



檢控

以往，公司及其高級人員如未有根據《公司條例》，在適當的法定期限內遞交周年申報表或履行其他申報責任，本處會向他們發出警告信，但現在我們已沒有這樣做，因為這項措施牽涉費時的程序及耗用不少資源，儘管遵行規定的比率因而有所上升，但仍不成比例。由二零零三年八月一日起，本處改為向失責的公司發出傳票，循簡易程序檢控，而不再預先警告。收到傳票的公司之中，有66%在聆訊日期前遞交周年申報表，顯示檢控政策達到預期效果。如公司在收到傳票後提交周年申報表，將視作逾期遞交的個案予以檢控，並處以按日計算的失責罰款。在二零零三至零四年度，共有79.5%的公司訂明期限內遞交周年申報表，而在二零零一至零二、二零零二至零三年度的比率則分別為78.1%和80.4%。

本處收到254宗市民及其他政府部門就涉嫌違反《公司條例》提出的投訴，在二零零一至零二、二零零二至零三年度則分別接獲198和282宗。與往年一樣，收到的投訴大多數關乎申請撤銷註冊的不營運私人公司提供虛假或誤導性資料、公司未有申報註冊辦事處座落地點、未有遞交周年申報表及其他法定申報表，以及申報表的資料過時或不準確。當中有八宗投訴涉及較嚴重的指控，包括作出虛假或具誤導性的陳述，都已轉交商業罪案調查科作進一步調查。

Prosecutions

We have ceased the practice of issuing warning letters to advise companies and their officers which fail to file annual returns or comply with other reporting obligations under the Companies Ordinance within the appropriate statutory time limit as the improvement in compliance rate brought about by the practice had been disproportionate to the time consuming procedures and level of resources involved. With effect from 1 August 2003, the Registry has adopted the practice of issuing summonses for summary prosecution against companies in default without any initial warning. 66% of the summonses issued resulted in annual returns being filed by the companies concerned prior to the hearing, indicating that the prosecution policy is achieving its desired objective. Where an annual return was filed following the issue of a summons, the prosecution would be dealt with as a late filing case, the penalty being a daily default fine. In 2003-04, 79.5% of companies filed their annual returns within the prescribed time limit compared with compliance rates of 78.1% for 2001-02 and 80.4% for 2002-03.

The Registry received 254 complaints from members of the public and other Government departments regarding alleged breaches of the Companies Ordinance, compared with 198 and 282 received in the years 2001-02 and 2002-03 respectively. As in previous years, the majority of complaints received this year concerned false or misleading information relating to applications for deregistration of defunct private companies, failure to report the address of the registered office of the company, failure to file annual returns and other statutory returns and outdated or inaccurate information contained in returns. Eight of these complaint cases which concerned more serious allegations involving false or misleading statements have been referred to the Commercial Crime Bureau for further investigation.

在二零零三至零四年度，本處向未有履行《公司條例》所定責任的公司發出了 1,551 張傳票。在二零零一至零二、二零零二至零三年度則分別發出了 170 和 275 張。被檢控的上市公司資料及法庭裁定的罪名和刑罰載於附錄 D。

公司法改革常務委員會

公司法改革常務委員會是一個非法定的委員會，在一九八四年成立。直至二零零四年一月三十一日為止，由上訴法庭副庭長出任主席，而現任主席為私人執業的資深大律師，成員包括有關政府部門、監管機構、學術界、會計師、商人、公司秘書和律師的代表。秘書處服務由本處提供。委員會的主要職能是確保對《公司條例》定期進行檢討，以配合商界不斷轉變的需要。年內，委員會共召開八次會議，審議多項修訂《公司條例》的建議，並完成企業管治檢討。

委員會的工作詳情將刊載於二零零四年年底出版的《公司法改革常務委員會第 20 號年報》。

In 2003-04, a total of 1,551 summonses were issued against companies for failure to comply with their obligations under the Companies Ordinance compared with 170 and 275 summonses issued in 2001-02 and 2002-03 respectively. Details of the listed companies prosecuted together with the offences and penalties imposed by the court are given in Appendix D.

