

LAWS OF MALAYSIA

ACT 125

COMPANIES ACT 1965 (REVISED - 1973)

Incorporating latest amendment - Act A1118 /2001

First enacted : 1965 (Act No. 79 of 1965)

Date of coming into operation: Throughout Malaysia—15 April 1966, P. U. 168/1966

Revised up to : 1973 (As Act 125 w. e. f. 14 December 1973)

PART I - PRELIMINARY

Section 1. Short title.

(1) This Act may be cited as the Companies Act 1965.

(2) (Omitted).

Section 2. (Omitted).

Section 3. Repeals.

(1) The written laws mentioned in the First Schedule to the extent to which they are therein expressed to be repealed or amended are hereby repealed or amended accordingly.

Transitory provisions

(2) Unless the contrary intention appears in this Act—

(a) all persons, things and circumstances appointed or created by or under any of the repealed or amended written laws or existing or continuing under any of such written laws immediately before the commencement of this Act shall under and subject to this Act continue to have the same status operation and effect as they respectively would have had if those written laws had not been so repealed or amended; and

(b) in particular and without affecting the generality of the foregoing paragraph, such repeal shall not disturb the continuity of status, operation or effect of any Order in Council, order, rule, regulation, scale of fees, appointment, conveyance, mortgage, deed, agreement, resolution, direction, instrument, document, memorandum, articles, incorporation, nomination, affidavit, call, forfeiture, minute, assignment, register, registration, transfer, list, licence, certificate, security, notice, compromise, arrangement, right, priority, liability, duty, obligation, proceeding, matter or thing made, done, effected, given, issued, passed, taken, validated, entered into, executed, lodged, accrued, incurred, existing, pending or acquired by or under any of such written laws before the commencement of this Act.

(3) Nothing in this Act shall affect the Table in any repealed written law corresponding to Table A of the Fourth Schedule or any part thereof (either as originally enacted or as altered in pursuance of any statutory power) or the corresponding Table in any former written law relating to companies (either as originally enacted or as so altered) so far as the same applies to any company existing at the commencement of this Act.

(4) The provisions of this Act with respect to winding up other than Subdivision (5) of Division 4 of Part X shall not apply to any company or society of which the winding up has commenced before the commencement of this Act, but every such company or society shall be wound up in the same manner and with the same incidents as if this Act had not been passed and for the purposes of the winding up the written laws under which the winding up commenced shall be deemed to remain in full force.

(5) Paragraphs 9(1)(c) and (d) shall not apply to any person in relation to a private company until the conclusion of the next annual general meeting held after the commencement of this Act if he was appointed as auditor of that company before the commencement of this Act.

#### Section 4. Interpretation.

(1) In this Act, unless the contrary intention appears—

"accounting records", in relation to a corporation, includes invoices, receipts, orders for payment of money, bills of exchange, cheques, promissory notes, vouchers and other documents of prime entry and also includes such working papers and other documents as are necessary to explain the methods and calculations by which accounts are made up;

"accounts" means profit and loss accounts and balance sheets and includes notes or statements required by this Act (other than auditors' reports or directors' reports) and attached or intended to be read with profit and loss accounts or balance sheets;

"annual general meeting" in relation to a company means a meeting of the company required to be held by section 143;

"annual return" means—

(a) in relation to a company having a share capital, the return required to be made by subsection 165(1); and

(b) in relation to a company not having a share capital, the return required to be made by subsection 165(5),

and includes any document accompanying the return;

"appointed date" has the same meaning as is assigned to that expression in the Companies Commission of Malaysia Act 2001 [Act 614];

"approved company auditor" means a person approved as such by the Minister under section 8 whose approval has not been revoked;

"approved liquidator" means an approved company auditor who has been approved by the Minister under section 8 as a liquidator and whose approval has not been revoked;

"articles" means articles of association;

"banking corporation" means a licensed bank, a licensed merchant bank and an Islamic bank;

"books" includes any register or other record of information and any accounts or accounting records, however compiled, recorded or stored, and also includes any document;

"borrowing corporation" means a corporation that is or will be under a liability (whether or not such liability is present or future) to repay any money received or to be received by it in response to an invitation to the public to subscribe for or purchase debentures of the corporation in accordance with Division 4 of Part IV;

"branch register" means—

(a) in relation to a company—

(i) a branch register of members of the company kept in pursuance of section 164; or

(ii) a branch register of holders of debentures kept in pursuance of section 70,

as the case may require; and

(b) in relation to a foreign company, a branch register of members of the company kept in pursuance of section 342;

"certified", in relation to a copy of a document, means certified in the prescribed manner to be a true copy of the document and, in relation to a translation of a document, means certified in the prescribed manner to be a correct translation of the document into the national language or into the English language, as the case requires;

"charge" includes a mortgage and any agreement to give or execute a charge or

mortgage whether upon demand or otherwise;

"Commission" means the Companies Commission of Malaysia established under the Companies Commission of Malaysia Act 2001;

"company" means a company incorporated pursuant to this Act or pursuant to any corresponding previous enactment;

"company having a share capital" includes an unlimited company with a share capital;

"company limited by guarantee" means a company formed on the principle of having the liability of its members limited by the memorandum to such amount as the members may respectively undertake to contribute to the assets of the company in the event of its being wound up;

"company limited by shares" means a company formed on the principle of having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them;

"contributory", in relation to a company, means a person liable to contribute to the assets of the company in the event of its being wound up, and includes the holder of fully paid shares in the company and, prior to the final determination of the persons who are contributories, includes any person alleged to be a contributory;

"corporation" means any body corporate formed or incorporated or existing within Malaysia or outside Malaysia and includes any foreign company but does not include—

(a) any body corporate that is incorporated within Malaysia and is by notice of the Minister published in the Gazette declared to be a public authority or an instrumentality or agency of the Government of Malaysia or of any State or to be a body corporate which is not incorporated for commercial purposes;

(b) any corporation sole;

(c) any society registered under any written law relating to co-operative societies; or

(d) any trade union registered under any written law as a trade union;

"corresponding previous written law" means any written law relating to companies which has been at any time in force in any part of Malaysia and which corresponds with any provision of this Act;

"Court" means the High Court or a judge thereof;

"creditors' voluntary winding up" means a winding up under Division 3 of Part X, other than a members' voluntary winding up;

"debenture" includes debenture stock, bonds, notes and any other securities of a corporation whether constituting a charge on the assets of the corporation or not;

"default penalty" means a default penalty within the meaning of section 370;

"director" includes any person occupying the position of director of a corporation by whatever name called and includes a person in accordance with whose directions or instructions the directors of a corporation are accustomed to act and an alternate or substitute director;

"Division" means a Division of this Act and a reference to a specified Division is a reference to that Division of the Part in which the reference occurs;

"document" includes summons, order and other legal process, and notice and register;

"emoluments", in relation to a director or auditor of a company, includes any fees, percentages and other payments made (including the money value of any allowances or perquisites) or consideration given, directly or indirectly, to the director or auditor by that company or by a holding company or a subsidiary of that company, whether made or given to him in his capacity as a director or auditor or otherwise in connection with the affairs of that company or of the holding company or the subsidiary;

"equity share" means any share which is not a preference share;

"exempt private company" means a private company in the shares of which no beneficial interest is held directly or indirectly by any corporation and which has not more than twenty members none of whom is a corporation;

"expert" includes engineer, valuer, accountant and any other person whose profession or reputation gives authority to a statement made by him;

"filed" means filed under this Act or any corresponding previous written law;

"financial year", in relation to any corporation, means the period in respect of which any profit and loss account of the corporation laid before it in

general meeting is made up, whether that period is a year or not;

"foreign company" means—

(a) a company, corporation, society, association or other body incorporated outside Malaysia; or

(b) an unincorporated society, association or other body which under the law of its place of origin may sue or be sued, or hold property in the name of the secretary or other officer of the body or association duly appointed for that purpose and which does not have its head office or principal place of business in Malaysia;

"guarantor corporation", in relation to a borrowing corporation, means a corporation that has guaranteed or has agreed to guarantee the repayment of any money received or to be received by the borrowing corporation in response to an invitation to the public to subscribe for or purchase debentures of the borrowing corporation;

"limited company" means a company limited by shares or by guarantee or both by shares and guarantee;

"liquidator" includes the Official Receiver when acting as the liquidator of a corporation;

"lodged" means lodged under this Act or any corresponding previous written law;

"manager", in relation to a company, means the principal executive officer of the company for the time being by whatever name called and whether or not he is a director;

"marketable securities" means debentures, funds, stocks, shares or bonds of any Government or of any local authority or of any corporation or society and includes any right or option in respect of shares in any corporation and any interest as defined in section 84;

"members' voluntary winding up" means a winding up under Division 3 of Part X, where a declaration has been made and lodged in pursuance of section 257;

"memorandum" means memorandum of association;

"minimum subscription"—

(a) in relation to any shares of an unlisted recreational club which are offered to the public for subscription, means the amount stated in the prospectus relating to the offer in pursuance of paragraph 4(a) of the Fifth

Schedule;

(b) in relation to any issue of, offer for subscription or purchase of, or invitation to subscribe for or purchase, shares made pursuant to the Securities Commission Act 1993 [Act 498], means the amount stated in the prospectus relating to the issue, offer or invitation in pursuance of the requirements of the Securities Commission relating to contents of prospectuses,

as the minimum amount which in the opinion of the directors must be raised by the issue of the shares so offered;

"Minister" means the Minister charged with the responsibility for companies;

"office copy", in relation to any Court order or other Court document, means a copy authenticated under the hand or seal of the Registrar or other proper officer of the Court;

"officer" in relation to a corporation includes—

(a) any director, secretary or employee of the corporation;

(b) a receiver and manager of any part of the undertaking of the corporation appointed under a power contained in any instrument; and

(c) any liquidator of a company appointed in a voluntary winding up,

but does not include—

(d) any receiver who is not also a manager;

(e) any receiver and manager appointed by the Court; or

(f) any liquidator appointed by the Court or by the creditors;

"Official Receiver" means the Director General of Insolvency, Deputy Director General of Insolvency, Senior Assistant Directors of Insolvency, Assistant Directors of Insolvency, Insolvency officers and any other officer appointed under the Bankruptcy Act 1967 [Act 360];

"preference share" means a share by whatever name called, which does not entitle the holder thereof to the right to vote at a general meeting or to any right to participate beyond a specified amount in any distribution whether by way of dividend, or on redemption, in a winding up, or otherwise;

"prescribed" means prescribed by or under this Act;

"principal register", in relation to a company, means the register of members of the company kept in pursuance of section 158;

"printed" includes typewritten or lithographed or reproduced by any mechanical means;

"private company" means—

(a) any company which immediately prior to the commencement of this Act was a private company under the repealed written laws;

(b) any company incorporated as a private company by virtue of section 15; or

(c) any company converted into a private company pursuant to section 26(1),

being a company which has not ceased to be a private company under section 26 or 27;

"profit and loss account" includes income and expenditure account, revenue account or any other account showing the results of the business of a corporation for a period;

"promoter", in relation to a prospectus issued by or in connection with a corporation, means a promoter of the corporation who was a party to the preparation of the prospectus or of any relevant portion thereof; but does not include any person by reason only of his acting in a professional capacity;

"prospectus" means any prospectus, notice, circular, advertisement or invitation inviting applications or offers from the public to subscribe for or purchase or offering to the public for subscription or purchase any shares in or debentures of or any units of shares in or units of debentures of a corporation or proposed corporation and, in relation to any prospectus registered under the Securities Commission Act 1993, means a prospectus as defined under that Act;

"public company" means a company other than a private company;

"registered" means registered under this Act or any corresponding previous written law;

"Registrar" means the Registrar of Companies as designated under subsection 7(1);

"regulations" means regulations under this Act;



"related corporation", in relation to a corporation, means a corporation which is deemed to be related to the first-mentioned corporation by virtue of section 6;

"repealed written laws" means the written laws repealed by this Act;

"resolution for voluntary winding up" means the resolution referred to in section 254;

"rules" means rules of court;

"securities" has the same meaning as is assigned to that word in the Securities Commission Act 1993;

