



AN ACT TO AMEND FURTHER THE ASSOCIATIONS LAW, TITLE 5, OF THE LIBERIAN CODE OF LAWS, REVISED, TO PROVIDE FOR THE INCORPORATION OF REGISTERED BUSINESS COMPANIES AND THEIR CONDUCT OF BUSINESS, INCLUDING LIQUIDATION, AND ALL MATTERS INCIDENTAL THERETO.

APPROVED JANUARY 8, 2002

**PUBLISHED BY AUTHORITY
MINISTRY OF FOREIGN AFFAIRS
JUNE 19, 2002**

AN ACT TO AMEND FURTHER THE ASSOCIATIONS LAW, TITLE 5, OF THE LIBERIAN CODE OF LAWS, REVISED, TO PROVIDE FOR THE INCORPORATION OF REGISTERED BUSINESS COMPANIES AND THEIR CONDUCT OF BUSINESS, INCLUDING LIQUIDATION, AND ALL MATTERS INCIDENTAL THERETO.

It is enacted by the Senate and House of Representatives of the Republic of Liberia, in Legislature Assembled:

Section 1. Amendment to Title 5. That from and immediately upon the passage of this Act, the Associations Law, Title 5 of the Liberian code of Laws Revised is hereby further amended by the addition of new Part VII, Chapter 70, as herein below recited, word for word, to read as follows:

PART VII.

REGISTERED BUSINESS COMPANIES

Chapter 70: INCORPORATION OF REGISTERED BUSINESS COMPANIES

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PART I.

COMMENCEMENT AND INTERPRETATION

§70.1. Title.

This Act shall be known as the Registered Business Company Law.

§70.2. Interpretation.

(1) In this Law, unless the context otherwise requires:

“*Annual return*” means the return required to be made, in the case of a registered business company having a share capital, under section 70.110, and, in the case of a registered business company not having a share capital, under section 70.111;

“*Articles*” means the articles of association of a registered business company, as originally framed or as altered by special resolution, including, so far as they apply to the registered business company, the relevant regulations contained in the Schedule in respect of the registered business company;

“*Authorized signatories*” means:

- (a) The persons authorized by the registered business company to sign, singly or jointly, as resolved by the registered business company from time to time, on behalf of, and thereby to bind the registered business company, to the extent so resolved; or
- (b) Two directors or a director and the secretary of the registered business company signing jointly;

“*Book and paper*” and “*book or paper*” include accounts, deeds, writings and documents;

“*Certified*” and “*certified in the prescribed manner*” means certified in accordance with section 1.4 of Chapter 1 of Part I of this Title;

“*The court*”, used in relation to a registered business company, means the circuit court in the judicial circuit where the principal office of the registered business company is located or where the office of the registered agent is located, as the case may be, at the time of the commencement of the action;

“*Debenture*” includes debenture stock, bonds and any other securities of a registered business company whether constituting a charge on the assets of the registered business company or not;

“**Director**” includes any person occupying the position of director by whatever name called;

“**Document**” includes summons, notice, order and other legal process and registers;

“**Index**” in relation to names means the index of names kept by the Registrar in accordance with section 4.3 of Chapter 4 of Part I of this Title;

“**Memorandum**” means the memorandum of association of a registered business company, as originally framed or as altered in pursuance of this or any other enactment or, so far as it applies, the relevant Table in the Schedule;

“**Minister of Foreign Affairs**” means the Minister of Foreign Affairs and any deputy or assistant in the Ministry of Foreign Affairs exercising a function assigned to him and “**Minister**” shall, in the absence of an indication to the contrary, be assumed to be a reference to the Minister of Foreign Affairs as so defined;

“**Prescribed particulars**” in relation to a charge or mortgage means the particulars specified in section 70.92(1), and in relation to any other matter means the particulars prescribed by regulation;

“**Re-domiciled**” means re-domiciled into Liberia from another jurisdiction, or re-domiciled out of Liberia to another jurisdiction, as the context requires, as provided for in Part XI and “**re-domiciliation**” shall be similarly construed;

“**Registered agent**” means the person satisfying the requirements of Chapter 3 of Part I of this Title and appointed in accordance with section 70.8;

“**Registered business company**” means a registered business company formed and registered or, in case of an entity formed under any other law or formed outside Liberia, registered under this Law;

“**Registrar**” and “**Deputy Registrar**” mean the Registrar and Deputy Registrar as defined in section 1.2 of Chapter 1 of Part I of this Title;

“**Share**” means a share in the share capital of a registered business company, and includes stock except where a distinction between stock and shares is expressed or implied;

“**Share capital**” means the share capital of a registered business company, the units of which may be designated in any currency;

“**Signature**” and “**signed**” shall be interpreted in accordance with Chapter 13 of Title 14 (Electronic Transactions Law);

“**Table A**” means Table A of the Schedule;

“**Written**” and “**in writing**” shall be interpreted in accordance with Chapter 13 of Title 14. (Electronic Transactions Law).

(2) A person shall not be deemed to be “a person in accordance with whose directions or instructions the directors of a registered business company are accustomed to act”, within the meaning of any provision in this Law, by reason only that the directors of the registered business company act on advice given by him in a professional capacity.

(3) The provisions of the Electronic Transactions Law shall apply to matters falling to be dealt with or subject to this Law.

PART II.

INCORPORATION AND MATTERS INCIDENTAL THERETO

Memorandum of Association and Appointment of Registered Agent.

§70.3. Mode of forming registered business company.

(1) Any one or more persons may, by subscribing his or their names to a memorandum of association and otherwise complying with the requirements of this Law in respect of registration, form a registered business company.

(2) Such a registered business company may be either:

- (a) A registered business company having the liability of its members limited by the memorandum to the amount, if any, unpaid on the shares respectively held by them (in this Law referred to as “a registered business company limited by shares”);
- (b) A registered business company having the liability of its members limited by the memorandum to such amount as the members may respectively thereby undertake to contribute to the assets of the registered business company in the event of its being wound up (in this Law referred to as “a registered business company limited by guarantee”); or
- (c) A registered business company not having any limit on the liability of its members (in this Law referred to as “an unlimited registered business company”).

§70.4. Requirements with respect to memorandum.

(1) The memorandum of every registered business company shall state:

- (a) The name of the registered business company with, in the case of a registered business company limited by shares or by guarantee, subject to section 70.17(2), the word “Limited” as the last word of the name;
- (b) The objects of the registered business company, which requirement may be satisfied

by a statement that the registered business company may do all such things as are lawful to be done by a registered business company registered under this Law subject only to any specified restriction on that power contained in the memorandum:

Provided that:

- (i) The objects of a registered business company shall not specify that the registered business company has as an object the conduct of the business of banking or insurance; and
- (ii) It shall not be lawful for a registered business company to conduct the business of banking or insurance,

unless a license for this purpose shall have been issued to the registered business company in accordance with the relevant statutory provisions.

- (c) In the case of registered business company limited by shares or by guarantee, that the liability of its members is limited.

(2) The memorandum of a registered business company limited by guarantee shall also state that each member undertakes to contribute to the assets of the registered business company in the event of its being wound up while he is a member, or within one year after he ceases to be a member, for payment of the debts and liabilities of the registered business company contracted before he ceases to be a member, and of the costs, charges and expenses of winding up, and for adjustment of the rights of the contributories among themselves, such amount as may be required, not exceeding a specified amount.

(3) In the case of a registered business company having a share capital:

- (a) The memorandum, unless the registered business company is an unlimited registered business company, shall also state the amount of share capital with which the registered business company proposes to be registered and the division thereof into shares of a fixed amount;
- (b) No subscriber to the memorandum may take less than one share;
- (c) Each subscriber shall write opposite to his name the number of shares he takes.

§70.5. Signature of memorandum.

The memorandum shall be signed by each subscriber in the presence of at least one witness who shall attest the signature.

§70.6. Restriction on alteration of memorandum.

A registered business company may not alter the conditions contained in its memorandum except in

the cases, in the mode and to the extent for which express provision is made in this Law.

§70.7. Mode in which and extent to which objects of registered business company may be altered.

(1) A registered business company may by special resolution alter its memorandum with respect to the statement of the registered business company's objects:

Provided that if an application is made under subsection (2), the alteration does not have effect except in so far as it is confirmed by the court.

(2) Where a registered business company's memorandum has been altered by special resolution under subsection (1), application may be made to the court for the alteration to be cancelled.

(3) Such an application may be made:

- (a) By the holders of not less in the aggregate than fifteen per cent in nominal value of the registered business company's issued share capital or any class of it or, if the registered business company is not limited by shares, not less than fifteen per cent of the registered business company's members; or
- (b) By the holders of not less than fifteen per cent of the registered business company's debentures entitling the holders to object to an alteration of its objects,

but an application shall not be made by any person who has consented to or voted in favor of the alteration.

(4) The application shall be made within one month after the date on which the resolution altering the registered business company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(5) The court may on such an application make an order confirming the alteration either wholly or in part and on such terms and conditions as it thinks fit, and may:

- (a) If it thinks fit, adjourn the proceedings in order that an arrangement may be made to its satisfaction for the purchase of the interests of dissentient members; and
- (b) Give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.

(6) The court's order may (if the court thinks fit) provide for the purchase by the registered business company of the shares of any members of the registered business company, and for the reduction accordingly of its capital, and may make such alterations in the registered business company's memorandum and articles as may be required in consequence of that provision.

(7) If the court's order requires the registered business company not to make any, or any specified, alteration to its memorandum or articles, the registered business company does not then have power without the leave of the court to make any such alteration in breach of that requirement.

(8) Where a registered business company passes a resolution altering its objects, then:

(a) If with respect to the resolution no application is made under this section, the registered business company shall within one month from the end of the period for making such an application deliver to the Registrar a printed copy of its memorandum as altered; and

(b) If such an application is made, the registered business company shall:

(i) Forthwith give notice of that fact to the Registrar; and

(ii) Within one month from the date of any order canceling or confirming the alteration, deliver to the Registrar an authenticated copy of the order and in the case of any order confirming the alteration, a printed copy of the memorandum as altered.

(9) The court may by order at any time extend the time for the delivery of documents to the Registrar under subsection (8)(b) for such period as the court may think proper.

(10) The validity of an alteration of a registered business company's memorandum with respect to the objects of the registered business company shall not be questioned on the ground that it was not authorized by subsection (1), except in proceedings taken for the purpose before the expiration of one month after the date of the resolution in that behalf.

Articles of Association.

§70.8. Articles prescribing regulations for registered business companies.

(1) There shall be registered with the memorandum articles of association signed by the subscribers to the memorandum prescribing regulations for the registered business company.

(2) There shall be specified in the articles the location of the principal office in Liberia of the registered business company which shall be the registered office of the registered business company:

Provided that where the registered business company does not have a place of business in Liberia, the registered business company shall appoint a registered agent, who shall comply with the requirements of Chapter 3 of Part I of this Title and the address of the registered office of the registered business company shall be the address of the registered agent so appointed.

(3) Where the principal office of a registered business company is in Liberia any reference in this Law:

- (a) To the address of the registered agent shall be a reference to the address of that principal office; and
 - (b) To the registered agent of a registered business company shall be a reference to the secretary of that registered business company.
- (4) Where there is a requirement to appoint a registered agent in respect of a registered business company the name and address of the registered agent so appointed shall be specified in the articles together with a statement that the registered agent so specified has accepted the appointment.

§70.9. Articles to specify number of members in case of registered business company limited by guarantee.

- (1) In the case of a registered business company limited by guarantee and an unlimited registered business company, the articles shall state the number of members with which the registered business company proposes to be registered.
- (2) Where a registered business company not having a share capital has increased the number of its members beyond the registered number, it shall, within one month after the increase was resolved on or took place, give to the Registrar notice of the increase, and the Registrar shall record the increase.

§70.10. Adoption and application of relevant Table.

- (1) Articles of association may adopt all or any of the regulations contained in the relevant Table of the Schedule.
- (2) In so far as the registered articles do not exclude or modify the regulations contained in the relevant Table of the Schedule, those regulations, or the regulations specified in the Schedule in respect of the relevant memorandum of association, shall, so far as applicable, be the regulations of the registered business company in the same manner and to the same extent as if they were contained in duly registered articles.

§70.11. Printing, and signature of articles.

Articles shall be:

- (a) Printed;
- (b) Divided into paragraphs numbered consecutively; and
- (c) Signed by each subscriber to the memorandum of association.

§70.12. Alteration of articles by special resolution.

- (1) Subject to the provisions of this Law and to the conditions contained in its memorandum, a registered business company may by special resolution alter or add to its articles.
- (2) Any alteration or addition so made in the articles shall, subject to the provisions of this Law, be as valid as if originally contained therein, and be subject in like manner to alteration by special resolution.
- (3) Paragraphs (a) and (b) of section 70.11 shall apply to any alteration or addition and to the articles as amended by such alteration or addition.
- (4) Where a registered business company passes a resolution altering or adding to its articles, the registered business company shall within one month from the date of the resolution deliver to the Registrar or the Deputy Registrar a printed copy of the alteration or addition and a printed copy of the articles as altered or added to.

Form of Memorandum and Articles.

§70.13. Statutory forms of memorandum and articles.

The form of the memorandum and articles of association of a registered business company:

- (a) Limited by shares;
- (b) Limited by guarantee and not having a share capital;
- (c) Limited by guarantee and having a share capital;
- (d) Being an unlimited company having a share capital,

shall be respectively in accordance with the forms set out in the appropriate Tables B, C, D and E in the Schedule or as near thereto as circumstances admit.

Registration.

§70.14. Registration of memorandum and articles.

- (1) The memorandum and the articles of a registered business company proposing to register under this Law shall be delivered to the Registrar or the Deputy Registrar, and the Registrar or the Deputy Registrar shall retain and register them.
- (2) With the memorandum there shall be delivered a statement in the form prescribed by the Registrar or the Deputy Registrar containing the information specified in that form and in particular:

- (a) The name, address and nationality of any person or persons, or where any such person is a legal entity, the name of the entity and the address of the entity's registered office, who are to be the first director or directors of the registered business company;
- (b) The address of the principal office of the registered business company in Liberia, or, where the registered business company does not have a place of business in Liberia, the name and address of the registered agent appointed by the registered business company and confirmation by that registered agent of the acceptance of the appointment.

§70.15. Effect of registration.

(1) On the registration of the memorandum of a registered business company the Registrar or the Deputy Registrar shall certify under his hand that the registered business company is incorporated as a registered business company with, if that is the case, limited liability.

(2) From the date of incorporation mentioned in the certificate of incorporation, the subscribers of the memorandum, together with such other persons as may from time to time become members of the registered business company, shall be a body corporate by the name contained in the memorandum, capable forthwith of exercising all the functions of an incorporated registered business company, and having perpetual succession, but with such liability on the part of the members to contribute to the assets of the registered business company in the event of its being wound up as is mentioned in this Law.

(3) A registered business company may, but need not, have a seal, or seals, for use in Liberia, or elsewhere.

§70.16. Conclusiveness of certificate of incorporation.

A certificate of incorporation given by the Registrar or the Deputy Registrar in respect of any association shall be conclusive evidence that all the requirements of this Law in respect of registration and of matters precedent and incidental thereto have been complied with, and that the association is a registered business company authorized to be registered and duly registered under this Law.

Provisions with respect to Names of Registered Business Companies.

§70.17. Restriction on registration of registered business companies by certain names.

(1) Subject to the provisions of this section, no registered business company not being a registered business company with unlimited liability, shall be registered by a name which does not signify that the liability of the members is limited.

(2) The requirement that the name of the registered business company shall contain the word "Limited" or an abbreviation of that word may be satisfied by the use of a word or its abbreviations, suffix or prefix, of like import of foreign countries or jurisdictions as will clearly indicate that the registered business company is a body corporate with separate legal existence and limited liability

as distinguished from a natural person:

Provided, however, that the Registrar or the Deputy Registrar may waive such requirement (unless he determines that the proposed name is, or might otherwise appear to be, that of a natural person) where he is satisfied that the name is the business name of the entity denominated in accordance with the standards of the economic activity in which the entity is or will be engaged.

(3) Except with the consent of the Registrar or the Deputy Registrar no registered business company shall be registered by a name which:

- (a) Is the same as the name of a registered business company or of any other legal entity, as such name appears on the index of names kept by the Registrar or the Deputy Registrar or a name so similar to any such name as to tend to confuse or deceive, except where the legal entity in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar or the Deputy Registrar requires:

Provided that nothing in this paragraph shall prevent a registered business company with which one or more registered business companies or one or more other entities is merged or consolidated, from having the same name as any of such registered business companies or other entities if at the time such other registered business company or other entity was existing under the Laws of Liberia or was authorized to do business in Liberia;

- (b) Contains a word, the use of which by the registered business company would in the opinion of the Registrar or the Deputy Registrar:
 - (i) Constitute a criminal offence; or
 - (ii) Be offensive or undesirable;
- (c) Contains the words “Chamber of Commerce”, “Building Society”, “Bank” or “Insurance”, or words of similar connotation or a translation of those words, unless the registered business company is authorized to use the words by virtue of a license granted by the Government of the Republic of Liberia or under any other relevant Law of the Republic of Liberia;
- (d) Contains words which in the opinion of the Registrar or the Deputy Registrar suggest, or are calculated to suggest, the patronage of the Government of the Republic of Liberia or any department thereof, except with the consent signified in writing of the relevant Ministry or department, which writing shall be filed with the Registrar or the Deputy Registrar as if it formed a part of the statement required by section 70.14(2);
- (e) Contains words specified in rules made under subsection (4) by the Registrar or the Deputy Registrar, except with his consent;

and in determining for the purposes of this section whether one name is the same as another, there are to be disregarded:

- (f) The definite article, where it is the first word of the name;
- (g) The following words and expressions where they appear at the end of a name, that is to say:
 - “Company” or “and company” or
 - “Corporation” or “and corporation” or
 - “Company limited” or “and company limited” or
 - “Corporation limited” or “and corporation limited” or
 - “Limited”,or a translation of into, or words with an equivalent meaning in, another language;
- (h) Abbreviations of any of those words or expressions where they appear at the end of the name; and
- (j) Type and case of letters, accents, spaces between letters and punctuation marks;

and “and” and “&” are to be taken as the same.

(4) The Registrar or the Deputy Registrar may by rule specify words or expressions for the registration of which as or as part of a registered business company’s name his approval is required under subsection (3).

(5) Rules made under subsection (4) may contain such transitional provisions and savings as the Registrar or the Deputy Registrar thinks appropriate and may make different provisions for different cases or classes of case.

(6) The Registrar or the Deputy Registrar shall keep an index of the names of the registered business companies registered under this Law as part of the index kept in accordance with section 4.3 of Chapter 4 of Part I of this Title.

§70.18. Power to dispense with “Limited” in name of charitable and other registered business companies.

(1) Where it is proved to the satisfaction of the Registrar or the Deputy Registrar that an association about to be formed as a registered business company is to be formed for promoting commerce, art, science, religion, charity or any other useful object, and intends to apply its profits, if any, or other income in promoting its objects, and to prohibit the payment of any dividend to its members, the Registrar or the Deputy Registrar may by license direct that the association may be registered as a registered business company with limited liability, without the addition of the word “Limited” to its name, and the association may be registered accordingly.

(2) A license by the Registrar or the Deputy Registrar under this section may be granted on such conditions and subject to such regulation as the Registrar or the Deputy Registrar thinks fit, and those conditions and that regulation shall be binding on the association, and shall, if the Registrar or the Deputy Registrar so directs, be inserted in the memorandum and articles, or in one of those documents.

(3) The association shall on registration enjoy all the privileges of limited registered business companies, and be subject to all their obligations, except those of using the word “Limited” as any part of its name, and of publishing its name, and of sending lists of members to the Registrar or the Deputy Registrar.

(4) A license under this section may at any time be revoked by the Registrar or the Deputy Registrar, and upon revocation the Registrar or the Deputy Registrar shall enter the word “Limited” at the end of the name of the association upon the register, and the association shall cease to enjoy the exemptions and privileges granted by this section:

Provided that, before a license is so revoked, the Registrar or the Deputy Registrar shall give to the association notice in writing of his intention, and shall afford the association an opportunity of being heard in opposition to the revocation.

§70.19. Change of name.

(1) A registered business company may, by special resolution change its name.

(2) Where a registered business company changes its name, the Registrar or the Deputy Registrar shall enter the new name on the register in place of the former name, and shall issue a certificate of incorporation altered to meet the circumstances of the case.

(3) The change of name shall not affect any rights or obligations of the registered business company, or render defective any legal proceedings by or against the registered business company, and any legal proceedings that might have been continued or commenced against it by its former name may be continued or commenced against it by its new name.

(4) Section 70.17 shall apply to any name to which a registered business company proposes to change.

§70.20. Power to require registered business company to change name.

(1) Where a registered business company has been registered by a name which:

- (a) Is the same as or, in the opinion of the Registrar or the Deputy Registrar, too like a name appearing at the time of registration in the index of names; or
- (b) Is the same as or, in the opinion of the Registrar or the Deputy Registrar too like the name which should have appeared in that index at that time,

the Registrar or the Deputy Registrar may, within twelve months of the time of registration, in writing direct the registered business company to change its name within such period as he may specify.

(2) Section 70.17(3) applies in determining under this subsection whether the name is the same as or too like another.

(3) If it appears to the Registrar or the Deputy Registrar that misleading information has been given for the purpose of a registered business company's registration with a particular name, or that undertakings or assurances have been given for that purpose and have not been fulfilled, he may within five years of the date of its registration with that name in writing direct the registered business company to change its name within such period as he may specify.

(4) Where a direction has been given under subsections (1) or (3) the Registrar or the Deputy Registrar may by a further direction in writing extend the period within which the registered business company has to change its name at any time before the end of that period.

(5) If in the Registrar's or the Deputy Registrar's opinion the name by which a registered business company is registered gives so misleading an indication of the nature of its activities as to be likely to cause harm to the public he may direct it to change its name.

(6) The direction shall, if not duly made the subject of an application to the court under the following subsection, be complied with within a period of three months from the date of the direction or such longer period as the Registrar or the Deputy Registrar may see fit to allow.

(7) The registered business company may within a period of one month from the date of the direction, apply to the court to set it aside; and the court may set the direction aside or confirm it and, if it confirms the direction shall specify the period within which it shall be complied with.

(8) Section 70.17 shall apply to any change of name under this section.

(9) Subsections (2) to (4) of Section 70.19 shall apply to any change of name under this section.

General Provisions with respect to Memorandum and Articles.

§70.21. Effect of memorandum and articles.

(1) Subject to the provisions of this Law, the memorandum and articles shall, when registered, bind the registered business company and the members thereof to the same extent as if they respectively had been signed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and of the articles.

(2) All money payable by any member to the registered business company under the memorandum or articles shall be a debt due from him to the registered business company.

§70.22. Alterations in memorandum or articles increasing liability to contribute to share capital not to bind existing members without consent.

Notwithstanding anything in the memorandum or articles of a registered business company no member of the registered business company shall be bound by an alteration made in the memorandum or articles after the date on which he became a member, if and so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration is made, or in any way increases his liability as at that date to contribute to the share capital of, or otherwise to pay money to, the registered business company:

Provided that this section shall not apply in any case where the member agrees in writing, either before or after the alteration is made, to be bound thereby.

§70.23. Copies of memorandum and articles to be given to members.

A registered business company shall, on being so required by any member, send to him a copy of the memorandum and of the articles and a reference to any Law which alters the memorandum.

§70.24. Issued copies of memorandum and articles to embody alterations.

Where an alteration is made in the memorandum or articles of a registered business company, every copy of the memorandum or articles, as the case may be, issued after the date of the alteration shall be in accordance with the alteration.

§70.25. Statutory alterations.

(1) Where any alteration is made in a registered business company's memorandum or articles of association by any statutory provision, whether contained in a Law or in an instrument made under a Law, a printed copy of the Law or instrument shall not later than one month after that provision comes into force be forwarded to the Registrar or the Deputy Registrar and recorded by him.

(2) Where a registered business company is required by this section or otherwise to send to the Registrar or the Deputy Registrar any document making or evidencing an alteration in the registered business company's memorandum or articles of association (other than a special resolution under section 70.7 or 70.12, as the case may be) the registered business company shall send with it a printed copy of the memorandum or articles as altered.

Membership of Registered Business Company.

§70.26. Definition of member.

(1) The subscribers to the memorandum of a registered business company shall be deemed to have agreed to become members of the registered business company, and on its registration shall be

entered as members in its register of members.

(2) Every other person who agrees to become a member of a registered business company, and whose name is entered in its register of members or who is the holder of a share warrant recorded in the register of shares issued by the registered business company, shall be a member of the registered business company.

Private Registered Business Companies.

§70.27. Meaning of “registered business company”.

(1) A registered business company incorporated under this Law shall be a private company.

(2) For the purposes of this Law a “*registered business company*” means a company registered under this Law and limited by shares or limited by guarantee (whether or not having a share capital), or being an unlimited company, being a registered business company which by its articles:

- (a) Restricts the right to transfer its shares; and
- (b) Limits the number of its members to fifty, not including persons who are in the employment of the registered business company and persons who, having been formerly in the employment of the registered business company, were while in that employment, and have continued after the determination of that employment to be, members of the registered business company; and
- (c) Prohibits any invitation to the public to subscribe for any shares or debentures of the registered business company.

(3) Where two or more persons hold one or more shares in a registered business company jointly, they shall, for the purposes of this section, be treated as a single member.

§70.28. Circumstances in which a registered business company ceases to be a private company.

If a registered business company alters its articles in such manner that they no longer include the provisions which are required under section 70.27 to be included in the articles of a registered business company in order to constitute it a private company, the registered business company shall, as on the date of the alteration, cease to be a private company and shall, within a period of fourteen days after such date, deliver to the Registrar or the Deputy Registrar a certified copy of the resolution, which resolution shall be deemed to be a resolution falling within section 70.212(1)(a), and the provisions of Part VI(C) shall apply.

Reduction of Number of Members below Legal Minimum.

§70.29. Prohibition on carrying on business without members.

If at any time a registered business company carries on business not having one or more members, every director or secretary of the registered business company during the time it so carries on business who is cognizant of the fact that it is carrying on business without any members shall be severally liable for the payment of the whole debts of the registered business company contracted during that time and may be severally sued therefor.

Contracts.

§70.30. Pre-incorporation actions.

(1) Where:

- (a) Prior to the date of incorporation mentioned in the certificate of incorporation of a registered business company, any action has been carried out in the name of that registered business company and purportedly by or on behalf of that registered business company; and
- (b) That registered business company is not precluded from doing so by its memorandum or articles,

the registered business company may after that date by resolution ratify that action, and that action shall then be deemed to be the action of the registered business company, and:

- (c) The registered business company shall be entitled to the benefit of that action; and
- (d) The registered business company shall be liable in respect of that action; and
- (e) Any failure to take any steps necessary to give effect to that action shall be a failure by the registered business company.