Standing Committee on Company Law Reform

The SCCLR is a non-statutory committee established in 1984. It was chaired by a Vice President of the Court of Appeal for the period up to 31 January 2004 and is currently chaired by a Senior Counsel in private practice. Its membership comprises representatives of relevant Government departments, regulators, academics, accountants, businessmen, company secretaries and lawyers. Its secretariat is provided by the Companies Registry. The principal function of the SCCLR is to ensure that the Companies Ordinance is reviewed regularly to meet the changing needs of the business community. During the year, the SCCLR met eight times to consider a wide range of proposals to amend the Companies Ordinance and to conclude the Corporate Governance Review.

Full details of the SCCLR's work can be found in the Committee's 20th Annual Report to be issued at the end of 2004.



制定法例

《2003年公司(修訂)條例》

《2003年公司(修訂)條例》於二零零三年七月制定，並於二零零四年二月十三日開始實施，但與董事索引有關的第67條則除外，該條將於稍後時間實施。這項修訂條例的主要目的，是落實《公司法改革常務委員會報告——全面檢討〈公司條例〉》所載的第一階段建議，以及為推行「公司註冊處綜合資訊系統」第一階段而需要的立法修訂。

Legislation

Companies (Amendment) Ordinance 2003

The Companies (Amendment) Ordinance 2003 (The Amendment Ordinance) was enacted in July 2003, and came into operation on 13 February 2004 with the exception of section 67 in relation to the index of directors which will become operative at a later stage. The main purpose of the Amendment Ordinance is to implement the first phase of the recommendations made in the Report of the SCCLR on the Overall Review of the Companies Ordinance and the legislative amendments required in connection with the implementation of Phase I of ICRIS.



本處人員簡介《2003年公司(修訂)條例》
Staff presenting an overview of Companies (Amendment) Ordinance 2003

《2004年公司(修訂)條例》

立法會於二零零三年七月成立法案委員會，詳細研究《2003年公司(修訂)條例草案》。條例草案建議修訂《公司條例》中多個範疇的條文，目的是改善招股章程制度以促進市場發展；使海外公司的登記制度更符合現代標準；以及加強股東的補救方法。立法會已在二零零四年七月通過這項條例草案。

《2004年公司條例(修訂附表8)令》

《2004年公司條例(修訂附表8)令》已於二零零四年五月七日刊登憲報，目的是修訂現行的收費結構，以配合查閱本處在「公司註冊處綜合資訊系統」備存的公司紀錄。「公司註冊處綜合資訊系統」第一階段啟用後，本處備存的公司文件將以數碼形式儲存。屆時查冊將按「每份文件」收費，有別於現時按「每張縮微膠片」收費的模式，因此有需要修訂現有的查冊收費項目。

《2005年公司(修訂)條例草案》

當局計劃提出另一項公司修訂條例草案，以實施公司法改革常務委員會的企業管治檢討所提出的餘下建議，以及「政府／香港會計師公會聯合工作小組」提出的第一組建議。該工作小組現正檢討《公司條例》的會計和審計條文。《2005年公司(修訂)條例草案》可望於二零零五年下半年提交立法會。

Companies (Amendment) Ordinance 2004

The Legislative Council formed a Bills Committee in July 2003 to study the Companies (Amendment) Bill 2003 in detail. The Bill proposed to amend provisions in the Companies Ordinance in various areas including amendments to improve the prospectus regime to facilitate market development, amendments to modernise the registration regime for oversea companies and amendments enhancing shareholders' remedies. The Bill was passed by the Legislative Council in July 2004.

Companies Ordinance (Amendment of Eighth Schedule) Order 2004

This Order, which was gazetted on 7 May 2004, revises the existing fee structure to cater for searching company records kept by the Registry under ICRIS. Upon the implementation of Phase I of ICRIS, company documents kept by the Registry will be stored in digitised form and company searches will be charged on a 'per document' basis as opposed to the existing 'per microfiche' basis, giving rise to the need to amend the existing search fee items.

Companies (Amendment) Bill 2005

A further companies amendment bill is planned to implement the remaining proposals of the SCCLR's Corporate Governance Review and the first set of recommendations by the JWG which is reviewing the accounting and auditing provisions of the Companies Ordinance. It is hoped to introduce this Bill into the Legislative Council in the second half of 2005.