meeting.

#### **Section 47**

After the company has been registered, the shareholders may not request a court order to revoke their purchase of shares as a result of mistake, duress or fraud.

#### **Section 48**

In the case where the company establishes a branch office to operate the business of the company, either in or outside the Kingdom, it shall apply to register the said branch office prior to the commencement of the operation.

In the case where the company dissolves a branch office, it shall apply to register the dissolution of the branch office within fourteen days as from the date of dissolution.

#### **Section 49**

Section 108 shall apply to the statutory meeting *mutatis mutandis*.

### **CHAPTER V**

#### **Shares and Shareholders**

#### **Section 50**

Each share of the company shall be equal in value.

#### **Section 51**

In the case where the company may offer shares for sale at a price higher than the registered par value, the company shall call the subscribers to pay the money in excess amount of the par value together with the payments on shares and shall set aside the said excess amount in a surplus reserve fund separate from the reserve fund under Section 116.

#### **Section 52**

If a company which has been in operation for not less than one year suffers a loss, it may offer its shares for sale at a price lower than the registered par value, provided:

- (1) approval is granted at the meeting of shareholders;
- (2) the fixed discount rate shall be definitely determined and specified in the prospectus; and
- (3) Section 137 shall be compiled with *mutatis mutandis*.

### **Section 53**

A share is indivisible.

If two or more persons subscribe for or hold one share or several shares jointly, those persons shall be jointly liable for the payment on shares and any amount in excess of the par value of such shares, and shall appoint only one of them to exercise their rights as subscribers or shareholders, as the case may be.

### **Section 54**

Subject to Section 35 (5) and Section 52, the whole amount of every share shall be paid in money by one payment.

In making payment on shares, a subscriber or purchaser shall not avail himself of a set-off against the company as to payments on shares.

### **Section 54/1**

The provision of Section 54 paragraph two shall not apply to the case where the company restructures its debts by issuing new shares to pay off its creditors according to the debt-for-equity conversion plan approved at the meeting of shareholders by a vote of not less than three-fourths of the total number of votes of shareholders attending the meeting and having the right to vote.

The issuance of new shares for payment and the debt-for-equity conversion plan under paragraph one shall be in accordance with the rules and procedures as prescribed in the Ministerial Regulations.

### **Section 55**

The company shall issue and deliver certificates of shares to the purchasers within two months as from the date of acceptance of the registration of the company by the Registrar, or as from the date on which full payment on shares is received in the case where the company sells the remaining shares or shares newly issued after the registration of the company.

No certificate of shares shall be issued to any person, until the registration of the company or the registration of the increase of capital has been made and such person has paid for the shares in full.

Certificates of shares issued in violation of the provisions of the paragraph two shall be void.

### **Section 56**

A certificate of shares shall contain at least the following particulars:

- (1) the name of the company;
- (2) the registration number of the company and the date of acceptance of registration of the company by the Registrar;
- (3) the types, value, serial numbers of certificate of shares and number of shares;
- (4) the name of the shareholder;
- (5) the signature of at least one director, signed or printed, but the directors may authorize the share Registrar, in accordance with the law on securities and stock exchange , to sign or print his or her signature on their behalf;
- (6) the date of issuance of the certificate of shares.

### **Section 57**

The company shall not make any restrictions on the transfer of shares, unless such restrictions are for preserving the rights and benefits to which the company is lawfully entitled or for maintaining the ratio of shareholdings between Thais and foreigners.

The promoters shall not transfer the shares purchased in accordance with Section 17 (3) prior to the completion of the period of two years from the date of registration, unless approval is obtained at the meeting of shareholders.

## **Section 58**

A transfer of shares shall be valid only upon the transferor's endorsement of the certificate of shares by indicating the name of the transferee and having it signed by both the transferor and the transferee and upon delivery of the certificate of shares to the transferee. The transfer of shares will be set up against the company only when the company has received a request to register the transfer of the shares but it may be set up against a third person only after the company has registered the transfer of the shares. In such case, if the company considers such transfer to be legal, the company shall register the transfer of shares within fourteen days as from the date of receipt of the request. If the company believes that such transfer is incorrect or invalid, it shall notify the person making the request within seven days.

In the case where a transferee of shares wishes to acquire a new certificate of shares, he or she shall submit to the company a written request bearing the signatures of the transferee of shares and of at least one witness in certification thereof and simultaneously return the old certificate of shares or other relevant evidence to the company. In this regard, if the company believes that such transfer is legal, the company shall register the transfer of shares within seven days from the date of receipt of the request, and the company shall issue a new share certificate within one month as from the date of receipt of the request.

## **Section 59**

In the case where a shareholder of the company dies or becomes bankrupt which result in other persons being entitled to the shares, if such persons have produced lawful and complete evidence of entitlement, the company shall register them in the shareholder register and issue new certificates of shares to them within one month as from the date of receipt of the complete evidence.

## **Section 60**

During the period of twenty-one days prior to each meeting of shareholders, the company may cease to accept registration of transfers of shares by notifying the shareholders in advance at the head office and at every branch office of the company not less than fourteen days prior to the commencement date of cessation of the registration of transfers of shares.

## **Section 61**

The company shall keep a register of shareholders containing at least the following particulars:

- (1) the names, nationalities and addresses of the shareholders;
- (2) the types, value, serial numbers of certificate of shares and number of shares;
- (3) the date of registration as shareholders or of termination as shareholders.

## **Section 62**

The company shall keep the register of shareholders and evidence relevant to the registration therein at the head office of the company. However, the company may entrust any other person to keep the register of shareholders and evidence relevant to the registration at any place on the company's behalf, provided the shareholders and the Registrar shall be notified the identity of the keeper of the register.

In the case where any loss, defacement or substantial damage of the register of shareholders occur, the company shall notify the Registrar within fourteen days as from the date on which the company knew or should have known of such loss, defacement or damage and shall complete the replacement or repair of the register of shareholders within one month as from the date of notification.

The register of shareholders shall be presumed correct.

## **Section 63**

The shareholders shall have the right to examine the particulars in the register of shareholders and the evidence relevant to the registration during the working hours of the

keeper of the register. In this regard, the keeper of the register may specify the period for such purpose which shall not be less than two hours a day.

In the case where a shareholder applies for a copy of the register of shareholders, in whole or in part, together with certification of its accuracy by the company or apply to the company for the issuance of a new certificate of shares in substitution for the certificate which was lost, defaced or substantially damaged and has duly paid the fees required by the articles of association to the company, the company shall comply within fourteen days as from the date of receipt of the application.

The lost, defaced or damaged certificate of shares for which a new certificate of shares has been issued in substitution shall be repealed.

The fees required by the articles of association of the company under paragraph two shall not exceed the rates prescribed by the Ministerial Regulations.

#### **Section 64**

The company shall file a list of persons who are shareholders on the date of the annual ordinary meeting which includes the particulars required under Section 39 paragraph two to the Registrar within one month as from the date of completion of the meeting.

#### **Section 65**

The preferential rights accruing to shares already issued shall not be changed.

A preference share shall not be convertible into an ordinary share, unless otherwise stipulated by the company in its articles of association. In this regard, the conversion may occur, when the shareholder files the application, together with the return of the said certificate of shares to the company.

The conversion of a share under paragraph two shall be effective from the date of submission of the request. In this regard, the company shall issue a new certificate of shares to the applicant within fourteen days as from the date of receipt of the application.

#### **Section 66**

The company shall not own its own shares or take them in pledge.

#### **Section 66/1**

The provision of Section 66 relating to the company owning its shares shall not apply in the following cases:

- (1) the company may repurchase its shares from a shareholder who votes against the resolution of the meeting of shareholders to amend the articles of association of the company relating to the right to vote and the right to dividend payment which is unfair in view of such shareholder;
- (2) the company may repurchase its shares for the purpose of financial administration, when it has accumulated profits and surplus liquidity and such repurchase shall not cause a financial problem for the company.

The shares held by the company shall not be counted to constitute the quorum of a meeting of shareholders and such shares shall have no right to vote and to dividend payment.

The company shall dispose of the shares repurchased under paragraph one within the period prescribed in the Ministerial Regulations. If it does not dispose of or is unable to dispose of all the shares within such period, the company shall reduce its paid-up capital by canceling the remaining registered shares in disposable.

The repurchase of the shares under paragraph one, dispose of the shares and cancellation of the shares under paragraph three shall be in accordance with the rules and procedures prescribed in the Ministerial Regulations.

## **CHAPTER VI**

### **Board of Directors**

#### **Section 67**

The company shall have a board of directors consisting of at least five directors to conduct the business of the company and not less than half of whom shall reside within the Kingdom.

#### **Section 68**

The directors shall be natural persons and shall:

- (1) be *sui juris*;
- (2) not be bankrupt, incompetent or quasi-incompetent;
- (3) not have been imprisoned by a final judgment to a term of imprisonment for an offense against property with dishonest intent;
- (4) not have been expelled or removed from the official service, a state organization or a state agency on the ground of dishonest performance of duties.