(2) Except:

- (a) Where a registered business company has ratified that action, as provided for in subsection (1); or
- (b) There is an agreement to the contrary,

an action carried out in the name of a registered business company and purportedly by or on behalf of that registered business company prior to the date of incorporation mentioned in the certificate of incorporation of that registered business company shall be the action of the person or persons by whom it was carried out and that person or those persons shall be jointly and severally liable in respect of that action and shall be entitled to the benefit of that action.

§70.31. A registered business company's capacity not limited by its memorandum.

(1) The validity of an act done by a registered business company shall not be called into question on the ground of lack of capacity by reason of anything in the registered business company's memorandum.

(2) A member of the registered business company may bring proceedings to restrain the doing of an act which but for subsection (1) would be beyond the registered business company's capacity, save that no such proceedings shall lie in respect of an act to be done in fulfillment of a legal obligation arising from a previous act of the registered business company.

(3) It remains the duty of the directors to observe any limitations on their powers flowing from the registered business company's memorandum, and action by the directors which, but for subsection (1), would be beyond the registered business company's capacity may only be ratified by the registered business company by special resolution.

(4) A resolution ratifying an action by the directors beyond the registered business company's capacity shall not affect any liability incurred by the directors or any other person and relief from any such liability shall be agreed to separately by special resolution.

§70.32. Power of directors to bind the registered business company.

(1) In favor of a person dealing with a registered business company in good faith, the power of the board of directors to bind the registered business company, or authorize others to do so, shall be deemed to be free of any limitations under the registered business company's constitution.

(2) For this purpose:

(a) A person "*deals with*" a registered business company if he is a party to any transaction or other act to which the registered business company is a party;

(b) A person shall not be regarded as acting in bad faith by reason only of his knowing that an act is beyond the powers of the directors under the registered business company's constitution; and

(c) A person shall be presumed to have acted in good faith unless the contrary is proved.

(3) The reference above to limitations on the directors' powers under the registered business company's constitution includes limitations deriving:

(a) From the resolution of the registered business company in general meeting or a meeting of any class of shareholders, or

(b) From any agreement between the members of the registered business company or any class of shareholders.

(4) Subsection (1) does not affect any right of a member of the registered business company to bring proceedings to restrain the doing of an act which is beyond the powers of the directors:

Provided that no such proceedings shall lie in respect of any act to be done in fulfillment of a legal obligation arising from a previous act of the registered business company.

(5) Subsection (1) does not affect any liability incurred by the directors, or any other person, by reason of the directors' exceeding of their powers.

§70.33. No duty to enquire as to capacity of registered business company or authority of directors.

A party to a transaction with a registered business company is not bound to enquire as to whether it is permitted by the registered business company's memorandum or as to any limitation on the powers of the board of directors to bind the registered business company or to authorize others to do so.

§70.34. Form of contracts, deeds, instruments and other documents.

(1) Contracts on behalf of a registered business company may be made as follows:

- (a) A contract which if made between private persons would be by law required to be in writing and under seal, may be made on behalf of the registered business company in writing:
 - (i) If the registered business company has a seal, under that seal; or
 - (ii) Signed by the authorized signatories of the registered business company, each signing or under the seal of the signatory, as the case may be;
- (b) A contract which if made between private persons would be by law required to be in writing, signed by the parties to be charged therewith, may be made on behalf of the registered business company in writing signed by any person acting under its authority, express or implied;
- (c) A contract which if made between private persons would by law be valid although made by parol only, and not reduced into writing, may be made by parol on behalf of the registered business company by any person acting under its authority, express or implied.

(2) A contract made according to this section shall be effectual in law, and shall bind the registered business company and its successors and all other parties thereto.

(3) A contract made according to this section may be varied or discharged in the same manner in which it is authorized by this section to be made.

(4) A registered business company may, by writing under its seal or signed by its authorized

signatories, empower any person, either generally or in respect of any specified matters, as its attorney, to execute contracts on its behalf in any place.

(5) A contract signed by such an attorney on behalf of the registered business company shall bind the registered business company and have the same effect as if it were under its seal or executed by its authorized signatories.

(6) A registered business company having a seal may, by writing under its seal or signed by its authorized signatories, authorize any person appointed for the purpose in any country, territory, district or place, to affix the seal, or a seal made for use in that country, territory, district or place, to any document to which the registered business company is party in that country, territory, district or place.

(7) The authority of any person authorized under subsection (6) shall, as between the registered business company and any person dealing with that person, continue during the period, if any, mentioned in the instrument conferring the authority, or if no period is there mentioned, then until notice of the revocation or determination of that person's authority has been given to the person dealing with him.

(8) The person affixing any such seal shall, by writing under his hand, certify on the deed or other instrument to which the seal is affixed, the date on which and the place at which it is affixed.

(9) The references in subsections (1) to (6) to a contract or contracts shall be taken to include reference to deeds, instruments and other documents and where a registered business company executes a deed, instrument or other document, whether or not the registered business company has a seal, it shall be sufficient and the registered business company shall be bound if that deed, instrument or other document is signed by the authorized signatories of the registered business company intending it to be executed by way of a deed.

§70.35. Bills of exchange and promissory notes.

A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a registered business company if made accepted or endorsed in the name of, or by or on behalf or on account of the registered business company by any person acting under its authority.

Authentication of Documents.

§70.36. Authentication of documents.

(1) A document or proceeding requiring authentication by a registered business company may be signed by a director, secretary or other authorized officer of the registered business company, and need not be under its seal.

(2) The provisions of Chapter 1.4 of Chapter 1 of Part I of this Title shall apply *mutatis mutandis*.

PART III.

SHARE CAPITAL AND DEBENTURES

§70.37. Allotments.

- (1) Shares allotted by a registered business company and any premium payable on them may be paid up in money or money's worth, including goodwill and know-how.
- (2) Whenever a registered business company limited by shares or a registered business company limited by guarantee and having a share capital makes any allotment of its shares, the registered business company shall within one month thereafter deliver to the Registrar or the Deputy Registrar for registration a return of the allotments, stating the number and nominal amount of the shares comprised in the allotment, the names, addresses and descriptions of the allottees, and the amount, if any, paid or due and payable on each share.
- (3) Where there is default in delivering to the Registrar or the Deputy Registrar the return of allotments within one month, application may be made to the Registrar or the Deputy Registrar to file the return of allotment out of time, and the Registrar or the Deputy Registrar, if satisfied that the failure to deliver the return was accidental or due to inadvertence or that it is just and equitable to do so, may make an order extending the time for the delivery of the return for such period as he thinks proper.
- (4) An application made under subsection (3) shall be accompanied by an affidavit of:
 - (a) The applicant's interest in the matter;
 - (b) A statement of the facts on which the application is based; and
 - (c) The relief sought.
- (5) The Registrar or the Deputy Registrar may, in his discretion, require that a person making an application under subsection (3) give notice of that application (including the facts on which the application is based and the relief sought) to such other person as the Registrar or the Deputy Registrar may specify, being a person who appears to the Registrar or the Deputy Registrar to be concerned or to have an interest and may specify the time for receipt by him of any written objection from such person.
- (6) On receipt within the time specified by virtue of subsection (5) of any written objection to the granting by the Registrar or the Deputy Registrar of an extension of time within which the return of allotment may be filed, the Registrar or the Deputy Registrar shall forthwith notify the applicant of the receipt of the objection, the terms of the objection and of the identity of the objector.
- (7) Where an application for an extension of time for the filing of a return of allotment has been made under subsection (3), the Registrar or the Deputy Registrar may, in his discretion refuse

to consider the application and require that the person by whom the application was made apply to the court for an order for such an extension of time.

(8) On receipt of an application under this section the Registrar or the Deputy Registrar, if satisfied that there are good grounds for extending the time within which the return of allotment may be made, may direct that the time be extended to the extent specified in his direction.

(9) A direction given under this section may be made subject to conditions and the Registrar or the Deputy Registrar may include such further directions and such provisions as seem just and equitable in the circumstances.

(10) The court may, on application under subsection (7), refuse the application or order the period of time for the filing of the return of allotment be extended by the period specified by the court.

(11) In any proceedings under this section, the court may determine any question which may be necessary or expedient to decide in connection with the extension of the time within which the return of allotment may be filed.

(12) Any order made by the court under this section shall direct that notice of the order shall be served on the Registrar or the Deputy Registrar and the Registrar or the Deputy Registrar shall, on receipt of the notice, act accordingly.

Commissions and Discounts.

§70.38. Power to pay certain commissions and prohibition of payment of all other commissions.

(1) It shall be lawful for a registered business company to pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares in the registered business company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the registered business company if:

- (a) The payment of the commission is authorized by the articles; and
- (b) The commission paid or agreed to be paid does not exceed ten per cent of the price at which the shares are issued or the amount or rate authorized by the articles, whichever is the less; and
- (c) Where a circular or notice inviting subscription for the shares is issued the payment is disclosed in that circular or notice; and
- (d) The number of shares which persons have agreed for a commission to subscribe absolutely is disclosed in manner aforesaid.

(2) Save as aforesaid, no registered business company shall apply any of its shares or capital money either directly or indirectly in payment of any commission, discount or allowance, to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the registered business company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any shares in the registered business company, whether the shares or money be so applied by being added to the purchase money of any property acquired by the registered business company, or to the contract price of any work to be executed for the registered business company, or the money be paid out of the nominal purchase money or contract price, or otherwise.

(3) A person who receives payment in money or shares from a registered business company shall have, and shall be deemed always to have had, power to apply any part of the money or shares so received in payment of any commission, the payment of which, if made directly by the registered business company, would have been legal under this section.

§70.39. Prohibition of provision of financial assistance by registered business company for purchase of its own shares.

(1) Subject as provided in this section, it shall not be lawful for a registered business company to give, whether directly or indirectly, and whether by means of a loan, guarantee, the provision of security, or otherwise, any financial assistance for the purpose of, or in connection with, a purchase made, or to be made, by any person of any shares in the registered business company:

Provided that nothing in this section shall be taken to prohibit:

- (a) Where the lending of money is part of the ordinary business of a registered business company, the lending of money by the registered business company in the ordinary course of its business;
- (b) The provision by a registered business company, in accordance with any scheme for the time being in force, of money for the purchase by trustees of fully-paid shares in the registered business company to be held by or for the benefit of employees of the registered business company, including any director holding a salaried employment or office in the registered business company;
- (c) The making by a registered business company of loans to persons, other than directors, bona fide in the employment of the registered business company with a view to enabling those persons to purchase fully-paid shares in the registered business company to be held by themselves by way of beneficial ownership.

(2) The aggregate amount of any outstanding loans made under the authority of provisos (b) and (c) to subsection (1) shall be shown as a separate item in every balance sheet of the registered business company.

(3) The acceptance of the registered business company's own shares as security, either by the registered business company itself or through a person acting in his own name but on the registered

business company's behalf, shall be treated as falling within the prohibition set out in subsection (1).

(4) Subsection (3) shall not apply to transactions concluded by banks and other financial institutions in the normal course of business.

§70.40. Application of premiums received on issue of shares.

(1) Where a registered business company issues shares at a premium, whether for cash or otherwise, a sum equal to the aggregate amount or value of the premiums on those shares shall be transferred to an account to be called "*the share premium account*", and the provisions of this Law relating to the reduction of the share capital of a registered business company shall, except as provided in this section, apply as if the share premium account was paid up share capital of the registered business company.

(2) The share premium account may, notwithstanding anything in the foregoing subsection, be applied by the registered business company in paying up unissued shares of the registered business company to be allotted to members of the registered business company as fully paid bonus shares, in writing off:

- (a) The preliminary expenses of the registered business company; or
- (b) The expenses of, or the commission paid or discount allowed on, any issue of shares or debentures of the registered business company,

or in providing for the premium payable on redemption of any redeemable preference shares or of any debentures of the registered business company.

Issue of Shares at Discount and Redeemable Preference Shares.

§70.41. Power to issue shares at a discount.

Subject as provided in this section, it shall be lawful for a registered business company to issue at a discount shares in the registered business company of a class already issued:

Provided that:

- (a) The issue of the shares at a discount shall be authorized by resolution passed in general meeting of the registered business company;
- (b) The resolution shall specify the maximum rate of discount at which the shares are to be issued;
- (c) Not less than one year shall, at the date of the issue, have elapsed since the date on which the registered business company was entitled to commence business.

§70.42. Statement in balance sheet as to commissions and discounts.

Where a registered business company has paid any sums by way of commission in respect of any shares or debentures, or allowed any sums by way of discount in respect of any debentures, the total amount so paid or allowed, or so much thereof as has not been written off, shall be stated in every balance sheet of the registered business company until the whole amount thereof has been written off.

§70.43. Power to issue redeemable shares.

(1) Subject to the provisions of this section, a registered business company limited by shares or limited by guarantee and having a share capital, may, if so authorized by its articles, issue preference shares which are, or are liable, to be redeemed at the option of the registered business company or the shareholder:

Provided that:

- (a) No such shares shall be redeemed except out of profits of the registered business company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of the redemption;
- (b) No such shares shall be redeemed unless they are fully paid, and the terms of redemption shall provide for payment on redemption;
- (c) Where any such shares are redeemed otherwise than out of the proceeds of a fresh issue, there shall, out of profits which would otherwise have been available for dividend, be transferred to a reserve fund, to be called “the capital redemption reserve fund”, a sum equal to the nominal amount of the shares redeemed, and the provisions of this Law relating to the reduction of the share capital of a registered business company, shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the registered business company;
- (d) The premium, if any, payable on redemption, shall have been provided for out of the profits of the registered business company, which would otherwise have been available for dividend, or out of the registered business company’s share premium account, before the shares are redeemed.

(2) There shall be included in every balance sheet of a registered business company which has issued redeemable preference shares a statement specifying what part of the issued capital of the registered business company consists of such shares and the date on or before which those shares are, or are to be liable, to be redeemed.

(3) Subject to the provisions of this section, the redemption of preference shares may be effected on such terms and in such manner as may be provided by the registered business company’s articles.

(4) Shares redeemed under this section shall be treated as cancelled on redemption, and the amount of the registered business company's issued share capital shall be diminished by the nominal value of those shares accordingly:

Provided that the redemption of shares by a registered business company is not to be taken as reducing the amount of the registered business company's authorized share capital.

(5) Where in pursuance of this section a registered business company has redeemed or is about to redeem any preference shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued.

(6) Where new shares have been issued in pursuance of subsection (5), the capital redemption reserve fund may, notwithstanding anything in this section, be applied by the registered business company in paying up unissued shares of the registered business company to be allotted to members of the registered business company as fully paid bonus shares.

Power to purchase own shares.

§70.44. Power of registered business company to purchase own shares.

(1) Subject to the provisions of this section, a registered business company limited by shares or limited by guarantee and having a share capital may, if authorized to do so by its articles, purchase its own shares (including redeemable shares).

(2) A registered business company may exercise the power contained in subsection (1) only if it does so in accordance with the provisions of sections 70.45 to 70.60 as to:

- (a) The conditions to be met by the registered business company and its directors in respect of any such purchase of its own shares; and
- (b) The application to any such purchase of the provisions of this Law.

§70.45. Acquisition other than for value, in reduction of capital, alteration of objects and on forfeiture.

The restrictions of section 70.44 shall not apply to a registered business company limited by shares or limited by guarantee and by shares which:

- (a) Acquires any of its own fully paid shares other than for valuable consideration;
- (b) Acquires its own shares in a reduction of capital duly made;
- (c) Accepts its own shares in forfeiture of them, or shares surrendered in lieu, in pursuance of the articles, for failure to pay any sum payable in respect of the shares.

§70.46. Restrictions on power of registered business company to purchase own shares.

(1) Section 70.43 applies to the purchase by a registered business company under section 70.44 of its own shares as it applies to the redemption of redeemable shares, save that the terms and manner of purchase need not be determined by the articles as required by section 70.43(3).

(2) A registered business company may not under section 70.44 purchase its shares if as a result of the purchase there would no longer be any member of the registered business company holding shares other than redeemable shares.

§70.47. Authority for purchase.

(1) A registered business company may only make a purchase of its own shares in pursuance of a contract approved in advance in accordance with this section or under section 70.48.

(2) The terms of the proposed contract shall have been authorized by a special resolution of the registered business company before the contract is entered into and subsections (3) to (7) apply with respect to that authority and to resolutions conferring it.

(3) Subject to subsection (4), the authority may be varied, revoked or from time to time renewed by special resolution of the registered business company.

(4) A special resolution to confer, vary, revoke or renew authority is not effective if any member of the registered business company holding shares to which the resolution relates exercised the voting rights carried by any of those shares in voting on the resolution, and the resolution would not have been passed if he had not done so, and for this purpose:

- (a) A member who holds shares to which the resolution relates is regarded as exercising the voting rights carried by those shares not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll;
- (b) Notwithstanding anything in the registered business company's articles, any member of the registered business company may demand a poll on that question; and
- (c) A vote and a demand for a poll by a person as proxy for a member are the same respectively as a vote and a demand by the member.

(5) Such a resolution is not effective for the purposes of this section unless:

- (a) Where the proposed contract is in writing, a copy of the contract; or
- (b) Where the contract is not in writing, a written memorandum of its terms,

is available for inspection by members of the registered business company at the meeting, or, where the resolution is approved by the shareholders without a meeting, is circulated to the members, and

a memorandum of contract terms so made available shall include the names of any members holding shares to which the contract relates, and a copy of the contract so made available shall have annexed to it a written memorandum specifying any such names which do not appear in the contract itself.

(6) A registered business company may agree to a variation of an existing contract so approved, but only if the variation is authorized by a special resolution of the registered business company before it is agreed to, and subsections (3) to (5) apply to the authority for a proposed variation as they apply to the authority for a proposed contract, save that a copy of the original contract, or, as the case may require, a memorandum of its terms, together with any variations previously made, shall also be available for inspection in accordance with subsection (5).

§70.48. Authority for contingent purchase contract.

(1) A contingent purchase contract is a contract entered into by a registered business company and relating to any of its shares:

- (a) Which does not amount to a contract to purchase those shares; but
- (b) Under which the registered business company may, subject to any conditions, become entitled or obliged to purchase those shares.

(2) A registered business company may only make a purchase of its own shares in pursuance of a contingent purchase contract if the contract is approved in advance by a special resolution of the registered business company before the contract is entered into, and subsections (3) to (6) of section 70.47 apply to the contract and its terms.

§70.49. Assignment or release of registered business company's right to purchase own shares.

(1) The rights of a registered business company under a contract approved under section 70.47 or 70.48 are not capable of being assigned.

(2) An agreement by a registered business company to release its rights under a contract approved under section 70.47 or 70.48 is void unless the terms of the release agreement are approved in advance by a special resolution of the registered business company before the agreement is entered into, and subsections (3) to (6) of section 70.47 apply to approval for a proposed release agreement as to authority for a proposed variation of an existing contract.

§70.50. Payments apart from purchase price to be made out of distributable profits.

(1) A payment made by a registered business company in consideration of:

- (a) Acquiring any right with respect to the purchase of its own shares in pursuance of a contract approved under section 70.48; or
- (b) The variation of a contract approved under section 70.47 or 70.48; or

- (c) The release of any of the registered business company's obligations with respect to the purchase of any of its own shares under a contract approved under section 70.47,

shall be made out of the registered business company's distributable profits.

- (2) If the requirements of subsection (1) are not satisfied in relation to a contract:
 - (a) In a case within paragraph (a) of the subsection, no purchase by the registered business company of its own shares in pursuance of that contract is lawful under section 70.44;
 - (b) In a case within paragraph (b) of the subsection, no such purchase following the variation is lawful under section 70.44; and
 - (c) In a case within paragraph (c), the purported release is void.

§70.51. Disclosure by registered business company of purchase of own shares.

(1) Within the period of one month beginning with the date on which any shares purchased by a registered business company under section 70.44 are delivered to it, the registered business company shall deliver to the Registrar or the Deputy Registrar for registration a return in the prescribed form stating with respect to shares of each class purchased the number and nominal value of those shares and the date on which they were delivered to the registered business company.

(2) Where a registered business company enters into a contract approved under section 70.47 or 70.48 the registered business company shall keep:

- (a) If the contract is in writing, a copy of it; and
- (b) If the contract is not in writing, a memorandum of its terms,

from the conclusion of the contract until the end of the period of 10 years beginning with the date on which the purchase of all the shares in pursuance of the contract is completed or, as the case may be, the date on which the contract otherwise determines.

(3) Every copy and memorandum so required to be kept by the registered business company at the principal office of the registered business company or at such place as the directors think fit, shall, during business hours, subject to such reasonable restrictions as the registered business company may in general meeting impose, provided that not less than two hours in each day are allowed for inspection, be open to inspection without charge by any member of the registered business company.

(4) The obligation of a registered business company under subsection (2) to keep a copy of any contract or, as the case may be, a memorandum of its terms applies to any variation of the contract so long as it applies to the contract.

§70.52. Transfer to the capital redemption reserve fund.

(1) Where under section 70.44 shares of a registered business company are redeemed or purchased wholly out of the registered business company's profits, the amount by which the registered business company's issued share capital is diminished in accordance with section 70.43(4) on cancellation of the shares redeemed or purchased shall be transferred to the capital redemption reserve fund.

(2) If the shares are redeemed or purchased wholly or partly out of the proceeds of a fresh issue and the aggregate amount of those proceeds is less than the aggregate nominal value of the shares redeemed or purchased, the amount of the difference shall be transferred to the capital redemption reserve fund.

(3) Subsection (2) shall not apply if the proceeds of the fresh issue are applied by the registered business company in making a redemption or purchase of its own shares in addition to a payment out of capital under section 70.53.

(4) The provisions of the Law relating to the reduction of a registered business company's share capital apply as if the capital redemption reserve fund were paid-up share capital of the registered business company, except that the reserve may be applied by the registered business company in paying up its unissued shares to be allotted to members of the registered business company as fully paid bonus shares.

Redemption or purchase of own shares out of capital.

§70.53. Further power to redeem or purchase own shares out of capital.

(1) Subject to:

- (a) The following provisions of this section;
- (b) Sections 70.54 to 70.59,

a registered business company limited by shares or limited by guarantee and having a share capital may, if so authorized by its articles, make a payment in respect of the redemption or purchase under section 70.43 or, as the case may be, section 70.44, of its own shares otherwise than out of its distributable profits or the proceeds of a fresh issue of shares.

(2) References in this section and sections 70.54 to 70.59 to payment out of capital are, subject to subsection (6), to any payment so made, whether or not it would be regarded apart from this section as a payment out of capital.

(3) The payment which may, if authorized in accordance with the provisions of subsections (4) to (6) and sections 70.54 to 70.59, be made by a registered business company out of capital in respect of the redemption or purchase of its own shares is such an amount, as taken together with:

- (a) Any available profits of the registered business company; and
- (b) The proceeds of any fresh issue of shares made for the purchase of the redemption or purchase,

is equal to the price of redemption or purchase, and the payment permissible under this subsection is referred to in subsections (4) to (6) and sections 70.54 to 70.59 as the permissible capital payment for the shares.

(4) Subject to subsection (6), if the permissible capital payment for shares redeemed or purchased is less than their nominal amount, the amount of the difference shall be transferred to the registered business company's capital redemption reserve fund.

(5) Subject to subsection (6), if the permissible capital payment is greater than the nominal amount of the shares redeemed or purchased, the amount of any capital redemption reserve fund, share premium account or fully paid share capital of the registered business company may be reduced by a sum not exceeding, or by sums in the aggregate not exceeding, the amount by which the permissible capital payment exceeds the nominal amount of shares.

(6) Where the proceeds of a fresh issue are applied by a registered business company in making any redemption or purchase of its own shares in addition to a payment out of capital under this section, the references in subsections (4) and (5) to the permissible capital payment are to be read as referring to the aggregate of that payment and those proceeds.

§70.54. Availability of profits for purposes of section 70.53.

(1) The reference in section 70.53(3)(a) to available profits of the registered business company is to the registered business company's profits which are available for distribution, as determined as to availability and amount in accordance with subsections (2) to (6).

(2) Subject to subsection (3), the availability of profits for distribution and the amount thereof is to be determined by reference to:

- (a) Profits, losses, assets and liabilities;
- (b) Provisions as to depreciation, diminution in value of assets, retentions to meet liabilities, etc; and
- (c) Share capital and reserves, including undistributable reserves,

as stated in the relevant accounts for determining the permissible capital payment for shares.

(3) The relevant accounts for this purpose are such accounts, prepared as at any date within the period for determining the amount of the permissible capital payment, as are necessary to enable a reasonable judgment to be made as to the amounts of any of the items mentioned in paragraphs (a) to (c) of subsection (2).

(4) For purposes of determining the amount of the permissible capital payment for shares, the amount of the registered business company's available profits, if any, determined in accordance with subsections (2) and (3) is treated as reduced by the amount of any distributions lawfully made by the registered business company after the date of the relevant accounts and before the end of the period for determining the amount of that payment.

(5) The reference in subsection (4) to distributions lawfully made by the registered business company includes:

- (a) Financial assistance lawfully given out of distributable profits as assistance to a person to acquire the shares of the registered business company;
- (b) Any payment lawfully made by the registered business company in respect of the purchase of any shares in the registered business company (except a payment lawfully made otherwise than out of distributable profits); and
- (c) A payment of any description specified in section 70.50(1) lawfully made by the registered business company.

(6) References in this section to the period for determining the amount of the permissible capital payment for shares are to the period of three months ending with the date on which the statutory declaration of the directors purporting to specify the amount of that payment is made in accordance with section 70.55(3).

§70.55. Conditions for payment out of capital.

(1) Subject to any order of the court under section 70.58, a payment out of capital by a registered business company for the redemption or purchase of its own shares is not lawful unless the requirements of this and the next two sections are satisfied.

(2) The payment out of capital shall have been approved by a special resolution of the registered business company.

(3) The registered business company's directors shall have executed a declaration specifying the amount of the permissible capital payment for the shares in question and stating that, having made full inquiry into the affairs and prospects of the registered business company, they have formed the opinion:

- (a) As regards its initial situation immediately following the date on which the payment out of capital is proposed to be made, that there will be no grounds on which the registered business company could then be found unable to pay its debts; and
- (b) As regards its prospects for the year immediately following that date, that, having regard to their intentions with respect to the management of the registered business company's business during that year and to the amount and character of the financial resources which will in their view be available to the registered business company during that year, the registered business company will be able to continue to carry on

business as a going concern (and will accordingly be able to pay its debts as they fall due) throughout that year.

