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## **No. S 861**

### **COMPANIES ACT (CHAPTER 50)**

#### **COMPANIES (AMENDMENT) REGULATIONS 2005**

In exercise of the powers conferred by section 411 of the Companies Act, the Minister for Finance hereby makes the following Regulations:

#### **Citation and commencement**

1. These Regulations may be cited as the Companies (Amendment) Regulations 2005 and shall come into operation on the date of commencement of item (9) in the First Schedule to the Statutes (Miscellaneous Amendments) (No. 2) Act 2005 (Act 42 of 2005).

#### **Deletion and substitution of regulations 29 to 39**

2. The Companies Regulations (Rg 1) are amended by deleting regulations 29 to 39 (including the heading immediately above regulation 29) and substituting the following regulations:

##### **“Definition**

29. In this Part, “application for a judicial management order” means an application made under section 227B of the Act for an order placing a company under the judicial management of a judicial manager.

##### **Form of application for judicial management**

30.—(1) Every application for a judicial management order shall be made by originating summons in Form 63A in the Second Schedule supported by an affidavit in Form 63B in the Second Schedule.

(2) The supporting affidavit —

- (a) shall be deposed to by the person making the application or, if more than one, or, in the case where the application is made by a corporation, by some director, secretary or other principal officer thereof; and
- (b) shall be filed together with the application.

### **Filing of application for judicial management**

**31.**—(1) An application for a judicial management order shall be filed at the office of the Registrar of the Supreme Court who shall appoint the time and place at which the application is to be heard.

(2) Notice of the time and place appointed for hearing the application shall be indicated on the originating summons and sealed copies thereof, and the Registrar of the Supreme Court may at any time before the application has been advertised, alter the time appointed and fix another time.

### **Notice of application for judicial management**

**32.**—(1) Every notice of an application for a judicial management order shall be published in accordance with Form 63C in the Second Schedule, 7 clear days or such longer time as the Court may direct before the hearing, as follows:

- (a) once in the *Gazette* and once at least in one English and one Chinese local daily newspaper or in such other newspapers as the Court may direct;
- (b) the notice shall —
  - (i) state the day on which the application was filed and the name and address of the applicant and of his solicitor; and
  - (ii) contain a note stating that any person who intends to appear at the hearing of the application to oppose the nomination of a judicial manager made by the company, pursuant to section 227B(3)(c) of the Act or the making of

a judicial management order pursuant to section 227B(5)(b) of the Act must send notice of such intention to the applicant or to his solicitor, within the time and in the manner prescribed by regulation 33.

(2) A notice of an application for a judicial management order which does not contain the note referred to in paragraph (1)(b)(ii) shall be deemed irregular.

(3) If the applicant for a judicial management order or his solicitor does not, within the time required under paragraph (1) or within such extended time as the Registrar of the Supreme Court may allow, duly publish the notice of the application in the manner required by this regulation, the appointment of the time and place at which the application is to be heard shall be cancelled by the Registrar of the Supreme Court and the application shall be removed from the file unless the Judge or the Registrar of the Supreme Court shall otherwise direct.

(4) The notice of application together with a copy of the application and its supporting affidavit shall be filed with the Registrar in accordance with the provisions of the Companies (Filing of Documents) Regulations (Rg 7).

### **Service of application for judicial management**

**33.**—(1) Every application for a judicial management order and its supporting affidavit shall, unless filed by the company, be served upon the company within 7 days of the hearing of the application at the registered office of the company, by leaving a copy thereof with any member, officer or employee of the company there, or in case no such member, officer or employee can be found there, then by leaving a copy thereof at such registered office or by serving it on such member or members of the company as the Court may direct.

(2) The affidavit of service of the application may be in accordance with Form 63D in the Second Schedule.

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**Copy of application and supporting affidavit to be furnished to creditor or member**

**34.** Every member or creditor of the company shall be entitled to be furnished by the applicant or his solicitor with a copy of the application for a judicial management order and its supporting affidavit within 48 hours after requesting it, upon payment of \$1 per page or part thereof for such copy.

**Notice of intention to appear**

**35.—**(1) Every person who intends to appear at the hearing of an application for a judicial management order, being a person referred to in sections 227B(3)(c) and 227B(5)(b) of the Act, shall serve on the applicant or his solicitor notice of his intention.

(2) The notice shall be signed by such person or by his solicitor and shall give the address of the person signing it and shall be served, or if sent by post shall be posted in such time as in the ordinary course of post to reach the address not later than 12 noon of the day previous to the day appointed for the hearing of the application.

(3) The notice may be in accordance with Form 63E in the Second Schedule with such variations as circumstances may require.

(4) A person who has failed to comply with this regulation shall not, without special leave of the Court, be allowed to appear at the hearing of the application.

**List of persons intending to appear**

**36.—**(1) The applicant or his solicitor shall prepare a list in accordance with Form 63F in the Second Schedule of the names and addresses of the persons who have given notice of their intention to appear at the hearing of the application for a judicial management order and of their respective solicitors.

(2) On the day appointed for hearing the application, a fair copy of the list or, if no notice of intention has been given, a statement to that effect, shall be handed by the applicant or his solicitor to the Court prior to the hearing of the application.

**Affidavits opposing the nomination and affidavits in reply**

**37.—**(1) Affidavits in opposition to the making of a judicial management order or a nomination of a judicial manager made in an application for a judicial management order shall be filed and a copy thereof served on the applicant or his solicitor at least 7 days before the time appointed for the hearing of the application.

(2) Any affidavit in reply to an affidavit filed in opposition shall be filed within 3 days of the date of the service on the applicant of the affidavit in opposition and a copy thereof served on the party opposing the application for a judicial management order or his solicitor.

**Attendance on Registrar of Supreme Court**

**38.—**(1) After an application for a judicial management order has been filed, the applicant or his solicitor shall on a day to be appointed by the Registrar of the Supreme Court attend before the Registrar and satisfy him that —

- (a) the application has been duly published in the *Gazette* and in one English and one Chinese local daily newspaper;
- (b) the supporting affidavit and the affidavit of service, if any, have been duly filed;
- (c) the consent in writing of the approved company auditor nominated by the applicant has been obtained and filed;
- (d) the provisions of these Regulations have been duly complied with; and
- (e) a sum of \$1,000 has been deposited with the Court to cover the fees and expenses to be incurred by the judicial manager.

(2) This deposit shall be refunded to the applicant by the Court on the discharge of the judicial management order.

(3) Where an applicant has not, prior to the hearing of the application for a judicial management order, attended before the