"share" means share in the share capital of a corporation and includes stock except where a distinction between stock and shares is expressed or implied;

"statutory meeting" means the meeting referred to in section 142;

"statutory report" means the report referred to in section 142;

"Subdivision" means a Subdivision of this Act and a reference to a specified subdivision is a reference to that Subdivision of the Division in which the reference occurs;

"Table A" means Table A in the Fourth Schedule;

"this Act" includes any regulations;

"transparency", in relation to a document, means—

(a) a developed negative or positive photograph of that document (in this definition referred to as an "original photograph") made on a transparent base, by means of light reflected from or transmitted through the document;

(b) a copy of an original photograph made by the use of photo-sensitive material (being photo-sensitive material on a transparent base) placed in surface contact with the original photograph; or

(c) any one of a series of copies of an original photograph, the first of the series being made by the use of photosensitive material (being photo-sensitive material on a transparent base) placed in surface contact with a copy referred to in paragraph (b), and each succeeding copy in the series being made, in the same manner from any preceding copy in the series;

"trustee corporation" means—

(a) a company registered as a trust company under the Trust Companies Act 1949 [Act 100]; or

(b) a corporation that is a public company under this Act or under the laws of any other country, which has been declared by the Minister to be a trustee corporation for the purposes of this Act;

"unit", in relation to a share, debenture or other interest, means any right or interest therein, by whatever term called;

"unlimited company" means a company formed on the principle of having no limit placed on the liability of its members;

"unlisted recreational club" has the same meaning as is assigned to that expression in the Securities Commission Act 1993;

"voting share", in relation to a body corporate, means an issued share of the body corporate, not being—

(a) a share to which, under no circumstances, there is attached a right to vote; or

(b) a share to which there is attached a right to vote only in one or more of the following circumstances:

(i) during a period in which a dividend (or part of a dividend) in respect of the share is in arrears;

(ii) upon a proposal to reduce the share capital of the body corporate;

(iii) upon a proposal affecting the rights attached to the share;

(iv) upon a proposal to wind up the body corporate;

(v) upon a proposal for the disposal of the whole of the property, business and undertakings of the body corporate;

(vi) during the winding up of the body corporate.

(1A) In this Act—

(a) "licensed bank", "licensed business", "licensed discount house", "licensed finance company", "licensed institution", "licensed merchant bank", "licensed money broker", "nonscheduled institution", "scheduled business" and "scheduled institution" shall have the meanings assigned thereto in subsection 2(1) of the Banking and Financial Institutions Act 1989 [Act 372]; and

(b) "Islamic bank" or "Islamic banking business" shall have the meaning assigned thereto in the Islamic Banking Act 1983 [Act 276].

(2) For the purposes of this Act a person shall not be regarded as a person in accordance with whose directions or instructions the directors of a company are accustomed to act by reason only that the directors act on advice given by him in a professional capacity.

(3) For the purposes of this Act a statement included in a prospectus or statement in lieu of prospectus shall be deemed to be untrue if it is misleading in the form and context in which it is included.

(4) For the purposes of this Act a statement shall be deemed to be included in a prospectus or statement in lieu of prospectus if it is contained in any report or memorandum appearing on the face thereof or by reference incorporated therein or issued therewith.

(5) For the purposes of this Act any invitation to the public to deposit money with or to lend money to a corporation shall be deemed to be an invitation to subscribe for or purchase debentures of the corporation and any document that is issued or intended or required to be issued by a corporation acknowledging or evidencing or constituting an acknowledgement of the indebtedness of the corporation in respect of any money that is or may be deposited with or lent to the corporation in response to such an invitation shall be deemed to be a debenture, but an invitation to the public by a prescribed corporation as defined in subsection 38(7) shall not be deemed to be an invitation to the public to deposit money with or to lend money to the corporation for the purpose of Division 4 of Part IV.

(6) Any reference in this Act to offering shares or debentures to the public shall, unless the contrary intention appears, be construed as including a reference to offering them to any section of the public, whether selected as clients of the person issuing the prospectus or in any other manner; but a bona fide offer or invitation with respect to shares or debentures shall not be deemed to be an offer to the public if it is—

(a) an offer or invitation to enter into an underwriting agreement;

(b) made to a person whose ordinary business it is to buy or sell shares or debentures whether as principal or agent;

(c) made to existing members or debenture holders of a corporation and relates to shares in or debentures of that corporation and is not an offer to which section 46 of the Securities Commission Act 1993 applies; or

(d) made to existing members of a company within the meaning of section 270 and relates to shares in the corporation within the meaning of that section.

(7) Unless the contrary intention appears any reference in this Act to a person being or becoming bankrupt or to a person assigning his estate for the benefit of his creditors or making an arrangement with his creditors under any written law relating to bankruptcy or to a person being an undischarged bankrupt or to any status, condition, act, matter or thing under or in relation to the law of bankruptcy shall be construed as including a reference to a person being or becoming bankrupt or insolvent or to a person making any such assignment or arrangement or to a person being an undischarged bankrupt or insolvent or to the corresponding status, condition, act, matter or thing (as the case requires) under any written law relating to bankruptcy or insolvency.

(8) (Deleted by Act A21).

Section 5. Definition of subsidiary and holding company.

(1) For the purposes of this Act, a corporation shall, subject to subsection (3), be deemed to be a subsidiary of another corporation, if—

(a) that other corporation—

(i) controls the composition of the board of directors of the first-mentioned corporation;

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

(iii) holds more than half of the issued share capital of the first-mentioned corporation (excluding any part thereof which consists of preference shares); or

(b) the first-mentioned corporation is a subsidiary of any corporation which is that other corporation's subsidiary.

(2) For the purposes of subsection (1), the composition of a corporation's board of directors shall be deemed to be controlled by another corporation if that other corporation by the exercise of some power exercisable by it without the consent or concurrence of any other person can appoint or remove all or a majority of the directors, and for the purposes of this provision that other corporation shall be deemed to have power to make such an appointment if—

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

(b) a person's appointment as a director follows necessarily from his being a director or other officer of that other corporation.

(3) In determining whether one corporation is a subsidiary of another corporation—

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

(b) subject to paragraphs (c) and (d), any shares held or power exercisable—  
(i) by any person as a nominee for that other corporation (except where that other corporation is concerned only in a fiduciary capacity); or

(ii) by, or by a nominee for, a subsidiary of that other corporation, not being a subsidiary which is concerned only in a fiduciary capacity, shall be treated as held or exercisable by that other corporation;

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

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

(4) A reference in this Act to the holding company of a company or other corporation shall be read as a reference to a corporation of which that last-mentioned company or corporation is a subsidiary.

Section 5A. Definition of ultimate holding company.

For the purposes of this Act, a corporation shall be deemed to be the ultimate holding company of another corporation if—

(a) the other corporation is a subsidiary of the first-mentioned corporation; and

(b) the first-mentioned corporation is not itself a subsidiary of any corporation.

Section 5B. Definition of wholly-owned subsidiary.

For the purposes of this Act, a corporation shall be deemed to be a wholly-owned subsidiary of another corporation if none of the members of the first mentioned corporation is a person other than—

(a) the second-mentioned corporation;

(b) a nominee of the second-mentioned corporation;

(c) a subsidiary of the second-mentioned corporation, being a subsidiary none of the members of which is a person other than the second-mentioned corporation or a nominee of the second-mentioned corporation; or

(d) a nominee of such a subsidiary.

Section 6. When corporations deemed to be related to each other.

Where a corporation—

(a) is the holding company of another corporation;

(b) is a subsidiary of another corporation; or

(c) is a subsidiary of the holding company of another corporation,

that first-mentioned corporation and that other corporation shall for the purposes of this Act be deemed to be related to each other.

Section 6A. Interests in shares.

(1) The following subsections have effect for the purposes of Division 3A of Part IV, sections 134 and 135.

(2) Where any property held in trust consists of or includes shares in which a person knows or has reasonable grounds for believing that he has an interest, he shall be deemed to have an interest in those shares.

(3) A right does not constitute an interest in a share where—

(a) a right (being a right or an interest described in the definition of "interest" in section 84) was issued or offered to the public for subscription or purchase;

(b) the public was invited to subscribe for or purchase such a right, and the right was so subscribed for or purchased;

(c) such a right is held by the management company and was issued for the purpose of an offer to the public within the meaning of section 84; or

(d) such a right is a right which has been prescribed by the Minister, after consultation with the Minister of Finance, as not being an interest in a share.

(4) A person shall be deemed to have an interest in a share where a body corporate has an interest in a share and—

(a) the body corporate is, or its directors are accustomed, or is under an

obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that person in relation to that share;

(b) that person has a controlling interest in the body corporate; or

(c) that person, or the associates of that person or that person and his associates are entitled to exercise or control the exercise of not less than fifteen per centum of the votes attached to the voting shares in the body corporate.

(5) For the purposes of paragraph (4) (c), a person is an associate of another person if the first-mentioned person is—

(a) a corporation which is a related corporation;

(b) a person in accordance with whose directions, instructions or wishes that other person is accustomed or is under an obligation, whether formal or informal, to act in relation to the share referred to in subsection (4);

(c) a person who is accustomed or is under an obligation, whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to that share;

(d) a body corporate which is, or the directors of which are, accustomed or under an obligation whether formal or informal, to act in accordance with the directions, instructions or wishes of that other person in relation to that share; or

(e) a body corporate in accordance with the directions, instructions or wishes of which, or of the directors of which, that other person is accustomed or under an obligation whether formal or informal, to act in relation to that share.

(6) A person shall be deemed to have an interest in a share in any one or more of the following circumstances where he—

(a) has entered into a contract to purchase a share;

(b) has a right, otherwise than by reason of having an interest under a trust, to have a share transferred to himself or to his order, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not;

(c) has the right to acquire a share or an interest in a share, under an option, whether the right is exercisable presently or in the future and whether on the fulfilment of a condition or not; or

(d) is entitled (otherwise than by reason of his having been appointed a proxy or representative to vote at a meeting of members of a corporation or of a class of its members) to exercise or control the exercise of a right attached to a share, not being a share of which he is the registered holder.

(7) A person shall be deemed to have an interest in a share if that share is held jointly with another person.

(8) For the purpose of determining whether a person has an interest in a share it is immaterial that the interest cannot be related to a particular share.

(9) There shall be disregarded—

(a) an interest in a share if the interest is that of a person who holds the share as bare trustee;

(b) an interest in a share of a person whose ordinary business includes the lending of money if he holds the interest only by way of security for the purposes of a transaction entered into in the ordinary course of business in connection with the lending of money;

(c) an interest of a person in a share being an interest held by him by reason of his holding a prescribed office; and

(d) a prescribed interest in a share being an interest of such person, or of the persons included in such class of persons, as is prescribed.

(10) An interest in a share shall not be disregarded by reason only of—

(a) its remoteness;

(b) the manner in which it arose;

(c) the fact that the exercise of a right conferred by the interest is, or is capable of being made subject to restraint or restriction; or

(d) the fact that it is held by, or in the name of, a central depository or its nominee company pursuant to the Securities Industry (Central Depositories) Act 1991 [Act 453].

## PART II - ADMINISTRATION OF ACT

### Section 7. Registrar of Companies, etc.

(1) The Chief Executive Officer of the Commission shall be the Registrar of Companies.

(1A) The Commission may appoint, on such terms and conditions as it may



determine, from amongst persons in the employment of the Commission such number of Regional Registrars, Deputy Registrars, Assistant Registrars, clerks and servants for the proper administration of this Act, and may revoke the appointment of any person so appointed or deemed to have been so appointed under subsection (1B).

(1B) The persons holding office as Regional Registrars, Deputy Registrars, Assistant Registrars, clerks and servants under this Act before the appointed date who were given an option by the Government of Malaysia and have opted to serve as employees of the Commission shall, on the appointed date, be deemed to have been appointed Regional Registrars, Deputy Registrars, Assistant Registrars, clerks and servants by the Commission.

