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## **Guide on Communications to and by Companies**

Part 18 (Communications to and by Companies) of the Companies Ordinance (Cap. 622) (“the CO”) governs the communications to and by companies, including communications in electronic or hard copy form between a company and its members, debenture holders, and other persons that are authorised or required to be made under a provision of the CO or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) (“applicable provision”). It also deals with communications sent by a company by means of a website.

2. In its application in relation to documents or information to be sent or supplied to the Registrar of Companies, Part 18 of the CO has effect subject to Part 2 of the CO.

3. This Guide summarises the key provisions under Part 18 of the CO. Any reference to “document” or “information” in parts (B) and (C) of this Guide is a reference to document or information that is authorised or required by an applicable provision to be sent or supplied by or to a company, as the case may be.

4. This Guide shall be effective from 17 April 2025 and will supersede, from the same date, the Guide entitled “Guide on Communications to and by Companies” previously issued by the Companies Registry in January 2014. This Guide should be read with the relevant provisions of Part 18 of the CO. You are advised to seek professional advice in case of doubt.

### **(A) Service of Document on Company (Division 2)**

5. The mode of service of a legal document on a company is governed by section 827, which provides that a document (which includes a summons, notice, order and any other legal process) may be served on a company by sending it by post to the company’s registered office or by leaving it at the registered office.

### **(B) Other Communication to Company by Person who is not Company (Division 3)**

#### **I. Communication in electronic form (section 828)**

- (a) A document or information may be sent or supplied to a company in electronic form if the company has so agreed, generally or specifically, or is regarded as having so agreed under a provision of the CO.

- (b) A document or information that is sent or supplied by electronic means should be made to an address specified by the company (or an address regarded under a provision of the CO as having been so specified) and must be in a form which enables the recipient to read and retain a copy.
- (c) A document or information that is sent or supplied by electronic means is deemed to have been received by the company at the end of the period as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders) or any other agreement (for other persons), as appropriate and unless the contrary is proved. If the articles, instrument or agreement does not specify any period, the period is 48 hours.
- (d) A document or information sent or supplied in electronic form may be sent by hand or by post (e.g. by sending a diskette or CD-ROM) to an address specified by the company or the company's registered office or to an address to which it may be sent or supplied as authorized or required by a provision of the CO.
- (e) A company may revoke its agreement to communicate in electronic form by giving a notice of revocation of at least 7 days or such longer period as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders) or any other agreement (for other persons), as appropriate.

## II. Communication in hard copy form (section 829)

- (a) A document or information may be sent or supplied in hard copy form by hand or by post to an address specified by the company or the company's registered office or an address as authorized or required by a provision of the CO to be sent or supplied.
- (b) Where the document or information is sent or supplied by post to a company, it is deemed to have been received by the company on the second business day after the day on which the document or information is sent or supplied or otherwise as specified in the company's articles (for members) or instrument creating the debenture (for debenture holders), or any other agreement (for other persons), whichever is the later and unless the contrary is proved.
- (c) If the document or information is sent or supplied by hand, it is deemed to have been received by the company at the time when the document or information is delivered.

## III. Communication in other forms (section 830)

A document or information may be sent or supplied in a form or manner that has been agreed by the company otherwise than in electronic or hard copy form.

**(C) Other Communication by Company to Another Person (Division 4)**

**I. Communication in electronic form (other than by website) (sections 831 and 837)**

- (a) Communication in electronic form can be made by a company only with the recipient's agreement (or where the recipient is a company, the recipient is regarded under a provision of the CO as having so agreed).
- (b) Communication by electronic means should be made to an address specified by the recipient (or, where the recipient is a company, an address specified for the purpose or regarded under a provision of the CO as having been so specified) and must be in a form, and by a means, which enables the recipient to read and retain a copy.
- (c) A document or information sent or supplied by electronic means is deemed to have been received by the recipient at the end of the period—
  - (i) where the recipient is not a company, as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders) or any other agreement (for other persons); or
  - (ii) where the recipient is a company, as specified in the company's articles (for members), the recipient's articles (where the company is a member of the recipient), the instrument creating the debentures (for debenture holders or where the company is a debenture holder of the recipient) or any other agreement (for other persons),

unless the contrary is proved.

If the articles, instrument or agreement does not specify any period, the document or information is deemed to have been received at the end of the period of 48 hours, unless the contrary is proved.

- (d) A document or information sent in electronic form may also be sent by hand or by post (e.g. by sending a diskette or CD-ROM) to an address specified by the recipient (or an address to which a provision of the CO authorizes or requires the same to be sent or supplied) or an address as shown in the company's registers of members, debenture holders, directors or company secretaries, as the case may be, or where the recipient is a company, its registered office address. If the company does not have an address of the recipient as specified above, the document or information may be sent to the recipient's last known address.
- (e) A recipient may revoke his/her/its agreement to communicate in electronic form by giving a notice of revocation of at least 7 days or such longer period—
  - (i) where the recipient is not a company, as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders), or any other agreement (for other persons); or
  - (ii) where the recipient is a company, as specified in the company's articles (for members), the recipient's articles (where the company is a member of the recipient), the instrument creating the debenture (for debenture holders or where the company is a debenture holder of the recipient), or any other agreement (for other persons).

- (f) A member or debenture holder may request a document or information to be provided in hard copy form free of charge within 28 days after the date of receipt of an electronic copy and the company must send a hard copy of the document or information within 21 days after the date of receiving the request. If the document or information requires an action to be taken by the member or debenture holder, the company must send or supply the hard copy within 7 days after the date of receiving the request.