#### **Section 69**

There shall be no restrictions to prevent a shareholder to become a director.

#### **Section 70**

Unless otherwise prescribed by the company in its articles of association, the directors shall be elected at the meeting of shareholders in accordance with the following rules and procedures:

- (1) each shareholder shall have a number of votes equal to the number of shares held multiplied by the number of the directors to be elected;
- (2) each shareholder may exercise all the votes he or she has under (1) to elect one or several persons as director or directors. If several persons are to be elected as directors, the shareholder may allot his or her votes to any person in any number;
- (3) after the vote, the candidates shall be ranked in order descending from the highest number of votes received to the lowest, and shall be appointed as directors in that order, until all of the director positions are filled. Where there is an equality of votes cast for candidates in descending order causing the number of directors to be exceeded, the remaining appointments shall be made by drawing lots.

In the case where the articles of association of the company stipulates other procedures for election of directors, such articles of association shall not impair the shareholders' rights in voting for election of directors.

#### **Section 71**

At every annual ordinary meeting, the whole board of directors shall be simultaneously elected. However, the former board of directors shall remain in office to conduct the business of the company for the time being, as necessary, until the new board of directors takes office.

The provisions of paragraph one shall not apply in the case where the articles of association of the company stipulate procedures for election of directors different from those prescribed in Section 70. In such case, one-third of the directors shall vacate in proportion. If the number of directors is not a multiple of three, the number of directors closest to one-third shall vacate.

Unless otherwise specified by the articles of association, the directors vacating from office in the first and second years after the registration of the company shall be selected by drawing lots. In subsequent years, the director who has held office longest shall vacate.

A director who vacates office under this Section may be re-elected.

## **Section 72**

In addition to vacating office upon the termination of the term under Section 71, directors shall vacate office upon:

- (1) death;
- (2) resignation;
- (3) being disqualified or being under any of the prohibitions under Section 68;
- (4) removal by a resolution of the meeting of shareholders under Section 76;
- (5) removal by a court order.

## **Section 73**

Any director wishing to resign from office shall submit his or her resignation letter to the company and the resignation shall be effective from the date on which the company receives the resignation letter.

A director who has resigned under paragraph one may also notify the Registrar for the resignation.

## **Section 74**

In the case where the whole board of directors vacates office, the vacated board of directors shall remain in office to conduct the business of the company as necessary, until the new board of directors takes office, unless the court otherwise orders in the case where the board of directors vacates office under Section 72 (5).

The vacated board of directors shall call a meeting of shareholders to elect a new board of directors within one month as from the date of vacancy, by serving a written notice calling a meeting of shareholders not less than fourteen days prior to the date of the meeting.

## **Section 75**

Subject to Section 83, in the case of a vacancy in the board of directors for reasons other than the termination of the term of office, the board of directors shall elect a person who has the qualifications and is not being under any of the prohibitions under Section 68 as the substitute director at the next meeting of the board of directors, unless the remaining term of office of the said director is less than two months.

The resolution of the board of directors under paragraph one shall be by a vote of not less than three-fourths of the number of directors remaining.

The substitute director under paragraph one shall hold office only for the remaining term of office of the director whom he or she replaces.

## **Section 76**

The meeting of shareholders may pass a resolution removing any director from office prior to vacancy as a result of the termination of the term of office of the director, by a vote of not less than three-fourths of the number of shareholders attending the meeting and having the right to vote and the total number of shares being not less than half of the number of shares held by the shareholders attending the meeting and having the right to vote.

## **Section 77**

The board of directors has the powers and duties to manage the company in compliance with the objects and articles of association of the company and the resolutions of the meeting of shareholders.

The board of directors may entrust one or several directors or any other person to perform any acts on its behalf, unless it is expressly stipulated otherwise in the articles of association of the company.

## **Section 78**

The board of directors shall elect one of the directors to be the chairman of the board.

In the case where the board of directors deems expedient, the board may elect one or several directors to be vice-chairman. The vice-chairman shall have duties as stipulated in the articles of association in the businesses entrusted by the chairman of the board.

#### **Section 79**

The board of directors shall hold a meeting at least once every three months in the locality in which the head office of the company is located or in a nearby *Changwat*, unless it is stipulated in the articles of association that the meeting can be held elsewhere.

#### **Section 80**

At a meeting of the board of directors, the presence of not less than one half of the total number of directors is required to constitute a quorum. In the case where the chairman of the board is not present at the meeting or is unable to perform his or her duty and if there is a vice-chairman, the vice-chairman presents at the meeting shall preside over the meeting. If there is no vice-chairman or if there is a vice-chairman who is unable to perform his or her duty, the directors present at the meeting shall elect one among themselves to preside over the meeting.

The decisions at the meeting shall be by majority of votes.

Each director shall have one vote, but a director who has interests in any matter shall not be entitled to vote on such matter. In the case of an equality of votes, the chairman of the meeting shall have an additional vote as a casting vote.

#### **Section 81**

The chairman of the board shall be the person who calls the meetings of the board of directors. If two or more directors request a meeting of the board of directors, the chairman of the board shall determine the date of the meeting within fourteen days as from the date of receipt of the request.

#### **Section 82**

In calling a meeting of the board of directors, the chairman of the board or the person entrusted by the chairman of the board shall serve a written notice calling for such meeting to the directors not less than seven days prior to the date of the meeting. Unless necessary or urgent to preserve the rights or benefits of the company, the meeting may be called by other methods and an earlier meeting date may be chosen.

#### **Section 83**

In the case where there are vacancies in the board of directors resulting in the number of directors being less than the number required for a quorum, the remaining directors may perform any act in the name of the board of directors only in matters relating to the calling of a meeting of shareholders to elect directors to replace all the vacancies.

The meeting under paragraph one shall be held within one month as from the date the number of directors falls below the number required for a quorum.

The substitute directors under paragraph one shall hold office only for the remaining terms of office of the directors whom they replace.

#### **Section 84**

All the businesses of the company undertaken on behalf of the company by the board of directors or the directors or persons entrusted by the board of directors shall be valid and binding on the company, notwithstanding any defect that may later be discovered in the election, appointment or qualifications of the directors.

#### **Section 85**

In conducting the business of the company, the directors shall comply with all laws, the objects and the articles of association of the company, and the resolutions of the meeting of shareholders in good faith and with care to preserve the interests of the company.

In the case where any director performs any act or does not perform any act, which fails to comply with paragraph one, the company or the shareholders, as the case may be, may proceed as follows:

- (1) if such act or omission causes damage to the company, the company may claim compensation from such director.

In the case where the company fails to make such claim, any one or more shareholders holding shares amounting to not less than five percent of the total number of shares sold of the company may issue a written notice directing the company to make such a claim. If the company fails to take action as directed by the said shareholders, such shareholders may bring a suit to the court to claim compensation on behalf of the company;

- (2) if such act or omission is likely to cause damage to the company, any one or more shareholders holding shares amounting to not less than five percent of the total number of shares sold of the company may apply to the court to order that such act be settled.

In the case where the shareholders are the persons who proceed under paragraph two, they may also apply a court order for removal such director from office.

The shareholders who proceed under paragraph two and paragraph three shall hold shares of the company at the time such director performs or does not perform the act which causes damage to the company or which is likely to cause damage to the company, as the case may be.

#### **Section 86.**

The director shall not operate any business which has the same nature as and is in competition with the business of the company or become a partner in an ordinary partnership or become a partner with unlimited liability in a limited partnership or become a director of a private company or any other company operating business which has the same nature as and is in competition with the business of the company, either for his or her own benefit or for the benefit of other persons, unless he or she notifies the meeting of shareholders prior to the resolution for his or her appointment.

In the case where a director violates paragraph one, the company may claim compensation for damage caused by such director, provided the suit shall be brought to court within one year of the date of notice of such violation and not more than two years from the date of the violation.

In the case where the company fails to exercise the rights under paragraph two, any one or more shareholders holding shares amounting to not less than five percent of the total number of shares sold may by written notice direct the company to make such a claim. If the company fails to proceed as directed by the shareholders within one month as from the date of the notification, or if less than one month of the period of prescription under paragraph two remains, the said shareholders may exercise the rights on behalf of the company and the provisions of Section 85 paragraph two (2) and paragraph three shall apply *mutatis mutandis*.

#### **Section 87**

If any director purchases property of the company or sells property to the company or conducts any business with the company, regardless of whether it is in his or her own name or in the name of other persons, unless approved by the board of directors, such purchase, sale or deal shall not bind the company.

#### **Section 88**

A director shall notify the company without delay in the following cases:

- (1) having a direct or indirect interest in any contract which is made by the company during an accounting year, and shall indicate the nature of the contract, names of the contracting party and interest of the director in the contract (if any);
- (2) holding shares or debentures of the company or an affiliated company, and shall indicate the total number of shares increasing or decreasing during an accounting year (if any).