(2) Subject to the general direction and control of the Registrar and to such restrictions and limitations as may be prescribed, anything by this Act appointed or authorized or required to be done or signed by the Registrar may be done or signed by any Regional, Deputy or Assistant Registrar and shall be as valid and effectual as if done or signed by the Registrar.

(3) No person dealing with any Regional, Deputy or Assistant Registrar shall be concerned to see or inquire whether any restrictions or limitations have been prescribed, and every act or omission of a Regional Deputy or Assistant Registrar so far as it affects any such person shall be as valid and effectual as if done or omitted by the Registrar.

Certain signatures to be judicially noticed

(4) All courts, judges and persons acting judicially shall take judicial notice of the seal and signature of the Registrar and of any Regional, Deputy or Assistant Registrar.

(5)–(10) (Deleted by Act A836).

Power to call for information

(11) (a) The Registrar may require any corporation or person to give orally or may by notice under his hand require any corporation or person to give in writing within a time specified in the notice all such information in his possession or within his knowledge as may be required of it or him by the Registrar for the purposes of this Act.

(b) Any corporation or person who fails to supply any information, or who in supplying any information makes any statement which he knows to be false in material particular, or recklessly makes such statement, shall be guilty of an offence.

Penalty: Two thousand ringgit. Default penalty.

(12) For the purposes of this Act, any notice, letter or document sent by ordinary or registered post shall be deemed to have been served on the person, corporation or firm to whom it is addressed, on the day succeeding the day on which the notice, letter or document would have been received in the ordinary course of post if—

(a) in the case of a corporation or firm it is addressed to its last known registered office;

(b) in the case of a person, it is addressed to his last known address.

(13) Neither the Registrar nor any person appointed by the Commission under subsection (1A) or deemed to have been appointed under subsection (1B) shall be liable to be sued in any court for any act or matter done or ordered to be done or omitted to be done, by him in good faith and in the intended exercise of any power or performance of any duty, conferred or imposed on him by or under this Act.

#### Fees

(14) Subject to section 7A, there shall be paid to the Registrar—

(a) the fees specified in the Second Schedule; and

(b) such other fees as are prescribed, and such fees shall be collected by the Registrar in such manner as the Minister may, from time to time, direct.

Section 7A. Power of Minister to exempt from payment of fees.

The Minister may, by order published in the Gazette, exempt any statutory body or government agency from paying any or all of the fees specified in the Second Schedule or prescribed under this Act.

Section 7B. Power to conduct inspection.

(1) For the purpose of ascertaining whether a corporation or any officer of a corporation is complying with this Act, the Registrar may have access to any place or building and may inspect and make copies of or take extracts from any book, minute book, register or document required by or under this Act to be kept by the corporation.

(2) For the purposes of this section, the Registrar may by notice in writing require any officer of a corporation or any person to produce to him such books, registers or documents as are in the custody or under the control of that officer or person.

(3) A corporation which, any officer of the corporation or any person who—

(a) fails to produce any such books, registers or documents as required by the Registrar under this section; or

(b) obstructs or hinders the Registrar while exercising any of the powers under this section,

shall be guilty of an offence against this Act.

Penalty: Imprisonment for three years or ten thousand ringgit or both.

(4) The Registrar, except for the purposes of this Act, or in the course of any criminal proceedings, shall not make a record of, or divulge or communicate to any other person, any information which he has acquired by reason of such inspection.

(5) Subsection (1) shall not be construed as limiting or affecting any power to make any such inspection conferred on any person by any other law.

Section 7C. Power to conduct investigation.

(1) Where the Registrar has reason to suspect that a person has committed an offence against this Act, he may make such investigation as he thinks expedient for the due administration of this Act.

(2) Whenever it appears to any Magistrate upon written information and after such enquiry as he thinks necessary, that there is reasonable cause to believe that in any place or building there is any object, article, material, thing, accounts, book or other document including any travel or other personal document, which may be used as evidence of the commission of an offence against this Act, he may by warrant empower the Registrar to enter the place or building, by force if necessary, and there to search for, seize, take possession of and detain any such object, article, material, thing, accounts, book or other document.

(3) Whenever it appears to the Registrar that there is reasonable cause to believe that in any place or building there is concealed or deposited any object, article, material, thing, accounts, book or other document including any travel or other personal document which may be used as evidence of the commission of an offence against this Act, and the Registrar has reasonable grounds for believing that by reason of the delay in obtaining a search warrant, such object, article, material, thing, accounts, book or other document may be interfered with or destroyed or the object of the search is likely to be frustrated, he may in respect of the place or building exercise all the powers mentioned in subsection (2) in as full and ample measure as if he were empowered to do so by warrant issued under that subsection.

(4) The Registrar may grant permission to any person to inspect any accounts,

book or other document seized and taken possession of by the Registrar during the course of an investigation under this Act if such person is entitled to inspect such accounts, book or document under this Act.

Section 7D. Power to call for examination.

(1) For the purpose of any investigation under section 7C, the Registrar may by notice in writing require any person supposed to be acquainted with the facts and circumstances of the case to appear before him and to be examined orally and shall reduce into writing any statement made by the person so examined.

(2) Such person shall be legally bound to answer all questions relating to such case put to him by the Registrar and to state the truth, whether or not the statement is made wholly or partly in answer to questions, and shall not refuse to answer any question on the ground that it tends to incriminate him.

(3) A statement made by any person under this section shall be taken down in writing and signed by the person making it or affixed with his thumb print, as the case may be, after it has been read to him and after he had been given an opportunity to make any correction he may wish:

Provided that where the person examined refuses to sign or affix his thumb print on the statement, the Registrar shall endorse thereon under his hand the fact of such refusal and the reason therefor, if any, stated by the person examined.

(4) Any statement made and recorded under this section shall be admissible as evidence in any proceedings under this Act in any court, either against the person who made it or any other person.

(5) Any person who—

(a) without reasonable excuse fails to appear before the Registrar as required under subsection (1);

(b) without reasonable excuse refuses to answer all questions put to him by the Registrar as required by subsection (2); or

(c) knowingly furnishes to the Registrar information or statement that is false or misleading in a material particular,

shall be guilty of an offence against this Act.

Penalty: Imprisonment for five years or thirty thousand ringgit or both.

Section 8. Company auditors and liquidators to be approved by Minister charged with responsibility for finance.

Section 8. Company auditors and liquidators to be approved by Minister charged with responsibility for finance.

(1) Any person may apply to the Minister charged with responsibility for finance to be approved as a company auditor for the purposes of this Act.

(2) The Minister charged with responsibility for finance may, if he is satisfied that the applicant is of good character and competent to perform the duties of an auditor under this Act, upon payment of the prescribed fee, approve the applicant as a company auditor.

(3) Any approved company auditor may apply to the Minister charged with responsibility for finance to be approved as a liquidator for the purposes of this Act, and the Minister, if satisfied as to the experience and capacity of the applicant, may on payment of the prescribed fee approve such person as a liquidator for the purposes of this Act.

(4) Any approval granted by the Minister charged with responsibility for finance pursuant to this section may be made subject to such limitations or conditions as he thinks fit and may be revoked at any time by him by the service of a notice of revocation on the approved person.

(5) Every approval under this section including a renewal of approval of a company auditor or liquidator shall be in force for a period of two years\* after the date of issue thereof unless sooner revoked by the Minister charged with responsibility for finance.

(6) A person who immediately before the commencement of this Act was authorized pursuant to any corresponding previous written law to be an auditor of companies shall be deemed to have been approved as a company auditor under this section on the date of the commencement of this Act but if such person's approval was limited or conditional those limitations and conditions shall continue to apply.

(7) The Minister charged with responsibility for finance may delegate all or any of his powers under this section to any person or body of persons charged with the responsibility for the registration or control of accountants in Malaysia.

(8) Any person who is dissatisfied with any decision of the Minister charged with responsibility for finance under this section or with the decision of any person or body of persons to whom such Minister has delegated all or any of his powers under this section may appeal to the Yang di-Pertuan Agong who may in his discretion confirm, reverse or vary the decision.

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\*NOTE—Provided that any approval or renewal of approval in force immediately before the coming into operation of Act A616 shall continue in force until it expires or is sooner revoked by the Minister.

Section 9. Company auditors.

(1) A person shall not knowingly consent to be appointed, and shall not knowingly act, as auditor for any company and shall not prepare, for or on behalf of a company, any report required by this Act to be prepared by an approved company auditor—

- (a) if he is not an approved company auditor;
- (b) if he is indebted to the company or to a corporation that is deemed to be related to that company by virtue of section 6 in an amount exceeding two thousand five hundred ringgit;
- (c) if he is—
  - (i) an officer of the company;
  - (ii) a partner, employer or employee of an officer of the company;
  - (iii) a partner or employee of an employee of an officer of the company; or
  - (iv) a shareholder or his spouse is a shareholder of a corporation whose employee is an officer of the company; or
- (d) if he is responsible for or if he is the partner, employer or employee of a person responsible for the keeping of the register of members or the register of holders of debentures of the company.

Penalty: \*Thirty thousand ringgit.

(2) For the purposes of subsection (1), a person shall be deemed to be an officer of a company if he is an officer of a corporation that is deemed to be related to the company by virtue of section 6 or except where the Minister if he thinks fit in the circumstances of the case directs otherwise, if he has, at any time within the preceding period of twelve months, been an officer or promoter of the company or of such a corporation.

(3) For the purposes of this section, a person shall not be deemed to be an officer by reason only of his having been appointed as auditor of a corporation.

(4) A firm shall not knowingly consent to be appointed, and shall not

knowingly act, as auditor for any company and shall not prepare, for or on behalf of a company, any report required by this Act to be prepared by an approved company auditor unless—

(a) all the partners of the firm resident in Malaysia are approved company auditors and, where the firm is not registered as a firm under any law for the time being in force, a return showing the full names and addresses of all the partners of the firm has been lodged with the Registrar; and

(b) no partner is disqualified under paragraph (1) (b), (c) or

(d) from acting as the auditor of the company.

(5) If a firm contravenes subsection (4) each partner of the firm shall be guilty of an offence.

Penalty: \*Thirty thousand ringgit.

(6) No company or person shall appoint a person as auditor of a company unless that last-mentioned person has prior to the appointment consented in writing to act as such auditor, and no company or person shall appoint a firm as auditor of a company unless the firm has prior to the appointment consented, in writing under the hand of at least one partner of the firm, to act as such auditor.

(7) The appointment of a firm in the name of the firm as auditors of a company shall take effect and operate as an appointment as auditors of the company of the persons who are members of that firm at the time of the appointment.

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\*NOTE—Previously "two thousand ringgit" see Companies (Amendment) (No. 2) Act 1992 [Act A836].

Section 10. Disqualification of liquidators.

(1) Subject to this section a person shall not, except with the leave of the Court, consent to be appointed, and shall not act, as liquidator of a company—

(a) if he is not an approved liquidator;

(b) if he is indebted to the company or to a corporation that is deemed to be related to the company by virtue of section 6 in an amount exceeding two thousand five hundred ringgit;

(c) if he is—

(i) an officer of the company;

(ii) a partner, employer or employee of an officer of the company; or

- (iii) a partner or employee of an officer of the company;
- (d) if he becomes bankrupt;
- (e) if he assigns his estate for the benefit of his creditors or makes an arrangement with his creditors pursuant to any law relating to bankruptcy; or
- (f) if he is convicted of an offence involving fraud or dishonesty punishable on conviction by imprisonment for three months or more.

Penalty: \*Thirty thousand ringgit.

(2) Paragraphs (1) (a) and (c) shall not apply—

(a) to a members' voluntary winding up; or

(b) to a creditors' voluntary winding up if, by a resolution carried by a majority of the creditors in number and value present in person or by proxy and voting at a meeting of which seven days' notice has been given to every creditor stating the object of the meeting, it is determined those paragraphs or either of them shall not apply.

(3) For the purposes of subsection (1), a person shall be deemed to be an officer of a company if he is an officer of a corporation that is deemed to be related to the company by virtue of section 6 or has, at any time within the preceding period of twenty-four months, been an officer or promoter of the company or of such a corporation.

(4) A person shall not be appointed as liquidator of a company unless he has prior to the appointment consented in writing to act as such liquidator.