(4) In forming their opinion for purposes of subsection (3)(a), the directors shall take into account the same liabilities (including prospective and contingent liabilities) as would be relevant in any winding up by the court to the question whether a registered business company is unable to pay its debts.

(5) The directors' declaration shall have annexed to it a report addressed to the directors by the registered business company's auditors stating that:

- (a) They have inquired into the registered business company's state of affairs;
- (b) The amount specified in the declaration as the permissible capital payment for the shares in question is in their view properly determined in accordance with sections 70.53 and 70.54; and
- (c) They are not aware of anything to indicate that the opinion expressed by the directors in the declaration as to any of the matters mentioned in subsection (3) is unreasonable in all the circumstances.

§70.56. Procedure for special resolution under section 70.55.

(1) The resolution required by section 70.55 shall be passed on, or within the week immediately following, the date on which the directors make the declaration required by that section, and the payment out of capital shall be made no earlier than one nor more than two months after the date of the resolution.

(2) The resolution is ineffective if any member of the registered business company holding shares to which the resolution relates exercises the voting rights carried by any of those shares in voting on the resolution and the resolution would not have been passed if he had not done so.

(3) For purposes of subsection (2), a member who holds such shares is to be regarded as exercising the voting rights carried by them in voting on the resolution not only if he votes in respect of them on a poll on the question whether the resolution shall be passed, but also if he votes on the resolution otherwise than on a poll, and, notwithstanding anything in a registered business company's articles, any member of the registered business company may demand a poll on that question.

(4) The resolution is ineffective unless the declaration and auditors' report required by this section are available for inspection by members of the registered business company at the meeting at which the resolution is passed, or are circulated to the members, where the resolution is approved by the shareholders without a meeting.

(5) For purposes of this section a vote and a demand for a poll by a person as proxy for a member are the same, respectively, as a vote and demand by the member.

§70.57. Objections by registered business company’s members or creditors.

(1) Where a registered business company passes a special resolution approving for the purposes of section 70.53 any payment out of capital for the redemption or purchase of any of its shares:

- (a) Any member of the registered business company other than one who consented to or voted in favor of the resolution; and
- (b) Any creditor of the registered business company,

may within one month of the date on which the resolution was passed apply to the court for cancellation of the resolution.

(2) The application may be made on behalf of the persons entitled to make it by such one or more of their number as they may appoint in writing for the purpose.

§70.58. Powers of Court on Application under Section 70.57.

(1) On the hearing of an application under section 70.57 the court may, if it thinks fit, adjourn the proceedings in order that an arrangement may be made to the court’s satisfaction for the purchase of the interest of dissentient members or for the protection of dissentient creditors, as the case may be, and the court may give such directions and make such orders as it thinks expedient for facilitating or carrying into effect any such arrangement.

(2) Without prejudice to its powers under subsection (1), the court shall make an order on such terms and conditions as it thinks fit either confirming or canceling the resolution, and, if the court confirms the resolution, it may in particular by order alter or extend any date or period of time specified in the resolution or in any provision in section 70.44 to 70.57 which applies to the redemption or purchase of shares to which the resolution refers.

(3) The court’s order may, if the court thinks fit, provide for the purchase by the registered business company of the shares of any of its members and for the reduction accordingly of the registered business company’s capital, and may make such alterations in the registered business company’s memorandum and articles as may be required in consequence of that provision.

(4) If the court’s order requires the registered business company not to make any, or any specified, alteration in its memorandum or articles, the registered business company has not then power without leave of the court to make any such alteration in breach of the requirement.

(5) An alteration in the memorandum or articles made by virtue of an order under this section, if not made by resolution of the registered business company, is of the same effect as if duly made by resolution, and this Law applies accordingly to the memorandum or articles as so altered.

§70.59. Effect of registered business company’s failure to redeem or purchase.

(1) This section has effect where a registered business company has:

- (a) Issued shares on terms that they are, or are liable, to be redeemed; or
- (b) Agreed to purchase any of its own shares.

(2) The registered business company is not liable in damages in respect of any failure on its part to redeem or purchase any of the shares.

(3) Subsection (2) is without prejudice to any right of the holder of the shares other than his right to sue the registered business company for damages in respect of its failure, but the court shall not grant an order for specific performance of the terms of redemption or purchase if the registered business company shows that it is unable to meet the costs of redeeming or purchasing the shares in question out of distributable profits.

(4) If the registered business company is wound up and at the commencement of the winding up any of the shares have not been redeemed or purchased, the terms of redemption or purchase may be enforced against the registered business company, and when shares are redeemed or purchased under this subsection they are treated as cancelled.

(5) Subsection (4) does not apply if:

- (a) The terms provided for the redemption or purchase to take place at a date later than that of the commencement of the winding up; or
- (b) During the period beginning with the date on which the redemption or purchase was to have taken place and ending with the commencement of the winding up, the registered business company could not at any time have lawfully made a distribution equal in value to the price at which the shares were to have been redeemed or purchased.

(6) There shall be paid in priority to any amount which the registered business company is liable under subsection (4) to pay in respect of any shares:

- (a) All other debts and liabilities of the registered business company, other than any due to members in their character as such;
- (b) If other shares carry rights, whether as to capital or as to income, which are preferred to the rights as to capital attaching to the first mentioned shares, any amount due in satisfaction of those preferred rights,

but, subject to that, any such amount shall be paid in priority to any amounts due to members in satisfaction of their rights, whether as to capital or income, as members.

§70.60. Definitions for sections 70.44 to 70.58.

In sections 70.44 to 70.58:

“Distributable profits”, in relation to the making of any payment by a registered business company, means those profits out of which it could lawfully make a distribution equal in value to the payment;

“Permissible capital payment” means the payment permitted by section 70.53;

and references to payment out of capital are to be construed in accordance with section 53.

Miscellaneous Provisions as to Share Capital.

§70.61. Power of registered business company to arrange for different amounts being paid on shares.

A registered business company, if so authorized by its articles, may do any one or more of the following things:

- (a) Make arrangements on the issue of shares for a difference between the shareholders in the amounts and times of payment of calls on their shares;
- (b) Accept from any member the whole or a part of the amount remaining unpaid on any shares held by him, although no part of that amount has been called up;
- (c) Pay dividends in proportion to the amount paid up on each share where a larger amount is paid up on some shares than on others.

§70.62. Reserve liability of registered business company.

A registered business company may by special resolution determine that any portion of its share capital which has not been already called up shall not be capable of being called up, except in the event and for the purposes of the registered business company being wound up, and thereupon that portion of its share capital shall not be capable of being called up except in the event and for the purposes aforesaid.

§70.63. Power of registered business company having share capital to alter its share capital.

(1) A registered business company limited by shares or a registered business company limited by guarantee and having a share capital, if so authorized by its articles, may alter the conditions of its memorandum as follows, that is to say, it may:

- (a) Increase its share capital by new shares of such amount as it thinks expedient;
- (b) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (c) Convert all or any of its paid-up shares into stock, and reconvert that stock into paid-

up shares of any denomination;

- (d) Subdivide its shares, or any of them, into shares of smaller amount than is fixed by the memorandum, so, however, that in the sub-division the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived;
- (e) Cancel shares which, at the date of the passing of the resolution in that behalf, have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section shall be exercised by the registered business company by special resolution.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.

§70.64. Notice to Registrar of consolidation of share capital and conversion of shares into stock.

If a registered business company having a share capital has:

- (a) Consolidated and divided its share capital into shares of larger amount than its existing shares; or
- (b) Converted any shares into stock; or
- (c) Re-converted stock into shares; or
- (d) Subdivided its shares or any of them; or
- (e) Redeemed any redeemable preference shares or purchased any of its own shares; or
- (f) Cancelled any shares, otherwise than in connection with a reduction of share capital under section 70.67,

it shall within one month after so doing give notice thereof to the Registrar or the Deputy Registrar specifying, as the case may be, the shares consolidated, divided, converted, subdivided, redeemed or cancelled, or the stock re-converted.

§70.65. Notice of increase of share capital.

(1) Where a registered business company having a share capital, whether its shares have or have not been converted into stock, has increased its share capital beyond the registered capital, it shall within one month after the passing of the resolution authorizing the increase, give to the Registrar or the Deputy Registrar notice of the increase, and the Registrar or the Deputy Registrar

shall record the increase.

(2) The notice to be given shall include particulars with respect to the classes of shares affected and the conditions subject to which the new shares have been or are to be issued, and there shall be forwarded to the Registrar or the Deputy Registrar together with the notice a printed copy of the resolution authorizing the increase.

§70.66. Power of registered business company to pay interest out of capital in certain cases.

Where any shares of a registered business company are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the registered business company may pay interest on so much of that share capital as is for the time being paid up for the period and subject to the conditions and restrictions in this section mentioned, and may charge the sum so paid by way of interest to capital as part of the cost of construction of the work or building, or the provision of plant:

Provided that:

- (a) No such payment shall be made unless it is authorized by the articles or by special resolution;
- (b) The rate of interest shall in no case exceed five per cent per annum;
- (c) The payment of the interest shall not operate as a reduction of the amount paid up on the shares in respect of which it is paid;
- (d) The accounts of the registered business company shall show the share capital on which, and the rate at which, interest has been paid out of capital during the period to which the accounts relate.

Reduction of Share Capital.

§70.67. Special resolution for reduction of share capital.

(1) A registered business company limited by shares or a registered business company limited by guarantee and having a share capital may, if so authorized by its articles, by special resolution reduce its share capital in any way, and in particular, without prejudice to the generality of the foregoing power, may:

- (a) Extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or
- (b) Either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

- (c) Either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the wants of the registered business company,

and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

- (2) A special resolution under this section is in this Law referred to as “a resolution for reducing share capital.”

§70.68. Application to court for confirming order, objections by creditors, and settlement of list of objecting creditors.

- (1) Where a registered business company has passed a resolution for reducing share capital, a shareholder, except a shareholder who voted in favor of the resolution to reduce the share capital, or a creditor may apply by petition to the court for an order setting aside the reduction.

- (2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the court so directs, the following provisions shall have effect, subject nevertheless to subsection (3):

- (a) Every creditor of the registered business company who at the date fixed by the court is entitled to any debt or claim which, if that date were the commencement of the winding up of the registered business company, would be admissible in proof against the registered business company, shall be entitled to object to the reduction;
- (b) The court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain, as far as possible without requiring an application from any creditor, the names of those creditors and the nature and amount of their debts or claims, and may publish notices fixing a day or days within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;
- (c) Where a creditor entered on the list whose debt or claim is not discharged or has not determined does not consent to the reduction, the court may, if it thinks fit, dispense with the consent of that creditor, on the registered business company securing payment of his debt or claim by appropriating, as the court may direct, the following amount:
 - (i) If the registered business company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim;
 - (ii) If the registered business company does not admit and is not willing to provide for the full amount of the debt or claim, or if the amount is contingent or not ascertained, then an amount fixed by the court after the like inquiry and

adjudication as if the registered business company were being wound up by the court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid up share capital, the court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) shall not apply as regards any class or any classes of creditors.

§70.69. Order confirming reduction and powers of court on making such order.

(1) The court, if satisfied, with respect to every creditor of the registered business company who under section 70.68 is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has determined, or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the court makes any such order, the court may:

- (a) If for any special reason it thinks proper so to do, make an order directing that the registered business company shall, during such period, commencing on or at any time after the date of the order, as is specified in the order, add to its name as the last words thereof, the words “and reduced”; and
- (b) Make an order requiring the registered business company to publish as the court directs the reasons for reduction or such other information in regard thereto as the court may think expedient with a view to giving proper information to the public, and, if the court thinks fit, the causes which led to the reduction.

(3) Where a registered business company is ordered to add to its name the words “and reduced” those words shall, until the expiration of the period specified in the order, be deemed to be part of the name of the registered business company.

§70.70. Registration of order and minute of reduction.

The Registrar on production to him of:

- (a) A resolution reducing the share capital of a registered business company; or
- (b) An order of the court confirming the reduction of the share capital of a registered business company, and of a minute approved by the court,

showing with respect to the share capital of the registered business company, as altered by the resolution or the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration deemed to be paid up on each share, shall register the resolution or order and minute.

(2) On the registration of the resolution or order and minute, and not before, the resolution for

reducing share capital as confirmed by the order so registered shall take effect.

(3) The Registrar or the Deputy Registrar shall certify under his hand the registration of the resolution or the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Law with respect to reduction of share capital have been complied with, and that the share capital of the registered business company is such as is stated in the resolution or order and minute.

(4) The resolution or the minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

(5) The substitution of any such resolution or minute for part of the memorandum of the registered business company shall be deemed to be an alteration of the memorandum within the meaning of section 70.24.

§70.71. Liability of members in respect of reduced shares.

(1) In the case of a reduction of share capital, a member of the registered business company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the resolution or the order and minute and the amount paid, or the reduced amount, if any, which is to be deemed to have been paid, on the share, as the case may be:

Provided that, if any creditor, entitled in respect of any debt or claim to object to the reduction of share capital, is, by reason of his ignorance of the proceedings for reduction, or of their nature and effect with respect to his claim, not entered on the list of creditors, and, after the reduction, the registered business company is unable, within the meaning of the provisions of this Law with respect to winding up by the court, to pay the amount of his debt or claim, then:

- (a) Every person who was a member of the registered business company at the date of the registration of the resolution or the order and minute for reduction, shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the registered business company had commenced to be wound up on the day before the said date; and
- (b) If the registered business company is wound up, the court, on the application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories settled on the list, as if they were ordinary contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

Variation of Shareholders' Rights.

§70.72. Rights of holders of special classes of shares.

(1) If in the case of a registered business company, the share capital of which is divided into different classes of shares, provision is made by the memorandum or articles for authorizing the variation of the rights attached to any class of shares in the registered business company, subject to the consent of any specified proportion of the holders of the issued shares of that class or the sanction of a resolution passed at a separate meeting of the holders of those shares, and in pursuance of the said provision the rights attached to any such class of shares are at any time varied, the holders of not less in the aggregate than fifteen per cent of the issued shares of that class, being persons who did not consent to or vote in favor of the resolution for the variation, may apply to the court to have the variation cancelled, and, where any such application is made, the variation shall not have effect unless and until it is confirmed by the court.

(2) An application under this section shall be made within one month after the date on which the consent was given or the resolution was passed, as the case may be, and may be made on behalf of the shareholders entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(3) On any such application the court, after hearing the applicant and any other persons who apply to the court to be heard and appear to the court to be interested in the application, may, if it is satisfied, having regard to all the circumstances of the case, that the variation would unfairly prejudice the shareholders of the class represented by the applicant, disallow the variation and shall, if not so satisfied, confirm the variation.

(4) The decision of the court on any such application shall be final.

(5) The registered business company shall within one month after the making of an order by the court on any such application forward a copy of the order to the Registrar or the Deputy Registrar.

(6) The expression "*variation*" in this section includes abrogation and the expression "*varied*" shall be construed accordingly.

§70.73. Variation of rights attached to any class of shares.

(1) This section applies in relation to the variation of the rights attaching to any class of shares in a registered business company the share capital of which is divided into shares of different classes.

(2) Where the rights are attached to a class of shares otherwise than by the registered business company's memorandum and the registered business company's articles do not contain provisions with respect to the variation of the rights, those rights may only be varied if:

(a) The holders of three-quarters in nominal value of the issued shares of that class agree

in writing to the variation; or

(b) An extraordinary resolution passed by the holders of that class approves the variation, and any requirement, however imposed, in relation to the variation of those rights is complied with to the extent that it is not comprised in paragraphs (a) and (b).

(3) Where the variation of such rights is connected with the giving, variation, revocation, or renewal of an authority for allotment or with a reduction of capital those rights shall not be valid unless:

- (a) The condition mentioned in paragraph (a) or (b) of subsection (2) is satisfied; and
- (b) Any requirement of the memorandum or articles in relation to the variation of rights of that class is complied with to the extent that it is not comprised in that condition.

Transfer of Shares and Debentures and Evidence of Title.

§70.74. Nature of shares.

(1) The shares or other interest of any member in a registered business company shall be personal estate, transferable in manner provided by the articles of the registered business company, and shall not be of the nature of real estate.

(2) Each share in a registered business company having a share capital shall be distinguished by its appropriate number.

§70.75. Transfer not to be registered except on production of instrument of transfer.

Notwithstanding anything in the articles of a registered business company, it shall not be lawful for the registered business company to register a transfer of shares in, or debentures of, the registered business company unless a proper instrument of transfer has been delivered to the registered business company:

Provided that nothing in this section shall prejudice any power of the registered business company to register as shareholder or debenture holder any person to whom the right to any shares in or debentures of the registered business company has been transmitted by operation of law.

§70.76. Transfer by personal representative.

A transfer of the share or other interest of a deceased member of a registered business company made by his personal representative shall, although the personal representative is not himself a member of the registered business company, be as valid as if he had been such a member at the time of the execution of the instrument of transfer.

§70.77. Registration of transfer at request of transferor.

On the application of the transferor of any share or interest in a registered business company, the registered business company shall enter in its register of members the name of the transferee in the same manner and subject to the same conditions as if the application for the entry were made by the transferee.

§70.78. Notice of refusal to register transfer.

If a registered business company refuses to register a transfer of any shares or debentures, the registered business company shall, within one month after the date on which the transfer was lodged with the registered business company, send to the transferee notice of the refusal.

§70.79. Duties of registered business company with respect to issue of certificates.

(1) Every registered business company shall, within two months after the allotment of any of its shares, debentures or debenture stock, and within one month after the date on which a transfer of any such shares, debentures or debenture stock, is lodged with the registered business company, complete and have ready for delivery the certificates of all shares, the debentures, and the certificates of all debenture stock allotted or transferred, unless the conditions of issue of the shares, debentures or debenture stock otherwise provide.

(2) The expression “*transfer*” for the purpose of this subsection means a transfer duly executed and otherwise valid, and does not include such a transfer as the registered business company is for any reason entitled to refuse to register and does not register.

(3) If any registered business company on which a notice has been served requiring the registered business company to make good any default in complying with the provisions of subsection (1) fails to make good the default within one month after the service of the notice, the court may, on the application of the person entitled to have the certificates or the debentures delivered to him, make an order directing the registered business company and any director or secretary of the registered business company to make good the default within such time as may be specified in the order, and any such order may provide that all costs of and incidental to the application shall be borne by the registered business company or by any director or secretary of the registered business company responsible for the default.

§70.80. Certificate to be evidence of title.

A certificate, under the seal of the registered business company or signed by the signatories authorized for this purpose, specifying any shares held by any member, shall be *prima facie* evidence of the title of the member to the shares.

§70.81. Evidence of grant of probate.

The production to a registered business company of any document which is by law sufficient evidence

of probate of the will or letters of administration of the estate of a deceased person having been granted to some person shall be accepted by the registered business company, notwithstanding anything in its articles, as sufficient evidence of the grant.

§70.82. Issue and effect of share warrants to bearer.

- (1) A registered business company limited by shares, if so authorized by its articles may, with respect to any fully paid-up shares, issue under its seal or signed by the signatories authorized for this purpose a warrant stating that the bearer of the warrant is entitled to the shares therein specified, and may provide, by coupons or otherwise, for the payment of the future dividends on the shares included in the warrant.
- (2) Such a warrant is in this Law referred to as a “*share warrant.*”
- (3) A share warrant shall entitle the bearer thereof to the shares therein specified, and the shares may be transferred by delivery of the warrant.
- (4) Where a registered business company is incorporated with share warrants, at least two subscriber shares shall be allotted to named subscribers.

§70.83. Penalty for personation of shareholder.

A person who falsely and deceitfully personates any owner of any share or interest in any registered business company, or of any share warrant or coupon, issued in pursuance of this Law, and thereby obtains or endeavors to obtain any such share or interest or share warrant or coupon, or receives or endeavors to receive any money due to any such owner, as if the offender were the true and lawful owner, shall be guilty of second degree felony as defined in Chapter 50 of the New Penal Law.

Special Provisions as to Debentures.

§70.84. Register of debenture holders and right of debenture holders and shareholders to inspect register of debenture holders and to have copies of trust deeds.

- (1) Every registered business company shall keep at its principal office a register of the holders of debentures in the registered business company.
- (2) Every register of holders of debentures of a registered business company shall, except when duly closed, be open to the inspection of the registered holder of any such debentures and of any holder of shares in the registered business company, but subject to such reasonable restrictions as the registered business company may in general meeting impose, so that not less than two hours in each day shall be allowed for inspection.
- (3) For the purposes of this section, a register shall be deemed to be duly closed if closed in accordance with provisions contained in the articles or in the debentures or, in the case of debenture stock, in the stock certificates or in the trust deed or other document securing the debentures or

debenture stock, during such period or periods, not exceeding in the whole one month in any year, as may be therein specified.

(4) Every registered holder of debentures and every holder of shares in a registered business company may require a copy of the register of the holders of debentures of the registered business company or any part thereof on payment of such reasonable fee as the registered business company may charge.

(5) A copy of any trust deed for securing any issue of debentures shall be forwarded to every holder of any such debentures at his request on payment of such reasonable fee as the registered business company may charge.

(6) If inspection is refused, or a copy is refused or not forwarded, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the person requiring them.

§70.85. Perpetual debentures.

A condition contained in any debentures or in any deed for securing any debentures shall not be invalid by reason only that the debentures are thereby made irredeemable or redeemable only on the happening of a contingency, however remote, or on the expiration of a period, however long, any rule of equity to the contrary notwithstanding.

§70.86. Power to re-issue redeemed debentures in certain cases.

(1) Where a registered business company has redeemed any debentures previously issued, then:

- (a) Unless any provision to the contrary, whether express or implied, is contained in the articles or in any contract entered into by the registered business company; or
- (b) Unless the registered business company has, by passing a resolution to that effect or by some other act, manifested its intention that the debentures shall be cancelled,

the registered business company shall have, and shall be deemed always to have had, power to re-issue the debentures, either by re-issuing the same debentures or by issuing other debentures in their place.

(2) On a re-issue of redeemed debentures the person entitled to the debentures shall have, and shall be deemed always to have had, the same priorities as if the debentures had never been redeemed.

(3) Where a registered business company has power to re-issue debentures which have been redeemed, particulars with respect to the debentures which can be so re-issued shall be included in every balance sheet of the registered business company.

(4) Where a registered business company has deposited any of its debentures to secure advanc

from time to time on current account or otherwise, the debentures shall not be deemed to have been redeemed by reason only of the account of the registered business company having ceased to be in debit whilst the debentures remained so deposited.

(5) The re-issue of a debenture or the issue of another debenture in its place under the power by this section given to, or deemed to have been possessed by, a registered business company, shall not be treated as the issue of a new debenture for the purposes of any provision limiting the amount or number of debentures to be issued.

§70.87. Specific performance of contracts to subscribe for debentures.

A contract with a registered business company to take up and pay for any debentures may be enforced by an order for specific performance.

§70.88. Payment of certain debts out of assets subject to floating charge in priority to claims under the charge.

(1) Where either a receiver is appointed on behalf of the holders of any debentures of the registered business company secured by a floating charge, or possession is taken by or on behalf of those debenture holders of any property comprised in or subject to the charge, then, if the registered business company is not at the time in course of being wound up, the debts which in every winding up are, under the provisions of Part VI relating to preferential payments, to be paid in priority to all other debts, shall be paid out of any assets coming to the hands of the receiver or other person taking possession in priority to any claim for principal or interest in respect of the debentures.

(2) The periods of time mentioned in the said provisions of Part VI shall be reckoned from the date of the appointment of the receiver or of possession being taken, as the case may be.

(3) Any payments made under this section shall be recouped as far as may be out of the assets of the registered business company available for payment of general creditors.

PART IV.

CHARGES AND MORTGAGES

§70.89. Registration of charges created by registered business companies registered under this Law.

(1) Subject to the provisions of this Part, every charge created by a registered business company registered under this Law and being a charge to which this section applies shall, so far as any security on the registered business company's property or undertaking is conferred thereby, be void against the liquidator and any creditor of the registered business company, unless the prescribed particulars of the charge, together with the instrument, if any, by which the charge is created or

evidenced, are delivered to or received by the Registrar or the Deputy Registrar for registration in manner required by this Law within one month after the date of its creation, but without prejudice to any contract or obligation for repayment of the money thereby secured, and when a charge becomes void under this section the money secured thereby shall immediately become payable.

(2) This section applies to:

- (a) A charge for the purpose of securing any issue of debentures;
- (b) A charge on uncalled share capital of the registered business company;
- (c) A charge on land, wherever situate, or any interest therein;
- (d) A charge on book debts of the registered business company;
- (e) A floating charge on the undertaking or property of the registered business company;
- (f) A charge on calls made but not paid;
- (g) A charge on a ship or any share in a ship;
- (h) A charge on goodwill, on a patent or a license under a patent, on a trademark or on a copyright or a license under a copyright;
- (j) A charge on any other movable property created or evidenced by an instrument, where the registered business company retains possession of such property.

(3) In the case of a charge created out of Liberia comprising solely property situate outside Liberia, the delivery to and the receipt by the Registrar or the Deputy Registrar of a copy certified in the prescribed manner of the instrument by which the charge is created or evidenced, shall have the same effect for the purposes of this section as the delivery and receipt of the instrument itself, and one month after the date on which the instrument or copy could, in due course of post, and if despatched with due diligence, have been received in Liberia, shall be substituted for one month after the date of the creation of the charge, as the time within which the particulars and instrument or copy are to be delivered to the Registrar or the Deputy Registrar.

(4) Where a charge comprises property outside Liberia, the instrument creating or purporting to create the charge may be sent for registration under this section notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the country in which the property is situate.

(5) Where a negotiable instrument has been given to secure the payment of any book debts of a registered business company the deposit of the instrument for the purpose of securing an advance to the registered business company shall not for the purposes of this section be treated as a charge on those book debts.

(6) The holding of debentures entitling the holder to a charge on land shall not for the purposes of this section be deemed to be an interest in land.

(7) Where a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of that series are entitled *pari passu* is created by a registered business company, it shall for the purposes of this section be sufficient if there are delivered to or received by the Registrar or the Deputy Registrar within one month after the execution of the instrument containing the charge or, if there is no such instrument, after the execution of any debentures of the series, the following particulars:

- (a) The total amount secured by the whole series; and
- (b) The dates of the resolutions authorizing the issue of the series and the date of the covering instrument, if any, by which the security is created or defined; and
- (c) A general description of the property charged; and
- (d) The names of the trustees, if any, for the debenture holders,

together with the instrument containing the charge, or, if there is no such instrument, one of the debentures of the series:

Provided that, where more than one issue is made of debentures in the series, there shall be sent to the Registrar or the Deputy Registrar for registration, particulars of the date and amount of each issue, but an omission to do this shall not affect the validity of the debentures issued.