## **Section 89**

The company shall not grant a loan to any director, staff or employee of the company unless:

- (1) granting of a loan in accordance with the regulations on the welfare of the staff and employees; or
- (2) granting of a loan in accordance with the law on commercial banking, life insurance, or other laws.

The granting of a loan referred to as follows shall be regarded as the granting of a loan to a director, staff or employee of the company under paragraph one:

- (a) the granting of a loan to a spouse or a child who is not *sui juris* of a director, staff or employee;
- (b) the granting of a loan to an ordinary partnership in which a director, staff or employee or spouse or child who is not *sui juris* of a director, staff or employee, is a partner;
- (c) the granting of a loan to a limited partnership in which a director, staff or employee or spouse or child who is not *sui juris* of a director, staff or employee, is a partner with unlimited liability;
- (d) the granting of a loan to another company or private company in which a director, staff or employee or spouse or child who is not *sui juris* of the director, staff or employee holds shares totaling more than one half of the total number of shares of such company or private company.

The granting of a loan under paragraph one shall include giving a guarantee for a purchase or discount of a bill and the granting of collateral for the repayment of a loan.

## **Section 90**

The company shall not pay money or give any property to a director, unless it is a payment of remuneration under the articles of association of the company.

In the case where the articles of association of the company is not stipulated, the payment of remuneration under paragraph one shall be in accordance with the resolution of the meeting of shareholders based on a vote of not less than two-thirds of the total number of votes of the shareholders attending the meeting.

## **Section 91**

The directors shall be jointly liable for any damage to the company in the following cases:

- (1) the calling for subscribers to make payment on subscription of shares or to transfer the ownership of the property to the company in a manner that does not comply with Section 37 or Section 38;
- (2) the spending of money for the payment on shares or the disposal of property received in payment on shares of the company in a manner which violates Section 43;
- (3) the performing of any act in violation of Section 85;
- (4) the granting of a loan in violation of Section 89;
- (5) the payment of money or giving of other property to a director which does not comply with Section 90;
- (6) the payment of dividends to shareholders which violates Section 115, or being liable under Section 118, unless proven that such act was performed in good faith and based on the evidence or financial reports certified to be accurate by the chairman of the board or a financial officer of the company or an auditor;
- (7) the failure to prepare or keep accounts, registers or documents of the company in accordance with this Act, unless proven that they have taken reasonable action to avoid such violation.

## **Section 92**

The directors shall not be liable under Section 91 in the following cases:

- (1) having proven that they did not participate in such act or it was done without a resolution of the meeting of the board of directors;
- (2) having objected at a meeting of the board of directors, and such objection appears in the minutes of the meeting or the objection was made in writing and submitted to the chairman of the meeting within three days as from the date of the meeting.

## **Section 93**

In the case where the directors are liable for any damage to the company under Section 91 (6), such directors shall be entitled to claim a refund of the excess dividends paid to shareholders who received them knowing that such payments were in violation of Section 115 or were subject to the liability under Section 118.

## **Section 94**

The directors shall be jointly liable for any damage to the shareholders and persons concerned with the company in the following cases, unless proven that they had no part in such wrongdoing:

- (1) giving false information or concealing any information that should be disclosed about the financial condition and business operation of the company in the offer for sale of shares or debentures or other financial instruments of the company;
- (2) presenting or filling out a document submitted to the Registrar containing false information or particulars which does not correspond to the accounts, registers or documents of the company;
- (3) preparing a false balance sheet, statement of profit and loss, minutes of a meeting of shareholders or minutes of a meeting of the board of directors.

## **Section 95**

Any director who has performed any act which has been authorized, approved or ratified by a resolution of the meeting of shareholders, notwithstanding that such resolution may later be cancelled, shall not be liable to the company, shareholders or creditors of the company for such act.

## **Section 96**

The company shall maintain a register of directors, the minutes of meetings of the board of directors and the minutes of meeting of shareholders and keep them at the head office of the company. However, the company may entrust any other person the duty of keeping the said documents and the register on behalf of the company at any place, but the company must notify the Registrar prior to the entrustment and the place must be in the locality in which the head office of the company is located or a nearby *Changwat*.

The register of directors shall contain at least the following particulars:

- (1) the names, dates of birth, nationalities and addresses of directors;
- (2) the types, value and number of serial numbers of certificate of shares held by each director;
- (3) dates of becoming or ceasing to be directors.

The minutes of meetings of the board of directors and the minutes of meetings of the shareholders shall be completed by the board of directors within fourteen days as from the date of the meeting.

## **Section 97**

Unless otherwise prescribed in this Chapter, the relationship between the directors and the company and the relationship between the company and any third person shall be governed by the provisions of the Civil and Commercial Code relating to agency.

## **CHAPTER VII**

### **Meeting of Shareholders**

#### **Section 98**

The board of directors shall call a meeting of shareholders which is an annual ordinary meeting of shareholders within four months of the last day of the accounting year of the Company.

The meeting of shareholders other than the one referred to in paragraph one shall be called extraordinary meetings.

#### **Section 99**

The board of directors may call an extraordinary meeting of shareholders any time the board considers it expedient to do so.

#### **Section 100**

Shareholders holding shares amounting to not less than one-fifth of the total number of shares sold or shareholders amounting to not less than twenty-five persons holding shares amounting to not less than one-tenth of the total number of shares sold may, by subscribing their names, request the board of directors to call an extraordinary meeting at any time, but the reasons for calling such meeting shall be clearly stated in such request. In this regard, the board of directors shall proceed to call a meeting of shareholders to be held within one month as from the date the request is received from the shareholders.

#### **Section 101**

In calling a meeting of shareholders, the board of directors shall prepare a written notice calling the meeting that indicates the place, date, time, agenda of the meeting and the matters to be proposed to the meeting together with sufficient detail by indicating clearly whether it is the matter proposed for information, for approval or for consideration, as the case may be, including the opinions of the board of directors in the said matters, and shall be delivered to the shareholders and the Registrar for their information not less than seven days prior to the date of the meeting. The notice calling for the meeting shall also be published in a newspaper not less than three days prior to the date of the meeting.

The place of the meeting under paragraph one shall be in the locality in which the head office of the company is located or in a nearby *Changwat*, unless otherwise stipulated by the articles of association.

#### **Section 102**

Shareholders are entitled to attend and vote at the meeting of shareholders but they may also authorize other persons as proxies to attend and vote at any meeting on their behalf. In this regard, Section 33 paragraph two, paragraph four and paragraph five and Section 34 shall apply *mutatis mutandis*. In the case of appointing the proxy, the instrument appointing the proxy shall be submitted to the chairman of the board or to the person designated by the chairman of the board.

The voting as stipulated in paragraph one which deems each share has one vote shall not apply to the case where the company issues preference shares and provides the right to vote less than that of ordinary shares.

#### **Section 103**

Unless otherwise prescribed by this Act, in a meeting of shareholders, there shall be shareholders and proxies (if any) attending at the meeting amounting to not less than twenty-five persons or not less than one half of the total number of shareholders and in either case such shareholders shall hold shares amounting to not less than one-third of the total number of shares sold to constitute a quorum.

At any meeting of shareholders, in the case where one hour has passed since the time for which the meeting is scheduled and the number of shareholders attending the meeting is

still inadequate for a quorum as prescribed under paragraph one, if such meeting of shareholders was called as a result of a request by the shareholders under Section 100, such meeting shall be cancelled. If such meeting of shareholders was not called as a result of a request by the shareholders under Section 100, the meeting shall be called once again and the notice calling such meeting shall be delivered to shareholders not less than seven days prior to the date of the meeting. In the subsequent meeting, a quorum is not required.

#### **Section 104**

The chairman of the board shall preside over the meetings of shareholders. In the case where the chairman of the board is not present at a meeting or is unable to perform his or her duty, if there is a vice-chairman, the vice-chairman shall preside over the meeting. If there is no vice-chairman or there is a vice-chairman, but such vice-chairman is unable to perform his or her duty, the shareholders present shall elect one among themselves to preside over the meeting.

#### **Section 105**

The chairman of the meeting of shareholders shall have the duty to conduct the meeting in compliance with the articles of association of the company relating to meetings and to follow the sequence of the agenda stipulated in the notice calling for the meeting, unless the meeting pass a resolution allowing a change in the sequence of the agenda with a vote of not less than two-thirds of the number of the shareholders present at the meeting.

When the consideration of the matters under paragraph one is finished, the shareholders holding shares amounting to not less than one-third of the total number of shares sold may request the meeting to consider matters other than those indicated in the notice calling for the meeting.

In the case where the meeting has not concluded the consideration of the matters according to the sequence of the agenda under paragraph one or the matters raised by shareholders under paragraph two, as the case may be, and it is necessary to postpone the consideration of the meeting, the meeting shall determine the place, date and time for the next meeting and the board of directors shall deliver the notice calling the meeting which indicates the place, date, time and agenda of the meeting to the shareholder not less than seven days prior to the date of the meeting, provided the notice calling the meeting shall also be published in a newspaper not less than three days prior to the date of the meeting.