(5) Nothing in this section shall affect any appointment of a liquidator made before the commencement of this Act.

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\*NOTE—Previously "two thousand ringgit" see Companies (Amendment) (No. 2) Act 1992 [Act A836].

Section 11. Registers.

(1) The Registrar shall, subject to this Act, keep such registers as he considers necessary in such forms as he thinks fit.

Inspection of register

(2) Any person may, on payment of the prescribed fee—



(a) inspect any document filed or lodged with the Registrar not being a document that has been destroyed or otherwise disposed of under subsection (11);

(b) require a certificate of the incorporation of any company or any other certificate issued under this Act; or

(c) require a copy or extract from any document that he is entitled to inspect pursuant to paragraph (a) or any certificate referred to in paragraph (b) to be given or given and certified by the Registrar.

(3) If a reproduction or transparency of a document or certificate is produced for inspection, a person is not entitled pursuant to paragraph 2(a) to require the production of the original of that document or certificate.

(4) The reference in paragraph 2(c) to a document or certificate includes, where a reproduction or transparency of that document or certificate has been incorporated with a register kept by the Registrar, a reference to that reproduction or transparency and where such a reproduction or transparency has been so incorporated, a person is not entitled pursuant to that paragraph to a copy of or extract from the original of that document or certificate.

#### Evidentiary value of copies certified by Registrar

(5) A copy of or extract from any document filed or lodged at the office of the Registrar certified to be a true copy or extract under the hand and seal of the Registrar shall in any proceedings be admissible in evidence as of equal validity with the original document.

(6) The reference in subsection (5) to a document includes, where a reproduction or transparency of that document has been incorporated with a register kept by the Registrar, a reference to that reproduction or transparency.

#### Evidence of statutory requirements

(7) In any legal proceedings—

(a) a certificate under the hand and seal of the Registrar that, at a date or during a period specified in the certificate, no company was registered under this Act or a corresponding previous law by a name specified in the certificate shall be received as prima facie evidence that at the date or during that period, as the case may be, no company was registered by that name under this Act or any corresponding previous law; and

(b) a certificate under the hand and seal of the Registrar that a requirement

of this Act specified in the certificate—

(i) had or had not been complied with at a date or within a period specified in the certificate; or

(ii) had been complied with at a date specified in the certificate but not before that date,

shall be received as prima facie evidence of matters specified in the certificate.

(8) If the Registrar is of the opinion that a document lodged or registered with him—

(a) contains matter contrary to law;

(b) contains matter that, in a material particular, is false or misleading in the form or context in which it is included;

(c) by reason of an omission or misdescription has not been duly completed;

(d) does not comply with the requirements of this Act; or

(e) contains an error, alteration or erasure, the Registrar may request—

(f) that the document be appropriately amended or completed and resubmitted;

(g) that a fresh document be submitted in its place; or

(h) where the document has not been duly completed, that a supplementary document in the prescribed form be lodged.

(9) The Registrar may require a person who submits a document for lodgment with the Registrar to produce to the Registrar such other document, or to furnish to the Registrar such information, as the Registrar thinks necessary in order to form an opinion whether he may refuse to receive or register the document.

## Appeal

(10) Any person aggrieved by the refusal of the Registrar to register any corporation or to register or receive any document or by any act or decision of the Registrar may appeal within thirty days of the decision of the Registrar to the Court which may confirm the refusal, act or decision or give such directions in the matter as seem proper or otherwise determine the matter but this subsection shall not apply to any act decision of the Registrar—

(a) in respect of which any provision in the nature of the appeal or review is expressly provided in this Act; or

(b) which is declared by this Act to be conclusive or final or is embodied in any document declared by this Act to be conclusive evidence of any act, matter or thing.

Destruction, etc., of old records

(11) The Registrar may, if in his opinion it is no longer necessary or desirable to retain them, destroy or give to the National Archives—

(a) in the case of a corporation—

(i) any return of allotment of shares for cash which has been lodged or filed for not less than six years;

(ii) any annual return or balance-sheet that has been lodged or filed for not less than seven years or any document creating or evidencing a charge or the complete or partial satisfaction of a charge where a memorandum of satisfaction of a charge has been registered for not less than seven years; or

(iii) any other document (other than the memorandum and articles or any other document affecting them) which has been lodged, filed or registered for not less than fifteen years;

(b) in the case of a corporation that has been dissolved or has ceased to be registered for not less than fifteen years, any document lodged, filed or registered; or

(c) any document a transparency of which has been incorporated with a register kept by the Registrar.

Section 11A. Electronic filing of documents.

(1) The Registrar may provide a service for the electronic filing or lodging of documents required by this Act to be filed or lodged with the Registrar.

(2) A person who intends to use the service provided under subsection (1) shall become a subscriber to the service by paying the prescribed fee and by complying with such terms and conditions as may be determined by the Registrar.

(3) Only a subscriber to the service provided under subsection (1) may electronically file or lodge documents with the Registrar.

(4) A document electronically filed or lodged under this section shall be deemed to have satisfied the requirement for filing or lodgment if the

document is communicated or transmitted to the Registrar in such manner as may be prescribed by regulations or approved by the Registrar.

(5) The Registrar may, by order published in the Gazette, prescribe the documents that may be electronically filed or lodged.

(6) A document that is required to be stamped, signed or sealed shall, if it is to be electronically filed or lodged be certified or authenticated in such manner as may be prescribed by regulations or approved by the Registrar.

Evidentiary value of copies of electronically filed documents certified by Registrar

(7) A copy of or an extract from any document electronically filed or lodged with the Registrar under subsection (1) supplied or issued by the Registrar and certified to be a true copy thereof or extract therefrom under the hand and seal of the Registrar shall be admissible in evidence in any proceedings as of equal validity as the original document.

(8) Where a document is electronically filed or lodged with the Registrar, the Registrar or his authorized agents shall not be liable for any loss or damage suffered by any person by reason of any error or omission of whatever nature or however arising appearing in any document obtained by any person under the service referred to in subsection (1) if such error or omission was made in good faith and in the ordinary course of the discharge of the duties of the Registrar or of his authorized agents or occurred or arose as a result of any defect or breakdown in the service or in the equipment used for the provision of the service.

Section 12. Enforcement of duty to make returns.

(1) If a corporation or person, having made default in complying with—

(a) any provision of this Act or of any other law which requires the lodging or filing in any manner with the Registrar or the Official Receiver of any return, account or other document or the giving of notice to him of any matter; or

(b) any request of the Registrar or the Official Receiver to amend or complete and resubmit any document or to submit a fresh document, fails to make good the default within fourteen days after the service on the corporations or person of a notice requiring it to be done, the Court or any Sessions Court may, on an application by any member or creditor of the corporation or by the Registrar or the Official Receiver, make an order directing the corporation and any officer thereof or that person to make good the default within such time as is specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the corporation or by any officers of the corporation responsible for the default or by that person.

(3) Nothing in this section shall limit the operation of any written law shall imposing penalties on a corporation or its officers or that person in respect of any such default as aforesaid.

### Section 13. Relodging of lost registered documents.

(1) If in the case of any corporation incorporated or registered under this or any corresponding previous written law the memorandum or articles or any other document relating to the corporation filed or lodged with the Registrar has been lost or destroyed, the corporation may apply to the Registrar for leave to lodge a copy of the document as originally filed or lodged.

(2) On such application being made the Registrar may direct notice thereof to be given to such persons and in such manner as he thinks fit.

(2A) Where the Registrar has reasonable cause to believe that a document in relation to a corporation filed or lodged with him has been lost or destroyed, he may by notice in writing direct the corporation to lodge a copy of the document and the corporation or any officer of the corporation shall, within fourteen days after the service of the notice or such longer period as the Registrar may allow, comply with the direction of the Registrar.

(3) Where the Registrar is satisfied of or has reasonable cause to believe—

(a) the loss or destruction of the original document;

(b) the correctness of the date of filing or lodgment thereof with him; and

(c) the correctness of the copy of the document produced to him,

the Registrar may certify the same upon the copy and direct that the copy be lodged in the manner required by law in respect of the original.

(4) Upon the lodgment the copy for all purposes shall, from such date as is mentioned in the certificate as the date of the filing or lodging of the original with the Registrar, have the same force and effect as the original.

(5) The Court may, by order upon application by any person aggrieved and after notice to any other person whom the Court directs, confirm, vary or rescind the certificate and the order may be lodged with the Registrar and shall be registered by him, but no payments, contracts, dealings, acts and things made, had or done in good faith before the registration of the order and upon the faith of and in reliance upon the certificate shall be invalidated or affected

by the variation or rescission.

(6) No fee shall be payable upon the lodging of a document under this section.

(7) If default is made in complying with the direction of the Registrar under subsection (2A), the corporation and any officer of the corporation who is in default shall be guilty of an offence against this Act.

Penalty: Five thousand ringgit. Default penalty.

### PART III – CONSTITUTION OF COMPANIES

#### Section 14. Formation of companies.

(1) Subject to this Act any two or more persons associated for any lawful purpose may by subscribing their names to a memorandum and complying with the requirements as to registration form an incorporated company.

(2) A company may be –

(a) a company limited by shares;

(b) a company limited by guarantee;

(c) a company limited both by shares and guarantee; or

(d) an unlimited company.

Prohibition of unincorporated associations of more than twenty members for gain.

(3) An association or partnership shall not be formed for the purpose of carrying on any business which has for its object the acquisition of gain by the association or partnership or the individual members thereof unless –

(a) it is an association or partnership formed for the purpose of carrying on any profession or calling which is declared by the Minister to be a profession or calling which is not customarily carried on by an association or partnership incorporated under this Act;

[Am. Act A836: s.7; Am. Act A949: s.2]

(b) in the case of any other association or partnership, it consists of not more than twenty members;

(c) it is incorporated under this Act; or

(d) it is formed in pursuance of some other written law or letters patent.

Section 14A. Prohibition of registration of company limited by guarantee with a share capital.

\*On or after the coming into operation of this section, no company may be formed as, or become, a company limited by guarantee with a share capital.

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\* This section came into force on 1st February 1986—see Act A616, P.U. (B) 30/86.

Section 15. Private company.

(1) A company having a share capital may be incorporated as a private company if its memorandum or articles —

(a) restricts the right to transfer its shares;

(b) limits to not more than fifty the number of its members (counting joint holders of shares as one person and not counting any person in the employment of the company or of its subsidiary or any person who while previously in the employment of the company or of its subsidiary was and thereafter has continued to be a member of the company);

(c) prohibits any invitation to the public to subscribe for any shares in or debentures of the company; and

(d) prohibits any invitation to the public to deposit money with the company for fixed periods or payable at call, whether bearing or not bearing interest.

(2) Where, upon the commencement of this Act, neither the memorandum nor articles of a company that is a private company by virtue of paragraph (a) of the definition of "private company" in section 4 (1) contain the restrictions, limitations and prohibitions required by subsection (1) to be included in the memorandum or articles of a company that may be incorporated as a private company, the articles of the company shall be deemed to include each such restriction, limitation or prohibition that is not so included and a restriction on the right to transfer its shares that is so deemed to be included in its articles shall be deemed to be a restriction that prohibits the transfer of shares except to a person approved by the directors of the company.

(3) Where a restriction, limitation or prohibition deemed to be included in the articles of a company under subsection (2) is inconsistent with any provision already included in the memorandum or articles of the company, that restriction, limitation or prohibition shall, to the extent of the inconsistency, prevail.

(4) A private company may, by special resolution, after any restriction on the right to transfer its shares included, or deemed to be included, in its memorandum or articles or any limitation on the number of its members included, or deemed to be included, in its memorandum or articles, but not so

that the memorandum and articles of the company cease to include the limitation required by subsection (1) (b) to be included in the memorandum or articles of a company that may be incorporated as a private company.  
Section 16. Registration and incorporation.

(1) Persons desiring the incorporation of a company shall lodge the memorandum and the articles, if any, of the proposed company with the Registrar together with the other documents required to be lodged by or under this Act, and the Registrar on payment of the appropriate fees shall subject to this Act register the company by registering the memorandum and articles, if any.

