



公 司 註 冊 處
COMPANIES REGISTRY

香港金鐘道六十六號
金鐘道政府合署十五樓

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30 May 2008

COMPANIES REGISTRY EXTERNAL CIRCULAR NO. 1 / 2008

Implementation of New Incorporation Forms

The purpose of this circular is to announce and provide a general guide on the implementation of new incorporation forms under the Companies Ordinance (“CO”).

Background

2. The Secretary for Financial Services and the Treasury has appointed **11 July 2008** as the commencement date for the provisions concerning the introduction of new incorporation forms in Schedule 2 to the Companies (Amendment) Ordinance 2004 (“the Amendment Ordinance”). The Commencement Notice of the provisions was published in the Gazette on 16 May 2008 (L.N. 139 of 2008).

Major Changes

3. The major changes brought about by the above legislative amendments are outlined in **Annex 1**. Members of the public are advised to seek independent legal advice in case they have any questions on the new requirements.

4. The main purpose of the amendments concerning incorporation of companies in the Amendment Ordinance is to streamline incorporation procedures by introducing new incorporation forms for use when a person applies to the Registrar of Companies to form an incorporated company under the CO. The new incorporation forms, which contain comprehensive information on the address of registered office and particulars of the first secretary and the first directors of a company, will also enhance disclosure of essential information of a company upon incorporation. Moreover, the document registration process will be streamlined as the new company will not be required to file separate notifications reporting on those particulars after incorporation.

5. With effect from **11 July 2008**, any person who wishes to form an incorporated company under the CO is required to deliver a duly completed new incorporation form together with a certified copy of the company’s memorandum and articles of association and the prescribed fees to the Companies Registry for registration.

New Incorporation Forms and Revised Specified Forms

6. The Registrar of Companies has specified two incorporation forms (i.e. Forms NC1 and NC1G for companies limited by shares and companies not limited by shares respectively) and revised Forms R1, D2A and D5 for use under the CO with effect from **11 July 2008**. Forms NC1A, D1 and D3 and old Forms R1, D2A and D5 will become obsolete. These forms will no longer be accepted for registration by the Companies Registry as from that date. Particulars of the specified forms are set out in **Annex 2**. Please also refer to the Gazette notices and the forms (G.N. 3507, 3508 and 3509) published on 30 May 2008.

7. A complete set of Companies Registry's specified forms, including the new incorporation forms and revised specified forms, in CD-ROM is now available for purchase on the 14th floor of the Queensway Government Offices, 66 Queensway, Hong Kong. With effect from **16 June 2008**, the new / revised specified forms can be downloaded from the "Public Forms" – "Specified Forms" section at www.cr.gov.hk and hard copies will also be available for purchase at the above address.

Search Fees for New Incorporation Forms

8. To tie in with the introduction of new incorporation forms, the Companies Ordinance (Amendment of Eighth Schedule) Order 2008 gazetted on 16 May 2008 (L.N. 137 of 2008) has introduced the fees for conducting searches on the new incorporation forms with effect from **11 July 2008**. A summary of the search fees is set out in **Annex 3**.

Enquiries

9. Enquiries concerning this circular should be directed to:-

Incorporation of local companies	Ms Fanny LAM, Assistant Registry Manager (New Companies)	(852) 2867 4790 fannylam@cr.gov.hk
Filing requirements after incorporation	Ms Amy LUK, Assistant Registry Manager (Registration)	(852) 2867 4562 amyluk@cr.gov.hk

Ms Ada LL CHUNG
Registrar of Companies

c.c. CR/HQ/8/1/5/3 (II)
CR/HQ/8/1/59 (XIV)
CR/HQ/12/21/1

**Major changes concerning incorporation procedures for local companies
with effect from 11 July 2008**

New term “founder member”

1. The term “subscriber” in the Companies Ordinance (“CO”) has been replaced by “founder member”.

Documents delivered for incorporation of a company

2. Any person who wishes to form an incorporated company shall apply to the Registrar of Companies (“the Registrar”) in the new incorporation form specified under section 14A of the CO. The following documents are required to be delivered to the Registrar for registration under section 15(1): –

- (a) a duly completed incorporation form (either Form NC1 for company limited by shares or Form NC1G for company not limited by shares, as the case may be) ; and
- (b) certified true copies of the memorandum of association and articles of association (if any) of the company.

3. The incorporation form, which shall be signed by any 2 founder members named in the form, or where only one founder member is named in the form, by that founder member, shall contain: –

- (a) the name of the company intended to be incorporated;
- (b) the intended address of the company’s registered office in Hong Kong;
- (c) a statement as to whether the company is to be a company limited by shares, a company limited by guarantee or an unlimited company;
- (d) if the company is to be a company limited by shares or limited by guarantee, a statement as to whether it is to be a private company;
- (e) if the company is to be a company limited by shares or an unlimited company having a share capital, the amount of share capital with which the company proposes to be registered and the number of shares of fixed amount into which the share capital is to be divided;
- (f) if the company is to be a company limited by guarantee, the amount that each person who is to be a member is to undertake to contribute to the assets of the company in the event of its being wound up;

- (g) the name and address of each founder member and, if the company is to be a company limited by shares or an unlimited company having a share capital, the number of shares that each founder member is to take, on the incorporation of the company;
- (h) particulars with respect to each person who is to be a director or the secretary on the incorporation of the company;
- (i) the statement of compliance certifying the company's compliance with all or any of the requirements of the CO in respect of registration and of matters precedent and incidental thereto; and
- (j) statements signed by each person who is to be a director of the company on its incorporation stating that he consents to act as the director and has attained the age of 18 years.