#### **Section 106**

To serve notices calling a meeting as prescribed in this Chapter, Section 29 shall apply *mutatis mutandis*.

#### **Section 107**

Unless otherwise prescribed by this Act, a resolution of the meeting of shareholders shall be made by the following votes:

- (1) in an ordinary event, the majority vote of the shareholders who attend the meeting and cast their votes. In case of an equality of votes, the chairman of the meeting shall have an additional vote as a casting vote;
- (2) in the following cases, a vote of not less than three-fourths of the total number of votes of shareholders who attend the meeting and have the right to vote:
  - (a) the sale or transfer of the whole or important parts of the business of the company to other persons;
  - (b) the purchase or acceptance of transfer of the business of other companies or private companies by the company;
  - (c) the making, amending or terminating of contracts with respect to the granting of a hire of the whole or important parts of the business of the company, the entrustment of the management of the business of the company to any other person or the amalgamation of the business with other persons with the purpose of profit and loss sharing;

- (3) In the case where the provisions of the articles of association of the company provide that the resolution of the meeting of shareholders on any matter shall be made by more votes than that prescribed in (1) or (2), such provisions shall prevail.

### **Section 108**

In any meeting of shareholders, if it was called or a resolution was passed with a failure to comply with or in violation of the articles of association of the company or the provisions of this Act, not less than five shareholders or shareholders amounting to not less than one-fifth of the total number of shares sold may make a motion to the court for an order to cancel a resolution passed at such meeting, However, the motion shall be made with one month as from the date of passing of the resolution.

In the case where the court orders cancellation of the resolution of the meeting of shareholders under paragraph one, the company shall notify the shareholders within one month as from the date the final judgment is made.

## **CHAPTER VIII**

### **Accounts and Reports**

#### **Section 109**

The company shall prepare and maintain accounts including the auditing of accounts under the law on such matter.

#### **Section 110**

Apart from the accounts under Section 109, the company shall prepare a balance sheet and a profit and loss account at least once during each twelve month period which is an accounting year of that company.

The balance sheet and the profit and loss account shall contain particulars and definitions of them as prescribed in the Ministerial Regulations.

#### **Section 111**

In the case where the company has not yet received full payments on shares up to the amount of registered capital, it shall state clearly the amount of registered capital, the number of registered shares, the number of shares sold and the paid-up amount in the following documents of the company:

- (1) its balance sheet;
- (2) other documents that show its financial condition.

#### **Section 112**

The board of directors shall prepare the balance sheet and the profit and loss account as of the last day of the accounting year of the company for submission to the meeting of shareholders for approval at the annual ordinary meeting.

The board of directors shall have the balance sheet and the profit and loss account, prepared under paragraph one or prepared during the accounting year for submission to the meeting of shareholders for approval, examined by an auditor prior to submission to the meeting of shareholders.

#### **Section 113**

The board of directors shall deliver the following documents to the shareholders along with written notices calling for an annual ordinary meeting:

- (1) copies of the balance sheet and the profit and loss account which have been examined by the auditor under Section 112, together with the audit report of the auditor;

- (2) the documents showing particulars under Section 114 (1) and (2) (if any);
- (3) the annual report of the board of directors.

#### **Section 114**

The annual report of the board of directors shall contain at least the following particulars:

- (1) the name, location of the head office, category of business, number and types of all the shares sold of the company, including the number and types of shares of affiliated companies held by the company (if any). The nature of the company deemed to be an affiliated company shall be prescribed in the Ministerial Regulations;
- (2) the name, location of the head office, category of business, number and types of all the shares sold of the company, including the number and types of shares of any other company or private company in which the company holds ten percent or more of the number of shares sold of such other company or private company (if any);
- (3) the particulars provided to the company by directors under Section 88;
- (4) remuneration, shares, debentures, or other benefits which directors receive from the company, together with the names of directors;
- (5) other particulars as prescribed in the Ministerial Regulations.

#### **Section 115**

Dividends shall not be paid other than out of profits. In the case where the company still has an accumulated loss, no dividends shall be paid.

Unless otherwise provided by the articles of association regarding preference shares, dividends shall be distributed according to the number of shares, with each share receiving an equal amount and payment of dividends shall be approved by the meeting of shareholders.

Where permitted by the articles of association of the company, the board of directors may from time to time pay to the shareholders such interim dividends if the board estimates that the profits of the company justify such payment. After the dividends have been paid, such dividend payment shall be reported to the shareholders at the next meeting of shareholders.

Payment of dividends shall be made within one month as from the date of the resolution of the meeting of shareholders or of the meeting of the board of directors, as the case may be and the shareholders shall be notified in writing of such payment of dividends, and the notice shall also be published in a newspaper.

#### **Section 116**

The company shall allocate not less than five percent of its annual net profit less the accumulated losses brought forward (if any) to a reserve fund until this fund attains an amount not less than ten percent of the registered capital, unless the articles of association of the company or other laws require a larger amount of reserve fund.

#### **Section 117**

In the case where the shares of the company have not yet been completely sold up to the number of shares registered or where the company has already registered an increase in capital, the company may pay dividends, in whole or in part, by issuing new ordinary shares to the shareholders, provided it has received the approval of the meeting of shareholders.

#### **Section 118**

In the case where the company has paid dividends to the shareholders contrary to the provisions of Section 115, Section 116 or Section 117, causing a disadvantage to the creditors of the company, the creditors may sue the shareholders to return the dividends which have already been received, but the creditors shall sue such shareholders within one

year as from the date on which the meeting of shareholders passes the resolution approving dividends. However, a shareholder who has received a dividend in good faith shall not be required to return such dividend.

#### **Section 119**

When approval of the meeting of shareholders has been granted, the company may transfer the reserve fund under Section 51 or Section 116 or other reserve funds to compensate for the accumulated losses of the company.

The compensation for the accumulated losses under paragraph one shall be deducted from other reserves before it shall be deducted from the reserve fund under Section 116 and from the reserve fund under Section 51 respectively.

#### **Section 120**

The annual ordinary meeting shall appoint an auditor and determine the auditing fee of the company every year. In appointing the auditor, the former auditor may be re-appointed.

#### **Section 121**

The auditor shall not be a director, staff, employee or person holding any position or having any duty in the company.

#### **Section 122**

The auditor has the power to examine the accounts, documents and any other evidence relating to the revenues and expenditures including the property and debts of the company during the working hours of the company. In this regard, the auditor shall also have the power to interrogate the directors, staff, employees, persons holding any position or having any duty in the company and agents of the company, including directing them to clarify any matter or to deliver documents or evidence in connection with the operation of the business of the company.

#### **Section 123**

The auditor shall prepare a report and submit it to the annual ordinary meeting in accordance with the law on auditing.

#### **Section 124**

The balance sheet, the profit and loss account and the report of the auditor of the company shall be properly typewritten or printed in the Thai language.

#### **Section 125**

The auditor has the right to present a written explanation to the meeting of shareholders and has the duty to attend every meeting of shareholders at which the balance sheet, the profit and loss account and the problems relating to the accounts of the company are to be considered in order to explain to the shareholders the auditing of accounts. In this regard, the company shall also deliver to the auditor the reports and documents of the company that are to be received by the shareholders at that meeting of shareholders.

#### **Section 126**

Shareholders have the right to examine the balance sheet, the profit and loss account and the report of the auditor of the company at any time during the working hours of the company, and they may ask the company to deliver to them copies of such documents, together with certification thereof. In this regard, the company may charge for expenses as stipulated in the articles of association of the company.

#### **Section 127**

The company shall deliver to the Registrar the annual report together with copies of the balance sheet and the profit and loss account which have already been audited by the auditor and approved at the meeting of shareholders and a copy of the minutes of the meeting of shareholders, specifically the part concerning the approval of the balance sheet, the allocation of profit and the distribution of dividends, certified by a person authorized to

sign on behalf of the company. The company shall also publish the balance sheet for public information in a newspaper for a period of at least one day within one month as from the date of the meeting of shareholders at which approval of the balance sheet was granted.

## **Chapter IX**

### **Inspection**

#### **Section 128**

Shareholders who hold shares amounting to not less than one-fifth of the total number of shares sold or shareholders amounting to not less than one-third of the total number of shareholders may together subscribe their names in a written application to the Registrar to appoint an inspector to proceed with the examination of the business operation and the financial condition of the company as well as to inspect the conduct of business by the board of directors.

In the application under paragraph one, the applicants shall clearly indicate the matters to be inspected and shall also specify the name and address of one shareholder who is to be their representative.

The Registrar shall issue an order appointing one or more competent officials to be an inspector or inspectors and the Registrar shall also clearly indicate the matters to be inspected in such order.