Statutory declarations.

(2) The person named in the articles as the first secretary of the company shall lodge with the Registrar a declaration in the prescribed form stating that all or any of the requirements of this Act have been complied with and containing such information as may be prescribed, and the Registrar may accept such a declaration as sufficient evidence of compliance.

[Subs. Act A1022: s. 3]

(3) [Deleted by Act A836: s. 8]

Subscriber to lodge statutory declaration.

(3A) Every promoter of a proposed company who is a natural person shall before the incorporation of the company make and lodge with the Registrar and the Official Receiver a statutory declaration in the form prescribed by regulations that he will not be acting in contravention of sections 125 and 130.

[Ins. Act A21: s. 5; Am. Act A616: s. 9; Am. Act A836: s. 8]

Certificate of incorporation.

(4) On the registration of the memorandum the Registrar shall certify under his hand and seal that the company is on and from the date specified in the certificate incorporated, and that the company is –

- (a) a company limited by shares;
  - (b) a company limited by guarantee;
  - (c) a company limited both by shares and guarantee; or
  - (d) an unlimited company,
- as the case may be, and where applicable, that it is a private company.

Effect of incorporation.



(5) On and from the date of incorporation specified in the certificate of incorporation but subject to this Act the subscribers to the memorandum together with such other persons as may from time to time become members of the company shall be a body corporate by the name contained in the memorandum capable forthwith of exercising all the functions of an incorporated company and of suing and being sued and having perpetual succession and a common seal with power to hold land but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is provided by this Act.

Members of company.

(6) The subscribers to the memorandum shall be deemed to have agreed to become members of the company and on the incorporation of the company shall be entered as members in its register of members, and every other person who agrees to become a member of a company and whose name is entered in its register of members shall be a member of the company.

(7) The Registrar shall not register a memorandum and articles, if any, of a proposed company unless the memorandum or articles contain the names of at least two persons who are to be the first directors of the proposed company.

(8) Notwithstanding anything to the contrary in this Act or any rule of law, the Registrar shall refuse to register the memorandum of a proposed company if he is satisfied that –

(a) the proposed company is likely to be used for unlawful purposes or any purpose prejudicial to or incompatible with peace, welfare, security, public order, good order or morality in Malaysia; or

(b) it would be prejudicial to national security or public interest for the proposed company to be registered.

[Ins. Act A1022: s. 3]

Section 17. Membership of holding company.

(1) A corporation cannot be a member of a company which is its holding company, and any allotment or transfer of shares in a company to its subsidiary shall be void.

(2) Subsection (1) shall not apply where the subsidiary is concerned as personal representative, or where it is concerned as trustee, unless the holding company or a subsidiary thereof is beneficially interested under the trust and is not so interested only by way of security for the purposes of a transaction entered into by it in the ordinary course of a business which

includes the lending of money.

(3) This section shall not prevent a subsidiary which is, at the commencement of this Act, a member of its holding company, from continuing to be a member but, subject to subsection (2), the subsidiary shall have no right to vote at meetings of the holding company or any class of members thereof.

(4) This section shall not prevent a subsidiary from continuing to be a member of its holding company if, at the time when it becomes a subsidiary thereof, it already holds shares in that holding company, but -

(a) subject to subsection (2), the subsidiary shall have no right to vote at meetings of the holding company or any class of members thereof; and

(b) the subsidiary shall, within the period of twelve months or such longer period as the Court may allow after becoming the subsidiary of its holding company, dispose of all of its shares in the holding company.

(5) Subject to subsection (2), subsections (1), (3) and (4) thereof shall apply in relation to a nominee for a corporation which is a subsidiary as if references in those subsections to such a corporation included references to a nominee for it.

(6) This section shall not operate to prevent the allotment of shares in a holding company to a subsidiary which already lawfully holds shares in the holding company if the allotment is made by way of capitalization of reserves of the holding company and is made to all members of the holding company on a basis which is in direct proportion to the number of shares held by each member in the holding company.

(7) Where but for this section a subsidiary would have been entitled to subscribe for shares in the holding company may, on behalf of the subsidiary, sell the shares for which the subsidiary would otherwise have been entitled to subscribe.

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

Section 18. Requirements as to memorandum.

(1) The memorandum of every company shall be printed and divided into numbered paragraphs and dated and shall state, in addition to other requirements -

(a) the name of the company;

(b) the objects of the company;

(c) unless the company is an unlimited company, the amount of share capital, if any, with which the company proposes to be registered and the division thereof into shares of a fixed amount;

(d) if the company is a company limited by shares, that the liability of the members is limited;

(e) if the company is a company limited by guarantee, that the liability of the members is limited and that each member undertakes to contribute to the assets of the company, in the event of its being wound up while he is a member or within one year after he ceases to be a member, for payment of the debts and liabilities of the company contracted before he ceases to be a member and of the cost charges and expenses of winding up and for adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding a specified amount in addition to the amount, if any, unpaid on any shares held by him;

(f) if the company is an unlimited company, that the liability of the members is unlimited;

(g) the full names, addresses and occupations of the subscribers thereto; and

(h) that the subscribers are desirous of being formed into a company in pursuance of the memorandum and (where the company is to have a share capital) respectively agree to take the number of shares in the capital of the company set out opposite their respective names.

(2) Each subscriber to the memorandum shall, if the company is to have a share capital, in his own handwriting state the number of shares (not less than one) that he agrees to take and, whether or not the company is to have a share capital, shall sign the memorandum in the presence of at least one witness (not being another subscriber) who shall attest the signature and add his address.

(3) A statement in the memorandum of a company limited by shares that the liability of members is limited shall mean that the liability of the members is limited to the amount, if any, unpaid on the shares respectively held by them.

#### Section 19. Powers of a company.

(1) Subject to subsection (2) the powers of a company, whether incorporated before or after the commencement of this Act, shall include -

(a) power to make donations for patriotic or for charitable purposes;

(b) power to transact any lawful business in aid of Malaysia in the prosecution of any war or hostilities in which Malaysia is engaged; and

(c) unless expressly excluded or modified by the memorandum or articles, the powers set forth in the Third Schedule but the powers of a company which has by the licence of the Minister pursuant to section 24 been registered without the word "Berhad" or pursuant to any corresponding previous written law been registered without the addition of the word "Limited" to its name shall not include any of the powers set forth in the Third Schedule unless expressly included in the memorandum or articles with the approval in writing of the Minister.

Restriction as to power of certain companies to hold lands.

(2) A company formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion, or any other like object not involving the acquisition of gain by the company or by its individual members shall not acquire any land without the licence of the Minister but the Minister may by licence empower any such company to hold lands in such quantity and subject to such conditions as he thinks fit.

(3) A licence given by the Minister under subsection (2) shall be in the prescribed form or as near thereto as circumstances admit.

(4) Any company which is dissatisfied with any decision of the Minister under subsection (2) may within one month of such decision appeal to the Yang di-Pertuan Agong who shall have power to confirm, reverse or vary the decision.

(5) Every decision by the Yang di-Pertuan Agong and every decision by the Minister under this section, unless such decision is reversed or varied by the Yang di-Pertuan Agong under this section, shall be final and shall not be called into question by any court.

Section 20. Ultra vires transactions.

(1) No act or purported act of a company (including the entering into of an agreement by the company and including any act done on behalf of a company by an officer or agent of the company under any purported authority, whether express or implied, of the company) and no conveyance or transfer of property, whether real or personal, to or by a company shall be invalid by reason only of the fact that the company was without capacity or power to do the act or to execute or take the conveyance or transfer.

(2) Any such lack of capacity or power may be asserted or relied upon only in

(a) proceedings against the company by any member of the company or, where the company has issued debentures secured by a floating charge over all or any of the company's property, by the holder of any of those debentures or the trustee for the holders of those debentures to restrain the doing of any act or acts or the conveyance or transfer of any property to or by the company;

(b) any proceedings by the company or by any member of the company against the present or former officers of the company; or

(c) any petition by the Minister to wind up the company.

(3) If the unauthorized act, conveyance or transfer sought to be restrained in any proceedings under subsection (2) (a) is being or is to be performed or made pursuant to any contract to which the company is a party, the Court may, if all the parties to the contract are parties to the proceedings and if the Court deems it to be just and equitable, set aside and restrain the performance of the contract and may allow to the company or to the other parties to the contract (as the case requires) compensation for the loss or damage sustained by either of them which may result from the action of the Court in setting aside and restraining the performance of the contract but anticipated profits to be derived from the performance of the contract shall not be awarded by the Court as a loss or damage sustained.

Section 21. General provisions as to alteration of memorandum.

(1) The memorandum of a company may be altered to the extent and in the manner provided by this Act but not otherwise.

(1A) Notwithstanding subsection (1) and subject to section 33 and section 181, if a provision of the memorandum of a company could lawfully have been contained in the articles of the company, the company may, by special resolution, alter the memorandum -

(a) by altering; or

(b) by deleting,

the provision, unless the memorandum itself prohibits the alteration or deletion of that provision.

[Ins. Act A949: s.3]

(1B) Nothing in subsection (1A) permits the alteration or deletion of a provision of the memorandum that relates to rights to which only members included in a particular class of members are entitled.

[Ins. Act A949: s.3]

(2) In addition to observing and subject to any other provision of this Act requiring the lodging with the Registrar of any resolution of a company or order of the Court or other document affecting the memorandum of a company, the company shall within fourteen days after the passing of any such resolution or the making of any such order lodge with the Registrar a copy of the resolution or other document or an office copy of the order together with (unless the Registrar dispenses therewith) a printed copy of the memorandum as

altered, and if default is made in complying with this subsection the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: One thousand ringgit. Default penalty.

[Am. Act A657: s.19]

(3) The Registrar shall register every resolution, order or other document lodged with him under this Act that effects the memorandum of a company and, where an order is so registered shall certify the registration of that order.

(4) The certificate of the Registrar shall be conclusive evidence that all the requirements of this Act with respect to the alteration and any confirmation thereof have been complied with.

(5) Notice of the registration shall be published in such manner, if any, as the Court or the Registrar directs.

(6) The Registrar shall, where appropriate, issue a certificate of incorporation in accordance with the alteration made to the memorandum.

Section 22. Names of companies.

(1) Except with the consent of the Minister, a company shall not be registered by a name that, in the opinion of the Registrar, is undesirable or is a name, or a name of a kind, that the Minister has directed the Registrar not to accept for registration.

(2) The Minister shall cause a direction given by him under subsection (1) to be published in the Gazette.

(3) A limited company shall have "Berhad" or the abbreviation "Bhd." as part of and at the end of its name.

(4) A private company shall have the word "Sendirian" or the abbreviation "Sdn." as part of its name, inserted immediately before the word "Berhad" or before the abbreviation "Bhd." or in the case of an unlimited company, at the end of its name.

(5) It shall be lawful to use and no description of a company shall be deemed inadequate or incorrect by reason of the use of -

(a) the abbreviation "Sdn." in lieu of the word "Sendirian" contained in the name of a company;

(b) the abbreviation "Bhd." in lieu of the word "Berhad" contained in the name of a company; or

(c) any of such words in lieu of the corresponding abbreviation contained in the name of a company.

(6) Prior to the registration of -

(a) an intended company or foreign company; or

(b) the change of name of a company or foreign company, the applicant for registration shall apply in the prescribed form to the Registrar for a search as to the availability of the proposed name of the intended company, company or foreign company and for reservation of that name, if available.

[Subs. Act A21: s.6; Am. Act A616: s.10; Am. Act A836: s.9]

(7) If the Registrar is satisfied as to the bona fides of the application and that the proposed name is a name by which the intended company, company or foreign company could be registered without contravention of subsection (1), he shall reserve the proposed name for a period of three months from the date of the lodging of the application.

[Am. Act A836: s.9]

(8) [Deleted by Act A836: s.9]

(9) During a period for which a name is reserved, no company or foreign company (other than the intended company, company or foreign company in respect of which the name is reserved) shall be registered under this Act, whether originally or on change of name, under the reserved name or under any other name that, in the opinion of the Registrar, so closely resembles the reserved name as to be likely to be mistaken for that name.