Registered office, first director(s) and secretary

4. The intended address of a company's registered office stated in the incorporation form shall be the address of registered office of the company with effect from the date of its incorporation until the company files a notification of change under section 92(3).

5. With effect from the date of incorporation of a company, the persons named as the director(s) and secretary in the incorporation form are the first director(s) and secretary of the company under sections 153(2), 153A(2), 154(1AA) and 154(1AB).

6. Notifications of any changes in the address of registered office, directors or the secretary of a company after incorporation should continue to be reported in the specified forms (revised Forms R1 and D2A and Form D2B) in accordance with sections 92(3) and 158(4) of the CO.

Reporting of registered office address

7. **Form R1** has been revised for reporting subsequent changes of the address of a company's registered office after incorporation under section 92(3).

Reporting of appointment of directors and secretary

8. As particulars of the first secretary and first directors of a company are contained in the new incorporation forms, under section 158(4) a company will *no longer* be required to send to the Registrar a specified form "Notification of First Secretary and Director" (Form D1) within 14 days from the appointment of first directors and secretary.

9. Section 158(4AA) requires a company to send to the Registrar a notification on the appointment of a person as director (other than the first directors) in the specified form (revised Form D2A) containing the director's particulars and a statement, signed by the person, that he has accepted the appointment and that he has attained the age of 18 years.

10. The existing specified form “Notification of Change of Secretary and Director (Appointment / Cessation)” (**Form D2A**) has been revised in accordance with section 158(4AA) to include a statement of acceptance of appointment of a new director. The specified form “Consent to Act as Director or Alternate Director” (Form D3) will become obsolete from 11 July 2008 and the transitional arrangement of 12 months from 14 December 2007 for the use of the revised Form D3 as announced in Companies Registry External Circular No. 5/2007 is hereby superseded.

Transitional arrangement on the reporting of registered office address, first director(s) and first secretary

11. Where a company has submitted a Form NC1A before 11 July 2008 and has not yet reported the address of its registered office and particulars of its first director(s) or first secretary in existing Forms R1 and D1, the revised Forms R1 and D2A should be used to report such information on or after 11 July 2008. The revised Forms R1 and D2A filed for these purposes will be regarded as Notification of address of Registered Office and Notification of First Secretary and Director respectively.

12. Prior to the implementation of new incorporation procedures on 11 July 2008, company promoters and document presentors are advised to submit the existing Forms R1, D1 and D3 to report details of new companies at the same time as Form NC1A and the Memorandum and Articles of Association are submitted to the Companies Registry.

Consequential amendments to the First Schedule to the CO

13. Consequential amendments to some existing terms (e.g. subscribers) in Tables A, B, C, D and E in the First Schedule to the CO have been made. The full text of the respective Tables under the Bilingual Laws Information System (BLIS) at www.legislation.gov.hk will be updated within about two weeks after the commencement of the relevant provisions on 11 July 2008.

**List of New / Revised / Obsolete Specified Forms
with effect from 11 July 2008**

Form No.	Form Name
<i>New Specified Forms</i>	
Form NC1	Incorporation Form (Company Limited by Shares)
Form NC1G	Incorporation Form (Company Not Limited by Shares)
<i>Revised Specified Forms</i>	
Form R1	Notification of Change of Address of Registered Office NB: The form is revised for reporting change of address of registered office after incorporation.
Form D2A	Notification of Change of Secretary and Director (Appointment / Cessation) NB: The form is revised to include the statement of consent to act as directors or alternate directors.
Form D5	Notification of Reserve Director (Nomination / Cessation) NB: There is no change in the requirement for information to be reported in the Form. The form is revised to delete the references to Form D1 in the “Notes for completion” and update some field descriptions in the form.
<i>Obsolete Specified Forms</i>	
Form D1	Notification of First Secretary and Director
Form D3	Consent to Act as Director or Alternate Director
Form NC1A	Statement of Compliance on Incorporation of a Company

**Search Fees for New Incorporation Forms -
Form NC1 or NC1G
with effect from 11 July 2008**

Search Method	Registered Online Users HK\$	Unregistered Online Users HK\$	On-site Users HK\$
Downloading an image record online at www.icris.cr.gov.hk	16	18	N/A
Online viewing and obtaining an image record* at www.icris.cr.gov.hk	21	23	N/A
Obtaining a copy of an image record at the Companies Registry's Public Search Centre [#]	N/A	N/A	30

* Online viewing service will be provided after completion of system enhancement in late 2008.

Address: 13th floor, Queensway Government Offices, 66 Queensway, Hong Kong.