## II. Communication in hard copy form (section 832)

- (a) A document or information may be sent or supplied by hand or by post in hard copy form to an address specified by the recipient (or an address to which a provision of the CO authorizes or requires the same to be sent or supplied) or an address as shown in the company's registers of members, debenture holders, directors or company secretaries, as the case may be, or where the recipient is a company, its registered office address. If the company does not have an address of the recipient as specified above, the document or information may be sent to the recipient's last known address.
- (b) If a document or information is sent or supplied by a company by post to an address in Hong Kong, it is deemed to have been received by the recipient on the second business day after posting or the time—
  - (i) where the recipient is not a company, as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders), or any other agreement (for other persons); or
  - (ii) where the recipient is a company, as specified in the company's articles (for members), the recipient's articles (where the company is a member of the recipient), the instrument creating the debenture (for debenture holders or where the company is a debenture holder of the recipient), or any other agreement (for other persons),

whichever is the later and unless the contrary is proved.

- (c) If the document or information is sent or supplied by hand, it is deemed to have been received by the recipient at the time when the document or information is delivered.

## III. Communication by means of website (sections 833, 833A, 833B, 833C and 837)

- (a) A company may communicate with another person by making a document or information available on a website if that other person agrees to such mode of communication. However, documents or information may not be so sent by members of a company to the company.
- (b) The document or information posted on the website must be in a form, and by a means, which enables the recipient to read and retain a copy and must be kept posted on the website for the whole of any period as specified by the applicable provision under which the document or information is sent, or 28 days if no period is specified.

- (c) A member is deemed to have agreed to website communications if the company's articles or a members' resolution provide to that effect, and subject to paragraph (l) below, the company has individually requested agreement of the member for website communication and the member has not responded to the request provided that the request stated clearly the effect of a failure to respond within 28 days.
- (d) A debenture holder is deemed to have agreed to website communications if the instrument creating the debenture or a debenture holders' resolution provides to that effect, and subject to paragraph (l) below, the company has individually requested agreement of the debenture holder for website communication and the debenture holder has not responded to the request for agreement where the request stated clearly the effect of a failure to respond within 28 days.
- (e) Where a member or debenture holder is not deemed to have agreed to accept website communications, the company should not make the request in paragraph (c) or (d) above again within a period of 12 months from the prior request.
- (f) A member is implied to have agreed to website communications if the company's articles provide to that effect; and subject to paragraph (l) below, a one-off notification has been sent to the member.
- (g) A debenture holder is implied to have agreed to website communications if the instrument creating the debenture or a debenture holders' resolution provides to that effect, and subject to paragraph (l) below, a one-off notification has been sent to the debenture holder.
- (h) The one-off notification must contain the following matters—
  - (i) the arrangements under which documents or information generally may be sent or supplied by the company to its members or debenture holders (as the case requires) by making them available on a website;
  - (ii) the address of the website;
  - (iii) the place on the website where those documents or information may be accessed;
  - (iv) how to access those documents or information;
  - (v) a statement of—
    - (i) the person's right to request documents or information to be sent or supplied in electronic form; and
    - (ii) the person's right to request documents or information to be sent or supplied in hard copy form; and
  - (vi) if agreement for communication in electronic form and/or electronic address for receiving such communication have not been obtained or if agreement obtained has been revoked, an invitation to the person to provide such agreement and to specify such an address.

- (i) Subject to paragraphs (k) and (l) below, the company must send a separate notification to notify the recipient of the posting of the document or information on the website, (if the document or information is not available on the website on the date of the notification) the date that it will be so available, the address of the website, the place on the website where it may be accessed and how to access the document or information.
- (j) A document or information is regarded as having been received by the person at the end of the period as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders) or any other agreement (for other persons) after its first posting on the website or after receipt of the notice of posting, whichever is the later. If the articles, instrument or agreement does not specify any period, the period is 48 hours.
- (k) The company is exempt from sending the separate notification to the person if the member or debenture holder's agreement is implied under (f) or (g) and that–
  - (i) the company is a listed company; or
  - (ii) where the company is an unlisted company, the person has agreed that the document or information may be sent or supplied by the company to the person by making it available on a website without any separate notification and has not revoked the agreement.
- (l) The one-off notification and/or the separate notification do not apply if–
  - (i) Communication from the company in hard copy form has previously been returned by the post office as undeliverable at the person's specified address for communication in hard copy form; and
  - (ii) communication from the company in electronic form is not possible because the person has not agreed to receive communications in electronic form or has not specified an electronic address (and, where the person is a company, has not so agreed or specified or is not regarded under a provision of the CO as having so agreed or specified).
- (m) A member or debenture holder may request the document or information to be provided in electronic form free of charge within 28 days after the date of receipt of the same on the website and the company must send the document in electronic form within 21 days after the date of receiving the request. If the document or information requires an action to be taken by the member or debenture holder, the company must send or supply the electronic copy within 7 days after the date of receiving the request.
- (n) A member or debenture holder may request the document or information to be provided in hard copy form free of charge within 28 days after the date of receipt of the same on the website and the company must send or supply a hard copy of the document within 21 days after the date of receiving the request. If the document or information requires an action to be taken by the member or debenture holder, the company must send or supply the hard copy within 7 days after the date of receiving the request.

- (o) A recipient may revoke his/her/its agreement to website communications by giving a notice of revocation of at least 7 days or such longer period as specified in the company's articles (for members), the instrument creating the debenture (for debenture holders), or any other agreement (for other persons).

IV. Communication in other forms (section 834)

A document or information may be sent or supplied by a company in a form or manner that has been agreed by the other person otherwise than in electronic or hard copy form or by making it available on a website.

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