(10) The reservation of a name under this section in respect of an intended company, company or foreign company does not in itself entitle the intended company, company or foreign company to be registered by that name, either originally or on change of name.

Section 23. Change of name.

(1) A company may by special resolution resolve that its name should be changed to a name by which the company could have been registered without contravention of section 22(1).

(2) If the Registrar approves the name which the company has resolved should be its new name he shall on payment of the prescribed fee issue a certificate of incorporation of the company under the new name and upon the issue of such certificate of incorporation the change of name shall become effective.

(3) If the name of a company is (whether through inadvertence or otherwise and whether originally or by change of name) a name by which the company could not be registered without contravention of section 22 (1) the company may by

special resolution change its name to a name by which the company could be registered without contravention of that subsection and, if the Registrar so directs, shall so change it within six weeks after the date of the direction or such longer period as the Registrar allows unless the Minister by written notice annuls the direction, and if the company fails to comply with the direction it shall be guilty of an offence against this Act.

Penalty: One thousand ringgit. Default penalty.

[Am. Act A657: s.19]

(4) Where the name of a company incorporated pursuant to any corresponding previous written law has not been changed since the commencement of this Act, the Registrar shall not, except with the approval of the Minister, exercise his power under subsection (3) to direct the company to change its name.

(5) Upon the commencement of this Act a company which has the word "Limited" as the last word of its name shall be deemed to have changed its name by substituting for the word "Limited" the word substituting "Berhad" and a company which has the abbreviation "Ltd." at the end of its name shall be deemed to have altered its name by substituting for the abbreviation "Ltd." the abbreviation "Bhd." and where upon the date after the commencement of this Act a company which is a private company does not have the word "Sendirian" or the abbreviation "Sdn." as part of its name immediately before the word "Berhad" or before the abbreviation "Bhd." or in the case of an unlimited company at the end of its name, the company shall be deemed to have altered its name to include the abbreviation "Sdn." immediately before the word "Berhad" or before the abbreviation "Bhd." or in the case of an unlimited company at the end of its name and the Registrar shall as soon as practicable after the commencement of this Act alter the name of the company set forth in the memorandum accordingly and issue a new certificate of incorporation in the name of the company as so altered:

Provided that this section shall not operate to prevent a company which immediately before the commencement of this Act and which had the word "Limited" or the abbreviation "Ltd." as part of its name or which was a private company and which did not have the word "Sendirian" or the abbreviation "Sdn." as part of its name from continuing to use the name set forth in its memorandum immediately before the commencement of this Act until the expiration of two years after the commencement of this Act.

(6) A change of name pursuant to this Act shall not affect the identity of the company or any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings that might have been continued or commenced by or against it by its former name may be continued or commenced by or against it by its new name.



(7) Where the winding up of a company commences within one year after the company has changed its name, the former name as well as the existing name of the company shall appear on all notices and advertisements in relation to the winding up.

[Ins. Act A836: s.10]

Section 24. Omission of "Berhad" in name of charitable and other companies.

(1) Where it is proved to the satisfaction of the Minister that a proposed limited company is being formed for the purpose of providing recreation or amusement or promoting commerce, industry, art, science, religion, charity, pension or superannuation schemes or any other object useful to the community, and will apply its profits, if any, or other income in promoting its objects and will prohibit the payment of any dividend to its members, the Minister may (after requiring, if he thinks fit, the proposal to be advertised in such manner as he directs either generally or in a particular case) by licence direct that it be registered as a company with limited liability without the addition of the word "Berhad" to its name, and the company may be registered accordingly.

(2) Where it is proved to the satisfaction of the Minister -

(a) that the objects of a limited company are restricted to those specified in subsection (1) and to objects incidental or conducive thereto; and

(b) that by its constitution the company is required to apply its profits, if any, or other income in promoting its objects and is prohibited from paying any dividend to its members,  
the Minister may by licence authorize the company to change its name to a name which does not contain the word "Berhad", being a name approved by the Registrar.

(3) A licence under this section may be issued on such conditions as the Minister thinks fit, and those conditions shall be binding on the company and shall if the Minister so directs be inserted in the memorandum or articles of the company and the memorandum or articles may by special resolution be altered to give effect to any such direction.

(4) Where the memorandum or articles of a company include as a result of a direction of the Minister given pursuant to subsection (3) or pursuant to any corresponding previous written law a provision that the memorandum or articles shall not be altered except with the consent of the Minister the company may with the consent of the Minister by special resolution alter any provision of the memorandum or articles.

(5) A company shall, while a licence granted by the Minister under this or under any corresponding previous written law is in force, be exempted from complying with the provisions of this Act relating to the use of the word "Berhad" as any part of its name.

(6) A licence under this section or under any corresponding previous written law may at any time be revoked by the Minister and upon revocation the Registrar shall enter the word "Berhad" at the end of the name of the company upon the register, and the company shall thereupon cease to enjoy the exemption granted by reason of the licence under this section but before a licence is so revoked the Minister shall give to the company notice in writing of his intention and shall afford it an opportunity to be heard.

(7) Where a licence under this section or under any corresponding previous written law is revoked the memorandum or articles of the Company may be altered by special resolution so as to remove any provision in or to the effect that the memorandum or articles may be altered only with the consent of the Minister and paragraph 19 (1) (c) shall apply to the company as if it had never had a licence under this section.

Section 25. Registration of unlimited company as limited, etc.

(1) Subject to this section, an unlimited company may convert to a limited company by passing a special resolution determining so to convert and lodging with the Registrar for registration a copy of the resolution.

(2) On the lodging of the copy of the resolution the Registrar shall, subject to this Act -

(a) register the copy;

(b) make such endorsements in or alterations to his registers as are necessary to record the effect of the resolution with respect to the conversion; and

(c) issue to the company a certificate of incorporation of the company altered to meet the circumstances of the case and cancel the previous certificate of incorporation of the company.

(3) On issuing the certificate of incorporation the Registrar may, by notice in writing served on the company, dispense with the lodging by the company of any document which had been lodged with him on the occasion of or subsequent to the incorporation of the company.

(4) The conversion shall take effect on the issue of the certificate of incorporation under subsection (2) and the memorandum shall thereupon be altered in accordance with the terms of resolution.

(5) A conversion of a company pursuant to this section shall not affect the

identity of the company or any rights or obligations of the company or render defective any legal proceedings by or against the company and any legal proceedings that could have been continued or commenced by or against it prior to the conversion may, notwithstanding the conversion, be continued or commenced by or against it after the conversion.

Section 26. Change from public to private and from private to public company.

(1) A public company having a share capital may convert to a private company by lodging with the Registrar a copy of a special resolution –

(a) determining to convert to a private company and specifying an appropriate alteration to its name; and

(b) altering the provisions of its memorandum or articles so far as is necessary to impose the restrictions limitations and prohibitions referred to in section 15 (1).

(2) A private company may, subject to anything contained in its memorandum or articles, convert to a public company by lodging with the Registrar –

(a) a copy of a special resolution determining to convert to a public company and specifying an appropriate alteration to its name;

(b) a statement in lieu of prospectus; and

[Am. Act A616: s.11; Am. Act A657: s.4]

(c) a statutory declaration in the prescribed form verifying that paragraph 52

(2) (b) has been complied with,

and thereupon the restrictions, limitations and prohibitions referred to in subsection 15 (1) as included in or deemed to be included in the memorandum or articles of the company shall cease to form part of the memorandum or articles.

(3) On compliance by a company with subsection (1) or (2) and on the issue of a certificate of incorporation of the company altered accordingly the company shall be a private company or a public company (as the case requires).

(4) A conversion of a company pursuant to subsection (1) or (2) shall not affect the identity of the company or any rights or obligations of the company or render defective any legal proceedings by or against the company, and any legal proceedings that could have been continued or commenced by or against it prior to the conversion may, notwithstanding any change in the company's name or capacity in consequent of the conversion, be continued or commenced by or against it after the conversion.

Section 27. Default in complying with requirements as to private companies.

(1) Where, on the application of the Minister with respect to a private

company or of any member or creditor of a private company, the Court is satisfied that default has been made in relation to the company in complying with a prohibition of a kind specified in section 15 (1) (c) or (d) that is included, or is deemed to be included, in the memorandum or articles of the company the Court may by order determine that, on such date as the Court specifies in its order, the company ceased to be a private company.

(2) Where -

(a) default has been made in relation to a private company in complying with a limitation of a kind specified in section 15 (1) (b) that is included, or is deemed to be included in the memorandum or articles of the company.,

(b) a private company has been convicted of an offence under subsection (7);

(c) the memorandum or articles of a private company have been so altered that they no longer include restrictions, limitations or prohibitions of the kinds specified in section 15 (1); or

(d) a private company has ceased to have a share capital, the Registrar may by notice served on the company determine that, on such date as is specified in the notice, the company ceased to be a private company.

(3) Where, under this section, the Court or the Registrar determines that a company has ceased to be a private company -

(a) the company shall be a public company and shall be deemed to have been a public company on and from the date specified in the order or notice;

(b) the company shall, on the date so specified be deemed to have changed its name by the omission from the name of the word "Sendirian" or the abbreviation "Sdn.", as the case requires; and

(c) the company shall, within a period of fourteen days after the date of the order or the notice, lodge with the Registrar -

(i) a statement in lieu of prospectus;

(ii) a statutory declaration in the prescribed form verifying that section 52 (2) (b) has been complied with; and

(iii) where an order has been made under subsection (1) an office copy of the order.

(4) Where the Court is satisfied that a default or alteration referred to in subsection (1) or (2) has occurred but that it was accidental or due to inadvertence or to some other sufficient cause or that on other grounds it is just and equitable to grant relief, the Court may, on such terms and conditions as to the Court seem just and expedient determine that the company

has not ceased to be a private company.

(5) A company that, by virtue of a determination made under this section, has become a public company shall not convert to a private company without the leave of the Court.

(6) If default is made in complying with subsection (3) (c) the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: One thousand ringgit. Default penalty.

[Am. Act A657: s.19]

(7) Where any subscription for shares in or debentures of, or any deposit of money with, a private company is arranged by or through an advocate, broker, agent or any other person (whether an officer of the company or not) who invites the public to make use of his services in arranging investments or who holds himself out to the public as being in a position to arrange investments, the company and every person, including an officer of the company, who is a party to the arrangement shall be guilty of an offence against this Act.

Penalty: Imprisonment for ten years or two hundred and fifty thousand ringgit or both.

[Am. Act A657: s.19; Act A836: s.41]

(8) Where default is made in relation to a private company in complying with any restriction, limitation or prohibition of a kind specified in section 15 (1) that is included, or deemed to be included, in the memorandum or articles of the company, the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Penalty: Imprisonment for ten years or two hundred and fifty thousand ringgit or both.

[Am. Act A657: s.19; Act A836: s.41]

Section 28. Alterations of objects in memorandum.

(1) Subject to this section a company may by special resolution alter the provisions of its memorandum with respect to the objects of the company.

(2) Where a company proposes to alter its memorandum, with respect to the objects of the company it shall give by post twenty-one days' written notice specifying the intention to propose the resolution as a special resolution and to submit it for passing to a meeting of the company to be held on a day specified in the notice.

(3) The notice shall be given to all members, and to all trustees for debenture holders and if there are no trustees for any class of debenture holders to all debenture holders of that class whose names are, at the time of the posting of the notice, known to the company.

(4) The Court may, in the case of any person or class of persons for such reasons as to it seem sufficient, dispense with the notice required by subsection (2).

(5) If an application for the cancellation of an alteration is made to the Court in accordance with this section by-

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

(b) the holders of not less than ten per centum in nominal value of the company's debentures,  
the alteration shall not have effect except so far as it is confirmed by the Court.

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

(7) On the application the Court -

(a) shall have regard to the rights and interests of the members of the company or of any class of them as well as to the rights and interests of the creditors;

(b) may if it thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Court for the purchase (otherwise than by the company) of the interests of dissentient members;

(c) may give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement; and

(d) may make an order cancelling the alteration or confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit.

