

PRACTICE DIRECTION NO. 1 OF 2006 - COMPANIES (AMENDMENT) ACT 2005

This practice direction informs the public of the commencement of the Companies (Amendment) Act 2005 (“the Amendment Act”), the consequential changes to Bizfile forms, the introduction of new forms in Bizfile and related matters.

Commencement

2 The Amendment Act will come into force with effect from Monday, 30 Jan 2006. The amendments include the following:

- a) removal of the concept of par value and authorized capital;
- b) reforms in the capital maintenance regime;
- c) introduction of treasury shares;
- d) amalgamation.

Bizfile unavailability

3.1 To enable the new and amended forms to be uploaded onto www.bizfile.gov.sg and for the current data to be converted, Bizfile will not be available on the following dates and times:

| <u>Date and Time</u> | <u>Details of unavailability</u> |
|---|---|
| 27 Jan 2006 (Friday) from 2000 hrs (8 p.m.) to 28 Jan 2006 (Saturday) 0800 hrs (8.00 a.m.) | All services in Bizfile not available. |
| 28 Jan 2006 (Saturday) 0800 hrs (8.00 a.m.) to 29 Jan 2006 (Sunday) 2359 hrs (11.59 pm) | Bizfile services restored <u>but the affected forms set out in paragraph 6.1 below will be removed</u> from the Local Company Transactions menu. In addition, filers will not be able to use the Notice of Error, the Application for Leave to File Notice of Error and the Order of Court to Rectify Register to rectify any error made to an affected form that has been lodged prior to 8 pm on 27 Jan 2006. (Please see paragraphs 5.3 & 5.4 below also) |
| 30 Jan 2006 (Sunday) 0001hrs (0.01 am) | New and amended forms are uploaded to the Bizfile menu and available for use. |

3.2 Companies and their agents are strongly advised to lodge the relevant forms affected by the amendments before 27 Jan 2006, particularly those affecting allotment of shares and changes in share capital, to avoid complications in their filings on or after 30 Jan 2006.

Treatment of Share Capital on or after 30 Jan 2006

4.1 On 30 Jan 2006, the Registrar of Companies will adopt as the share capital of the company, the aggregate nominal value of the shares issued by the company which appears in ACRA's record immediately before 30 January 2006 as the value pursuant to the new section 62B(8). This value will continue to be referred to as the "Issued Capital" in Bizfile records and reports. The term "paid-up capital" will continue to be used by ACRA in Bizfile to denote the amount paid on the shares issued.

4.2 Companies that have received share premiums and have capital redemption reserves may update these amounts to the share capital using the new form called "Notification of Share Capital under section 62B (7)" within 6 months after 30 Jan 2006 or before confirming their Summary of Returns. No fee will be imposed for lodging this Notification, though penalties may be payable for lodgment made after the 6 months period.

4.3 Companies may also add any amount which have been previously called and paid up in the Notification if these amounts have not yet been reported. Upon lodgment, the amount submitted will be added to the company's issued and paid up capital and the records of the companies maintained by ACRA will be updated accordingly.

Pending Applications

5 Companies are to take note of the following:

5.1 Name applications

5.1.1 Company names which have been approved before 30 Jan 2006 can still be used for incorporation after 30 Jan 2006 using the new incorporation forms.

5.2 Incorporation

5.2.1 Application for incorporations submitted before 27 Jan 2006 and referred to referral authorities by Bizfile will continue to be processed by ACRA. If the incorporation is completed on or after 30 Jan 2006, Bizfile will compute the share capital based on the aggregate nominal value of the shares issued.

5.3 Conversion

5.3.1 Companies converting from private to public or vice versa or from unlimited company to company limited by shares are to submit their application for conversion by Friday 20 Jan 2006 to give ample time for ACRA to process the application and for the company to make payment for the conversion upon approval.

5.4 Errors in Share related transactions – Notice of Error, Application for leave of Registrar to file Notice of Error and Order of Court to rectify register

5.4.1 Companies are to submit their notice, application or Order by Friday 20 Jan 2006 to give ample time for ACRA to rectify the records. Companies that are unable to do so can still file the relevant forms on or after 30 Jan 2006. The new forms however will not retrieve the incorrect form lodged prior to 30 Jan 2006. Filers will have to describe the incorrect and correct information in the new form.