#### **Section 129**

The Registrar may appoint one or more competent officials to be an inspector or inspectors to proceed with the examination of the business operation of the company when the Registrar has reasonable ground to suspect that:

- (1) the company committed an act to defraud the creditors of the company or incurred debts that it had knew it could not repay;
- (2) the company violated or failed to comply with this Act or made any false statements when applying for registration, in the balance sheet, or in the profit and loss account, or in the report which was submitted to the Registrar, or which was disclosed to the general public;
- (3) the directors or the staff at the executive level of the company carried out the business contrary to the objects of the company or carried out the business dishonestly against the interests of the company or its shareholders;
- (4) there was any act done to cause an unfair disadvantage to minority shareholders;
- (5) the administration of the business of the company may cause damage to the shareholders.

In the order appointing the inspector, the Registrar shall clearly indicate the matters for inspection and notify these to the company in writing.

#### **Section 130**

In the performance of duties under Section 128 and Section 129, the inspector shall has the power to:

- (1) enter the office and any premises of the company during the working hours of the company;
- (2) order a director, staff, employee, person holding any office or having any duty in the company and agent of the company including the auditor, as well as any person who used to hold the said offices or used to have such duties and who has vacated such offices or duties for not more than one year, to give statements;

- (3) order the persons under (2) to show or deliver accounts and documents related to the business operations of the company for which they are responsible, for examination.

In the case where the inspector is of the opinion that, to proceed with the inspection according to the appointment, it is also necessary to inspect any other company or private company under Section 114 (1) and (2) as a result of having related matters, the inspector shall obtain prior approval from the Registrar before he or she also has an authority to inspect such company, and such inspection shall cover only those related matters.

In the performance of duties of an inspector under paragraph one or paragraph two, the inspector shall be an official under the Penal Code and the persons concerned shall provide him or her with reasonable assistance and facilities.

### **Section 131**

The inspector shall prepare a report on the result of the inspection together with his or her opinion and submit it to the Registrar within two months as from the date on which he or she is appointed. If he or she cannot finish the inspection within such time, the inspector shall report the inspection to the Registrar every two months.

### **Section 132**

After having received the report on the result of the inspection from the inspector, the Registrar shall:

- (1) deliver a copy of such report to the company within seven days as from the date of its receipt;
- (2) notify the officials concerned for the taking of legal action against the persons who commit a wrongdoing under this Act;
- (3) order the company to rectify its operations in accordance with this Act;
- (4) notify in writing to the creditors or any person who may suffer damage as appeared in the report of the inspection.

### **Section 133**

A company which receives the report under Section 132 (1) shall summarize the report and deliver it to the shareholders within fourteen days as from the date of receipt of the report. In this regard, the company shall prepare a complete copy of the report at its office for inspection by the shareholders.

### **Section 134**

The expenses of inspection of the company shall be paid in advance by the following persons:

- (1) the shareholders who requested the Registrar to appoint the inspector;
- (2) the Registrar, where the inspection was made under Section 129.

### **Section 135**

In the case where the result of the inspection is as anticipated, either in whole or in part, the company shall be liable to compensate the persons who paid in advance under Section 134 for the expenses of the inspection.

## **CHAPTER X**

### **Increases and Reductions of Capital**

### **Section 136**

The company may increase the amount of its registered capital by issuing new shares.

The issuance of new share under paragraph one may be made after:

- (1) all the shares have been completely sold and paid-up in full, or, if the shares have not been completely sold, the remaining shares shall be the shares issued for the exercise of rights under convertible debentures or share warrant;
- (2) the meeting of shareholders has passed a resolution by not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote; and
- (3) the said resolution has been submitted to the Registrar for the registration of a change in the registered capital within fourteen days as from the date on which the meeting passes such resolution.

In this regard, the provisions of Chapter III and Chapter V shall apply *mutatis mutandis*.

### **Section 137**

The new shares under Section 136 may be offered for sale in whole or in part and may be either first offered for sale to the shareholders in proportion to the number of shares already held by each of them or may be offered for sale to the public or other persons in whole or in part in accordance with the resolution of the meeting of shareholders and Section 38 shall apply *mutatis mutandis*.

### **Section 138**

After a portion of the new shares has already been sold by the company, an application to register a change in the paid-up capital may be submitted to the Registrar by dividing the amount of increased capital into installments, each of which shall not be less than twenty-five percent of the number of shares offered for sale, provided this shall be specified in the prospectus or the documents relating to the offer for sale of shares to the public.

In addition to the provision under paragraph one, the company shall apply to register a change in the paid-up capital within fourteen days as from the date on which the company receives the full payment for shares up to the number of shares offered and specified in the prospectus or the documents relating to the offer for sale of shares to the public.

In the application to register the change in the paid-up capital under this Section, the company shall also submit a list of the shareholders who have purchased the new shares. The list shall contain the name, nationality, address, number of shares held and the serial number of certificate of shares.

### **Section 139**

The company may reduce the amount of its registered capital by either lowering the par value of each share or by reducing the number of shares. However, the capital of the company may not be reduced to less than one-fourth of its total amount.

In the case where the company has an accumulated loss and it has already compensated for it under Section 119 and the accumulated loss still, however, remains, the company may reduce its capital to the amount less than one-fourth of the total.

The reduction of the par value or number of shares under paragraph one or paragraph two to any amount and by any method may be made upon a resolution passed at the meeting of shareholders by a vote of not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote, provided the company shall apply to register such resolution within fourteen days as from the date on which the meeting passes such resolution.

### **Section 140**

The meeting of shareholders may pass a resolution to reduce the company's capital by decreasing the number of registered shares which have not been purchased by anyone or which have not yet been issued. After the meeting passes the resolution, the company shall apply to register the reduction of its capital within fourteen days as from the date on which the meeting passes such resolution.

### **Section 141**

In a reduction of its capital which is not a case under Section 140, the company shall in writing notify the known creditors of the resolution for the reduction of capital within fourteen days as from the date on which the meeting of shareholders passes such resolution and shall specify in the notification that any objection thereto shall be submitted within two months as from the date on which the creditors receive the notice of such resolution. The company shall also have the notice of such resolution published in a newspaper within the above-mentioned fourteen day period.

If an objection is raised, the company shall not reduce its capital, unless it has paid its debts or given security for the debts.

### **Section 142**

After having proceeded under Section 139 and Section 141, the company shall apply to the Registrar to register the reduction of its capital within:

- (1) fourteen days as from the lapse of period prescribed under Section 141, if no objection is raised; or
- (2) fourteen days as from the date on which the debt is paid or security is given, if an objection is raised by a creditor.

In this regard, the provision of Section 138 paragraph three shall apply *mutatis mutandis*.

### **Section 143**

After the company has proceeded with registration of the change in its paid-up capital under Section 138 or of the reduction of its capital under Section 140 or Section 142, the company shall notify its shareholders in writing of such registration and have such notice published in at least one newspaper within fourteen days as from the date on which the increase or the reduction of capital is registered, as the case may be.

### **Section 144**

In the case where any creditor fails to raise an objection to the reduction of capital of the company within the period under Section 141 because of not knowing about the resolution for such reduction, and such ignorance was not the creditor's fault, if such creditor wishes to hold the shareholders who receive the refunded payment on shares liable to him or her for the refunded amount, the creditor shall sue such shareholders within one year as from the date on which the reduction of capital is registered.

## **CHAPTER XI**

### **Debentures**

### **Section 145**

The borrowing by the company by means of the issuance of debentures for offer for sale to the public shall be in accordance with the law on securities and stock exchange, and Section 25 shall apply *mutatis mutandis*.

The resolution approving the issuance of debentures under paragraph one shall require the resolution of the meeting of shareholders passed by a vote of not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote.

## **CHAPTER XII**

### **Amalgamation of Companies**

### **Section 146**

Two or more companies, or any company and a private company, may amalgamate to become a company by a resolution of the meeting of shareholders of each company passed by a vote of not less than three-fourths of the total number of votes of the shareholders attending the meeting and having the right to vote, and in the case of an amalgamation with a private company, a special resolution as prescribed in the Civil and Commercial Code is required.

In the case where there is a resolution for an amalgamation under paragraph one, but a shareholder raises an objection to the amalgamation, the company shall arrange for the purchase of shares belonging to such shareholder at the price last traded on the Stock Exchange prior to the date on which the resolution of the amalgamation is passed. In the case where there is no traded price in the Stock Exchange, the price determined by an independent appraiser appointed by both parties shall be adopted. If such shareholder does not agree to sell his or her shares within fourteen days as from the date of receipt of the purchase offer, the company shall proceed with the amalgamation, and it shall be deemed that such shareholder is a shareholder of the company formed by the amalgamation.

### **Section 147**

The company shall notify its creditors in writing of the resolution of the amalgamation, and Section 141 shall apply *mutatis mutandis*.