(8) Notwithstanding any other provision of this Act a copy of a resolution altering the objects of a company shall not be lodged with the Registrar before the expiration of twenty-one days after the passing of the resolution or if any application to the Court has been made before the application has been determined by the Court (whichever is the later).

(9) A copy of the resolution shall be lodged with the Registrar by the company within fourteen days after the expiration of the twenty-one days referred to in subsection (8), but if an application has been made to the Court in accordance with this section the copy shall be lodged with the Registrar together with an office copy of the order of the Court within fourteen days after the application has been determined by the Court.

(10) On compliance by a company with subsection (9) the alteration, if any, of the objects shall take effect.

#### Section 29. Articles of association.

(1) There may in the case of a company limited by shares and there shall in the case of a company limited by guarantee or limited both by shares and guarantee or an unlimited company be registered with the memorandum, articles signed by the subscribers to the memorandum prescribing regulations for the company.

(2) Articles shall be -

(a) printed;

(b) divided into numbered paragraphs; and

(c) signed by each subscriber to the memorandum in the presence of at least one witness (not being another subscriber) who must attest the signature and add his address.

(3) In the case of an unlimited company the articles, if the company has a share capital, shall state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount.

(4) In the case of an unlimited company or a company limited by guarantee or a company limited both by shares and guarantee the articles shall state the number of members with which the company proposes to be registered.

(5) Where a company to which subsection (4) applies increases the number of its members beyond the registered number it shall, within one month after the increase was resolved on or took place, lodge with the Registrar notice of the increase.

(6) Every company which makes default in complying with subsection (5) and every officer of the company who is in default in complying with that subsection shall be guilty of an offence against this Act.

Penalty: One thousand ringgit. Default penalty .

Section 30. Adoption of Table A of Fourth Schedule.

(1) Articles may adopt all or any of the regulations contained in Table A.

(2) In the case of a company limited by shares incorporated after the commencement of this Act, if articles are not registered, or if articles are registered then so far as the articles do not exclude or modify the regulations contained in Table A those regulations shall so far as applicable be the articles of the company in the same manner and to the same extent as if they were contained in registered articles.

Section 31. Alteration of articles.

(1) Subject to this Act and to any conditions in its memorandum, a company may by special resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall subject to this Act, on and from the date of the special resolution or such later date as is specified in the resolution, be as valid as if originally contained therein and be subject in like manner to alteration by special resolution.

(3) Subject to this section, any company shall have the power and shall be deemed always to have had the power to amend its articles by the adoption of all or any of the regulations contained in Table A, by reference only to the regulations in the Table or to the numbers of particular regulations contained therein, without being required in the special resolution effecting the amendment to set out the text of the regulations so adopted.

Section 32. As to memorandum and articles of companies limited by guarantee.

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

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

Section 33. Effect of memorandum and articles.

(1) Subject to this Act the memorandum and articles shall when registered bind the company and the members thereof to the same extent as if they respectively had been signed and sealed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the company under the memorandum or



articles shall be a debt due from him to the company.

As to effect of alterations on members who do not consent.

(3) Notwithstanding anything in the memorandum or articles of a company no member of the company, unless either before or after the alteration is made he agrees in writing to be bound thereby, shall be bound by an alteration made in the memorandum or articles after the date on which he became a member so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made or in any way increases his liability as at that date to contribute to the share capital of or otherwise to pay money to the company.

Section 34. Copies of memorandum and articles.

(1) A company shall on being so required by any member send to him a copy of the memorandum and of the articles, if any, subject to payment of five ringgit or such lesser sum as is fixed by the directors.

(2) Where an alteration is made in the memorandum or articles of a company, a copy of the memorandum or articles shall not be issued by the company after the date of alteration unless -

(a) the copy is in accordance with the alteration; or

(b) a printed copy of the order or resolution marking the alteration is annexed to the copy of the memorandum or articles and the particular clauses or articles affected are indicated in ink.

(3) Where an agreement required to be lodged with the Registrar under section 154 affects the memorandum or articles of a company, a copy of the memorandum or articles shall not be issued by the company after the agreement is entered into unless a copy of the agreement is annexed to the copy of the memorandum or articles.

(4) If default is made in complying with this section the company and every officer of the company who is in default shall be guilty of an offence against this Act.

Section 35. Form of contracts.

(1) Any contract or other transaction purporting to be entered into by a company prior to its formation or by any person on behalf of a company prior to its formation may be ratified by the company after its formation and thereupon the company shall become bound by and entitled to the benefit thereof as if it had been in existence at the date of the contract or other transaction and had been a party thereto.

(2) Prior to ratification by the company the person or persons who purported to act in the name or on behalf of the company shall in the absence of express

agreement to the contrary be personally bound by the contract or other transaction and entitled to the benefit thereof.

(3) [Deleted by Act A616: s.12]

(4) Contracts on behalf of a company may be made as follows:

(a) a contract which if made between private persons would be by law required to be in writing under seal may be made on behalf of the company in writing under the common seal of the company;

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

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

and any contract so made shall be effectual in law and shall bind the company and its successors and all other parties thereto and may be varied or discharged in the manner in which it is authorized to be made.

Authentication of documents.

(5) A document or proceeding requiring authentication by a company may be signed by an authorized officer of the company and need not be under its common seal.

(6) A company may, by writing under its common seal empower any person either generally or in respect of any specified matters as its agent or attorney to execute deeds on its behalf and a deed signed by such an agent or attorney on behalf of the company and under his seal, or, subject to subsection (8), under the appropriate official seal of the company shall bind the company and have the same effect as if it were under its common seal.

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

Official seal for use abroad.

(8) A company whose objects require or comprise the transaction of business outside Malaysia may, if authorized by its articles, have for use in any place outside Malaysia an official seal, which shall be a facsimile of the common seal of the company with the addition on its face of the name of the place where it is to be used and the person affixing any such official seal shall in writing under his hand certify on the instrument to which it is affixed the date on which and the place at which it is affixed.

Section 36. Prohibition of carrying on business with fewer than statutory minimum of members.

If at any time the number of members of a company (other than a company the whole of the issued shares of which are held by a holding company) is reduced below two and it carries on business for more than six months while the number is so reduced, a person who is a member of the company during the time that it so carries on business after those six months and is cognizant of the fact that it is carrying on business with fewer than two members shall be liable for the payment of all the debts of the company contracted during the time that it so carries on business after those six months and may be sued therefor, and the company and that member shall be guilty of an offence against this Act if the company so carries on business after those six months.

Penalty: Two thousand ringgit. Default penalty.

[Subs. Act A616: s.13]

#### PART IV - SHARES, DEBENTURES AND CHARGES

Section 36A. Non-application of Divisions 1 and 4 to offers under the Securities Commission Act 1993.

(1) In this section, unless the contrary intention appears -  
"borrower" has the same meaning as is assigned to that word in the Securities Commission Act 1993;

"excluded offer or invitation" means the offer or invitation referred to in section 38 of the Securities Commission Act 1993;

"guarantor" has the same meaning as is assigned to that word in the Securities Commission Act 1993.

(2) Except as provided in subsection (3) , on the coming into operation of this section, Divisions 1 and 4 of this Part shall not apply to an offer or invitation to subscribe for or purchase any securities of a corporation, including any excluded offer or excluded invitation as defined under the Securities Commission Act 1993, and any offer for subscription or purchase of, or invitation to subscribe for or purchase, debentures to which the provisions of Division 4 of Part IV of the Securities Commission Act 1993 do not apply.

(3) The provisions of this Part shall apply to an offer or invitation in respect of shares or debentures made to the public by an unlisted recreational club.

(4) A corporation in respect of whose securities a prospectus or supplementary prospectus has been registered under the Securities Commission Act 1993 shall lodge a copy of the prospectus and any supplementary prospectus and a copy of the form of application accompanying or attached to the prospectus with the Registrar on or before the date of its issue.

(5) Every corporation or other person who contravenes or fails to comply with the requirements of subsection (4) and every officer of the corporation who is in default shall be guilty of an offence against this Act.

Penalty: One hundred thousand ringgit. Default penalty.

(6) Notwithstanding subsection (2), the provisions of section 70 relating to the keeping of a register of holders of debentures shall apply to every company which issues debentures and every company which fails to comply with this subsection shall be guilty of an offence against this Act.

Penalty: One hundred thousand ringgit. Default penalty.

(7) The directors of a borrower that is required to lodge a copy of the quarterly report or the profit and loss account and balance sheet of the borrower, and the directors of a guarantor that is required to lodge a copy of the profit and loss account and balance sheet of the guarantor with the Registrar under Division 4 of Part IV of the Securities Commission Act 1993 shall lodge such report or profit and loss account and balance sheet, as the case may be, within such time and in accordance with the provisions of that Division, and if the directors of the borrower or guarantor fail to comply with the requirements of this subsection each director who is in default shall be guilty of an offence against this Act.

Penalty: One hundred thousand ringgit. Default penalty.

[Ins. Act A1081: s.4]

Section 37. Requirement to issue form of application for shares or debentures with a prospectus.

(1) A person shall not issue, circulate or distribute any form of application for shares in or debentures of a corporation unless the form is issued, circulated or distributed together with a prospectus, a copy of which has been registered by the Registrar.

Penalty: Imprisonment for five years or one hundred thousand ringgit or both.

[Subs. Act A616: s.14; Am. Act A836: s.41]

(2) Subsection (1) shall not apply if -

(a) the form of application is issued, circulated or distributed in connection with shares or debentures which are not offered to the public;

(b) the form of application is issued, circulated or distributed in connection with a take-over offer which complies with the provisions of the relevant law applicable to such offers; or

[Am. Act A845: s.2]

(c) the form of application is issued, circulated or distributed in connection with shares which are offered for purchase or subscription by employees of a corporation or its related corporation in accordance with a scheme, approved by the Registrar, for the time being in force,

[Ins. Act A616: s.14; Am. Act A816: s.2]

but otherwise that subsection shall apply to any such form of application whether issued circulated or distributed on or with reference to the formation of a corporation or subsequently.

(2A) Nothing in this Division and Division 4 of this Part shall apply to an offer or invitation in respect of shares or debentures for sale to the public where the offer or invitation relates to shares or debentures that have previously been issued and the shares or debentures are of a class that are listed for quotation on a stock exchange.

[Ins. Act A949: s.4]

Section 38. As to invitations to the public to lend money to or to deposit money with a corporation.

(1) An invitation to the public to deposit money with or lend money to a corporation or proposed corporation shall not be issued circulated or distributed by the corporation or by any other person unless -

(a) a prospectus in relation to the invitation has been registered by the Registrar;

(b) the prospectus contains an undertaking by the corporation that it will within two months after the acceptance of any money as a deposit or loan from any person in response to the invitation issue to that person a document which acknowledges or evidences or constitutes an acknowledgement of the indebtedness of the corporation in respect of that deposit or loan; and

(c) the document is described or referred to in the prospectus and in any other document whether constituting or relating to the invitation as -

(i) an unsecured note or an unsecured deposit note;

(ii) a mortgage debenture or certificate of mortgage debenture stock; or

(iii) a debenture or certificate of debenture stock,  
in accordance with this section.

(1A) For the purposes of this Division any corporation which accepts or agrees to accept from any person any money on deposit or loan shall be deemed to make an invitation to the public to deposit money with or lend money to the corporation or proposed corporation.

[Ins. Act A21: s.7]

(1B) Notwithstanding subsection (1A) a corporation is not required to issue a prospectus if -

(a) it is not, at any one time, under a liability (whether or not such liability is present or future) to repay any money accepted by it on deposit or loan from more than ten persons; or

(b) any money accepted by it on deposit or loan is fully guaranteed by the Government.

(c) [Deleted by Act A949: s.5]

[Ins. Act A21: s.7; Subs. Act A616: s.15]

(2) Where pursuant to an invitation referred to in subsection (1) a corporation has accepted from any person any money as a deposit or loan the corporation shall within two months after the acceptance of the money issue to that person a document which -

(a) acknowledges or evidences or constitutes an acknowledgement of the indebtedness of the corporation in respect of that deposit or loan; and

(b) complies with the other requirements of this section.