(8) Where any commission, allowance or discount has been paid or made either directly or indirectly by a registered business company to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any debentures of the registered business company, or procuring or agreeing to procure subscriptions, whether absolute or conditional, for any such debentures, the particulars required to be sent for registration under this section shall include particulars as to the amount or rate per cent of the commission, discount or allowance so paid or made, but omission to do this shall not affect the validity of the debentures issued:

Provided that the deposit of any debentures as security for any debt of the registered business company shall not for the purposes of this subsection be treated as the issue of the debentures at a discount.

(9) In this Part, “*charge*” includes mortgage.

§70.90. Duty of registered business company to register charges created by registered business company.

(1) It shall be the duty of a registered business company to send to the Registrar or the Deputy Registrar for registration the particulars of every charge created by the registered business company

and of the issues of debentures of a series, requiring registration under section 70.89, but registration of any such charge may be effected on the application of any person interested therein.

(2) Where registration is effected on the application of some person other than the registered business company, that person shall be entitled to recover from the registered business company the amount of any fees properly paid by him to the Registrar or the Deputy Registrar on the registration.

§70.91. Duty of registered business company to register charges existing on property acquired.

Where a registered business company acquires any property which is subject to a charge of any such kind as would, if it had been created by the registered business company after the acquisition of the property, have been required to be registered under this Part, the registered business company shall cause the prescribed particulars of the charge, together with a copy (certified in the prescribed manner to be a correct copy) of the instrument, if any, by which the charge was created or is evidenced, to be delivered to the Registrar for registration in manner required by this Law within one month after the date on which the acquisition is completed:

Provided that, if the property is situate and the charge was created outside Liberia, one month after the date on which the copy of the instrument could in due course of post, and if despatched with due diligence, have been received in Liberia shall be substituted for one month after the completion of the acquisition as the time within which the particulars and the copy of the instrument are to be delivered to the Registrar.

§70.92. Register of charges to be kept by Registrar.

(1) The Registrar shall keep, with respect to each registered business company, a register in the prescribed form of all the charges requiring registration under this Part, and shall enter in the register with respect to such charges the following particulars:

- (a) In the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in section 70.89(7);
- (b) In the case of any other charge:
 - (i) If the charge is a charge created by the registered business company, the date of its creation, and if the charge was a charge existing on property acquired by the registered business company, the date of the acquisition of the property; and
 - (ii) The amount secured by the charge; and
 - (iii) Short particulars of the property charged; and
 - (iv) The persons entitled to the charge.

(2) The Registrar or the Deputy Registrar shall give a certificate under his hand of the registration of any charge registered in pursuance of this Part, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Part as to registration have been complied with.

(3) The Registrar shall keep a chronological index, in the prescribed form and with the prescribed particulars, of the charges entered in the register, which index shall be open to inspection by any person.

§70.93. Endorsement of certificate of registration.

The registered business company shall cause a copy of every certificate of registration given under section 70.92 to be endorsed on every debenture or certificate of debenture stock which is issued by the registered business company, and the payment of which is secured by the charge so registered:

Provided that nothing in this subsection shall be construed as requiring a registered business company to cause a certificate of registration of any charge so given to be endorsed on any debenture or certificate of debenture stock issued by the registered business company before the charge was created.

§70.94. Entry of satisfaction.

The Registrar or the Deputy Registrar may, on evidence being given to his satisfaction that the debt for which any registered charge was given has been paid or satisfied, order that a memorandum of satisfaction be entered on the register, and shall, if required, furnish the registered business company with a copy thereof.

§70.95. Rectification of Register of Charges.

(1) The Registrar or the Deputy Registrar, on being satisfied that the omission to register a charge within the time required by this Law, or that the omission or misstatement of any particular with respect to any such charge or in a memorandum of satisfaction, was accidental, or due to inadvertence or to some other sufficient cause, or is not of a nature to prejudice the position of creditors or shareholders of the registered business company, or that on other grounds it is just and equitable to grant relief, may, on the application of the registered business company or any person interested, and on such terms and conditions as seem to the Registrar or the Deputy Registrar just and expedient, order that the time for registration shall be extended, or, as the case may be, that the omission or misstatement shall be rectified.

(2) The provisions of Part XIII in respect of the rectification of registers shall apply.

§70.96. Registration of enforcement of security.

(1) If any person obtains an order for the appointment of a receiver or manager of the property

of a registered business company, or appoints such a receiver or manager under any powers contained in any instrument, he shall, within one month from the date of the order or of the appointment under the said powers, give notice of the fact to the Registrar or the Deputy Registrar, and the Registrar or the Deputy Registrar shall enter the fact in the register of charges.

(2) Where any person appointed receiver of the property of a registered business company under the powers contained in any instrument ceases to act as such receiver, he shall, on so ceasing, give the Registrar or the Deputy Registrar notice to that effect, and the Registrar shall enter the notice in the register of charges.

*Provisions as to Registered Business Company's Register of Charges and as to Copies of
Instruments Creating Charges.*

§70.97. Copies of instruments creating charges to be kept by registered business company.

Every registered business company shall cause a copy of every instrument creating any charge requiring registration under this Part to be kept with the register of charges kept by the registered business company in compliance with section 70.98.

§70.98. Registered business company's register of charges.

Every registered business company shall keep a register of charges and enter therein all charges specifically affecting property of the registered business company and all floating charges on the undertaking or any property of the registered business company, giving in each case a short description of the property charged, the amount of the charge, and, except in the case of securities to bearer, the names of the persons entitled thereto.

§70.99. Inspection of instruments creating mortgages and charges and register of charges.

(1) The copies of instruments creating any charge requiring registration under this Part with the Registrar or the Deputy Registrar, and the register of charges kept by the registered business company at the principal office of the registered business company or at such place as the directors think fit in pursuance of section 70.98, shall be open during business hours (but subject to such reasonable restrictions as the registered business company in general meeting may impose, so that not less than two hours in each day shall be allowed for inspection) to the inspection of any creditor or member of the registered business company without fee, and the register of charges shall also be open to the inspection of any other person on payment of such fee as the registered business company may prescribe.

(2) If inspection of such copies or register is refused, the court may by order compel an immediate inspection of the copies or register.

PART V.

MANAGEMENT AND ADMINISTRATION

Registered Agent.

§70.100. Registered agent.

- (1) The provisions of Chapter 3 of Part I of this Title shall apply to a registered business company registered under this Law, with the substitution in that Chapter;
 - (a) Of reference to a registered business company registered under Chapter VII for reference to a “domestic corporation” or a “corporation”;
 - (b) In section 3.1.1(c) of reference to the registered business company being dissolved under Chapter VII for reference to a corporation being dissolved in accordance with section 11.3.
- (2) Notice of any change in the person of the registered agent or the address of the registered agent of the registered business company, as the case may be, shall be given within one month after the date of the change to the Registrar or the Deputy Registrar who shall record the same.
- (3) The inclusion in the annual return of a registered business company of a statement as to the person and the address of its registered agent shall not be taken to satisfy the obligation imposed by this subsection unless that return shall have been due and made within one month of the change.

Publication of Name.

§70.101. Publication of name by registered business company.

- (1) Every registered business company:
 - (a) In the event that it has a seal, shall have its name engraved in legible characters on its seal;
 - (b) Shall have its name mentioned in legible characters in all notices, advertisements and other official publications of the registered business company, and in all bills of exchange, promissory notes, endorsements, checks and orders for money or goods purporting to be signed by or on behalf of the registered business company, and in all bills of parcels, invoices, receipts and letters of credit of the registered business company.
- (2) A director or secretary of a registered business company or any person on its behalf who:
 - (a) Uses or authorizes the use of any seal purporting to be a seal of the registered business

company whereon its name is not so engraven as aforesaid; or

- (b) Issues or authorizes the issue of any notice, advertisement or other official publication of the registered business company, or signs or authorizes to be signed on behalf of the registered business company any bill of exchange, promissory note, endorsement, check or order for money or goods, wherein its name is not mentioned in manner aforesaid; or
- (c) Issues or authorizes the issue of any bill of parcels, invoice, receipt or letter of credit of the registered business company, wherein its name is not mentioned in manner aforesaid,

is personally liable to the holder of the bill of exchange, promissory note, check or order for money or goods, for the amount thereof, unless it is duly paid by the registered business company.

§70.102. Particulars to be shown on letterheads, etc..

Every registered business company shall have the following particulars mentioned in legible characters in all business letters and order forms of the registered business company, that is to say:

- (a) The place of registration of the registered business company, and the number with which it is registered;
- (b) The name and address of its registered agent;
- (c) The names of the directors;
- (d) Except in the case of a registered business company having unlimited liability or exempt from the obligation to use the word “Limited” or a word denoting limited in another language as part of its name, the fact that it is a limited company,

and, if in the case of a registered business company having a share capital there is on the stationery used for any such letters or on the order forms a reference to the amount of the share capital, the reference shall be to paid-up share capital.

Register of Members.

§70.103. Register of members.

- (1) Subject to section 70.104, every registered business company shall keep in one or more books at its principal office a register of its members, and enter therein the following particulars:
 - (a) The names and addresses of the members, and in the case of a registered business company having a share capital a statement of the shares held by each member, distinguishing each share by its number and of the amount paid or agreed to be considered as paid on the shares of each member;

- (b) The date at which each person was entered in the register as a member; and
- (c) The date at which any person ceased to be a member:

Provided that, where the registered business company has converted any of its shares into stock and given notice of the conversion to the Registrar or the Deputy Registrar, the register shall show the amount of stock held by each member instead of the amount of shares and the particulars relating to shares specified in paragraph (a) of this section.

§70.104. Provisions as to entries in register in relation to share warrants.

(1) Every registered business company shall keep in one or more books at its principal office a register of share warrants issued by it, and enter therein the following particulars:

- (a) A statement of the shares represented by the warrant, distinguishing each share by its number and that the shares are fully paid;
- (b) The date at which each warrant was issued and entered in the register; and
- (c) The date at which any warrant was cancelled.

(2) On the issue of a share warrant in respect of shares to which section 70.103 applied, the registered business company shall strike out of its register of members the name of the member then entered therein as holding the shares specified in the warrant as if he had ceased to be a member, and shall enter in the register the following particulars, namely:

- (a) The fact of the issue of the warrant;
- (b) A statement of the shares included in the warrant, distinguishing each share by its number; and
- (c) The date of the issue of the warrant.

(3) The bearer of a share warrant shall, subject to the articles of the registered business company, be entitled, on surrendering it for cancellation, to have his name entered as a member in the register of members.

(4) The registered business company shall be responsible for any loss incurred by any person by reason of the registered business company entering in the register the name of a bearer of a share warrant in respect of the shares therein specified without the warrant being surrendered and cancelled:

Provided that where the directors of a registered business company are satisfied as to the facts alleged, a registered business company may issue a new warrant in place of a warrant issued by it which is alleged to have been lost, stolen or destroyed, and the registered business company may require the owner of the lost, stolen or destroyed warrant, or such owner's legal representative, to give the registered business company a bond sufficient to indemnify it against any claim that may be

made against it on account of the alleged loss, theft or destruction of any such warrant or the issuing of such new certificate.

(5) If a registered business company refuses to issue a new warrant in place of a warrant issued by it, or by any registered business company of which it is the lawful successor, alleged to have been lost, stolen or destroyed, the owner of the lost, stolen or destroyed warrant or such owner's legal representatives may apply to the court for an order requiring the registered business company to show cause why it should not issue a new warrant in place of the warrant so lost, stolen or destroyed.

(6) An application under subsection (5) shall state the name of the registered business company, the number and date of the warrant, if known or ascertainable by the applicant, the number of shares represented thereby and to whom issued, and a statement of the circumstances attending such loss, theft or destruction.

(7) The court shall make an order requiring the registered business company to show cause, at a time and place therein designated, why it should not issue a new warrant in place of the one described in the application and if the court is satisfied that the applicant is the lawful owner of the number of shares, or any part thereof, described in the application, and that the warrant therefor has been lost, stolen or destroyed, and no sufficient cause has been shown why a new warrant should not be issued in place thereof, it shall make an order requiring the registered business company to issue and deliver to the applicant a new warrant for such shares.

(8) In an order made under subsection (7) the court shall direct that, prior to the issuing and delivery to the applicant of such new warrant, the applicant give the registered business company a bond in such form and with such security as to the court appears sufficient to indemnify the registered business company against any claim that may be made against it on account of the alleged loss, theft or destruction of any such warrant or the issuing of such new warrant, and no registered business company which has issued a warrant pursuant to an order of the court entered hereunder shall be liable in an amount in excess of the amount specified in such bond.

(9) Until the warrant is surrendered, the particulars specified in subsection (1) shall be deemed to be the particulars required by this Law to be entered in the register of members, and, on the surrender, the date of the surrender shall be entered.

(10) Subject to the provisions of this Law, the bearer of a share warrant may, if the articles of the registered business company so provide, be deemed to be a member of the registered business company within the meaning of this Law, either to the full extent or for any purposes defined in the articles.

§70.105. Inspection of register of members.

(1) The register of members, commencing from the date of the registration of the registered business company shall be kept by the registered business company at its principal office, and, except when the register is closed under the provisions of this Law, shall during business hours (subject to such reasonable restrictions as the registered business company may impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member

without charge and of any other person on payment such reasonable sum as the registered business company may prescribe for each inspection.

(2) Any member or other person may require a copy of the register, or of any part thereof, on payment of such reasonable sum as the registered business company may prescribe.

(3) The registered business company shall cause any copy so required by any person to be sent to that person within a period of ten days commencing on the day next after the day on which the requirement is received by the registered business company.

(4) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper period, the court may by order compel an immediate inspection of the register or direct that the copies required shall be sent to the persons requiring them.

§70.106. Power to close register.

A registered business company may, on giving notice by advertisement in some newspaper circulating in Liberia or elsewhere where the registered business has its principal office, close the register of members for any time or times not exceeding in the whole one month in each year.

§70.107. Power of court to rectify register.

(1) If:

- (a) The name of any person is, without sufficient cause, entered in or omitted from the register of members of a registered business company; or
- (b) Default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member,

the person aggrieved, or any member of the registered business company, or the registered business company, may apply to the court for rectification of the register.

(2) Where an application is made under this section, the court may either refuse the application or may order rectification of the register and payment by the registered business company of any damages sustained by any party aggrieved.

(3) On an application under this section the court may decide any question relating to the title of any person who is a party to the application to have his name entered in or omitted from the register, whether the question arises between members or alleged members, or between members or alleged members on the one hand and the registered business company on the other hand, and generally may decide any question necessary or expedient to be decided for rectification of the register.

(4) In the case of a registered business company required by this Law to send a list of its members to the Registrar or the Deputy Registrar, the court when making an order for rectification

of the register, shall by its order direct notice of the rectification to be given to the Registrar.

§70.108. Trusts entered on register.

Notice of any trust, expressed, implied or constructive, may be entered on the register, and may be receivable by the Registrar or the Deputy Registrar.

§70.109. Register to be evidence.

The register of members shall be *prima facie* evidence of any matters by this Law directed or authorized to be inserted therein.

Annual Return.

§70.110. Annual return to be made by registered business company having a share capital.

(1) Every registered business company having a share capital shall deliver to the Registrar or the Deputy Registrar successive annual returns each of which is made up to a date not later than the date which is from time to time the registered business company's "*return date*", that is:

- (a) The anniversary of the registered business company's incorporation or registration under this Law, as the case may be; or
- (b) If the registered business company's last return delivered in accordance with this Law was made up to a different date, the anniversary of that date.

(2) Each return shall:

- (a) Be in the form prescribed by the Registrar or the Deputy Registrar;
- (b) Contain the information required by or under this Law; and
- (c) Be signed by a director or secretary of the registered business company,

and shall be delivered to the Registrar or the Deputy Registrar within one month after the date to which it is made up.

(3) The return shall state the names and addresses of all the past and present members therein mentioned, and the number of shares held by each of the existing members at the date of the return, specifying shares transferred since the date of the last return, or, in the case of the first return, of the incorporation or registration of the registered business company by persons who are still members and have ceased to be members respectively and the dates of registration of the transfers:

Provided that, where the registered business company has converted any of its shares into stock and given notice of the conversion to the Registrar or the Deputy Registrar, the list shall state the amount of stock held by each of the existing members instead of the amount of shares and the particulars

relating to shares herein before required.

(4) The return shall also state the name and address of the registered agent and shall contain a summary distinguishing between shares issued for cash and shares issued as fully or partly paid up otherwise than in cash, and specifying the following particulars:

- (a) The amount of the share capital of the registered business company, and the number of the shares into which it is divided;
- (b) The number of shares taken from the commencement of the registered business company up to the date of the return;
- (c) The amount called up on each share;
- (d) The total amount of calls received;
- (e) The total amount of calls unpaid;
- (f) The total amount of the sums, if any, paid by way of commission in respect of any shares or debentures;
- (g) Particulars of the discount allowed on the issue of any shares issued at a discount, or of so much of that discount as has not been written off at the date on which the return is made;
- (h) The total amount of the sums, if any, allowed by way of discount in respect of any debentures, since the date of the last return;
- (j) The total number of shares forfeited;
- (k) The total amount of shares for which share warrants are outstanding at the date of the return;
- (l) The total amount of share warrants issued and surrendered respectively since the date of the last return;
- (m) The number of shares comprised in each share warrant;
- (n) All such particulars with respect to the persons who at the date of the return are the directors or secretaries of the registered business company as are by this Law required to be contained with respect to directors or secretaries in the registers of the directors or secretaries of a registered business company;
- (p) The total amount of the indebtedness of the registered business company in respect of all mortgages and charges which are required to be registered with the Registrar or the Deputy Registrar under this Law.

§70.111. Annual return to be made by a registered business company not having share capital.

(1) Every registered business company not having a share capital shall deliver to the Registrar or the Deputy Registrar successive annual returns each of which is made up to a date not later than the date which is from time to time the registered business company's "*return date*", that is:

- (a) The anniversary of the registered business company's incorporation or registration, as the case may be; or
- (b) If the registered business company's last return delivered in accordance with this Law was made up to a different date, the anniversary of that date.

(2) Each return shall:

- (a) Be in the form prescribed by the Registrar or the Deputy Registrar;
- (b) Contain the information required by or under this Law; and
- (c) Be signed by a director or secretary of the registered business company,

and shall be delivered to the Registrar or the Deputy Registrar within one month after the date to which it is made up.

(3) The return shall also state:

- (a) The name and address of the registered agent;
- (b) Such particulars with respect to the persons who at the date of the return are the directors and secretary of the registered business company as are by this Law required to be contained with respect to directors or secretaries in the registers of directors or secretaries of a registered business company.

(4) There shall be annexed to the return a statement containing particulars of the total amount of the indebtedness of the registered business company in respect of all mortgages and charges which in respect of a registered business company limited by shares are required to be registered with the Registrar or the Deputy Registrar under this Law.

§70.112. General provisions as to annual returns.

(1) The annual return shall be contained in a separate part of the register of members.

(2) Section 70.106 shall apply to the annual return as it applies to the register of members.

(3) If a registered business company fails to comply with section 70.110 or 70.111 the Registrar or the Deputy Registrar may regard that failure as reasonable cause to believe that the registered

business company is not carrying on business or in operation.

§70.113. Certificates to be sent by registered business company with annual return.

A registered business company shall send with the annual return required by section 70.110 a certificate in the form prescribed by the Registrar or the Deputy Registrar signed by a director or the secretary of the registered business company that the registered business company has not, since the date of the last return, or, in the case of a first return, since the date of the incorporation or registration of the registered business company, issued any invitation to the public to subscribe for any shares or debentures of the registered business company, and, where the annual return discloses the fact that the number of members of the registered business company exceeds fifty, also a certificate so signed that the excess consists wholly of persons who under section 70.27(2)(b) are not to be included in reckoning the number of fifty.

Meetings and Proceedings.

§70.114. Annual general meetings.

- (1) Every registered business company shall, subject to the provisions of subsection (4), in each year, hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it.
- (2) So long as a registered business company holds its first annual general meeting within eighteen months of its incorporation or registration, as the case may be, it need not hold it in the year of its incorporation or registration or in the following year.
- (3) Not more than fifteen months shall elapse between the date of one annual general meeting of a registered business company and that of the next.
- (4) A registered business company may, by provision in its articles or by special resolution dispense with the holding of annual general meetings and where the registered business company has such provision in the articles or has passed such a special resolution:
 - (a) Sections 70.126 and 70.133(1) and the provisions of sections 70.131, 70.135 and 70.147 relating to annual general meetings shall be deemed to have no effect in respect of that registered business company for such time and in respect of such years as the provision or the resolution, as the case may be, shall have effect in accordance with this section; and
 - (b) In the case of a special resolution, the special resolution is subject to section 70.120.
- (5) A special resolution dispensing with the holding of annual general meetings, shall have effect for the year in which it is made and subsequent years, but shall not affect any liability already incurred by reason of default in holding an annual general meeting.
- (6) In any year in which an annual general meeting would be required to be held but for the

special resolution and in which no such meeting has been held, any member of the registered business company may, by notice to the registered business company not later than three months before the end of the year, require the holding of an annual general meeting in that year.

(7) If a notice provided for in subsection (6) is given, the provisions of subsection (1) shall apply with respect to the calling of the meeting.

(8) If the effect of the special resolution ceases, the registered business company is not obliged under the provisions of this section to hold an annual general meeting in that year if, when the special resolution ceases to have effect, less than three months of the year remains:

Provided that this does not affect any obligation of the registered business company to hold an annual general meeting in that year in pursuance of a notice given under subsection (6).

§70.115. Convening of extraordinary general meeting on requisition.

(1) The directors of a registered business company, notwithstanding anything in its articles, shall, on the requisition of members of the registered business company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the registered business company as at the date of the deposit carries the right of voting at general meetings of the registered business company, or, in the case of a registered business company not having a share capital, members of the registered business company representing not less than one-tenth of the voting rights of all the members having at the said date a right to vote at general meetings of the registered business company, forthwith proceed duly to convene an extraordinary general meeting of the registered business company.

(2) The requisition shall state the objects of the meeting, and shall be signed by the requisitionists and deposited with the secretary of the registered business company, and may consist of several documents in like form, each signed by one or more requisitionists.

(3) If the directors do not within one month from the date of the deposit of the requisition proceed duly to convene a meeting, the requisitionists, or any of them representing more than one-half of the total voting rights of all of them, may themselves convene a meeting, but any meeting so convened shall not be held after the expiration of three months from the said date.

(4) A meeting convened under this section by the requisitionists shall be convened in the same manner, as nearly as possible, as that in which meetings are to be convened by directors.

(5) Any reasonable expenses incurred by the requisitionists by reason of the failure of the directors duly to convene a meeting shall be repaid to the requisitionists by the registered business company, and any sum so repaid shall be retained by the registered business company out of any sums due or to become due from the registered business company by way of fees or other remuneration in respect of their services to such of the directors as were in default.

(6) For the purposes of this section, the directors shall, in the case of a meeting at which a resolution is to be proposed as a special resolution, be deemed not to have duly convened the meeting if they do not give such notice thereof as is required by section 70.118.

§70.116. Provisions as to meetings and votes.

(1) The following provisions shall have effect in so far as the articles of the registered business company do not make other provision in that behalf:

- (a) A meeting of a registered business company, other than a meeting for the passing of a special resolution, may be called by seven days' notice in writing;
- (b) Notice of the meeting of a registered business company shall be served on every member of the registered business company in the manner in which notices are required to be served by the Table of the Schedule relevant to the particular registered business company, and for the purpose of this paragraph, "*the relevant Table*" means that Table of the Schedule for the time being in force;
- (c) A member or members holding not less than one-tenth of the issued share capital or, in the case of a registered business company without share capital, not less than ten per cent in number of the members of the registered business company may call a meeting;
- (d) Members representing not less than fifty percent of the shares entitled to vote, or, in the case of a registered business company without share capital, of the members entitled to vote, present in person or by proxy shall constitute a quorum;
- (e) Any member elected by the members present at a meeting may be chairman thereof.

(2) If for any reason it is impracticable to call a meeting of a registered business company in any manner in which meetings of that registered business company may be called, or to conduct the meeting of the registered business company in manner prescribed by the articles or this Law, the court may, either of its own motion or on the application of any director of the registered business company or of any member of the registered business company who would be entitled to vote at the meeting, order a meeting of the registered business company to be called, held and conducted in such manner as the court thinks fit, and where any such order is made may give such ancillary or consequential directions as it thinks expedient, and any meeting called, held and conducted in accordance with any such order shall for all purposes be deemed to be a meeting of the registered business company duly called, held and conducted.

(3) Notwithstanding any provision to the contrary in the articles of a registered business company limited by shares or by guarantee having only one member, one member present in person or by proxy shall be a quorum.

(4) Notwithstanding the requirements of this section and unless otherwise provided in the articles of the a registered business company:

- (a) A meeting may be called with such shorter period of notice as may be agreed by the majority of members entitled to be present and vote at that meeting;
- (b) Any action required to be taken at any annual or special meeting of members, or any

action which may be taken at such a meeting, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be:

- (i) Signed by the members having jointly not less than the minimum number of votes that would be necessary to authorize or take such action at a meeting at which all members entitled to be present and to vote thereon were present and voted; and
- (ii) Delivered to the secretary of the registered business company.

(5) Any member of a registered business company entitled to attend and vote at a meeting of the registered business company shall be entitled to appoint another person, whether or not a member of the registered business company, as his proxy to attend and vote instead of him, and a proxy appointed to attend and vote instead of a member shall have the same right as the member to speak and vote at the meeting.

(6) Any member of a registered business company entitled to attend and vote at a meeting of the registered business company shall be entitled to attend and vote by his attorney.

(7) Any provision in the articles of a registered business company having the effect of excluding the right of a member to demand a poll at any meeting of the registered business company shall be void.

(8) On a poll taken at a meeting of a registered business company a member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

(9) This section shall apply to a meeting of any class of members as it applies to general meetings of a registered business company.

§70.117. Representation of companies and of creditors at meetings of registered business companies.

(1) A corporate entity, whether a registered business company within the meaning of this Law or not, may:

- (a) If it is a member of registered business company, being a registered business company within the meaning of this Law, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the registered business company or at any meeting of any class of members of the registered business company;
- (b) If it is a creditor (including a holder of debentures) of a registered business company, being a registered business company within the meaning of this Law, by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of any creditors of the registered business company held in pursuance of this Law or of any rules made thereunder, or in pursuance of the

provisions contained in any debenture or trust deed, as the case may be.

(2) A person authorized as aforesaid shall be entitled to exercise the same powers on behalf of the company which he represents as that company could exercise if it were an individual shareholder, creditor or holder of debentures of that registered business company.

§70.118. Provisions as to extraordinary and special resolutions.