Changes to Bizfile Forms

6.1 Amendments will be made to the following current forms to remove references to authorized capital, share premium and nominal value, if any of these terms appear therein:

- a) Apply for a new company name;
- b) Incorporate a Private Company;
- c) Incorporate a Public Company – Limited by Shares;
- d) Summary Of Returns By Local Company Having A Share Capital;
- e) Main Return By Local Company Having A Share Capital ;
- f) Notice By Local Company Of Alteration In Share Capital Other Than Increase In Capital (to be renamed as Notice of Local Company Of Alteration in Share Capital);
- g) Return Of Allotment Of Shares;
- h) Notice Of Redemption Of Redeemable Preference Shares;
- i) Notice By Local Company Of Transfer Of Shares / List Of Shareholders ;
- j) Notice Of Purchase Or Acquisition Of Ordinary Shares / Stocks ;
- k) Notice Of Purchase Or Acquisition Of Non-Redeemable Preference Shares (to be renamed as Notice of Purchase Or Acquisition of Preference Shares);
- l) Conversion of Company:
 - i. From an unlimited company to a company limited by shares;
 - ii. From a public company limited by shares to a private company limited by shares.

6.2 In addition to the above amendments, the following additional amendments will be made to the forms set out below:

6.2.1 Summary of Returns By Local Company Having a Share Capital ("SR"):

- a) the total amount (of monies) , if any, agreed to be considered as unpaid on shares partly paid in non-cash will be required;
- b) the number of shares issued at a discount and the amount of discount on the issue of shares which has not been written off at the date of the return will no longer be required;
- c) the number of shares bought back will no longer be required;
- d) the total number of shares held as treasury shares will be required (which will be populated in the SR) ;
- e) additional calls paid since the date of the last return will be required. This includes all amounts paid pursuant to calls (whether on account of the par or premium) since under the new section 62B (2) any amount standing to the credit of a company's share premium account and the capital redemption reserve shall become part of the company's share capital. Hence any premiums paid shall be included as paid up share capital;
- f) commissions paid in respect of shares will no longer be required.

6.2.2 Main Return By Local Company Having a Share Capital:

- a) if the accounts were audited and the company had filed the accounts with the Main Return, the name of the public accountant who audited the accounts is required;
- b) an election whether the company was dormant in the course of the last financial year and if so, the principal activities before it turned dormant; if not, the principal activities in the course of the financial year concerned;
- c) financial highlights ; a holding company that had prepared consolidated accounts will provide information derived from the consolidated profit and loss and balance sheet accounts as well as the company's balance sheet accounts. A holding company that had not prepared consolidated accounts or a company that is not a holding company will provide information derived from its individual accounts.

6.2.3 Notice Of Purchase Or Acquisition Of Ordinary Shares / Stocks:

- a) the number of shares held as treasury shares, if any, will be required;
- b) the amount of profit or capital used for the purchase or acquisition.

6.2.4 Notice Of Purchase Or Acquisition Of Non-Redeemable Preference Shares:

- a) this form will be renamed as Notice of Purchase or Acquisition of Preference Shares;
- b) the form will allow the company to report purchase or acquisition of both its redeemable as well as non-redeemable preference shares.

6.2.5 Notice By Local Company Of Transfer Of Shares / List Of Shareholders:

- a) the form will now allow particulars (i.e. name, address, identification number, nationality) of shareholders to be updated or amended;
- b) the form however does not allow particulars of shareholders who are also company officers (i.e. directors, secretaries or managers) to be updated or amended. Such particulars must be updated or amended in the relevant form. Upon submission, the particulars of that shareholder will be updated as well.

6.2.6 Notice Of Errors in Documents Lodged

6.2.6.1 With effect from 30 Jan 2006, Bizfile will not retrieve the filed copy of a form lodged prior to 27 Jan 2006 if the form is one of the following:

- a) Local Company Incorporation;
- b) Conversion From An Unlimited Company To A Company Limited By Shares;
- c) Conversion From A Public Company Limited By Shares To A Private Company Limited By Shares;
- d) Summary Of Returns of Local Company having a Share Capital.

6.2.6.2 Filers will have to describe the incorrect and correct information in the new form for record purposes. If data correction is required, the filer should get in touch with ACRA immediately.