### **Section 148**

After having proceeded under Section 147, the chairman of the boards of the companies to be amalgamated shall call a joint meeting of the shareholders of all such companies to consider the following matters:

- (1) the allotment of shares of the amalgamated company to the shareholders;
- (2) the name of the amalgamated company, for which a new name or the former name of any one of the companies to be amalgamated may be used;
- (3) the objects of the amalgamated company;
- (4) the capital of the amalgamated company, of which the amount shall not be less than the sum of the paid-up capital of all the companies to be amalgamated, and if the companies to be amalgamated have already sold their shares up to the number registered, and increase in capital may be made at the same time;
- (5) the memorandum of association of the amalgamated company;
- (6) the articles of association of the amalgamated company;
- (7) the election of the directors of the amalgamated company;
- (8) the election of the auditor of the amalgamated company;
- (9) other matters necessary for the amalgamation of the companies (if any).

In this regard, such meeting shall be completed within six months as from the date on which the last one of the companies has passed resolutions for the amalgamation, unless the meeting under this Section has passed a resolution to extend such period, but the total period shall not be more than one year.

### **Section 149**

At the joint meeting held for mutual consideration of the matters under Section 148, the provisions on such matters shall apply *mutatis mutandis*, unless otherwise prescribed as follows:

- (1) the place used for the meeting shall be in the locality in which the head office of any one of the companies to be amalgamated is located or in a nearby *Changwat*;
- (2) there shall be shareholders holding shares amounting to not less than one-half of the total number of shares sold of the companies to be amalgamated attending the meeting to constitute a quorum;

- (3) the shareholders attending the meeting shall elect one shareholder to be the chairman of the meeting;
- (4) the decision of the meeting shall be made by a majority vote of the shareholders attending the meeting under (2).

#### **Section 150**

The board of directors of the former companies shall deliver all the businesses, property, accounts, documents and evidence of the companies to the board of directors of the amalgamated company within seven days as from the date of the completion of the meeting under Section 148.

#### **Section 151**

The board of directors of the amalgamated company shall apply to register the amalgamation of the companies and at the same time submit to the Registrar the memorandum of association as well as the articles of association approved at the meeting under Section 148 within fourteen days as from the date of the completion of the meeting under Section 148 and Section 39 shall apply *mutatis mutandis*.

#### **Section 152**

When the amalgamation of the companies has been accepted for registration by the Registrar, the former companies shall lose their status as juristic persons, and the Registrar shall make a note thereof in the register.

#### **Section 153**

The company which has already been amalgamated and registered shall be entitled to all the property, obligations, rights, duties and responsibilities of all the former companies.

### **CHAPTER XIII**

#### **Dissolution**

#### **Section 154**

When one of the following grounds exists, a company shall be dissolved:

- (1) When the meeting of shareholders passes a resolution dissolving the company by a vote of not less than three-fourths of the total number of votes of shareholders attending the meeting and having the right to vote;
- (2) When the company becomes bankrupt;
- (3) When the court issues an order dissolving the company under Section 155, and that order is final.

#### **Section 155**

Shareholders who hold shares amounting to not less than one-tenth of the total number of shares sold may submit a motion to the court to order the dissolution of the company when one of the following grounds exists:

- (1) the promoters have violated or failed to comply with the provisions relating to the statutory meeting or preparation of the report on the establishment of the company, or the board of directors has violated or failed to comply with the provisions relating to payment on shares, the transfer of ownership in property to the company, or the making of documentation available to the company for its use of the various rights for payment on shares, the preparation of the list of shareholders, or the registration of the company;
- (2) if the number of shareholders is reduced to less than fifteen;
- (3) if the business of the company can only be carried on at a loss and there is no prospect of its fortunes, being retrieved.

When a motion is made to the court as prescribed in (1) or (2), the court may order the company to rectify or to comply with the law within a specified period of time, which shall not be more than six months, instead of ordering the dissolution of the company.

#### **Section 156**

Upon the dissolution or an order for the dissolution of the company, the meeting of shareholders or the court, as the case may be, shall appoint a liquidator and an auditor and shall also determine their remuneration simultaneously.

#### **Section 157**

When there is the dissolution of the company, the board of directors shall deliver all the property, accounts and various documents and evidence of the company to the liquidator within seven days as from the date of the dissolution.

#### **Section 158**

The dissolution of the company shall be effective as from the day on which the Registrar accepts the registration of the dissolution of the company. However, if the liquidation has not yet been completed, the company is deemed to continue for the period that is necessary for the purpose of liquidation.

### **CHAPTER XIV**

#### **Liquidation**

#### **Section 159**

In the case where the company is dissolved on grounds other than bankruptcy, the liquidation shall proceed as prescribed in the provisions of this Chapter.

#### **Section 160**

The liquidator shall have the powers and duties as follows:

- (1) proceeding the business of the company only as necessary for the settlement of pending business but not transacting new business;
- (2) collecting and receiving money or property to which the company is entitled from other persons or selling property of the company;
- (3) proceeding all matters related to civil or criminal cases, or compromises on behalf of the company;
- (4) paying debts on behalf of the company;
- (5) calling a meeting of shareholders;
- (6) distributing money or property remaining after the payment of debts to the shareholders;
- (7) proceeding under Section 11 paragraph three;
- (8) proceeding with other matters which are necessary for the completion of the liquidation.

In the case where the liquidator continues the business of the company under (1) beyond what is necessary and thereby causes a loss, the liquidator shall be liable to the company for such loss.

#### **Section 161**

Within seven days as from the date on which he or she is appointed, the liquidator shall:

- (1) make an application to register as liquidator;
- (2) make an application to register the dissolution of the company;
- (3) publish the dissolution of the company for public information in a newspaper.

## **Section 162**

Within one month as from the date on which he or she is appointed, the liquidator shall:

- (1) notify in writing to the creditors whose names appear in the accounts and documents of the company to serve a notice calling for payment of debts to the liquidator within one month as from the date of being notified;
- (2) notify in writing to the debtors whose names appear in the accounts and documents of the company to make payment of debts to the liquidator.

## **Section 163**

Prior to the completion of any liquidation, the liquidator and the auditor may be vacated office upon:

- (1) death;
- (2) resignation;
- (3) removal by a resolution of the meeting of shareholders;
- (4) removal by a court order.

Upon the death or resignation of the liquidator or auditor appointed at the meeting of shareholders or by the court, the meeting of shareholders or the court, as the case may be, shall appoint any other person to replace the said liquidator or auditor. In this regard, Section 161 (1) shall also apply to the liquidator who is newly appointed.

## **Section 164**

Where there are reasonable grounds, shareholders who hold shares amounting to not less than one-tenth of the total number of shares sold may, at any time, call a meeting of shareholders and request the meeting of shareholders to remove the liquidator or auditor who has been appointed by the shareholders and appoint any other person as a replacement. However, if the said liquidator or auditor was appointed by the court, any one of the shareholders may request the court to remove the liquidator or auditor so appointed.

Upon request by any shareholder, and if the Registrar is of the opinion that the liquidator or auditor has failed to perform his or her duty properly under this Act, the Registrar may, at any time, request the court to remove any liquidator or auditor and appoint any other person as a replacement.

## **Section 165**

The liquidator shall prepare the balance sheet and the profit and loss account of the company from the commencement date of the accounting year, until the date of the registration of the dissolution of the company and deliver them to the auditor for examination within four months as from the date of being appointed and submit them to the meeting of shareholders for its approval within one month as from the date of receipt of them from the auditor.

## **Section 166**

The liquidator shall deliver to the Registrar a copy of the balance sheet and the profit and loss account of the company which have already been approved at the meeting of shareholders together with a copy of the minutes of the meeting of shareholders relating to the approval of the balance sheet and the profit and loss account within fourteen days as from the date of the approval at the meeting of shareholders.

## **Section 167**

Any restriction of power of the liquidator shall not be raised as a defense against a third person who acts in good faith.

## **Section 168**

In the case where several liquidators are appointed, no single liquidator shall do any act by himself or herself alone, unless otherwise stipulated at the meeting of shareholders or by

the court at the time of their appointment, and the liquidators have already made an application for the registration of such act, together with the application for registration of the dissolution of the company.

#### **Section 169**

The liquidator shall make payment of fees, charges and expenses required in the liquidation in sequence before making payment of other debts.

#### **Section 170**

If a creditor of the company does not serve to the liquidator a notice calling for the payment of debts, the liquidator shall deposit money in an equal amount to the amount of debts as appeared in the accounts and document or evidence of the company at the Deposit Office as prescribed in the law on deposit of property and notify the creditors by a publication in a newspaper.

All the money deposited at the Deposit Office shall belong to the state, if it is not claimed by creditors within five years.

#### **Section 171**

In the case where the liquidator is of the opinion that it is necessary for the liquidation or where requested by the creditors of the company, the liquidator may call the creditors of the company to attend a joint meeting with the liquidator for the purpose of considering the business operation and the financial condition of the company and making agreements on the payment of debts.