(1) A resolution shall be an extraordinary resolution when it has been passed by a majority of not less than three-fourths of such members as, being entitled so to do, vote in person or, where proxies are allowed, by proxy, at a general meeting of which notice specifying the intention to propose the resolution as an extraordinary resolution has been duly given.

(2) A resolution shall be a special resolution when it has been passed by such a majority as is required for the passing of an extraordinary resolution and at a general meeting of which not less than one month's notice, specifying the intention to propose the resolution as a special resolution, has been duly given:

Provided that, if all the members entitled to attend and vote at any such meeting so agree, a resolution may be proposed and passed as a special resolution at a meeting of which less than one month's notice has been given.

(3) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed, a declaration of the chairman that the resolution is carried shall, unless a poll is demanded, be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favor of or against the resolution.

(4) At any meeting at which an extraordinary resolution or a special resolution is submitted to be passed a poll shall be taken to be effectively demanded, if demanded:

- (a) By such number of members for the time being entitled under the articles to vote at the meeting as may be specified in the articles, so, however, that it shall not in any case be necessary for more than five members to make the demand; or
- (b) If no provision is made by the articles with respect to the right to demand the poll, by three members so entitled or by one member or two members so entitled, if that member holds or those two members together hold not less than fifteen per cent of the paid-up share capital of the registered business company.

(5) When a poll is demanded in accordance with this section, in computing the majority on the poll, reference shall be had to the number of votes to which each member is entitled by virtue of this Law or the articles of the registered business company.

(6) For the purposes of this section, notice of a meeting shall be deemed to be duly given and the meeting to be duly held when the notice is given and the meeting held in manner provided by this Law or the articles.

§70.119. Written approval.

(1) Notwithstanding anything contained in section 70.118, if it is so provided in the articles of the registered business company, an extraordinary or a special resolution may be passed by approval of such resolution being signified in writing by the majority of members of the registered business company who would be entitled to vote if such resolution were submitted to a general meeting.

(2) Where a resolution has been passed in accordance with the provisions of subsection (1) the printed copy of such resolution forwarded to the Registrar or the Deputy Registrar in accordance with the provisions of section 70.120 shall be accompanied by:

- (a) The written approval of the majority the members; and
- (b) A statement by a director or the secretary of the registered business company that the members whose written approval is attached are the majority of the members who would be entitled to vote at a general meeting.

(3) No resolution forwarded in accordance with the provisions of subsection (2) shall be recorded by the Registrar or the Deputy Registrar unless it complies with the provisions of that subsection.

(4) For the purpose of section 70.120, a resolution passed by written approval shall be deemed to have been passed on the date on which the last written approval thereto was given and be forwarded to the Registrar or the Deputy Registrar within one month of such passing.

§70.120. Registration and copies of certain resolutions and agreements.

(1) A printed copy of every resolution or agreement to which this section applies shall, within one month after the passing or making thereof be forwarded to the Registrar or the Deputy Registrar and recorded by him.

(2) A copy of every such resolution or agreement for the time being in force shall be embodied in or annexed to every copy of the articles issued after the passing of the resolution or the making of the agreement.

(3) This section shall apply to:

- (a) Special resolutions;
- (b) Extraordinary resolutions;
- (c) Resolutions which have been agreed to by all the members of a registered business company, but which, if not so agreed to, would not have been effective for their purpose unless, as the case may be, they had been passed as special resolutions, or as extraordinary resolutions;

- (d) Resolutions or agreements which have been agreed to by all the members of some class of shareholders, but which, if not so agreed to, would not have been effective for their purpose unless they had been passed by some particular majority or otherwise in some particular manner, and all resolutions or agreements which effectively bind all the members of any class of shareholders though not agreed to by all those members;
- (e) Resolutions requiring a registered business company to be wound up voluntarily passed under section 70.212(1)(a).

§70.121. Resolutions passed at adjourned meetings.

Where a resolution is passed at an adjourned meeting of:

- (a) A registered business company;
- (b) The holders of any class of shares in a registered business company;
- (c) The directors of a registered business company,

the resolution shall for all purposes be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

§70.122. Minutes of proceedings of meetings and directors.

(1) Every registered business company shall cause minutes of all proceedings of general meetings, and of all proceedings at meetings of its directors, to be entered in books kept for that purpose.

(2) Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings were had, or by the chairman of the next succeeding meeting, shall be evidence of the proceedings.

(3) Where minutes have been made in accordance with the provisions of this section of the proceedings at any general meeting of the registered business company or meeting of directors, then, until the contrary is proved, the meeting shall be deemed to have been duly held and convened, and all proceedings had thereat to have been duly had, and all appointments of directors or liquidators shall be deemed to be valid.

§70.123. Recording of decisions by the sole member.

(1) Where a registered business company limited by shares or by guarantee has only one member and he takes any decision which may be taken by the registered business company in general meeting and which has effect as if agreed by the registered business company in general meeting, he shall (unless that decision is taken by way of a written resolution) provide the registered business company with a written record of that decision.

(2) Any failure by the sole member to comply with subsection (1) shall not affect the validity of any decision referred to in that subsection.

§70.124. Inspection of minute books.

(1) The books containing the minutes of proceedings of any general meeting of a registered business company shall be kept by the registered business company at the principal office of the registered business company or at such other place as the directors think fit, and shall during business hours (subject to such reasonable restrictions as the registered business company may by its articles or in general meeting impose, so that no less than two hours in each day be allowed for inspection) be open to the inspection of any member without charge.

(2) Any member shall be entitled to be furnished, within one month after he has made a request in that behalf to the registered business company, with a copy of any such minutes as aforesaid at no cost.

(3) If any inspection required under this section is refused or if any copy required under this section is not sent within the proper time, the court may by order compel an immediate inspection of the books in respect of all proceedings of general meetings or direct that the copies required shall be sent to the persons requiring them.

Accounts and Audit.

§70.125. Keeping of books of account.

(1) Every registered business company shall cause to be kept proper books of account with respect to:

- (a) All sums of money received and expended by the registered business company and the matters in respect of which the receipt and expenditure takes place;
- (b) All sales and purchases of goods by the registered business company;
- (c) The assets and liabilities of the registered business company.

(2) The books of account shall be kept by the registered business company at the principal office of the registered business company or at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

§70.126. Profit and loss account and balance sheet.

(1) The directors of every registered business company shall at some date not later than eighteen months after the incorporation of the registered business company and subsequently once at least in every calendar year lay before the registered business company in general meeting a profit and loss account or, in the case of a registered business company not trading for profit, an income and

expenditure account for the period, in the case of the first account, since the incorporation of the registered business company, and, in any other case, since the preceding account, made up to a date not earlier than the date of the meeting by more than twelve months.

(2) The directors shall cause to be made out in every calendar year, and to be laid before the registered business company in general meeting, a balance sheet as at the date to which the profit and loss account, or the income and expenditure account, as the case may be, is made up, and there shall be attached to every such balance sheet a report by the directors with respect to the state of the registered business company's affairs, the amount, if any, which they recommend should be paid by way of dividend, and the amount, if any, which they propose to carry to the reserve fund, general reserve or reserve account shown specifically on the balance sheet, or to a reserve fund, general reserve or reserve account to be shown specifically on a subsequent balance sheet.

§70.127. Contents of balance sheet and profit and loss account.

(1) Every balance sheet of a registered business company shall give a true and fair view of the state of affairs of the registered business company as at the end of its financial year, and every profit and loss account of a registered business company shall give a true and fair view of the profit or loss of the registered business company for the financial year.

(2) Every balance sheet of a registered business company shall contain a summary of the authorized share capital and of the issued share capital of the registered business company, its liabilities and its assets, together with such particulars as are necessary to disclose the general nature of the liabilities and the assets of the registered business company and to distinguish between the amounts respectively of the fixed assets and of the floating assets, and shall state how the values of the fixed assets have been arrived at.

(3) There shall be stated under separate headings in the balance sheet, so far as they are not written off:

- (a) The preliminary expenses of the registered business company; and
- (b) Any expenses incurred in connection with any issue of share capital or debentures; and
- (c) If it is shown as a separate item in or is otherwise ascertainable from the books of the registered business company, or from any contract for the sale or purchase of any property to be acquired by the registered business company, or from any documents in the possession of the registered business company, the amount of the goodwill and of any patents and trademarks as so shown or ascertained.

(4) Where any liability of the registered business company is secured otherwise than by operation of law on any assets of the registered business company, the balance sheet shall include a statement that that liability is so secured, but it shall not be necessary to specify in the balance sheet the assets on which the liability is secured.

(5) The provisions of this section are in addition to other provisions of this Law requiring

other matters to be stated in balance sheets and profit and loss accounts.

§70.128. Assets consisting of shares in subsidiary companies to be set out separately in balance sheet.

Where any of the assets of a registered business company consist of shares in, or amounts owing (whether on account of a loan or otherwise) from a subsidiary company or subsidiary companies, the aggregate amount of those assets, distinguishing shares and indebtedness, shall be set out in the balance sheet of the registered business company separately from all its other assets, and where a registered business company is indebted, whether on account of a loan or otherwise to a subsidiary company or subsidiary companies, the aggregate amount of that indebtedness shall be set out in the balance sheet of that registered business company separately from all its other liabilities.

§70.129. Balance sheet to include particulars as to subsidiary companies.

(1) Where a registered business company (in this section referred to as “the holding registered business company”) holds shares either directly or through a nominee in a subsidiary company or in two or more subsidiary companies, there shall be annexed to the balance sheet of the holding company a statement, signed by the persons by whom in pursuance of section 70.131 the balance sheet is signed, stating how the profits and losses of the subsidiary company, or, where there are two or more subsidiary companies, the aggregate profits and losses of those companies, have, so far as they concern the holding registered business company, been dealt with in, or for the purposes of, the accounts of the holding registered business company, and in particular how, and to what extent:

- (a) Provision has been made for the losses of a subsidiary company either in the accounts of that company or of the holding registered business company or of both; and
- (b) Losses of a subsidiary company have been taken into account by the directors of the holding registered business company in arriving at the profits and losses of the holding registered business company as disclosed in its accounts:

Provided that it shall not be necessary to specify in any such statement the actual amount of the profits or losses of any subsidiary company, or the actual amount of any part of any such profits or losses which has been dealt with in any particular manner.

(2) If in the case of a subsidiary company the auditors’ report on the balance sheet of the subsidiary company does not state without qualification that the auditors have obtained all the information and explanations they have required and that the balance sheet is properly drawn up so as to exhibit a true and correct view of the state of the subsidiary company’s affairs according to the best of their information and the explanation given to them and as shown by the books of the subsidiary company, the statement which is to be annexed to the balance sheet of the holding registered business company shall contain particulars of the manner in which the report is qualified.

(3) For the purposes of this section, the profits or losses of a subsidiary company mean the profits or losses shown in any accounts of the subsidiary company made up to a date within the period to which the accounts of the holding registered business company relate, or, if there are no

such accounts of the subsidiary company available at the time when the accounts of the holding registered business company are made up, the profits or losses shown in the last previous accounts of the subsidiary company which became available within that period.

(4) If for any reason the directors of the holding registered business company are unable to obtain such information as is necessary for the preparation of such statement, the directors who sign the balance sheet shall so report in writing and their report shall be annexed to the balance sheet in lieu of the statement.

§70.130. Meaning of subsidiary company.

(1) Where the assets of a registered business company consist in whole or in part of shares in another company, whether held directly or through a nominee and whether that other company is a registered business company within the meaning of this Law or not, and:

- (a) The amount of the shares so held is at the time when the accounts of the holding registered business company are made up more than fifty per cent of the issued share capital of that other company or such as to entitle the registered business company to more than fifty per cent of the voting power in that other company; or
- (b) The registered business company has power (not being power vested in it by virtue only of the provisions of a debenture trust deed or by virtue of shares issued to it for the purpose in pursuance of those provisions) directly or indirectly to appoint the majority of the directors of that other company,

that other company shall be deemed to be a subsidiary company within the meaning of this Law, and the expression “*subsidiary company*” in this Law means a company in the case of which the conditions of this section are satisfied.

(2) Where a registered business company, the ordinary business of which includes the lending of money, holds shares in another company as security only, no account shall, for the purpose of determining under this section whether that other company is a subsidiary company, be taken of the shares so held.

§70.131. Signing of balance sheet.

Every balance sheet of a registered business company shall be signed on behalf of the board by a director and the secretary of the registered business company and the auditors’ report shall be attached to the balance sheet, and the report shall be read before the registered business company in any annual general meeting, and shall be open to inspection by any member.

§70.132. Right to receive copies of balance sheets and auditors’ report.

Any member shall be entitled to be furnished, within one month after he has made a request in that behalf to the registered business company, with a copy of the balance sheet and auditors’ report.

§70.133. Appointment and remuneration of auditors.

(1) Every registered business company shall at each annual general meeting appoint an auditor or auditors to hold office until the next annual general meeting.

(2) A person, other than a retiring auditor, shall not be capable of being appointed auditor at an annual general meeting unless notice of an intention to nominate that person to the office of auditor has been given by a member to the registered business company not less than one month before the annual general meeting, and the registered business company shall send a copy of any such notice to the retiring auditor, and shall give notice thereof to the members, either by advertisement or in any other mode allowed by the articles, not less than two weeks before the annual general meeting:

Provided that if, after notice of the intention to nominate an auditor has been so given, an annual general meeting is called for a date one month or less after the notice has been given, the notice, though not given within the time required by this subsection, shall be deemed to have been properly given for the purposes thereof, and the notice to be sent or given by the registered business company may, instead of being sent or given within the time required by this subsection, be sent or given at the same time as the notice of the annual general meeting.

(3) Subject as hereinafter provided, the first auditors of the registered business company may be appointed by the directors at any time before the first annual general meeting, and auditors so appointed shall hold office until that meeting:

Provided that:

- (a) The registered business company may, at an annual general meeting of which notice has been served on the auditors in the same manner as on members of the registered business company, remove any such auditors and appoint in their place any other persons being persons who have been nominated for appointment by any member of the registered business company and of whose nomination notice has been given to the members of the registered business company not less than seven days before the date of the meeting; and
- (b) If the directors fail to exercise their powers under this subsection, the registered business company in annual general meeting may appoint the first auditors, and thereupon those powers of the directors shall cease.

(4) The directors may fill any casual vacancy in the office of auditor, but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act.

(5) The remuneration of the auditors of a registered business company shall be fixed by the registered business company in general meeting, except that the remuneration of an auditor appointed before the first annual general meeting, or of an auditor appointed to fill a casual vacancy, may be fixed by the directors.

§70.134. Disqualification for appointment as auditor.

None of the following persons shall be qualified for appointment as auditor of a registered business company:

- (a) A director or the secretary of the registered business company;
- (b) A body corporate.

§70.135. Auditors' report and right of access to books and right to attend annual general meetings.

(1) The auditors shall make a report to the members on the accounts examined by them, and on every balance sheet laid before the registered business company in annual general meeting during their tenure of office, and the report shall state:

- (a) Whether or not they have obtained all the information and explanations they have required; and
- (b) Whether, in their opinion, the balance sheet referred to in the report is properly drawn up so as to exhibit a true and correct view of the state of the registered business company's affairs according to the best of their information and the explanations given to them, and as shown by the books of the registered business company.

(2) Every auditor of a registered business company shall have a right of access at all times to the books and accounts and vouchers of the registered business company, and shall be entitled to require from the directors of the registered business company such information and explanation as may be necessary for the performance of the duties of the auditors.

(3) The auditors of a registered business company shall be entitled to attend any annual general meeting of the registered business company at which any accounts which have been examined or reported on by them are to be laid before the registered business company and to make any statement or explanation they desire with respect to the accounts.

Inspection.

§70.136. Investigation of registered business companies and their affairs, etc.

Regulations made for this purpose shall have effect with respect to the investigation of companies and their affairs, requisition of documents and other matters provided therein.

Secretaries and Directors.

§70.137. Secretaries.

- (1) Every registered business company shall have a secretary.
- (2) A sole director of a registered business company shall not also be the secretary of that registered business company.
- (3) No registered business company shall have as secretary to the registered business company a corporation the sole director of which is a sole director of the registered business company.
- (4) A person shall not be capable of being appointed secretary to a registered business company by the articles, unless, before the registration of the articles he has by himself or by his agent authorized in writing signed and delivered to the Registrar or the Deputy Registrar for registration a consent in writing to act as such secretary.
- (5) Anything authorized to be done by or to the secretary may, if there is no secretary for the time being or there is for any other reason no secretary capable of acting, be done by or to any assistant or deputy secretary or, if there is no assistant or deputy secretary capable of acting, by or to a person authorized generally or specifically in that behalf by the directors.

§70.138. Qualifications of registered business company secretaries.

The directors of a registered business company shall take all reasonable steps to secure that the secretary (or each joint secretary) of the registered business company is a person that appears to them to have the knowledge and experience to discharge the functions of secretary of the registered business company.

§70.139. Number of directors.

- (1) Every registered business company shall have at least one director.
- (2) The secretary of a registered business company shall not also be the sole director of that registered business company.
- (3) No registered business company shall have as sole director to the registered business company a corporation the sole director of which is the secretary of the registered business company.
- (4) A person shall not be capable of being appointed director of a registered business company by the articles, unless, before the registration of the articles he has by himself or by his agent authorized in writing signed and delivered to the Registrar or the Deputy Registrar for registration a consent in writing to act as such director.

§70.140. Acts required to be done by director and secretary.

A provision requiring or authorizing a thing to be done by or to a director and the secretary shall not be satisfied by its being done by or to the one person acting both as director and, or in the place of, the secretary.

§70.141. Qualification of director.

(1) It shall be the duty of every director who is by the articles of the registered business company required to hold a specified share qualification, and who is not already qualified, to obtain his qualification within two months after his appointment, or such shorter time as may be fixed by the articles.

(2) For the purpose of any provision in the articles requiring a director to hold a specified share qualification, the bearer of a share warrant shall not be deemed to be the holder of the shares specified in the warrant.

(3) The office of director of a registered business company shall be vacated if the director does not within two months from the date of his appointment, or within such shorter time as may be fixed by the articles, obtain his qualification, or if after the expiration of the said period or shorter time he ceases at any time to hold his qualification.

(4) A person vacating office under this section shall be incapable of being re-appointed director of the registered business company until he has obtained his qualification.

§70.142. Provisions as to undischarged bankrupts acting as directors or secretary.

A person who is an undischarged bankrupt shall not act as director or secretary of, or directly or indirectly take part in or be concerned in the management of, any registered business company except with the leave of the court by which he was adjudged bankrupt.

§70.143. Validity of acts of directors and secretary.

The acts of a director or secretary shall be valid notwithstanding any defect that may afterwards be discovered in his appointment or qualification.

§70.144. Register of secretaries.

(1) Every registered business company shall keep at its principal office a register of its secretary or secretaries containing with respect to each of them the following particulars, that is to say:

- (a) In the case of an individual, his present forename and surname, any former forename or surname, his usual address, his nationality, and, if that nationality is not the nationality of origin, his nationality of origin; and

(b) In the case of a company, corporation or other legal entity, its registered name and the address of its registered or principal office.

(2) The registered business company shall, within one month from the appointment of the first secretary of the registered business company or of any change in respect of the secretary, send to the Registrar or the Deputy Registrar a return in the form prescribed by the Registrar or the Deputy Registrar containing the particulars specified in such form.

(3) The register to be kept under this section shall during business hours (subject to such reasonable restrictions as the registered business company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection) be open to the inspection of any member of the registered business company without charge, and of any other person on payment of such reasonable sum as the registered business company may prescribe.

(4) If any inspection required under this section is refused or if default is made in complying with subsection (1) or subsection (2), the court may by order compel an immediate inspection of the register.

(5) The form and notification to be prescribed by the Registrar or the Deputy Registrar for the purposes of subsection (2) shall be the form prescribed by the Registrar or the Deputy Registrar for the purposes of section 70.145(2), with the addition to that form of the requirement to provide in respect of a secretary the particulars specified in the register required to be kept by this section, and where there is a requirement under this Law that within the same period of time a return be made in respect of:

(a) A director under section 70.145; and

(b) A secretary under this section,

the particulars of both may be sent on the same form, indicating under which section such particulars are sent.

§70.145. Register of directors.

(1) Every registered business company shall keep at its principal office a register of its directors containing with respect to each of them the following particulars, that is to say:

(a) In the case of an individual, his present forename and surname, any former forename or surname, his usual address, his nationality, and, if that nationality is not the nationality of origin, his nationality of origin; and

(b) In the case of a company, corporation or other legal entity, its registered name and registered or principal office.

(2) The registered business company shall, within one month of the appointment of the first directors of the registered business company or within one month from the notification of any change in respect of the directors, send to the Registrar or the Deputy Registrar a return in the form

prescribed by him containing the particulars specified in such register.

(3) The register to be kept under this section by the registered business company at its principal office, shall, during business hours (subject to such reasonable restrictions as the registered business company may by its articles or in general meeting impose, so that not less than two hours in each day be allowed for inspection), be open to the inspection of any member of the registered business company without charge, and of any other person on payment of such reasonable sum as the registered business company may prescribe.

(4) If any inspection required under this section is refused or if default is made in complying with subsection (1) or subsection (2) the court may by order compel an immediate inspection of the register.

§70.146. Particulars with respect to directors in trade catalogues and circulars.

Every registered business company to which this section applies shall, in all trade catalogues, trade circulars, showcards and business letters on or in which the registered business company's name appears and which are issued or sent by the registered business company, state in legible characters with respect to every director being a corporation, the corporate name, and with respect to every director being an individual, his present forename, or the initials thereof, and present surname:

Provided that, if special circumstances exist which render it in the opinion of the Registrar or the Deputy Registrar expedient that such an exemption should be granted, the Registrar or the Deputy Registrar may by Notice grant, subject to such conditions as may be specified in the Notice, exemption from the obligations imposed by this section.

§70.147. Accounts to contain particulars as to loans to, and remuneration of directors.

(1) Any accounts which in pursuance of this Law are to be laid before a registered business company in annual general meeting shall, subject to the provisions of this section, contain particulars showing:

- (a) The amount of any loans which during the period to which the accounts relate have been made either by the registered business company or by any other person under a guarantee from or on a security provided by the registered business company to any director or officer of the registered business company, including any such loans which were repaid during the said period; and
- (b) The amount of any loans so made to any director or officer at any time before the period aforesaid and outstanding at the expiration thereof; and
- (c) The total of the amount paid to the directors as remuneration for their services, inclusive of all fees, percentages or other emoluments, paid to or receivable by them by or from the registered business company or by or from any subsidiary company.

(2) The provisions of subsection (1) with respect to loans shall not apply:

- (a) In the case of a registered business company the ordinary business of which includes the lending of money, to a loan made by the registered business company in the ordinary course of its business; or
- (b) To a loan made by the registered business company to any employee of the registered business company if the loan does not exceed US\$10,000 and is certified by the directors of the registered business company to have been made in accordance with any practice adopted or about to be adopted by the registered business company with respect to loans to its employees.

(3) The provisions of subsection (1) with respect to the remuneration paid to directors shall not apply in relation to a managing director of the registered business company, and in the case of any other director who holds any salaried employment or office in the registered business company there shall not be required to be included in the said total amount any sums paid to him except sums paid by way of directors' fees.

(4) If in the case of any such accounts as aforesaid the requirements of this section are not complied with, it shall be the duty of the auditors of the registered business company by whom the accounts are examined to include in their report on the balance sheet of the registered business company, so far as they are reasonably able to do so, a statement giving the required particulars.

(5) In this section, "*emoluments*" include fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

§70.148. Statement as to remuneration of directors to be furnished to shareholders.

(1) Subject as hereinafter provided, the directors of a registered business company shall, on demand in that behalf made to them in writing by members of the registered business company entitled to not less than one-fourth of the aggregate number of votes to which all the members of the registered business company are together entitled, furnish to all the members of the registered business company within a period of one month from the receipt of the demand a statement, certified as correct or with such qualifications as may be necessary by the auditors of the registered business company, showing as respect each of the last three preceding years in respect of which the accounts of the registered business company have been made up the aggregate amount received in that year by way of remuneration or other emoluments by persons being directors of the registered business company, whether as such directors or otherwise in connection with the management of the affairs of the registered business company, and there shall, in respect of any such director who is:

- (a) A director of any other company which is in relation to the registered business company a subsidiary company; or
- (b) By virtue of the nomination, whether direct or indirect, of the registered business company, a director of any other company,

be included in the said aggregate amount any remuneration or other emoluments received by him for his own use whether as a director of, or otherwise in connection with the management of the affairs of, that other company:

Provided that:

- (a) A demand for a statement under this section shall be of no effect if the registered business company within one month after the date on which the demand is made resolve that the statement shall not be furnished; and
- (b) It shall be sufficient to state the total aggregate of all sums paid to or other emoluments received by all the directors in each year without specifying the amount received by any individual.

(2) In computing for the purpose of this section the amount of any remuneration or emoluments received by any director, the amount actually received by him shall, if the registered business company has paid on his behalf any sum by way of income tax in respect of the remuneration or emoluments, be increased by the amount of the sum so paid.

(3) In this section, “*emoluments*” include fees, percentages and other payments made or consideration given, directly or indirectly, to a director as such, and the money value of any allowances or perquisites belonging to his office.

§70.149. Disclosure by directors of interest in contracts.

(1) Subject to the provisions of this section, it shall be the duty of a director of a registered business company who is in any way, whether directly, or indirectly, interested in a contract or proposed contract with the registered business company to declare the nature of his interest at a meeting of the directors of the registered business company.

(2) In the case of a proposed contract the declaration required by this section to be made by a director shall be made at the meeting of the directors at which the question of entering into the contract is first taken into consideration, or if the director was not at the date of that meeting interested in the proposed contract, at the next meeting of the directors held after he became so interested, and in a case where the director becomes interested in a contract after it is made, the said declaration shall be made at the first meeting of the directors held after the director becomes so interested.

(3) For the purpose of this section, a general notice given to the directors of a registered business company by a director to the effect that he is a member of a specified company or firm and is to be regarded as interested in any contract which may, after the date of the notice, be made with that company or firm shall be deemed to be a sufficient declaration of interest in relation to any contract so made.

(4) Nothing in this section shall be taken to prejudice the operation of any rule of law restricting directors of a registered business company from having any interest in contracts with the registered business company.

§70.150. Contracts with sole members who are directors.

(1) Subject to the provisions of subsection (2), where a registered business company limited by shares or by guarantee having only one member enters into a contract with the sole member of the registered business company and the sole member is also a director of the registered business company, the registered business company shall, unless the contract is in writing, ensure that the terms of the contract are either set out in a written memorandum or are recorded in the minutes of the first meeting of the directors of the registered business company following the making of the contract.