(3) The document shall be described or referred to in the prospectus and in any other document whether constituting or relating to the invitation and in the document itself as an unsecured note or an unsecured deposit note unless pursuant to subsection (4) or (5) it is and may be otherwise described.

(4) The document may be described or referred to in the prospectus or in such other document or in the document itself as a mortgage debenture or certificate of mortgage debenture stock if, and only if, there is included in the prospectus the statements and the valuation referred to in paragraph 32 of the Fifth Schedule.

(5) The document may be described or referred to in the prospectus or in such

other document or in the document itself as a debenture or certificate of debenture stock if, and only if -

(a) pursuant to subsection (4) it may be (but is not) described or referred to in that prospectus or document as a mortgage debenture or certificate of mortgage debenture stock; or

(b) there is included in the prospectus the statement and the summary referred to in paragraph 33 of the Fifth Schedule.

(6) Nothing in this section shall apply to a prescribed corporation and nothing in this Act shall require a prospectus to be issued in connection with any invitation to the public to deposit money with a prescribed corporation.

(7) In this section "prescribed corporation" means -  
[Am. Act A616: s. 15]

(a) a banking corporation; or

(b) a corporation or a corporation of a class which, on the recommendation of Bank Negara Malaysia, has been declared by the Minister charged with the responsibility for finance by notice in the Gazette to be a prescribed corporation for the purposes of this section.

(8) The Minister charged with the responsibility for finance may, by notice published in the Gazette -

(a) specify terms and conditions subject to which subsection (6) shall have effect in relation to a corporation specified in subsection (7) (b); or

(b) vary or revoke any declaration or specification made under this section.

(9) Every corporation or other person that contravenes or fails to comply with this section and every officer of a corporation who is in default shall be guilty of an offence against this Act.

Penalty: Imprisonment for five years or one hundred thousand ringgit or both.  
[Subs. Act A616: s. 15; Am. Act A836: s. 41]

(10) The provisions of this section relating to the description of any document acknowledging or evidencing or intended to acknowledge or evidence the indebtedness of a corporation shall apply to and in relation to every such document issued after the commencement of this Act notwithstanding anything in any existing debenture or trust deed and any such document issued after the commencement of this Act may be described in accordance with the requirements of this section notwithstanding anything in any such existing debenture or trust deed.

(11) For the purposes of this section a document issued by a borrowing corporation certifying that a person named therein is in respect of any deposit with or loan to the corporation the registered holder of a specified number or value –

- (a) of unsecured notes or unsecured deposit notes;
- (b) of mortgage debentures or mortgage debenture stock; or
- (c) of debentures or debenture stock,

issued by the corporation upon or subject to the terms and conditions contained in a trust deed referred to or identified in the certificate, shall be deemed to be a document evidencing the indebtedness of that corporation in respect of that deposit or loan.

#### Section 39. Contents of prospectuses.

(1) To comply with the requirements of this Act a prospectus –

(a) shall be printed in type of a size not less than the type known as eight point Times unless the Registrar, before the issuing, advertising, circulating or distributing of the prospectus in Malaysia, certifies in writing, that the type and size of letters are legible and satisfactory;

(b) shall be dated and that date shall, unless the contrary is proved, be taken as the date of issue of the prospectus;

(c) shall as to one copy be lodged with the Registrar and shall state that a copy of the prospectus has been so lodged with and registered by the Registrar and shall also state immediately after that statement that the Registrar takes no responsibility as to its contents;

(d) shall subject to Part III of the Fifth Schedule state the matters specified in Part I of that Schedule and set out the reports specified in Part II of the Schedule;

(e) shall, where the persons making any report specified in Part II of that Schedule have made therein, or have, without giving the reasons, indicated therein, any such adjustments as are mentioned in paragraph 31 of that Schedule, have endorsed thereon or attached thereto, a statement by those persons setting out the adjustments and giving the reasons therefor;

(f) shall contain a statement that no shares or debentures or that no shares and debentures (as the case requires) shall be allotted on the basis of the prospectus later than six months after the date of the issue of the prospectus;



(g) shall, if it contains any statement made by an expert or contains what purports to be a copy of or extract from a report, memorandum or valuation of an expert, state the date on which the statement, report, memorandum or valuation was made and whether or not it was prepared by the expert for incorporation in the prospectus;

(h) shall not contain the name of any person as a trustee for holders of debentures or as an auditor or a banker or an advocate or a stock broker or share broker of the corporation or proposed corporation or for or in relation to the issue or proposed issue of shares or debentures unless that person has consented in writing before the issue of the prospectus to act in that capacity in relation to the prospectus and, in the case of a company or proposed company, a copy verified as prescribed of the consent has been lodged with the Registrar,

(i) shall, where the prospectus offers shares in or debentures of a foreign company incorporated or to be incorporated, in addition contain particulars with respect to -

(i) the instrument constituting or defining the constitution of the company;

(ii) the enactments or provisions having the force of an enactment by or under which the incorporation of the company was effected or is to be effected;

(iii) an address in Malaysia where the instrument, enactments or provisions or certified copies thereof may be inspected;

(iv) the date on which and the place where the company was or is to be incorporated; and

(v) whether the company has established a place of business in Malaysia and, if so, the address of its principal office in Malaysia; and

(j) shall, where the prospectus offers shares, notes or other marketable securities which have been specified by a stock exchange as prescribed securities under section 14 of the Securities Industry (Central Depositories) Act 1991, state that such shares, notes or marketable securities have been so prescribed and that applicants are required to have securities accounts when making their applications.

(2) Subparagraph (1) (i) (i), (ii) and (iii) of subsection (1) shall not apply in the case of prospectus issued more than two years after the day on which the company is entitled to commence business and in the application to a foreign company of Part 1 of the Fifth Schedule for the purposes of subsection (1), paragraph 2 of that Part of that Schedule shall have effect as if a reference to that constitution of the company were substituted for the reference to the articles.

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

(4) Where a prospectus relating to any shares in or debentures of a corporation is issued and the prospectus does not comply with this Act, each director of the corporation and other person responsible for the prospectus shall be guilty of an offence against this Act.

Penalty: Imprisonment for five years or thirty thousand ringgit.

[Am. Act A657: s.19]

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

(a) as regards any matter not disclosed, he proves that he was not cognizant thereof;

(b) he proves that the non-compliance or contravention arose from an honest mistake on his part concerning the facts; or

(c) the non-compliance or contravention was in respect of matter which in the opinion of the court dealing with the case was immaterial or was otherwise such as ought, in the opinion of that court, having regard to all the circumstances of the case, reasonably to be excused.

(6) In the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 17 of the Fifth Schedule no director or other person shall incur any liability in respect of the failure unless it is proved that he had knowledge of the matters not disclosed.

(7) Nothing in this section shall limit or diminish any liability which any person may incur under any rule of law or any written law or under this Act apart from subsection (4).

Section 39A. [Deleted].

[Ins. Act A657: s.5; Deleted by Act A1081: s.5]

Section 39B. Relief from requirements as to form and content of a prospectus.

(1) Without prejudice to subsection 37(2), the Registrar may, on the application in writing by any person referred to under subsection 37(1), make an order relieving him or approving any variation from the requirements of this Act relating to the form and content of a prospectus.

(2) In making an order under subsection (1), the Registrar may impose such

terms and conditions as he deems fit.

(3) The Registrar shall not make an order under subsection (1) unless he is satisfied, having considered the nature and objectives of the corporation, that -

(a) such relief or variation shall not cause the non-disclosure to the public of information necessary for the assessment of the investment in the shares or debentures of the corporation, as the case may be; and

(b) compliance with the requirements, for which such relief or variation is applied for, would impose unreasonable burden on the applicant.

(4) A prospectus shall be deemed to have complied with all the requirements of this Act relating to the form and content of a prospectus if it is issued in compliance with an order made under subsection (1).

[Ins. Act A949: s.6]

Section 40. Certain advertisements deemed to be prospectuses.

(1) Every advertisement offering or calling attention to an offer or intended offer of shares in or debentures of a corporation or proposed corporation to the public for subscription or purchase shall be deemed to be a prospectus (and all written laws and rules of law as to the contents of prospectuses and as to liability in respect of statements in and omissions from prospectuses or otherwise relating to prospectuses shall apply and have effect accordingly) if it contains any information or matter other than the following:

(a) the number and description of the shares or debentures concerned;

(b) the name and date of registration of the corporation and its paid up share capital;

(c) a concise statement of the general nature of the main business or proposed main business of the corporation;

(d) the names, addresses and occupations of -

(i) the directors or proposed directors;

(ii) the brokers or underwriters to the issue; and

(iii) in the case of debentures, the trustee for the debenture holders;

(e) the name of the Stock Exchange of which the brokers or underwriters to the issue are members; and

(f) particulars of the opening and closing dates of the offer and the time and place at which copies of the full prospectus and forms of application for the shares or debentures may be obtained,

and unless it states that applications for shares or debentures will proceed only on one of the forms of application referred to in and attached to a printed copy of the prospectus.

(2) No statement that, or to the effect that, the advertisement is not a prospectus shall affect the operation of this section.

(3) This section shall apply to advertisements published or disseminated in Malaysia by newspaper, broadcasting, television, cinematograph or any other means whatsoever.

(4) Where an advertisement that is deemed to be a prospectus by virtue of subsection (1) does not comply with the requirements of this Act as to prospectuses, the person who published or disseminated the advertisement, and every officer of the corporation concerned, or other person, who knowingly authorized or permitted the publication or dissemination, shall be guilty of an offence against this Act.

Penalty: Imprisonment for five years or one hundred thousand ringgit or both.  
[Am. Act A657: s.19; Act A836: s.41]

(5) For the purposes of this section where -

(a) an advertisement offering or calling attention to an offer or intended offer of shares in or debentures of a corporation or proposed corporation to the public for subscription or purchase is published or disseminated;

(b) the person who published or disseminated the advertisement before so doing, obtained a certificate signed by at least two directors of the corporation, or two proposed directors of the proposed corporation, that the proposed advertisement is an advertisement that will not be deemed to be a prospectus by virtue of subsection (1); and

(c) the advertisement is not patently an advertisement that is deemed to be a prospectus by virtue of that subsection, the corporation and each person who signed the certificate shall be deemed to be the persons who published or disseminated the advertisement, but no other person shall be deemed to be such a person.

(6) Any person who has obtained a certificate referred to in subsection (5) (b) shall, when so requested by the Registrar forthwith deliver the certificate to the Registrar.

Penalty: Imprisonment for three years or ten thousand ringgit. Default penalty.

[Am. Act A657: s.19]

(7) Nothing in this section shall limit or diminish any liability which any person may incur under any rule of law or under any provision of this Act apart from this section.

Section 41. As to retention of over-subscriptions in debenture issues.

(1) A corporation shall not accept or retain subscriptions to a debenture issue in excess of the amount of the issue as disclosed in the prospectus unless the corporation has specified in the prospectus -

(a) that it expressly reserves the right to accept or retain over-subscriptions; and

(b) a limit expressed as a specific sum of money on the amount of over-subscriptions that may be accepted or retained being an amount not more than twenty-five per centum in excess of the amount of the issue as disclosed in the prospectus.

As to statement of asset-backing.

(2) Subject to the Fifth Schedule where a corporation specifies in a prospectus relating to a debenture issue that it reserves the right to accept or retain over-subscriptions -

(a) the corporation shall not make, authorize or permit any statement of or reference as to the asset-backing for the issue to be made or contained in any prospectus relating to the issue, other than a statement or reference to the total tangible assets and the total liabilities of the corporation and of its guarantor corporations; and

(b) the prospectus shall contain a statement or reference as to what the total assets and total liabilities of the corporation would be if over-subscriptions to the limit specified in the prospectus were accepted or retained.

Penalty: Imprisonment for five years or one hundred thousand ringgit or both.

[Am. Act A657: s.19; Act A836: s.41]

Section 42. Registration of prospectus.

Section 42A. Supplemental prospectus.

Section 43. Document containing offer of shares for sale to be deemed prospectus.

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