The agreements on the payment of debts, either in part or by other means, shall be binding only upon the creditors who have entered into them.

#### **Section 172**

After having paid all debts of the company or having set aside monies for the payment of all debts of the company, if property still remains, the liquidator shall divide such property among the shareholders in proportion to the number of shares held by each of them respectively, unless otherwise stipulated in the articles of association of the company regarding preference shares.

#### **Section 173**

After the liquidator has proceeded in accordance with the provisions under this Chapter and if he or she is of the opinion that the property of the company is not sufficient to pay for all the debts and compromises are unable to be concluded with all the creditors, the liquidator shall request the court to order that the company be declared bankrupt.

#### **Section 174**

The liquidator shall make a report on the liquidation and deliver it to the Registrar, together with an account of revenues and expenditures in the liquidation every three months as from the date of his or her appointment, until the liquidation is complete.

The report on the liquidation and the account of revenues and expenditures in the liquidation shall be in the forms and shall contain particulars as prescribed in the Ministerial Regulations.

If there appears a defect in the liquidation, the Registrar has the power to order the liquidator to rectify such defect. In this regard, the liquidator shall proceed with the rectification and report it to the Registrar within the time specified by him or her.

#### **Section 175**

If the liquidation is unable to be completed within one year as from the date on which the registration of the dissolution of the company has been accepted by the Registrar, the liquidator shall call a meeting of shareholders every year within four months as from the date of the completion of the year and submit to the shareholders a report on parts of the liquidation which have already been completed and which will be further proceeded in the future. In this regard, the balance sheet and the profit and loss account shall also be submitted to the shareholders.

### **Section 176**

After having completed the liquidation, the liquidator shall make a report on the result of the liquidation, together with the account of revenues and expenditures, and present a statement regarding the status of the liquidation to the meeting of shareholders for approval within four months as from the date on which the liquidation is complete.

After the report and account under paragraph one have been approved at the meeting of shareholders, the liquidator shall make an application to the Registrar to register the completion of the liquidation within fourteen days as from the date on which the meeting of shareholders approves and simultaneously submit all the accounts and all documents related to the accounting of the company to the Registrar.

Upon having accepted the registration, the Registrar shall make a note thereof in the register and keep the accounts and documents related to the accounting of the company which are submitted to him or her for a period of not less than three years as from the date of registration of the completion of liquidation.

### **Section 177**

Subject to Section 175, the liquidator shall complete the liquidation within five years as from the date of the registration of the dissolution of the company. If the liquidation is not completed within five year, the liquidators shall submit a report describing the reasons therefore to the Registrar every three months, and the Registrar shall have the power to order the liquidator to do any act to accelerate the liquidation as deemed appropriate.

### **Section 178**

No suit claiming payment of debts from the company, shareholders, or the liquidator as debtor shall be brought into court after an expiration of two years as from the date of registration of the completion of liquidation.

### **Section 179**

Where an approval or consent from the meeting of shareholders is required for any act in accordance with the provisions under this Chapter, if a meeting of shareholders is unable to be held, the liquidator shall apply for the approval or consent required therefore from the Registrar.

## **CHAPTER XV**

### **Conversion of the Private Company into a Company**

#### **Section 180**

A private company may be converted into a company, when a special resolution so authorizing is adopted in accordance with the Civil and Commercial Code.

#### **Section 181**

At the meeting of shareholders under Section 180, if a resolution for the conversion of the private company into a company in accordance with this Act is adopted, the board of directors shall also arrange for the consideration of the following matters:

- (1) the memorandum of association of the private company of which amendment is necessary. In this regard, amendment regarding the increase in capital of the private company after the conversion may also be made;
- (2) the articles of association of the company;
- (3) the election of directors;
- (4) the election of the auditor of the company;
- (5) other matters necessary for the conversion.

In the consideration of the matters under paragraph one, the provisions relating to a company regarding such respective matters shall apply *mutatis mutandis*.

## **Section 182**

The board of directors of the private company shall deliver all the businesses, property, accounts, documents and evidence of the private company to the newly-elected board of directors within seven days as from the date of completion of the meeting referred to in Section 181.

## **Section 183**

The newly-elected board of directors shall make an application to register the conversion of the private company and at the same time submit to the Registrar the minutes of the meeting, the memorandum of association and articles of association which have been adopted at the meeting under Section 181 within fourteen days as from the date of completion of the meeting under Section 179. In this regard, Section 39 shall apply *mutatis mutandis*.

## **Section 184**

After the conversion into a company in accordance with this Act has been accepted for registration by the Registrar, the former private company shall lose its status as a limited company under the Civil and Commercial Code, and the Registrar shall make a note thereof in the register.

## **Section 185**

The company which has registered its conversion from a private company is entitled to all the property, obligations, rights and liabilities of the former private company.

## **CHAPTER XVI**

### **The Registrar and Competent Officials**

## **Section 186**

In accepting an application for registration in accordance with this Act, the Registrar and the competent officials shall have the power to inquire into the facts and to direct the applicant to submit relevant documents and evidence or to call any persons concerned to give statements as necessary.

## **Section 187**

In the case where the application for registration is correct and complete, the Registrar shall accept it for registration. However, if it appears that any particulars contained in the application for registration are not correct or the documents attached thereto are not complete or any particulars in the application for registration or in the documents are contrary to the laws, the Registrar shall notify the applicant to make rectification or completion or compliance in accordance with the laws and after the applicant has proceeded as notified, the Registrar shall accept application for the registration.

After having accepted the application for registration, the Registrar shall have brief particulars representing the content of the application accepted for registration published in the Government Gazette.

When the publication of the content of the application under paragraph two has been made, the general public shall be deemed to have been informed of the content published from the day following the date of its publication.

In the case where the registrar issues an order not to accept the registration, he or she shall promptly notify the applicant in writing of the order together with the reasons thereof. In this regard, the applicant may appeal the order of the Registrar to the Minister within one month as from the date of receiving the order.

The decision of the Minister shall be final.

### **Section 188**

In the case where the Registrar finds that the list of the shareholders of the company submitted under Section 64 is incorrect, the Registrar shall have the power to issue a written order directing the company to rectify it within a reasonable period as specified by the Registrar.

### **Section 189**

If it appears to the Registrar from the facts that the events referred to in Section 155 (1) or (2) have occurred with respect to any company, the Registrar shall have the power to order the company to rectify it within the period as specified by the Registrar.

### **Section 190**

For the execution of this Act, the Registrar and a competent official shall have the power to enter offices and any premises of the company during its working hours in order to inspect various documents and evidence of the company which shall be prepared in accordance with this Act and shall also have the power to call persons concerned to give statements. In this regard, the competent official shall produce his or her identify card to such persons and such persons shall provide reasonable assistance and facilities to him or her.

The identity card of the competent official shall be in the form prescribed by the Minister.

## **CHAPTER XVII**

### **Penalties**

#### **Section 191**

Any company which fails to comply with Section 11, Section 25, Section 31 paragraph two, Section 40, Section 48, Section 51, Section 55 paragraph one, Section 58, Section 59, Section 62 paragraph two, Section 63 paragraph two, Section 64, Section 65 paragraph three, Section 108 paragraph two, Section 127, Section 133, Section 138 paragraph two, Section 142, Section 143, Section 145 paragraph two, Section 188 or Section 189 shall be liable to a fine not exceeding twenty thousand Baht.

#### **Section 192**

Any promoter who fails to comply with Section 20 paragraph three, Section 28 or Section 37 paragraph one shall be liable to a fine not exceeding twenty thousand Baht.

#### **Section 193**

Any promoter who violates Section 26 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

#### **Section 194**

Any promoter who fails to comply with Section 27 shall be liable to a fine not exceeding one hundred thousand Baht.

#### **Section 195**

Any board of directors which fails to comply with Section 37 paragraph two, Section 74, Section 79, Section 83 paragraph two, Section 96 paragraph three, Section 98 paragraph one, Section 100, Section 101, Section 105 paragraph three, Section 112, Section 113, Section 115 paragraph four, Section 151, or Section 183 shall be liable to a fine not exceeding twenty thousand Baht.

#### **Section 196**

Any board of directors which fails to comply with Section 39, Section 40, Section 150, Section 157, or Section 182 shall be liable to a fine not exceeding forty thousand Baht.

#### **Section 197**

Any board of directors which violates Section 43 shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

**Section 198**

Any person who violates Section 55 paragraph two shall be liable to imprisonment for a term not exceeding one year and to a fine not exceeding two hundred thousand Baht.

**Section 199**

Any promoter who violates Section 57 paragraph two shall be liable to a fine not exceeding twenty thousand Baht or two times the value of the shares transferred, whichever is higher.

**Section 200**

Any company which fails to comply with Section 61, Section 62 paragraph one or Section 96 paragraph one shall be liable to a fine not exceeding fifty thousand Baht.

**Section 201**

Any company which violates Section 66 shall be liable to a fine not exceeding fifty thousand Baht or two times the value of shares held or pledged, whichever is higher.