(2) Subsection (1) shall not apply to contracts entered into in the ordinary course of the registered business company's business.

(3) Subject to subsection (4), nothing in this section shall be construed as excluding the operation of any other enactment or rule of law applying to contracts between a registered business company and a director of that registered business company.

(4) Any failure to comply with subsection (1) with respect to a contract shall not affect the validity of that contract.

§70.151. Provision as to payments received by directors for loss of office or on retirement.

(1) It is hereby declared that it is not lawful in connection with the transfer of the whole or any part of the undertaking or property of a registered business company for any payment to be made to any director of the registered business company by way of compensation for loss of office, or as consideration for or in connection with his retirement from office, unless particulars with respect to the proposed payment, including the amount thereof, have been disclosed to the members of the registered business company and the proposal approved by the registered business company.

(2) Where a payment which is hereby declared to be illegal is made to a director of the registered business company, the amount received shall be deemed to have been received by him in trust for the registered business company.

(3) Where a payment is to be made to a director of a registered business company in connection with the transfer to any persons, as a result of an offer made to the general body of shareholders, of all or any of the shares in the registered business company, it shall be the duty of that director to take all reasonable steps to secure that particulars with respect to the proposed payment, including the amount thereof, shall be included in or sent with any notice of the offer made for their shares which is given to any shareholders.

(4) If the requirements of subsection (3) are not complied with in relation to any such payment as is mentioned in that subsection, any sum received by the director on account of the payment shall be deemed to have been received by him in trust for any persons who have sold their shares as a result of the offer made.

(5) If in connection with any such transfer as aforesaid the price to be paid to a director of the registered business company whose office is to be abolished or who is to retire from office for any shares in the registered business company held by him is in excess of the price which could at the time have been obtained by other holders of the like shares or any valuable consideration is given to any such director, the excess or the money value of the consideration, as the case may be, shall, for the purposes of this section, be deemed to have been a payment made to him by way of compensation for loss of office or as consideration for or in connection with his retirement from office.

(6) Nothing in this section shall be taken to prejudice the operation of any rule of law requiring disclosure to be made with respect to any such payments as are mentioned in this section or with respect to any other like payments made or to be made to the directors of a registered business company.

§70.152. Registered business company may have directors with unlimited liability.

(1) In a registered business company the liability of the directors, or of the managing director, may, if so provided by the memorandum, be unlimited.

(2) In a registered business company in which the liability of a director is unlimited, the directors of the registered business company and the member who proposes a person for election or appointment to the office of director, shall add to that proposal a statement that the liability of the person holding that office will be unlimited, and the directors and secretary of the registered business company, or one of them, shall, before the person accepts the office or acts therein, give him notice in writing that his liability will be unlimited.

(3) A director or secretary who makes default in adding such a statement, or a director or secretary who makes default in giving such a notice, is liable for any damage which the person so elected or appointed may sustain from the default, but the liability of the person elected or appointed shall not be affected by the default.

§70.153. Special resolution of registered business company making liability of directors unlimited.

(1) A registered business company, if so authorized by its articles, may, by special resolution, alter its memorandum so as to render unlimited the liability of its, or of any managing, director.

(2) Upon the passing of any such special resolution the provisions thereof shall be as valid as if they had been originally contained in the memorandum.

§70.154. Provisions as to assignment of office by directors.

If in the case of any registered business company provision is made by the articles or by any agreement entered into between any person and the registered business company for empowering a director of the registered business company to assign his office as such to another person, any assignment of

office made in pursuance of the provision shall, notwithstanding anything to the contrary contained in the provision, be of no effect unless and until it is approved by a special resolution of the registered business company.

Avoidance of Provisions in Articles or Contracts relieving Officers from Liability.

§70.155. Provisions as to Liability of Officers and Auditors.

Subject as hereinafter provided, any provision, whether contained in the articles of a registered business company or in any contract with a registered business company or otherwise, for exempting any director or secretary of the registered business company, or any person (whether an officer of the registered business company or not) employed by the registered business company as auditor from, or indemnifying him against, any liability which by virtue of any rule of law would otherwise attach to him in respect of any negligence, default, breach of duty or breach of trust of which he may be guilty in relation to the registered business company, shall be void:

Provided that notwithstanding anything in this section, a registered business company may, in pursuance of any such provision as aforesaid, indemnify any such director, officer or auditor against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favor or in which he is acquitted or in connection with any application under section 70.290 in which relief is granted to him by the court.

Arrangements and Reconstructions.

§70.156. Power to compromise with creditors and members.

(1) Where a compromise or arrangement is proposed between a registered business company and its creditors or any class of them, or between the registered business company and its members or any class of them, the court may, on the application in a summary way of the registered business company or of any creditor or member of the registered business company, or, in the case of a registered business company being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the registered business company or class of members, as the case may be, to be summoned in such manner as the court directs.

(2) If a majority in number representing three-fourths in value of the creditors or class of creditors, or members or class of members, as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the court, be binding on all the creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the registered business company or, in the case of a registered business company in the course of being wound up, on the liquidator and contributories of the registered business company.

(3) An order made under subsection (2) shall have no effect until a certified copy of the order has been delivered to the Registrar or the Deputy Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of the registered business company issued after the order has been made.

(4) In this section, “*registered business company*” means any registered business company liable to be wound up under this Law and “*arrangement*” includes a re-organisation of the share capital of the registered business company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both those methods.

§70.157. Provisions for facilitating reconstruction and amalgamation of registered business companies.

(1) Where an application is made to the court under section 70.156 for the sanctioning of a compromise or arrangement proposed between a registered business company and any such persons as are mentioned in that section, and it is shown to the court that the compromise or arrangement has been proposed for the purposes of or in connection with a scheme for the reconstruction of any registered business company or companies or the amalgamation of any two or more registered business companies, and that under the scheme the whole or any part of the undertaking or the property of any registered business company concerned in the scheme (in this section referred to as “a transferor company”) is to be transferred to another company (in this section referred to as “the transferee company”), the court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters:

- (a) The transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;
- (b) The allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;
- (c) The continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;
- (d) The dissolution, without winding up, of any transferor company;
- (e) The provision to be made for any persons, who within such time and in such manner as the court directs, dissent from the compromise or arrangement;
- (f) Such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation shall be fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every registered business company in relation to which the order is made shall cause a certified copy thereof to be delivered to the Registrar or the

Deputy Registrar for registration within one month after the making of the order.

(4) In this section, “*property*” includes property, rights and powers of every description, and “*liabilities*” include duties.

§70.158. Power to acquire shares of shareholders dissenting from scheme or contract approved by majority.

(1) Where a scheme or contract involving the transfer of shares or any class of shares in a registered business company (in this section referred to as “the transferor company”) to another company, whether a company within the meaning of this Law or not (in this section referred to as “the transferee company”) has within four months after the making of the offer in that behalf by the transferee company been approved by the holders of not less than nine-tenths in value of the shares affected, the transferee company may, at any time within two months after the expiration of such four months, give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless on an application made by the dissenting shareholder within one month from the date on which the notice was given the court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company.

(2) Where a notice has been given by the transferee company under this section and the court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall, on the expiration of one month from the date on which the notice has been given, or, if an application to the court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section, “*dissenting shareholder*” includes a shareholder who has not assented to the scheme or contract and any shareholder who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

PART VI.

WINDING UP

(A) PRELIMINARY.

Modes of Winding up.

§70.159. Modes of winding up.

- (1) The winding up of a registered business company may be either:
 - (a) By the court; or
 - (b) Voluntary; or
 - (c) Subject to the supervision of the court.
- (2) The provisions of this Law with respect to winding up apply, unless the contrary appears, to the winding up of a registered business company in any of those modes.

Contributories.

§70.160. Liability as contributories of present and past members.

- (1) In the event of a registered business company being wound up, every present and past member shall be liable to contribute to the assets of the registered business company to an amount sufficient for payment of its debts and liabilities, and the costs, charges and expenses of the winding up, and for the adjustment of the rights of the contributories among themselves, subject to the provisions of subsection (2) and the following qualifications:
 - (a) A past member shall not be liable to contribute if he has ceased to be a member for one year or upwards before the commencement of the winding up;
 - (b) A past member shall not be liable to contribute in respect of any debt or liability of the registered business company contracted after he ceased to be a member;
 - (c) A past member shall not be liable to contribute unless it appears to the court that the existing members are unable to satisfy the contributions required to be made by them in pursuance of this Law;
 - (d) In the case of a registered business company limited by shares no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;

- (e) In the case of a registered business company limited by guarantee, no contribution shall, subject to the provisions of subsection (3), be required from any member exceeding the amount undertaken to be contributed by him to the assets of the registered business company in the event of its being wound up;
- (f) Nothing in this Law shall invalidate any provision contained in any policy of insurance or other contract whereby the liability of individual members on the policy or contract is restricted, or whereby the funds of the registered business company are alone made liable in respect of the policy or contract;
- (g) A sum due to any member of a registered business company, in his character of a member, by way of dividends, profits or otherwise, shall not be deemed to be a debt of the registered business company, payable to that member in a case of competition between himself and any other creditor not a member of the registered business company, but any such sum may be taken into account for the purpose of the final adjustment of the rights of the contributories among themselves.

(2) In the winding up of a registered business company, any director, whether past or present, whose liability is, under the provisions of this Law, unlimited, shall, in addition to his liability, if any, to contribute as an ordinary member, be liable to make a further contribution as if he were at the commencement of the winding up a member of a unlimited company:

Provided that:

- (a) A past director shall not be liable to make such further contribution if he has ceased to hold office for a year or upwards before the commencement of the winding up;
- (b) A past director shall not be liable to make such further contribution in respect of any debt or liability of the registered business company contracted after he ceased to hold office;
- (c) Subject to the articles of the registered business company, a director shall not be liable to make such further contribution unless the court deems it necessary to require that contribution in order to satisfy the debts and liabilities of the registered business company, and the costs, charges and expenses of the winding up.

(3) In the winding up of a registered business company limited by guarantee which has a share capital, every member of the registered business company shall be liable, in addition to the amount undertaken to be contributed by him to the assets of the registered business company in the event of its being wound up, to contribute to the extent of any sums unpaid on any shares held by him.

§70.161. Definition of contributory.

The term “*contributory*” means every person liable to contribute to the assets of a registered business company in the event of its being wound up, and for the purposes of all proceedings for determining,

and all proceedings prior to the final determination of the persons who are to be deemed contributories, includes any person alleged to be a contributory.

§70.162. Nature of liability of contributory.

The liability of a contributory shall create a debt accruing due from him at the time when his liability commenced, but payable at the times when calls are made for enforcing the liability.

§70.163. Contributories in cases of death of member.

(1) If a contributory dies either before or after he has been placed on the list of contributories, his personal representatives shall be liable in a due course of administration to contribute to the assets of the registered business company in discharge of his liability and shall be contributories accordingly.

(2) If the personal representatives make default in paying any money ordered to be paid by them, proceedings may be taken for administering the estate of the deceased contributory, and for compelling payment thereof of the money due.

§70.164. Contributories in case of bankruptcy of member.

If a contributory becomes bankrupt, either before or after he has been placed on the list of contributories:

- (a) His trustee in bankruptcy shall represent him for all the purposes of the winding up, and shall be a contributory accordingly, and may be called on to admit to proof against the estate of the bankrupt, or otherwise to allow to be paid out of his assets in due course of law, any money due from the bankrupt in respect of his liability to contribute to the assets of the registered business company; and
- (b) There may be proved against the estate of the bankrupt, the estimated value of his liability to future calls as well as calls already made.

(B) WINDING UP BY THE COURT.

Jurisdiction.

§70.165. Jurisdiction.

The circuit court in the judicial circuit where the office of the registered business company or the address of the registered agent is located shall have jurisdiction to wind up any registered business company registered under this Law.

Cases in which Registered Business Company may be wound up by Court.

§70.166. Circumstances in which registered business company may be wound up by court.

A registered business company may be wound up by the court if:

- (a) The registered business company has by special resolution resolved that the registered business company be wound up by the court;
- (b) The registered business company does not commence its business within a year from its incorporation, or suspends its business for a whole year;
- (c) The number of members is reduced below one;
- (d) The registered business company is unable to pay its debts;
- (e) The court is of opinion that it is just and equitable that the registered business company should be wound up.

§70.167. Definition of inability to pay debts.

A registered business company shall be deemed to be unable to pay its debts:

- (a) If a creditor, by assignment or otherwise, to whom the registered business company is indebted in a sum exceeding US\$1,000 then due, has served on the registered business company by leaving it at the office of the registered business company in Liberia or at the office of the registered agent, a demand under his hand requiring the registered business company to pay the sum so due, and the registered business company has for one month thereafter neglected to pay the sum, or to secure or compound for it to the reasonable satisfaction of the creditor; or
- (b) If execution or other process issued on a judgment, decree or order of any court in favor of a creditor of the registered business company is returned unsatisfied in whole or in part; or
- (c) If it is proved to the satisfaction of the court that the registered business company is unable to pay its debts, and, in determining whether a registered business company is unable to pay its debts, the court shall take into account the contingent and prospective liabilities of the registered business company.

Petition for Winding up and Effects thereof.

§70.168. Provisions as to applications for winding up.

- (1) An application to the court for the winding up of a registered business company shall be by petition, presented subject to the provisions of this section either by the registered business

company, or by any creditor or creditors (including any contingent or prospective creditor or creditors), contributory or contributories, or by all or any of those parties, together or separately:

Provided that:

- (a) A contributory shall not be entitled to present a winding up petition unless either:
 - (i) The number of members is reduced below one; or
 - (ii) The shares in respect of which he is a contributory, or some of them, either were originally allotted to him or have been held by him, and registered in his name, for at least six months during the eighteen months before the commencement of the winding up, or have devolved on him through the death of a former holder; and
- (b) The court shall not give a hearing to a winding up petition presented by a contingent or prospective creditor until such security for costs has been given as the court thinks reasonable and until a *prima facie* case for winding up has been established to the satisfaction of the court.

(2) Where a registered business company is being wound up voluntarily or subject to supervision, the court shall not make a winding up order on the petition unless it is satisfied that the voluntary winding up or winding up subject to supervision cannot be continued with due regard to the interests of the creditors or contributories.

§70.169. Powers of court on hearing petition.

On hearing a winding up petition the court may dismiss it, or adjourn the hearing conditionally or unconditionally, or make any interim order, or any other order that it thinks fit, but the court shall not refuse to make a winding up order on the ground only that the assets of the registered business company have been mortgaged to an amount equal to or in excess of those assets, or that the registered business company has no assets.

§70.170. Power to stay or restrain proceedings against registered business company.

At any time after the presentation of a winding up petition, and before a winding up order has been made, the registered business company, or any creditor or contributory, may:

- (a) Where any action or proceeding against the registered business company is pending in the court, apply for a stay of proceedings therein; and
- (b) Where any other action or proceeding is pending against the registered business company, apply to the court to restrain further proceedings in the action or proceeding,

and the court may stay or restrain the proceedings accordingly on such terms as it thinks fit.

§70.171. Avoidance of dispositions of property after commencement of winding up.

In a winding up by the court, any disposition of the property of the registered business company, including things in action, and any transfer of shares, or alteration in the status of the members of the registered business company, made after the commencement of the winding up, shall, unless the court otherwise orders, be void.

§70.172. Avoidance of attachments.

Where any registered business company is being wound up by the court, any attachment, sequestration, distress or execution put in force against the estate or effects of the registered business company after the commencement of the winding up shall be void to all intents.

Commencement of Winding up.

§70.173. Commencement of winding up by the court.

(1) Where before the presentation of a petition for the winding up of a registered business company by the court a resolution has been passed by the registered business company for voluntary winding up, the winding up of the registered business company shall be deemed to have commenced at the time of the passing of the resolution, and unless the court, on proof of fraud or mistake, thinks fit otherwise to direct, all proceedings taken in the voluntary winding up shall be deemed to have been validly taken.

(2) In any other case, the winding up of a registered business company by the court shall be deemed to commence at the time of the presentation of the petition for the winding up.

Consequences of Winding up Order.

§70.174. Copy of order to be forwarded to the Registrar or the Deputy Registrar.

On the making of a winding up order, a certified copy of the order shall forthwith be delivered by the registered business company, or otherwise as may be prescribed, to the Registrar or the Deputy Registrar, who shall register the order in respect of the registered business company.

§70.175. Actions stayed on winding up order.

When a winding up order has been made, or a liquidator has been appointed, no action or proceeding shall be proceeded with or commenced against the registered business company except by leave of the court, and subject to such terms as the court may impose.

§70.176. Effect of winding up order.

An order for winding up a registered business company shall operate in favor of all the creditors and

of all the contributories of the registered business company as if made on the joint petition of a creditor and of a contributory.

Liquidators.

§70.177. Power of court to appoint liquidator.

For the purpose of conducting the proceedings in winding up a registered business company and performing such duties in reference thereto as the court may impose, the court may appoint a liquidator or liquidators.

§70.178. Appointment and powers of provisional liquidator.

- (1) Subject to the provisions of this section, the court may appoint a provisional liquidator at any time after the presentation of a winding up petition.
- (2) The appointment of a provisional liquidator may be made at any time before the making of a winding up order.
- (3) Where a provisional liquidator is appointed by the court, the court may limit and restrict his powers by the order appointing him.

§70.179. Appointment of liquidators.

- (1) When a winding up order has been made by the court, it shall be the business of the separate meetings of creditors and contributories summoned by the court to determine whether or not an application should be made to the court for appointing a liquidator.
- (2) On a winding up order being made the court may make any appointment and order required to give effect to any such determination, and, if there is a difference between the determinations of the meetings of the creditors and contributories, the court shall decide the difference and make such order thereon as the court may think fit.
- (3) A person appointed as liquidator shall be known as 'liquidator' of the particular registered business company in respect of which he has been appointed, and not by his individual name.

§70.180. Provisions on appointment of liquidator.

Where in the winding up of a registered business company by the court a person is appointed liquidator, that person shall not be capable of acting as liquidator until he has notified his appointment to the Registrar or the Deputy Registrar and given security in the prescribed manner to the satisfaction of the court.

§70.181. General provisions as to liquidators.

- (1) A liquidator appointed by the court may resign or, on cause shown, be removed by the court.
- (2) Where a person is appointed liquidator, he shall receive such salary or remuneration by way of percentage or otherwise as the court may direct, and, if more such persons than one are appointed liquidators, their remuneration shall be distributed among them in such proportions as the court directs.
- (3) A vacancy in the office of a liquidator appointed by the court shall be filled by the court.
- (4) If more than one liquidator is appointed by the court, the court shall declare whether any act by this Law required or authorized to be done by the liquidator is to be done by all or any one or more of the persons appointed.
- (5) Subject to the provisions of section 70.263, the acts of a liquidator shall be valid notwithstanding any defects that may afterwards be discovered in his appointment or qualification.

§70.182. Statement of registered business company's affairs to be submitted to liquidator.

- (1) Where the court has made a winding up order and appointed a liquidator, there shall, unless the court thinks fit to order otherwise and so orders, be made out and submitted to the liquidator a statement as to the affairs of the registered business company in the prescribed form, verified by affidavit, and showing the particulars of its assets, debts and liabilities, the names, addresses and occupations of its creditors, the securities held by them respectively, the dates when the securities were respectively given, and such further or other information as may be prescribed or as the liquidator may require.
- (2) The statement shall be submitted and certified by one or more of the persons who are at the relevant date the directors and by the person who is at that date the secretary of the registered business company, or by such of the persons hereinafter in this subsection mentioned as the liquidator, subject to the direction of the court, may require to submit and verify the statement, that is to say, persons:
 - (a) Who are or have been directors or officers of the registered business company;
 - (b) Who have taken part in the formation of the registered business company at any time within one year before the relevant date;
 - (c) Who are in the employment of the registered business company, or have been in the employment of the registered business company within the said year, and are, in the opinion of the liquidator, capable of giving the information required;
 - (d) Who are or have been within the said year officers of or in the employment of a company or corporation, which is, or within the said year was, an officer of the

registered business company to which the statement relates.

- (3) The statement shall be submitted within one month from the relevant date, or within such extended time as the liquidator or the court may for special reasons appoint.
- (4) Any person making or concurring in making the statement and affidavit required by this section shall be allowed, and shall be paid by the liquidator out of the assets of the registered business company, such costs and expenses incurred in and about the preparation and making of the statement and affidavit as the liquidator may consider reasonable, subject to an appeal to the court.
- (5) Any person stating himself in writing to be a creditor or contributory of the registered business company shall be entitled by himself or by his agent at all reasonable times to inspect the statement submitted in pursuance of this section, and to a copy thereof or extract therefrom.
- (6) A person untruthfully so stating himself to be a creditor or contributory is guilty of a contempt of court and, on the application of the liquidator, is punishable accordingly.
- (7) In this section, “*the relevant date*” means the date of the appointment of the liquidator.

§70.183. Report by liquidator.

- (1) In a case where a winding up order is made, the liquidator shall, as soon as practicable after receipt of the statement to be submitted under section 70.182, or, in a case where the court orders that no statement shall be submitted, as soon as practicable after the date of the order, submit a preliminary report to the court:
 - (a) As to the amount of capital issued, subscribed and paid up, and the estimated amount of assets and liabilities; and
 - (b) If the registered business company has failed, as to the causes of the failure; and
 - (c) Whether in his opinion further inquiry is desirable as to any matter relating to the promotion, formation or failure of the registered business company, or the conduct of the business thereof.
- (2) The liquidator may also, if he thinks fit, make a further report, or further reports, stating the manner in which the registered business company was formed and whether in his opinion any fraud has been committed by any person in its promotion or formation, or by any director or other officer of the registered business company in relation to the registered business company since the formation thereof, and any other matters which in his opinion it is desirable to bring to the notice of the court.
- (3) If the liquidator states in any such further report that in his opinion a fraud has been committed, the court shall have the further powers provided in sections 70.207 and 70.209.

§70.184. Custody of registered business company's property.

Where a winding up order has been made or where a provisional liquidator has been appointed, the liquidator, or the provisional liquidator, as the case may be, shall take into his custody, or under his control, all the property and things in action to which the registered business company is or appears to be entitled.

§70.185. Vesting of property of registered business company in liquidator.

Where a registered business company is being wound up by the court, the court may on the application of the liquidator by order direct that all or any part of the property of whatsoever description belonging to the registered business company or held by trustees on its behalf shall vest in the liquidator by his official name, and thereupon the property to which the order relates shall vest accordingly, and the liquidator may, after giving such indemnity, if any, as the court may direct, bring or defend in his official name any action or other legal proceeding which relates to that property or which it is necessary to bring or defend for the purpose of effectually winding up the registered business company and recovering its property.

§70.186. Powers of liquidator.

- (1) The liquidator in a winding up by the court shall have power with the sanction either of the court or of the committee of inspection:
- (a) To bring or defend any action or other legal proceeding in the name and on behalf of the registered business company;
 - (b) To carry on the business of the registered business company, so far as may be necessary for the beneficial winding up thereof;
 - (c) To appoint an attorney to assist him in the performance of his duties;
 - (d) To pay any classes of creditors in full;
 - (e) To make any compromise or arrangement with creditors or persons claiming to be creditors, or having or alleging themselves to have any claim, present or future, certain or contingent, ascertained or sounding only in damages against the registered business company, or whereby the registered business company may be rendered liable;
 - (f) To compromise all calls and liabilities to calls, debts and liabilities capable of resulting in debts, and all claims, present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the registered business company and a contributory, or alleged contributory, or other debtor or person apprehending liability to the registered business company, and all questions in any way relating to or affecting the assets or the winding up of the registered business company, on such terms as may be agreed, and take any security for the discharge of any such call, debt, liability or claim, and give a complete discharge in respect thereof.

- (2) The liquidator in a winding up by the court shall have power:
- (a) To sell the real and personal property and things in action of the registered business company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;
 - (b) To do all acts and to execute, in the name and on behalf of the registered business company, all deeds, receipts and other documents, and for that purpose to use, when necessary, and if it exists the registered business company's seal, or shall be deemed to be an authorized signatory;
 - (c) To prove, rank and claim in the bankruptcy, insolvency or sequestration of any contributory, for any balance against his estate, and to receive dividends in the bankruptcy, insolvency or sequestration in respect of that balance, as a separate debt due from the bankrupt or insolvent, and ratably with the other separate creditors;
 - (d) To draw, accept, make and indorse any bill of exchange or promissory note in the name and on behalf of the registered business company, with the same effect with respect to the liability of the registered business company as if the bill or note had been drawn, accepted, made or indorsed by or on behalf of the registered business company in the course of its business;
 - (e) To raise on the security of the assets of the registered business company, any money requisite;
 - (f) To take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any money due from a contributory or his estate which cannot be conveniently done in the name of the registered business company, and in all such cases the money due shall, for the purpose of enabling the liquidator to take out the letters of administration or recover the money, be deemed to be due to the liquidator himself;
 - (g) To appoint an agent to do any business which the liquidator is unable to do himself;
 - (h) To do all such other things as may be necessary for winding up the affairs of the registered business company and distributing its assets.
- (3) The exercise by the liquidator in a winding up by the court of the powers conferred by this section shall be subject to the control of the court, and any creditor or contributory may apply to the court with respect to any exercise or proposed exercise of any of those powers.

§70.187. Exercise and control of liquidator's powers.

- (1) Subject to the provisions of this Law, the liquidator of a registered business company which is being wound up by the court shall, in the administration of the assets of the registered business company and in the distribution thereof among its creditors, have regard to any directions that may be given by resolution of the creditors or contributories at any general meeting, or by the

committee of inspection, and any directions given by the creditors or contributories at any general meeting shall in case of conflict be deemed to override any directions given by the committee of inspection.

(2) The liquidator may summon general meetings of the creditors or contributories for the purpose of ascertaining their wishes, and it shall be his duty to summon meetings at such times as the creditors or contributories, by resolution, either at the meeting appointing a liquidator or otherwise, may direct, or whenever requested in writing to do so by one-tenth in value of the creditors or contributories as the case may be.

(3) The liquidator may apply to the court in manner prescribed for directions in relation to any particular matter arising under the winding up.

(4) Subject to the provisions of this Law, the liquidator shall use his own discretion in the management of the estate and its distribution among the creditors.

(5) If any person is aggrieved by any act or decision of the liquidator, that person may apply to the court, and the court may confirm, reverse or modify the act or decision complained of, and make such order in the premises as it thinks just.

§70.188. Books to be kept by liquidator.

Every liquidator of a registered business company which is being wound up by the court shall keep, in manner prescribed, proper books in which he shall cause to be made entries or minutes of proceedings at meetings, and of such other matters as may be prescribed, and any creditor or contributory may, subject to the control of the court, personally or by his agent inspect any such books.

