

Companies Registry

Note on Use of Corporate Names by non-Hong Kong Companies under section 337B of the Companies Ordinance

1. Section 337B of the Companies Ordinance provides for the regulation of use of corporate names by companies incorporated outside Hong Kong which establish a place of business in Hong Kong, i.e. non-Hong Kong companies.

Consideration of corporate name and serving of notice [Section 337B(1) and (2)]

2. Section 337B(1) provides that where the Registrar of Companies (“the Registrar”) is satisfied that, in the case of a non-Hong Kong company registered under Part XI of the Companies Ordinance and carrying on business in Hong Kong under its corporate name, its corporate name-

- (a) is the same as or is too like-
 - (i) a name appearing, or which should have appeared, in the Registrar’s index of company names on the relevant date; or
 - (ii) the name of a body corporate incorporated or established under an Ordinance before the relevant date; or
- (b) gives so misleading an indication of the nature of its activities in Hong Kong as to be likely to cause harm to the public,

she may serve a notice to that effect on the non-Hong Kong company.

3. Section 337B(2) provides that a notice shall not be served on a non-Hong Kong company under section 337B(1)(a) later than 6 months beginning on the relevant date.

4. The “relevant date” referred to in section 337B(1) and (2) means the date on which the non-Hong Kong company complies with section 333 or, where there has been a change in its corporate name, section 335.

Effect of notice [Section 337B(5)]

5. Subject to section 337B(6), a non-Hong Kong company on which a notice is served under section 337B(1) shall not at any time after the expiration of 2 months from the service of that notice carry on business in Hong Kong under its corporate name.

6. A non-Hong Kong company on which a notice is served under section 337B(1) may, but is not obliged to, change its name in its place of incorporation.

Application for approval of a name to carry on business in Hong Kong [Section 337B(3)]

7. A non-Hong Kong company on which a notice is served under section 337B(1) may deliver to the Registrar for registration a statement in the specified form (Form N12)

specifying a name approved by the Registrar other than its corporate name under which it proposes to carry on business in Hong Kong. The company may at any time thereafter deliver to the Registrar for registration a statement in the specified form (Form N12) specifying another name approved by the Registrar other than its corporate name in substitution for the name previously registered.

8. To apply for approval of a name to carry on business in Hong Kong under section 337B(3), a non-Hong Kong company may propose, in writing, one or more company names for the Registrar's consideration prior to submission of Form N12. Upon receiving the Registrar's notification on the approved name, the non-Hong Kong company can deliver a Form N12 to the Registrar for registration.

9. The Registrar will enter the approved name in the register of non-Hong Kong companies upon registration of the Form N12. However, a fresh "Certificate of Registration of Non-Hong Kong Company" in the approved name will not be issued.

Effect of use of approved name other than corporate name [Section 337B(4)]

10. The name by which a non-Hong Kong company is, by virtue of section 337B(3), for the time being registered under section 333AA shall, for all purposes of the law applying in Hong Kong (including the Business Registration Ordinance, Cap. 310), be deemed to be the corporate name of the company; but shall not affect references to the corporate name of the company in section 337B 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 against it by its corporate name or its name previously registered may be continued or commenced against it by its name for the time being so registered.

Right of appeal [Section 337B(6)]

11. A non-Hong Kong company on which a notice is served under section 337B(1) may, within a period of 3 weeks from the service of that notice, apply to the court to set aside the notice, and the court may set it aside or confirm it.

Withdrawal of notice [Section 337B(6A) and (6B)]

12. The Registrar may, at any time before or after the end of the period mentioned in section 337B(5), withdraw a notice served under section 337B(1). If a notice served under section 337B(1) is withdrawn, section 337B(5) ceases to apply to the company on which the notice was served.

Enquiries

13. Any enquiries concerning this Note may be directed to the New Companies Section at telephone number (852) 2867 2587.

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