6.2.7 Application for Leave of Registrar to File Notice of Error and Order of Court to Rectify Register

6.2.7.1 With effect from 30 Jan 2006, Bizfile will not retrieve the filed copy of a form lodged prior to 27 Jan 2006 if it involves the following:

I) Application for Leave of Registrar to File Notice of Error

- a) Notice By Local Company Of Alteration In Share Capital ;
- b) Return Of Allotment Of Shares ;
- c) Notice Of Redemption Of Redeemable Preference Shares ;
- d) Notice By Local Company Of Transfer Of Shares / List Of Shareholders;
- e) Notice Of Purchase Or Acquisition Of Ordinary Shares / Stocks;
- f) Notice Of Purchase Or Acquisition Of Preference Shares.

II) Order Of Court To Rectify Register

- a) Notice By Local Company Of Alteration In Share Capital ;
- b) Return Of Allotment Of Shares;
- c) Notice Of Redemption Of Redeemable Preference Shares ;
- d) Notice By Local Company Of Transfer Of Shares / List Of Shareholders;
- e) Notice Of Purchase Or Acquisition Of Ordinary Shares / Stocks;
- f) Notice Of Purchase Or Acquisition Of Preference Shares.

6.2.7.2 Filers will have to describe the incorrect and correct information in the new form and submit the application or order to rectify for the approval of the Registrar in the usual manner.

6.2.8 Conversion from Private Company Limited by Shares to a Public Company Limited by Shares;

6.2.8.1 The reference to Order of Court will be remove from the form (under section for Conversion under section 32 of Companies Act) with the repeal of sub-paragraph (iii) of paragraph (c) of section 32(3).

New Forms

7. The new e-forms to be introduced are

- a) Notification of Share Capital under section 62B (7);
- b) Notice of Cancellation or Disposal of Treasury Shares under S76K;
- c) Special Resolution for Reduction of Capital by Public Company S78C;
- d) Notice of Creditors' Application to Court for Cancellation of Special Resolution under S78D;
- e) Reduction of Share Capital by Special Resolution under the following provisions:
 - S78E(1) – Private Company without creditor's objection;

- S78E(2) – Public Company without creditor’s objection;
- S78E(3) – Private Company with creditor’s objection;
- S78E (4) – Public Company with creditor’s objection.

- f) Notice of Court Order for Cancellation of Special Resolution – S78F;
- g) Notice of Court Order for Approval of Reduction of Share Capital by Special Resolution – S78G;
- h) Application for Extension of Time under S78I;
- i) Notice of Giving of Financial Assistance under sec 76(9A) (g) and sec 76(9B) (f);
- j). Registration of Amalgamation.

Forms deleted

8. The following forms will be deleted from Bizfile due to the repeal of sections 67 and 71(4):

- a) Statement of Accounts and Rate of Commission /Brokerage;
- b) Notice of Increase in Share Capital;
- c) Order of Court – Reduction of Share Capital;
- d) Lodgment of Order of Court (Reduction of Share Capital with Subsequent Increase to Original Amount.

Companies (Filing of Documents) (Amendments) Regulations

9. The above regulations will be issued prior to 30 Jan 2006. The amendments will introduce new provisions to cater for the filing of new forms which have not been provided in the Amendment Act and the publicity requirements under section 78B and C with regards to reduction of share capital by special resolution.

Fees - Amendments to the Second Schedule to Companies Act

10. The Second Schedule to the Companies Act which contains the fees payable will be amended to include fees for the following transactions:

- a) Registration of Amalgamation;
- b) Notices lodged in relation to Special Resolutions;
- c) Application of extension of time under sec 78I;
- d) Other notifications.

Amendments to the Eighth Schedule to the Companies Act

11. The amendments are contained in the Companies (Amendments of Eighth Schedule) Notification 2006. The amendments essentially will relate to the contents of the Main Return which has been dealt with in paragraph 6.2.2 above.

Batch Filing

12. The batch filing software for the new transactions will not be made available due to the low usage for batch filing previously. ACRA will review this matter if there is a high demand for this facility.

Related Practice Direction

13. Practice Direction 1 of 2003-RCB Electronic Filing System Bizfile.

Further assistance

14. If you have any enquiries, please visit our interactive web service at www.acra.gov.sg/askacra.

Issued on 12th January 2006.

Miss Juthika Ramanathan
Chief Executive and Registrar of Companies
Accounting and Corporate Regulatory Authority
SINGAPORE