§70.189. Payments of liquidator into bank.

(1) Every liquidator of a registered business company shall, in such manner and at such times as the court may direct, pay the money received by him into a bank nominated by the court to the credit of a separate account to be opened and kept by the liquidator in his official name and any interest receivable in respect of the account shall be part of the assets of the registered business company.

(2) If any such liquidator at any time retains for more than ten days before it is paid into the separate account mentioned in subsection (1) a sum exceeding US\$500, or such other amount as the court in any particular case authorizes him to retain, then, unless he explains the retention to the satisfaction of the court, he shall pay interest on the amount so retained in excess at the rate of twenty per cent per annum, and shall be liable to disallowance of all or such part of his remuneration as the court may think just, and to be removed from his office by the court, and shall be liable to pay any expenses occasioned by reason of his default.

(3) A liquidator of a registered business company shall not pay any sums received by him as liquidator into his private banking account.

§70.190. Audit of liquidator's accounts.

- (1) Every liquidator of a registered business company shall, at such times as may be prescribed but not less than twice in each year during his tenure of office, send to the court an account of his receipts and payments as liquidator.
- (2) The account shall be in a prescribed form, shall be made in duplicate and shall be verified by a statutory declaration in the prescribed form.
- (3) The court shall cause the accounts so sent to be audited and for the purpose of the audit the liquidator shall furnish the auditor appointed by the court with such vouchers and information as he may require, and the auditor may at any time require the production of and inspect any books or accounts kept by the liquidator.
- (4) When the account has been audited, one copy thereof shall be filed with the court, and the other copy shall be returned to the liquidator, and each copy shall be open to the inspection of any creditor, or of any person interested.
- (5) The liquidator shall cause the account when audited or a summary thereof to be printed, and shall send a printed copy of the account or summary by post to every creditor and contributory.

§70.191. Release of liquidators.

- (1) When the liquidator has realised all the property of the registered business company, or so much thereof as can, in his opinion, be realized without needlessly protracting the liquidation, and has distributed a final dividend, if any, to the creditors, and adjusted the rights of the contributories among themselves, and made a final return, if any, to the contributories, or has resigned, or has been removed from his office, the court shall, on his application, cause a report on his accounts to be prepared, and, on his complying with all the requirements of the court, shall take into consideration the report, and any objection which may be urged by any creditor or contributory, or person interested against the release of the liquidator, and shall either grant or withhold the release accordingly.
- (2) Where the release of a liquidator is withheld, the court may, on the application of any creditor or contributory, or person interested, make such order as it thinks just, charging the liquidator with the consequences of any act or default which he may have done or made contrary to his duty.
- (3) An order of the court releasing the liquidator shall discharge him from all liability in respect of any act done or default made by him in the administration of the affairs of the registered business company, or otherwise in relation to his conduct as liquidator, but any such order may be revoked on proof that it was obtained by fraud or by suppression or concealment of any material fact.
- (4) Where the liquidator has not previously resigned or been removed, his release shall operate as a removal of him from his office.

Committees of Inspection.

§70.192. Meetings of creditors and contributories to determine whether committee of inspection shall be appointed.

(1) When a winding up order has been made by the court, it shall be the business of the separate meetings of creditors and contributories summoned for the purpose of determining whether or not an application should be made to the court for appointing a liquidator, to determine further whether or not an application is to be made to the court for the appointment of a committee of inspection to act with the liquidator and who are to be members of the committee if appointed.

(2) The court may make any appointment and order required to give effect to any such determination, and if there is a difference between the determinations of the meetings of the creditors and contributories the court shall decide the difference and make such order thereon as the court may think fit.

§70.193. Constitution and proceedings of committee of inspection.

(1) A committee of inspection appointed in pursuance of this Law shall consist of creditors and contributories of the registered business company or persons holding general powers of attorney from creditors or contributories in such proportions as may be agreed on at the meetings of creditors and contributories, or as, in case of difference, may be determined by the court.

(2) The committee shall meet at such times as they from time to time appoint, and failing such appointment, at least once a month, and the liquidator or any member of the committee may also call a meeting of the committee as and when he thinks necessary.

(3) The committee may act by a majority of members present at a meeting, but shall not act unless a majority of the committee is present.

(4) A member of the committee may resign by notice in writing signed by him and delivered to the liquidator.

(5) If a member of the committee becomes bankrupt, or compounds or arranges with his creditors, or is absent from five consecutive meetings of the committee without the leave of those members who together with himself represent creditors or contributories, as the case may be, his office shall thereupon become vacant.

(6) A member of the committee may be removed by an ordinary resolution at a meeting of creditors, if he represents creditors, or of contributories, if he represents contributories, of which seven days' notice has been given, stating the object of the meeting.

(7) On a vacancy occurring in the committee the liquidator shall, unless the court otherwise orders, forthwith summon a meeting of creditors or of contributories, as the case may require, to fill

the vacancy, and the meeting may, by resolution, re-appoint the same or appoint another creditor or contributory to fill the vacancy.

(8) The continuing members of the committee, it not less than two, may act notwithstanding any vacancy in the committee.

§70.194. Powers of court where no committee of inspection.

Where there is no committee of inspection, the court may, on the application of the liquidator, do any act or thing or give any direction or permission which is by this Law authorized or required to be done or given by the committee.

General Powers of Court in case of Winding up by Court.

§70.195. Power to stay winding up.

The court may at any time after an order for winding up, on the application of the liquidator or any creditor or contributory, and on proof to the satisfaction of the court that all proceedings in relation to the winding up ought to be stayed, make an order staying the proceedings, either altogether or for a limited time, on such terms and conditions as the court thinks fit.

§70.196. Settlement of list of contributories and application of assets.

(1) As soon as may be after making a winding up order, the court shall settle a list of contributories, with power to rectify the register of members in all cases where rectification is required in pursuance of this Law and shall cause the assets of the registered business company to be collected, and applied in discharge of its liabilities:

Provided that, where it appears to the court that it will not be necessary to make calls on or adjust the rights of contributories, the court may dispense with the settlement of a list of contributories.

(2) In settling the list of contributories, the court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or liable for the debts of others.

§70.197. Delivery of property to liquidator.

The court may, at any time after making a winding up order, require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent or officer of the registered business company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the court directs, to the liquidator any money, property, or books and papers in his hands to which the registered business company is *prima facie* entitled.

§70.198. Payment of debts due by contributory to registered business company and extent to which set-off allowed.

(1) The court may, at any time after making a winding up order, make an order on any contributory for the time being on the list of contributories to pay, in manner directed by the order, any money due from him or from the estate of the person whom he represents to the registered business company, exclusive of any money payable by him or the estate by virtue of any call in pursuance of this Law.

(2) The court in making such an order may:

(a) In the case of an unlimited registered business company, allow to the contributory by way of set-off any money due to him or to the estate which he represents from the registered business company on any independent dealing or contract with the registered business company, but not any money due to him as a member of the registered business company in respect of any dividend or profit; and

(b) Make to any director whose liability is unlimited or to his estate the like allowance.

(3) In the case of any registered business company when all the creditors are paid in full, any money due on any account whatever to a contributory from the registered business company may be allowed to him by way of set-off against any subsequent call.

§70.199. Power of court to make calls.

(1) The court may, at any time after making a winding up order, and either before or after it has ascertained the sufficiency of the assets of the registered business company, make calls on all or any of the contributories for the time being settled on the list of the contributories to the extent of their liability, for payment of any money which the court considers necessary to satisfy the debts and liabilities of the registered business company, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves and make an order for payment of any calls so made.

(2) In making a call the court may take into consideration the probability that some of the contributories may partly or wholly fail to pay the call.

§70.200. Payment into bank of moneys due to registered business company.

(1) The court may order any contributory, purchaser or other person from whom money is due to the registered business company to pay the amount due into a bank to be approved of by the court to the account of the liquidator instead of to the liquidator, and any such order may be enforced in the same manner as if it had directed payment to the liquidator.

(2) All moneys and securities paid or delivered into such bank in the event of a winding up by the court shall be subject in all respects to the orders of the court.

§70.201. Order on contributory conclusive evidence.

- (1) An order made by the court on a contributory shall, subject to any right of appeal, be conclusive evidence that the money, if any, thereby appearing to be due or ordered to be paid is due.
- (2) All other pertinent matters stated in the order shall be taken to be truly stated as against all persons and in all proceedings.

§70.202. Exclusion of creditors not proving in time.

The court may fix a time or times within which creditors are to prove their debts or claims, or to be excluded from the benefit of any distribution made before those debts are proved.

§70.203. Adjustment of rights of contributories.

The court shall adjust the rights of the contributories among themselves, and distribute any surplus among the persons entitled thereto.

§70.204. Inspection of books by creditors and contributories.

The court may, at any time after making a winding up order, make such order for inspection of the books and papers of the registered business company by creditors and contributories as the court thinks just, and any books and papers in the possession of the registered business company may be inspected by creditors or contributories accordingly, but not further or otherwise.

§70.205. Power to order costs of winding up to be paid out of assets.

The court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the assets of the costs, charges and expenses incurred in the winding up in such order of priority as the court thinks just.

§70.206. Power to summon persons suspected of having property of the registered business company.

(1) The court may, at any time after the appointment of a liquidator or the making of a winding up order, summon before it any officer of the registered business company or person known or suspected to have in his possession any property of the registered business company or supposed to be indebted to the registered business company, or any person whom the court deems capable of giving information concerning the promotion, formation, trade, dealings, affairs or property of the registered business company.

(2) The court may examine him on oath concerning the matters aforesaid, either by word of mouth or on written interrogatories, and may reduce his answers to writing and require him to sign them.

(3) The court may require him to produce any books and papers in his custody or power relating to the registered business company, but, where he claims any lien on books or papers produced by him, the production shall be without prejudice to that lien, and the court shall have jurisdiction in the winding up to determine all questions relating to that lien.

(4) If any person so summoned, after being tendered a reasonable sum for his expenses, refuses to come before the court at the time appointed, not having a lawful impediment (made known to the court at the time of its sitting, and allowed by it), the court may cause him to be apprehended and brought before the court for examination.

§70.207. Power to order public examination of promoters and directors.

(1) Where an order has been made for winding up a registered business company by the court, and the liquidator has made a further report under this Law stating that in his opinion a fraud has been committed by any person in the promotion or formation of the registered business company, or by any director or other officer of the registered business company in relation to the registered business company since its formation, the court may, after consideration of the report, direct that that person, director or officer shall attend before the court on a day appointed by the court for that purpose, and be publicly examined as to the promotion or formation or the conduct of the business of the registered business company, or as to his conduct and dealings as director or officer thereof.

(2) The liquidator shall take part in the examination, and for that purpose may, if specially authorized by the court in that behalf, employ an attorney.

(3) Any creditor or contributory, may also take part in the examination either personally or by his attorney in law.

(4) The court may put such questions to the person examined as the court thinks fit.

(5) The person examined shall be examined on oath, and shall answer all such questions as the court may put or allow to be put to him.

(6) A person ordered to be examined under this section shall at his own cost, before his examination, be furnished with a copy of the liquidator's report, and may at his own cost employ an attorney, who shall be at liberty to put to him such questions as the court may deem just for the purpose of enabling him to explain or qualify any answers given by him:

Provided that, if any such person applies to the court to be exculpated from any charges made or suggested against him, it shall be the duty of the liquidator to appear on the hearing of the application and call the attention of the court to any matters which appear to the liquidator to be relevant, and if the court, after hearing any evidence given or witnesses called by the liquidator, grants the application, the court may allow the applicant such costs as in its discretion it may think fit.

(7) Notes of the examination shall be taken down in writing and shall be read over to or by, and signed by, the person examined, and may thereafter be used in evidence against him, and shall be open to the inspection of any creditor or contributory at all reasonable times.

(8) The court may, if it thinks fit, adjourn the examination from time to time.

§70.208. Power to arrest absconding contributory.

The court, at any time either before or after making a winding up order, on proof of probable cause for believing that a contributory is about to abscond, or to remove or conceal any of his property for the purpose of evading payment of calls, or of avoiding examination respecting the affairs of the registered business company, may cause the contributory to be arrested, and his books and papers and movable personal property to be seized, and him and them to be safely kept until such time as the court may order.

§70.209. Power to restrain fraudulent persons from managing registered business companies.

(1) Where an order has been made for winding up a registered business company by the court, and the liquidator has made a further report under this section stating that, in his opinion, a fraud has been committed by a person in the promotion or formation of the registered business company, or by any director or other officer of the registered business company in relation to the registered business company since its formation, the court may, on the application of the liquidator, order that that person, director or officer shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a registered business company for such period, not exceeding five years, from the date of the report as may be specified in the order.

(2) The liquidator shall, where he intends to make an application under subsection (1), give not less than one month's notice of his intention to the person charged with the fraud, and on the hearing of the application that person may appear and himself give evidence or call witnesses.

(3) It shall be the duty of the liquidator to appear on the hearing of an application by him for an order under this section and on an application for leave under this section and to call the attention of the court to any matters which appear to him to be relevant, and on any such application the liquidator may himself give evidence or call witnesses.

(4) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the order is to be made.

§70.210. Powers of court cumulative.

Any powers by this Law conferred on the court shall be in addition to and not in restriction of any existing powers of instituting proceedings against any contributory or debtor of the registered business company, or the estate of any contributory or debtor, for the recovery of any call or other sums.

§70.211. Dissolution of registered business company.

(1) When the affairs of a registered business company have been completely wound up, the court shall make an order that the registered business company be dissolved from the date of the

order, and the registered business company shall be dissolved accordingly.

(2) A certified copy of the order shall within fourteen days from the date thereof be delivered by the liquidator to the Registrar or the Deputy Registrar who shall register the order in respect of the registered business company.

(C) VOLUNTARY WINDING UP.

Resolutions for, and Commencement of Voluntary Winding up.

§70.212. Circumstances in which registered business company may be wound up voluntarily.

- (1) A registered business company may be wound up voluntarily:
- (a) When the period, if any, fixed for the duration of the registered business company by the articles expires, or the event, if any, occurs, on the occurrence of which the articles provide that the registered business company is to be dissolved, and the registered business company in general meeting has passed a resolution requiring the registered business company to be wound up voluntarily;
 - (b) If the registered business company resolves by special resolution that the registered business company be wound up voluntarily;
 - (c) If the registered business company resolves by extraordinary resolution to the effect that it cannot by reason of its liabilities continue its business, and that it is advisable to wind up.
- (2) In this Law, “*a resolution for voluntary winding up*” means a resolution passed under any of the provisions of subsection (1).

§70.213. Notice of resolution to wind up voluntarily.

When a registered business company has passed a resolution for voluntary winding up, it shall, within seven days after the passing of the resolution, give notice of the resolution by advertisement in a newspaper circulating:

- (a) In the county in Liberia in which is located the office of the registered business company; or
- (b) Where the registered business company does not have a place of business in Liberia:
 - (i) In the county in Liberia in which is located the office of the registered agent of the registered business company; and
 - (ii) In the place outside Liberia in which is located the principal office of the registered business company.

§70.214. Commencement of voluntary winding up.

A voluntary winding up shall be deemed to commence at the time of the passing of the resolution for voluntary winding up.

Consequences of Voluntary Winding up.

§70.215. Effect of voluntary winding up on registered business company.

In case of a voluntary winding up, the registered business company shall, from the commencement of the winding up, cease to carry on its business, except so far as may be required for the beneficial winding up thereof:

Provided that the corporate state and corporate powers of the registered business company shall, notwithstanding anything to the contrary in its articles, continue until it is dissolved.

§70.216. Avoidance of transfer after commencement of voluntary winding up.

Any transfer of shares, not being a transfer made to or with the sanction of the liquidator, and any alteration in the status of the members of the registered business company, made after the commencement of a voluntary winding up, shall be void.

Declaration of Solvency.

§70.217. Statutory declaration of solvency in case of proposal to wind up voluntarily.

(1) Where it is proposed to wind up a registered business company voluntarily, the directors of the registered business company or, in the case of a registered business company having more than two directors, the majority of the directors may, at a meeting of the directors held before the date on which the notices of the meeting at which the resolution for the winding up of the registered business company is to be proposed are sent out, make a statutory declaration to the effect that they have made a full inquiry into the affairs of the registered business company, and that, having so done, they have formed the opinion that the registered business company will be able to pay its debts in full within a period not exceeding twelve months from the commencement of the winding up.

(2) A declaration so made shall have no effect for the purposes of this Law unless it is delivered to the Registrar or the Deputy Registrar for registration before the date mentioned in subsection (1).

(3) A winding up in the case of which a declaration has been made and delivered in accordance with this section is in this Law referred to as “a members’ voluntary winding up,” and a winding up in the case of which a declaration has not been made and delivered as aforesaid is in this Law referred to as “a creditors’ voluntary winding up”.

Provisions applicable to a Members' Voluntary Winding up.

§70.218. Application of sections 70.219 to 70.225.

The provisions contained in sections 70.219 to 70.225 shall apply in relation to a members' voluntary winding up.

§70.219. Power to appoint and fix remuneration of liquidators.

(1) The registered business company in general meeting shall appoint one or more liquidators for the purpose of winding up the affairs and distributing the assets of the registered business company, and may fix the remuneration to be paid to him or them.

(2) On the appointment of a liquidator all the powers of the directors shall cease, except so far as the registered business company in general meeting, or the liquidator, sanctions the continuance thereof.

§70.220. Power to fill vacancy in office of liquidator.

(1) If a vacancy occurs by death, resignation or otherwise in the office of a liquidator appointed by the registered business company, the registered business company in general meeting may, subject to any arrangement with its creditors, fill the vacancy.

(2) For that purpose a general meeting may be convened by any contributory or, if there were more liquidators than one, by the continuing liquidators.

(3) The meeting shall be held in manner provided by this Law or by the articles, or in such manner as may, on application by any contributory or by the continuing liquidators, be determined by the court.

§70.221. Power of liquidator to accept shares as consideration for sale of property of registered business company.

(1) Where a registered business company is proposed to be, or is in course of being, wound up altogether voluntarily, and the whole or part of its business or property is proposed to be transferred or sold to another company, whether a company within the meaning of this Law or not (in this section referred to as "the transferee company") the liquidator of the registered business company (in this section referred to as "the transferor company") may, with the sanction of a special resolution of that registered business company, conferring either a general authority on the liquidator or an authority in respect of any particular arrangement, receive in compensation or part compensation for the transfer or sale, shares, policies or other like interests in the transferee company, for distribution among the members of the transferor company, or may enter into any other arrangement whereby the members of the transferor company may, in lieu of receiving cash, shares, policies, or other like interests, or in addition thereto, participate in the profits of or receive any other benefit from the transferee company.

(2) Any sale or arrangement in pursuance of this section shall be binding on the members of the transferor company.

(3) If any member of the transferor company who did not vote in favor of the special resolution expresses his dissent therefrom in writing addressed to the liquidator, and left at the office of the registered agent or the principal office of the transferor company within seven days after the passing of the resolution, he may require the liquidator either to abstain from carrying the resolution into effect, or to purchase his interest at a price to be determined by agreement or by an arbitrator appointed by the court for this purpose.

(4) If the liquidator elects to purchase the member's interest, the purchase money shall be paid before the registered business company is dissolved, and be raised by the liquidator in such manner as may be determined by special resolution.

(5) A special resolution shall not be invalid for the purposes of this section by reason that it is passed before or concurrently with a resolution for voluntary winding up or for appointing liquidators, but, if an order is made within a year for winding up the registered business company by or subject to the supervision of the court, the special resolution shall not be valid unless sanctioned by the court.

§70.222. Duty of liquidator to call creditors' meeting in case of insolvency.

If the liquidator is at any time of the opinion that the registered business company will not be able to pay its debts in full within the period stated in the declaration under section 70.217 he shall forthwith summon a meeting of the creditors, and shall lay before the meeting a statement of the assets and liabilities of the registered business company.

§70.223. Duty of liquidator to call general meeting at end of each year.

In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the registered business company at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meeting an account of his acts and dealings and of the conduct of the winding up during the preceding year.

§70.224. Final meeting and dissolution.

(1) Subject to the provisions of section 70.225, as soon as the affairs of the registered business company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the registered business company has been disposed of, and thereupon shall call a general meeting of the registered business company for the purpose of laying before it the account, and giving any explanation thereof.

- (2) The meeting shall be called by advertisement in a newspaper circulating:
- (a) In the county in Liberia in which is located the office of the registered business company; or
 - (b) Where the registered business company does not have a place of business in Liberia:
 - (i) In the county in Liberia in which is located the office of the registered agent of the registered business company; and
 - (ii) In the place outside Liberia in which is located the principal office of the registered business company,

specifying the time, place and object thereof, and published one month at least before the meeting.

- (3) Within one month after the meeting, the liquidator shall send to the Registrar or the Deputy Registrar a copy of the account, and shall make a return to him of the holding of the meeting and of its date:

Provided that, if a quorum is not present at the meeting, the liquidator shall, in lieu of the return hereinbefore mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall be deemed to have been complied with.

- (4) The Registrar or the Deputy Registrar on receiving the account and either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration of the return the registered business company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the registered business company is to take effect for such time as the court thinks fit.

- (5) It shall be the duty of the person on whose application an order of the court under this section is made, within one month after the making of the order, to deliver to the Registrar or the Deputy Registrar a certified copy of the order for registration.

§70.225. Alternative provisions as to annual and final meetings in case of insolvency.

Where section 70.222 has effect, sections 70.233 and 70.234 shall apply to the exclusion of sections 70.223 and 70.224, as if the winding up were a creditors' voluntary winding up and not a members' voluntary winding up:

Provided that the liquidator shall not be required to summon a meeting of creditors under section 70.233 at the end of the first year from commencement of the winding up, unless the meeting held under section 70.222 is held more than three months before the end of that year.

Provisions applicable to a Creditors' Voluntary Winding up.

§70.226. Application of sections 70.227 to 70.234.

The provisions contained in sections 70.227 to 70.234 shall apply in relation to a creditors' voluntary winding up.

§70.227. Meeting of creditors.

(1) The registered business company shall cause a meeting of the creditors of the registered business company to be summoned for the day, or the day next following the day, on which there is to be held the meeting at which the resolution for voluntary winding up is to be proposed, and shall cause the notices of the meeting of creditors to be sent by post to the creditors simultaneously with the sending of the notices of the meeting of the registered business company.

(2) The registered business company shall cause notice of the meeting of the creditors to be advertised once in a newspaper circulating:

(a) In the county in Liberia in which is located the office of the registered business company; or

(b) Where the registered business company does not have a place of business in Liberia:

(i) In the county in Liberia in which is located the office of the registered agent of the registered business company; and

(ii) In the place outside Liberia in which is located the principal office of the registered business company.

(3) The directors of the registered business company shall:

(a) Cause a full statement of the position of the registered business company's affairs together with a list of the creditors of the registered business company and the estimated amount of their claims to be laid before the meeting of creditors; and

(b) Appoint one of their number to preside at the meeting.

(4) It shall be the duty of the director appointed to preside at the meeting of creditors to attend the meeting and preside thereat.

(5) If the meeting of the registered business company at which the resolution for voluntary winding up is to be proposed is adjourned and the resolution is passed at an adjourned meeting, any resolution passed at the meeting of the creditors held in pursuance of subsection (1) shall have effect as if it had been passed immediately after the passing of the resolution for winding up the registered business company.

§70.228. Appointment of liquidator.

The creditors and the registered business company at their respective meetings mentioned in section 70.227 may nominate a person to be liquidator for the purpose of winding up the affairs and distributing the assets of the registered business company, and if the creditors and the registered business company nominate different persons, the person nominated by the creditors shall be liquidator, and if no person is nominated by the creditors the person, if any, nominated by the registered business company shall be liquidator:

Provided that in the case of different persons being nominated any director, member or creditor of the registered business company may, within one month after the date on which the nomination was made by the creditors, apply to the court for an order either directing that the person nominated as liquidator by the registered business company shall be liquidator instead of or jointly with the person nominated by the creditors, or appointing some other person to be liquidator instead of the person appointed by the creditors.

§70.229. Appointment of committee of inspection.

(1) The creditors at the meeting to be held in pursuance of section 70.227 or at any subsequent meeting, may, if they think fit, appoint a committee of inspection consisting of not more than five persons and if such a committee is appointed the registered business company may, either at the meeting at which the resolution for voluntary winding up is passed or at any time subsequently in general meeting, appoint such number of persons as they think fit to act as members of the committee not exceeding five in number:

Provided that the creditors may, if they think fit, resolve that all or any of the persons so appointed by the registered business company ought not to be members of the committee of inspection, and, if the creditors so resolve, the persons mentioned in the resolution shall not, unless the court otherwise directs, be qualified to act as members of the committee, and on any application to the court under this provision the court may, if it thinks fit, appoint other persons to act as such members in place of the persons mentioned in the resolution.

(2) Subject to the provisions of this section and to any regulations made for this purpose, the provisions of section 70.193, except subsection (1) thereof, shall apply with respect to a committee of inspection appointed under this section as they apply with respect to a committee of inspection appointed in a winding up by the court.

§70.230. Fixing of liquidators' remuneration and cesser of directors' powers.

(1) The committee of inspection, or if there is no such committee, the creditors, may fix the remuneration to be paid to the liquidator or liquidators.

(2) On the appointment of a liquidator, all the powers of the directors shall cease, except so far as the committee of inspection, or if there is no such committee, the creditors, sanction the continuance thereof.

§70.231. Power to fill vacancy in office of liquidator.

If a vacancy occurs by death, resignation or otherwise, in the office of a liquidator, other than a liquidator appointed by, or by the direction of, the court, the creditors may fill the vacancy.

§70.232. Application of section 70.221 to a creditors' voluntary winding up.

The provisions of section 70.221 shall apply in the case of a creditors' voluntary winding up as in the case of a members' voluntary winding up, with the modification that the powers of the liquidator under that section shall not be exercised except with the sanction either of the court or of the committee of inspection.

§70.233. Duty of liquidator to call meetings of registered business company and of creditors at end of each year.

In the event of the winding up continuing for more than one year, the liquidator shall summon a general meeting of the registered business company and a meeting of creditors at the end of the first year from the commencement of the winding up, and of each succeeding year, or as soon thereafter as may be convenient, and shall lay before the meetings an account of his acts and dealings and of the conduct of the winding up during the preceding year.

§70.234. Final meeting and dissolution.

(1) As soon as the affairs of the registered business company are fully wound up, the liquidator shall make up an account of the winding up, showing how the winding up has been conducted and the property of the registered business company has been disposed of, and thereupon shall call a general meeting of the registered business company and a meeting of the creditors, for the purpose of laying the account before the meetings, and giving any explanation thereof.