**Section 202**

Any chairman of the board or any person entrusted by him or her who fails to comply with Section 81 paragraph two or Section 82 shall be liable to a fine not exceeding ten thousand Baht.

**Section 203**

Any director who fails to comply with Section 88 or does comply with Section 88 but incompletely or inaccurately as to truthfulness shall be liable to a fine not exceeding twenty thousand Baht.

**Section 204**

Any director, managing director or person authorized to act on behalf of the company who does any act in violation of Section 89 shall be liable to a fine not exceeding twenty thousand Baht or two times the amount of loans granted, whichever is higher.

**Section 205**

Any company which fails to comply with Section 109 shall be liable to a fine not exceeding two hundred thousand Baht and an additional daily fine of two thousand Baht, until the failure is corrected.

**Section 206**

Any company which fails to comply with Section 110, Section 111 or Section 137 shall be liable to a fine not exceeding twenty thousand Baht.

**Section 207**

Any board of directors presenting the particulars mentioned in Section 114 (3), (4) or (5) which are incomplete or inaccurate as to truthfulness shall be liable to a fine not exceeding twenty thousand Baht.

**Section 208**

Any company which fails to make rectification pursuant to the order of the Registrar given under Section 132 (3) shall be liable to a fine not exceeding fifty thousand Baht.

**Section 209**

Any liquidator who fails to comply with Section 160 (7) or Section 161 shall be liable to a fine not exceeding ten thousand Baht.

**Section 210**

Any liquidator who fails to comply with Section 165, Section 166, Section 170 paragraph one, Section 174 paragraph one or two, Section 175 or Section 176 paragraph one or two or fails to comply with the order of the Registrar under Section 174 paragraph three shall be liable to a fine not exceeding twenty thousand Baht.

**Section 211**

Any liquidator who fails to comply with Section 177 shall be liable to a fine not exceeding fifty thousand Baht.

### **Section 212**

Any person who obstructs or does not provide facilities to the inspector in performing his or her duties under Section 130 or the competent official in the performing his or her duties under Section 190 shall be liable to imprisonment for a term not exceeding one month or to a fine not exceeding ten thousand Baht or to both.

### **Section 213**

Any person who uses a name or trade mark containing "Public Company Limited" or "Company" or "Limited (Public)" or "PLC." in Thai characters or foreign characters which have the same meanings in the letter, announcements, notices, invoices, receipts, or other business documents in connection with the business of the company without actually being a company, unless it is used in an application for the registration related to the establishment of the company or in the registration statement for the offer for sale of shares to the public or in the prospectus inviting purchase of shares, shall be liable to a fine not exceeding twenty thousand Baht and an additional daily fine of one thousand Baht, until such person ceases to use such name.

### **Section 214**

Any director or liquidator of a company dishonestly making any false statement or concealing any fact which should be clearly notified to the meeting of shareholders and which is related to the financial condition of that company shall be liable to a fine not exceeding fifty thousand Baht.

### **Section 215**

Any person who is responsible for the business operation of a company, doing or not doing any act in order to acquire unlawful benefits for himself or herself or for other persons which causes damage to that company, shall be liable to a fine not exceeding fifty thousand Baht.

### **Section 216**

Any person who is responsible for the business operation of a company, doing any act to, or permitting others to do any act to:

- (1) cause damage, destroy, change, decrease, or make false accounts, documents or collateral of the company or which are related to the company; or
- (2) present false statement or fail to present material facts in the accounts or documents of the company or which are related to the company.

shall, if such act or permission to do such act is made in order to deceive the company or its shareholders to lose benefits which they are entitled to receive, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one million Baht or to both.

### **Section 217**

Any person who makes an advertisement by referring to any person, position or rank, account, report or business related to the company and which is false in material aspects, or conceals material facts in order to:

- (1) deceive interested persons in the company to lose benefits they are entitled to receive from that company; or
- (2) persuade another person to be a shareholder or debenture holder, to assign or deliver property to that company, or to be a guarantor, or to put up property as collateral for that company.

shall be liable to imprisonment for a term not exceeding three years or to a fine not exceeding six hundred thousand Baht or to both.

### **Section 218**

Any person who attends the statutory meeting or the meeting of shareholders and votes or does not vote by deceiving others that he or she is a subscriber, shareholder or person having the right to vote on behalf of a subscriber or shareholder shall be liable to a fine not exceeding twenty thousand Baht.

Any person who support in the offence under paragraph one by delivering documents indicating subscription of shares or certificates of shares to be used in such commission shall be liable to the same penalty.

#### **Section 219**

Any person who dishonestly values any property or any thing used as payment on shares at more than the real value shall be liable to a fine not exceeding two times the amount at which the valuation exceeds the real value.

#### **Section 220**

Any person who discloses, other than in the performance of his or her powers and duties or for the benefit of any investigation or trial, a company's business of which he or she has acquired knowledge through performing his or her powers and duties provided for in this Act, and which would normally be kept confidential, shall be liable to imprisonment for a term not exceeding one year or to a fine not exceeding two thousand Baht or to both.

#### **Section 221**

In the case where a juristic person is an offender and is liable to penalty under this Act, the representative of such juristic person who connives at the commission of such offence or who does not reasonably attempt to prevent the commission of such offence shall also be liable to punishment imposed for such offence.

#### **Section 222**

In the case where the company is the offender and is liable to penalty under this Act, any director who connives at the commission of such offence or who does not reasonably attempt to prevent the commission of such offence shall be liable to punishment imposed for such offence.

### **Transitory Provisions**

#### **Section 223**

All companies established under the Public Limited Companies Act, B.E. 2521 (1978), before the date of this Act comes into force, shall be companies under the provisions of this Act.

#### **Section 224**

An offer for sale of shares or debentures to the public for which the prospectus inviting the purchase had already been properly registered under the Public Limited Companies Act, B.E. 2521 (1978), before the date of this Act comes into forces, may proceed further according to that earlier Act.

#### **Section 225**

All Ministerial Regulations, Notifications and orders issued under the Public Limited Companies Act, B.E. 2521 (1978), which are in force on the date this Act comes into force shall continue to be in force so long as they are not contrary to or inconsistent with this Act, until they are replaced by the Ministerial Regulations, Notifications and orders which are issued and in force under this Act.

Countersigned by

Mr. Anand Panyarachun

Prime Minister

## Fees

- (1) Registration of memorandum of association of the company
  - For every amount not exceeding 1,000,000 Baht of the amount of the fixed capital 1,000 Baht
  - Fraction of 1,000,000 Baht shall be calculated as 1,000,000 Baht but the total shall not exceed 50,000 Baht
- (2) Registration of amendment of the memorandum of association for the increase of the amount of capital prior to the registration of the company
  - For every amount not exceeding 1,000,000 Baht of the amount of increased capital 1,000 Baht
  - Fraction of 1,000,000 Baht shall be calculated as 1,000,000 Baht but the total shall not exceed 50,000 Baht
- (3) Registration of the company
  - For every amount not exceeding 1,000,000 Baht of the amount of the fixed capital 1,000 Baht
  - Fraction of 1,000,000 Baht shall be calculated as 1,000,000 Baht but the total shall not exceed 250,000 Baht
- (4) Registration of conversion of private company
  - For every amount not exceeding 1,000,000 Baht of the amount of the fixed capital 1,000 Baht
  - Fraction of 1,000,000 Baht shall be calculated as 1,000,000 Baht but the total shall not exceed 50,000 Baht
- (5) Registration of increase of capital of the company
  - For every amount not exceeding 1,000,000 Baht of the amount of increased capital 1,000 Baht
  - Fraction of 1,000,000 Baht shall be calculated as 1,000,000 Baht but the total shall not exceed 250,000 Baht
- (6) Registration of reduction of capital of the company 500 Baht
- (7) Registration of amendment of the memorandum of association of the company other than the increase of capital under (2) 500 Baht
- (8) Registration of amendment of the articles of association of the company 500 Baht
- (9) Registration of appointment of new directors each person 500 Baht
- (10) Registration of amalgamation of companies 10,000 Baht
- (11) Registration of dissolution of the company 500 Baht
- (12) Registration of other matters, each item 500 Baht
- (13) Issuance of certificate of registration or substitute of certificate of registration, each copy 200 Baht
- (14) Inspection of documents of each company, each time 50 Baht
- (15) Application for a copy or a Photostat together with certification each page 50 Baht  
In case of application for a copy or a Photostat of a company's documents together with certification outside of the area of *Changwat* which the head office of the company is located, the additional necessary and actual expenses may be charged.
- (16) Certification of content in the register, each item 50 Baht

In case of certification of content register outside of the area of *Changwat* which the head office of the company is located, the additional necessary and actual expenses may be charged.

- (17) Fee for the issuance of all the documents according to the articles of association of the company, each time/copy/page 10 Baht

#### **Disclaimer**

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