(2) Any such meeting shall be called by advertisement in a newspaper circulating:

(a) In the county in Liberia in which is located the office of the registered business company; or

(b) Where the registered business company does not have a place of business in Liberia:

(i) In the county in Liberia in which is located the office of the registered agent of the registered business company; and

(ii) In the place outside Liberia in which is located the principal office of the registered business company,

specifying the time, place and object thereof, and published one month at least before the meeting.

(3) Within one month after the date of the meetings, or, if the meetings are not held on the

same date, after the date of the later meeting, the liquidator shall send to the Registrar or the Deputy Registrar a copy of the account, and shall make a return to him of the holding of the meetings and of their dates:

Provided that, if a quorum is not present at either such meeting, the liquidator shall, in lieu of the return herein before mentioned, make a return that the meeting was duly summoned and that no quorum was present thereat, and upon such a return being made the provisions of this subsection as to the making of the return shall, in respect of that meeting, be deemed to have been complied with.

(4) The Registrar or the Deputy Registrar on receiving the account and in respect of each such meeting either of the returns hereinbefore mentioned shall forthwith register them, and on the expiration of three months from the registration thereof the registered business company shall be deemed to be dissolved:

Provided that the court may, on the application of the liquidator or of any other person who appears to the court to be interested, make an order deferring the date at which the dissolution of the registered business company is to take effect for such time as the court thinks fit.

(5) It shall be the duty of the person on whose application an order of the court under this section is made, within one month after the making of the order, to deliver to the Registrar or the Deputy Registrar a certified copy of the order for registration.

Provisions applicable to every voluntary Winding up.

§70.235. Application of sections 70.236 to 70.243.

The provisions contained in sections 70.236 to 70.243 shall apply to every voluntary winding up whether a members' or a creditors' winding up.

§70.236. Distribution of property of registered business company.

Subject to the provisions of this Law as to preferential payments, the property of a registered business company shall, on its winding up, be applied in satisfaction of its liabilities *pari passu*, and, subject to such application, shall, unless the articles otherwise provide, be distributed among the members according to their rights and interests in the registered business company.

§70.237. Powers and duties of liquidator in voluntary winding up.

(1) The liquidator may:

- (a) In the case of a members' voluntary winding up, with the sanction of an extraordinary resolution of the registered business company, and, in the case of a creditors' voluntary winding up, with the sanction of either the court or the committee of inspection, exercise any of the powers given by paragraphs (d), (e) and (f) of section 70.186(1) to a liquidator in a winding up by the court;

- (b) Without sanction, exercise any of the other powers by this Law given to the liquidator in a winding up by the court;
- (c) Exercise the power of the court under this Law of settling a list of contributories, and the list of contributories shall be *prima facie* evidence of the liability of the persons named therein to be contributories;
- (d) Exercise the power of the court of making calls;
- (e) Summon general meetings of the registered business company for the purpose of obtaining the sanction of the registered business company by special or extraordinary resolution or for any other purpose he may think fit.

(2) The liquidator shall pay the debts of the registered business company and shall adjust the rights of the contributories among themselves.

(3) When several liquidators are appointed, any power given by this Law may be exercised by such one or more of them as may be determined at the time of their appointment, or, in default of such determination, by any number not less than two.

§70.238. Appointment and removal of liquidator by court.

- (1) If from any cause whatever there is no liquidator acting, the court may appoint a liquidator.
- (2) The court may, on cause shown, remove a liquidator and appoint another liquidator.

§70.239. Notice by liquidator of his appointment.

The liquidator shall, within one month after his appointment, deliver to the Registrar or the Deputy Registrar for registration a notice of his appointment in the prescribed form.

§70.240. Arrangement binding on creditors.

(1) Any arrangement entered into between a registered business company about to be, or in the course of being, wound up and its creditors shall, subject to the right of appeal under this section, be binding on the registered business company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by three-fourths in number and value of the creditors.

(2) Any creditor or contributory may, within one month from the completion of the arrangement, appeal to the court against it, and the court may thereupon, as it thinks just, amend, vary or confirm the arrangement.

§70.241. Power to apply to court to have questions determined or powers exercised.

- (1) The liquidator or any contributory or creditor may apply to the court to determine any

question arising in the winding up of a registered business company, or to exercise, as respects the enforcing of calls, or any other matter, all or any of the powers which the court might exercise if the registered business company were being wound up by the court.

(2) The court, if satisfied that the determination of the question or the required exercise of power will be just and beneficial, may accede wholly or partially to the application on such terms and conditions as it thinks fit, or may make such other order on the application as it thinks just.

§70.242. Costs of voluntary winding up.

All costs, charges and expenses properly incurred in the winding up, including the remuneration of the liquidator, shall be payable out of the assets of the registered business company in priority to all other claims.

§70.243. Saving for rights of creditors and contributories.

The winding up of a registered business company shall not bar the right of any creditor or contributory to have it wound up by the court, but in the case of an application by a contributory, the court shall be satisfied that the rights of the contributories will be prejudiced by a voluntary winding up.

(D) WINDING UP SUBJECT TO SUPERVISION OF COURT.

§70.244. Power to order winding up subject to supervision.

When a registered business company has passed a resolution for voluntary winding up, the court may make an order that the voluntary winding up shall continue but subject to such supervision of the court, and with such liberty for creditors, contributories or others to apply to the court, and generally on such terms and conditions, as the court thinks just.

§70.245. Effect of petition for winding up subject to supervision.

A petition for the continuance of a voluntary winding up subject to the supervision of the court shall, for the purpose of giving jurisdiction to the court over actions, be deemed to be a petition for winding up by the court.

§70.246. Application of sections 70.171 and 70.172.

A winding up subject to the supervision of the court shall, for the purposes of sections 70.171 and 70.172, be deemed to be a winding up by the court.

§70.247. Power of court to appoint or remove liquidators.

(1) Where an order is made for a winding up subject to supervision, the court may by that or any subsequent order appoint an additional liquidator.

(2) A liquidator appointed by the court under this section shall have the same powers, be subject to the same obligations, and in all respects stand in the same position, as if he had been duly appointed in accordance with the provisions of this Law with respect to the appointment of liquidators in a voluntary winding up.

(3) The court may remove any liquidator so appointed by the court or any liquidator continued under the supervision order and fill any vacancy occasioned by the removal, or by death or resignation.

§70.248. Effect of supervision order.

(1) Where an order is made for a winding up subject to supervision, the liquidator may, subject to any restrictions imposed by the court, exercise all his powers, without the sanction or intervention of the court, in the same manner as if the registered business company were being wound up altogether voluntarily:

Provided that the powers specified in paragraphs (d), (e) and (f) of section 70.186(1) shall not be exercised by the liquidator except with the sanction of the court or, in a case where, before the order, the winding up was a creditors' voluntary winding up, with the sanction of either the court or the committee of inspection.

(2) A winding up subject to the supervision of the court is not a winding up by the court for the purpose of the provisions of this Law which are set out in subsection (3), but subject as aforesaid, an order for a winding up subject to supervision shall for all purposes be deemed to be an order for winding up by the court:

Provided that, where the order for winding up subject to supervision was made in relation to a creditors' voluntary winding up in which a committee of inspection had been appointed, the order shall be deemed to be an order for winding up by the court for the purpose of section 70.193 (except subsection (1) thereof), except in so far as the operation of that section is excluded in a voluntary winding up by general rules.

(3) The provisions referred to in subsection (2) are:

- (a) Power of court to appoint liquidator (section 70.177);
- (b) Appointment and powers of provisional liquidator (section 70.178);
- (c) Appointment and style of liquidators (section 70.179);
- (d) Provisions on appointment of liquidator (section 70.180);
- (e) General provisions as to liquidators (section 70.181, except subsection (5));
- (f) Statement of registered business company's affairs to be submitted to liquidator (section 70.182);
- (g) Report by liquidator (section 70.183);

- (h) Exercise and control of liquidators' powers (section 70.187);
- (j) Books to be kept by liquidator (section 70.188);
- (k) Payments of liquidator into bank (section 70.189);
- (l) Audit of liquidator's accounts (section 70.190);
- (m) Release of liquidators (section 70.191);
- (n) Meetings of creditors and contributories to determine whether committee of inspection shall be appointed (section 70.192);
- (p) Constitution and proceedings of committee of inspection (section 70.193);
- (q) Powers of court where no committee of inspection (section 70.194);
- (r) Power to order public examination of promoters and directors (section 70.207);
- (s) Power to restrain fraudulent persons from managing registered business companies (section 70.209); and
- (t) Power to appoint liquidator as receiver for debenture holders or creditors (section 70.275).

(E) PROVISIONS APPLICABLE TO EVERY MODE OF WINDING UP.

Proof and Ranking of Claims.

§70.249. Debts of all descriptions to be proved.

In every winding up (subject, in the case of insolvent registered business companies, to the application in accordance with the provisions of this Law of the law of bankruptcy) all debts payable on a contingency, and all claims against the registered business company, present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the registered business company, a just estimate being made, so far as possible, of the value of such debts or claims as may be subject to any contingency or sound only in damages, or for some other reason do not bear a certain value.

§70.250. Application of bankruptcy rules in winding up.

In the winding up of an insolvent registered business company the same rules shall prevail and be observed with regard to the respective rights of secured and unsecured creditors and to debts provable

and to the valuation of annuities and future and contingent liabilities as are in force for the time being under the law of bankruptcy, and all persons who in any such case would be entitled to prove for and receive dividends out of the assets of the registered business company may come in under the winding up, and make such claims against the registered business company as they respectively are entitled to by virtue of this section.

§70.251. Preferential payments.

- (1) In a winding up there shall be paid in priority to all other debts:
 - (a) All local taxes, including any taxes provided for in this Law, due from the registered business company at the relevant date and having become due and payable;
 - (b) All wages or salary (whether or not earned wholly or in part by way of commission) of any clerk or servant in respect of services rendered to the registered business company during twelve months next before the relevant date;
 - (c) All wages of any workman or laborer whether payable for time or for piece work, in respect of services rendered to the registered business company during twelve months next before the relevant date;
 - (d) All amounts due to the registered agent;
- (2) Where any payment on account of wages or salary has been made to any clerk, servant, workman or laborer in the employment of a registered business company out of money advanced by some person for that purpose, that person shall in a winding up have right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or laborer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.
- (3) The foregoing debts shall:
 - (a) Rank equally among themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions;
 - (b) So far as the assets of the registered business company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating charge created by the registered business company, and be paid accordingly out of any property comprised in or subject to that charge.
- (4) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.
- (5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the registered business company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or

effects so distrained on, or the proceeds of the sale thereof:

Provided that, in respect of any money paid under any such charge, the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

- (6) In this section “*the relevant date*” means:
- (a) In the case of a registered business company ordered to be wound up compulsorily which had not previously commenced to be wound up voluntarily, the date of the winding up order; and
 - (b) In any other case, the date of the commencement of the winding up.

Effect of Winding up on Antecedent and other Transactions.

§70.252. Fraudulent preference.

- (1) Any conveyance, mortgage, delivery of goods, payment, execution or other act relating to property which would, if made or done by or against an individual, be deemed in his bankruptcy a fraudulent preference, shall, if made or done by or against a registered business company, be deemed, in the event of its being wound up, a fraudulent preference of its creditors, and be invalid accordingly.
- (2) For the purposes of this section, the commencement of the winding up shall be deemed to correspond with the presentation of the bankruptcy petition in the case of an individual.
- (3) Any conveyance or assignment by a registered business company of all its property to trustees for the benefit of all its creditors shall be void to all intents.

§70.253. Effect of floating charge.

Where a registered business company is being wound up, a floating charge on the undertaking or property of the registered business company created within six months of the commencement of the winding up shall, unless it is proved that the registered business company immediately after the creation of the charge was solvent, be invalid, except to the amount of any cash paid to the registered business company at the time of or subsequently to the creation of, and in consideration for, the charge, together with interest on that amount at the rate of five per cent per annum.

§70.254. Disclaimer of onerous property in case of a registered business company wound up.

- (1) Where any part of the property of a registered business company which is being wound up consists of land of any tenure burdened with onerous covenants, of shares or stock in companies, of unprofitable contracts, or of any other property that is unsaleable, or not readily saleable, by reason of its binding the possessor thereof to the performance of any onerous act, or to the payment of any sum of money, the liquidator of the registered business company, notwithstanding that he has endeavored to sell or has taken possession of the property, or exercised any act of ownership in relation thereto, may, with the leave of the court and subject to the provisions of this section, by

writing signed by him, at any time within twelve months after the commencement of the winding up or such extended period as may be allowed by the court, disclaim the property:

Provided that, where any such property has not come to the knowledge of the liquidator within one month after the commencement of the winding up, the power under this section of disclaiming the property may be exercised at any time within twelve months after he has become aware thereof or such extended period as may be allowed by the court.

(2) The disclaimer shall operate to determine, as from the date of disclaimer, the rights, interest and liabilities of the registered business company, and the property of the registered business company, in or in respect of the property disclaimed, but shall not, except so far as is necessary for the purpose of releasing the registered business company and the property of the registered business company from liability, affect the rights or liabilities of any other person.

(3) The court, before or on granting leave to disclaim, may require such notices to be given to persons interested, and impose such terms as a condition of granting leave, and make such other order in the matter as the court thinks just.

(4) The liquidator shall not be entitled to disclaim any property under this section in any case where an application in writing has been made to him by any persons interested in the property requiring him to decide whether he will or will not disclaim, and the liquidator has not, within a period of one month after the receipt of the application or such further period as may be allowed by the court, given notice to the applicant that he intends to apply to the court for leave to disclaim, and, in the case of a contract, if the liquidator, after such an application as aforesaid, does not within the said period or further period disclaim the contract, the registered business company shall be deemed to have adopted it.

(5) The court may, on the application of any person who is, as against the liquidator, entitled to the benefit or subject to the burden of a contract made with the registered business company, make an order rescinding the contract on such terms as to payment by or to either party of damages for the non-performance of the contract, or otherwise as the court thinks just, and any damages payable under the order to any such person may be proved by him as a debt in the winding up.

(6) The court may, on an application by any person who either claims any interest in any disclaimed property or is under any liability not discharged by this Law in respect of any disclaimed property and on hearing any such persons as it thinks fit, make an order for the vesting of the property in or the delivery of the property to any person entitled thereto, or to whom it may seem just that the property should be delivered by way of compensation for such liability as aforesaid, or a trustee for him, and on such terms as the court thinks just, and on any such vesting order being made, the property comprised therein shall vest accordingly in the person therein named in that behalf, without any conveyance or assignment for the purpose:

Provided that where the property disclaimed is of a leasehold nature, the court shall not make a vesting order in favor of any person claiming under the registered business company, whether as underlessee or as mortgagee by demise, including a chargee by way of legal mortgage, except upon the terms of making that person:

- (a) Subject to the same liabilities and obligations as those to which the registered business company was subject under the lease in respect of the property at the commencement of the winding up; or
- (b) If the court thinks fit, subject only to the same liabilities and obligations as if the lease had been assigned to that person at that date,

and in either event, if the case so requires, as if the lease had comprised only the property comprised in the vesting order, and any mortgagee or under-lessee declining to accept a vesting order upon such terms shall be excluded from all interest in and security upon the property, and, if there is no person claiming under the registered business company who is willing to accept an order upon such terms, the court shall have power to vest the estate and interest of the registered business company in the property in any person liable either personally or in a representative character, and either alone or jointly with the registered business company to perform the lessee's covenants in the lease, freed and discharged from all estates, encumbrances and interests created therein by the registered business company.

(7) Any person injured by the operation of a disclaimer under this section shall be deemed to be a creditor of the registered business company to the amount of the injury, and may accordingly prove the amount as a debt in the winding up.

§70.255. Restriction of rights of creditor as to execution or attachment in case of registered business company being wound up.

(1) Where a creditor has issued execution against the goods or lands of a registered business company or has attached any debt due to the registered business company, and the registered business company is subsequently wound up, he shall not be entitled to retain the benefit of the execution or attachment against the liquidator in the winding up of the registered business company unless he has completed the execution or attachment before the commencement of the winding up:

Provided that:

- (a) Where any creditor has had notice of a meeting having been called at which a resolution for voluntary winding up is to be proposed, the date on which the creditor so had notice shall for the purposes of the foregoing provision be substituted for the date of the commencement of the winding up; and
- (b) A person who purchases in good faith under a sale by the marshal any goods of a registered business company on which an execution has been levied shall in all cases acquire a good title to them against the liquidator.

(2) For the purposes of this section, an execution against goods shall be taken to be completed by seizure and sale, and an attachment of a debt shall be deemed to be completed by receipt of the debt, and an execution against land shall be deemed to be completed by seizure and, in the case of an equitable interest, by the appointment of a receiver.

(3) In this section and section 70.256, “*goods*” include all chattels personal, and “*marshal*” includes any officer charged with the execution of a writ or other process.

§70.256. Duties of marshal as to goods taken in execution.

(1) Where any goods of a registered business company are taken in execution and, before the sale thereof or the completion of the execution by the receipt or recovery of the full amount of the levy, notice is served on the marshal that a liquidator has been appointed or that a winding up order has been made or that a resolution for voluntary winding up has been passed, the marshal shall, on being so required, deliver the goods and any money seized or received in part satisfaction of the execution to the liquidator, but the costs of the execution shall be a first charge on the goods or money so delivered, and the liquidator may sell the goods, or a sufficient part thereof, for the purpose of satisfying that charge.

(2) Where under an execution in respect of a judgment for a sum exceeding US\$2,000 the goods of a registered business company are sold or money is paid in order to avoid sale, the marshal shall deduct the costs of the execution from the proceeds of the sale or the money paid and retain the balance for one month, and if within that time notice is served on him of a petition for the winding up of the registered business company having been presented or of a meeting having been called at which there is to be proposed a resolution for the voluntary winding up of the registered business company and an order is made or a resolution is passed, as the case may be, for the winding up of the registered business company, the marshal shall pay the balance to the liquidator, who shall be entitled to retain it as against the execution creditor.

Offences Antecedent to or in Course of Winding up.

§70.257. Offences by officers of registered business companies in liquidation.

(1) A person who, being a past or present director or other officer of a registered business company which at the time of the commission of the alleged offence is being wound up, whether by or under the supervision of the court or voluntarily, or is subsequently ordered to be wound up by the court or subsequently passes a resolution for voluntary winding up:

- (a) Does not to the best of his knowledge and belief fully and truly discover to the liquidator all the property, real and personal, of the registered business company, and how and to whom and for what consideration and when the registered business company disposed of any part thereof, except such part as has been disposed of in the ordinary way of the business of the registered business company; or
- (b) Does not deliver up to the liquidator, or as he directs, all such part of the real and personal property of the registered business company as is in his custody or under his control, and which he is required by law to deliver up; or
- (c) Does not deliver up to the liquidator, or as he directs; all books and papers in his custody or under his control belonging to the registered business company and which he is required by law to deliver up; or

- (d) Within twelve months next before the commencement of the winding up or at any time thereafter conceals any part of the property of the registered business company to the value of US\$500 or upwards, or conceals any debt due to or from the registered business company; or
- (e) Within twelve months next before the commencement of the winding up or at any time thereafter fraudulently removes any part of the property of the registered business company to the value of US\$500 or upwards; or
- (f) Makes any material omission in any statement relating to the affairs of the registered business company; or
- (g) Knowing or believing that a false debt has been proved by any person under the winding up, fails for the period of a month to inform the liquidator thereof; or
- (h) After the commencement of the winding up prevents the production of any book or paper affecting or relating to the property or affairs of the registered business company; or
- (j) Within twelve months next before the commencement of the winding up or at any time thereafter, conceals, destroys, mutilates or falsifies, or is privy to the concealment, destruction, mutilation or falsification of, any book or paper affecting or relating to the property or affairs of the registered business company; or
- (k) Within twelve months next before the commencement of the winding up or at any time thereafter makes or is privy to the making of any false entry in any book or paper affecting or relating to the property or affairs of the registered business company; or
- (l) Within twelve months next before the commencement of the winding up or at any time thereafter fraudulently parts with, alters or makes any omission in, or is privy to the fraudulent parting with, altering or making any omission in, any document affecting or relating to the property or affairs of the registered business company; or
- (m) After the commencement of the winding up or at any meeting of the creditors of the registered business company within twelve months next before the commencement of the winding up attempts to account for any part of the property of the registered business company by fictitious losses or expenses; or
- (n) Has within twelve months next before the commencement of the winding up or at any time thereafter, by any false representation or other fraud, obtained any property for or on behalf of the registered business company on credit which the registered business company does not subsequently pay for; or
- (p) Within twelve months next before the commencement of the winding up or at any time thereafter, under the false pretence that the registered business company is carrying on its business, obtains on credit, for or on behalf of the registered business

company, any property which the registered business company does not subsequently pay for; or

- (q) Within twelve months next before the commencement of the winding up or at any time thereafter pawns, pledges or disposes of any property of the registered business company which has been obtained on credit and has not been paid for, unless such pawning, pledging or disposing is in the ordinary way of the business of the registered business company; or
- (r) Is guilty of any false representation or other fraud for the purpose of obtaining the consent of the creditors of the registered business company or any of them to an agreement with reference to the affairs of the registered business company or to the winding up,

shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law:

Provided that it shall be a good defence to a charge under any of paragraphs (a), (b), (c), (d), (f), (p) and (q), if the accused proves that he had no intent to defraud, and to a charge under any of paragraphs (h), (j) and (k), if he proves that he had no intent to conceal the state of affairs of the registered business company or to defeat the law.

(2) Where any person pawns, pledges or disposes of any property in circumstances which amount to an offence under paragraph (q) of subsection (1), a person who takes in pawn or pledge or otherwise receives the property knowing it to be pawned, pledged or disposed of in such circumstances as aforesaid is guilty of an offence and is liable on conviction to be punished in the same way as if he had received the property knowing it to have been obtained in circumstances amounting to an offence.

(3) For the purposes of this section, “*director*” shall include any person in accordance with whose directions or instructions the directors of a registered business company have been accustomed to act.

§70.258. Penalty for falsification of books.

A director, or other officer, or contributory of any registered business company being wound up who destroys, mutilates, alters or falsifies any books, papers or securities or makes or is privy to the making of any false or fraudulent entry in any register, book of account or document belonging to the registered business company with intent to defraud or deceive any person, shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law.

§70.259. Frauds by officers of registered business companies which have gone into liquidation.

A person who, being at the time of the commission of the alleged offence a director or other officer of a registered business company which is subsequently ordered to be wound up by the court or

subsequently passes a resolution for voluntary winding up:

- (a) Has by false pretences or by means of any other fraud induced any person to give credit to the registered business company;
- (b) With intent to defraud creditors of the registered business company, has made or caused to be made any gift or transfer of or charge on, or has caused or connived at the levying of any execution against, the property of the registered business company;
- (c) With intent to defraud creditors of the registered business company, has concealed or removed any part of the property of the registered business company since, or within two months before, the date of any unsatisfied judgment or order for payment of money obtained against the registered business company,

shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law.

§70.260. Liability where proper accounts not kept.

(1) If where a registered business company is wound up it is shown that proper books of account were not kept by the registered business company throughout the period of two years immediately preceding the commencement of the winding up, every director or other officer of the registered business company who was knowingly a party to or connived at the default of the registered business company, unless he shows that he acted honestly or that in the circumstances in which the business of the registered business company was carried on the default was excusable, shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law.

(2) For the purposes of this section, proper books of account shall be deemed not to have been kept in the case of any registered business company if there have not been kept such books or accounts as are necessary to exhibit and explain the transactions and financial position of the trade or business of the registered business company, including books containing entries from day to day in sufficient detail of all cash received and cash paid, and, where the trade or business has involved dealings in goods, statements of the annual stocktakings and (except in the case of goods sold by way of ordinary retail trade) of all goods sold and purchased, showing the goods and the buyers and sellers thereof in sufficient detail to enable those goods and those buyers and sellers to be identified.

§70.261. Responsibility of directors for fraudulent trading.

(1) If in the course of the winding up of a registered business company it appears that any business of the registered business company has been carried on with intent to defraud creditors of the registered business company or creditors of any other person or for any fraudulent purpose, the court, on the application of the liquidator or any creditor or contributory of the registered business company, may, if it thinks proper so to do, declare that any of the directors, whether past or present, of the registered business company who were knowingly parties to the carrying on of the business in manner aforesaid shall be personally responsible, without any limitation of liability, for all or any of

the debts or other liabilities of the registered business company as the court may direct.

(2) Where the court makes any such declaration, it may give such further directions as it thinks proper for the purpose of giving effect to that declaration, and in particular may make provision for making the liability of any such director under the declaration a charge on any debt or obligation due from the registered business company to him, or on any mortgage or charge or any interest in any mortgage or charge on any assets of the registered business company held by or vested in him, or any company or person on his behalf, or any person claiming as assignee from or through the director, company or person, and may from time to time make such further order as may be necessary for the purpose of enforcing any charge imposed under this subsection.

(3) For the purpose of subsection (2), “*assignee*” includes any person to whom or in whose favor, by the directions of the director, the debt, obligation, mortgage or charge was created, issued or transferred or the interest created, but does not include an assignee for valuable consideration (not including consideration by way of marriage) given in good faith and without notice of any of the matters on the ground of which the declaration is made.

(4) Where any business of a registered business company is carried on with such intent or for such purpose as is mentioned in subsection (1), every director of the registered business company who was knowingly a party to the carrying on of the business in manner aforesaid, shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law.

(5) The court may, in the case of any person in respect of whom a declaration has been made under subsection (1), or who has been convicted of an offence under subsection (4), order that that person shall not, without the leave of the court, be a director of or in any way, whether directly or indirectly, be concerned in or take part in the management of a registered business company for such period, not exceeding five years, from the date of the declaration or of the conviction, as the case may be, as may be specified in the order, and any person who acts in contravention of an order made under this subsection shall be guilty of a second degree felony and on conviction shall be liable to a penalty in accordance with Chapter 50 of the New Penal Law.

(6) For the purposes of this section “*director*” includes any person in accordance with whose directions or instructions the directors of a registered business company have been accustomed to act.

(7) The provisions of this section shall have effect notwithstanding that the person concerned may be criminally liable in respect of the matters on the ground of which the declaration is to be made.

(8) It shall be the duty of the liquidator to appear on the hearing of an application for leave under subsection (5), and on the hearing of an application under that subsection or under subsection (1) the liquidator may himself give evidence or call witnesses.

§70.262. Power of court to assess damages against delinquent directors.

(1) If in the course of winding up a registered business company it appears that any person

who has taken part in the formation or promotion of the registered business company, or any past or present director or liquidator, or any officer of the registered business company, has misapplied or retained or become liable or accountable for any money or property of the registered business company, or been guilty of any misfeasance or breach of trust in relation to the registered business company, the court may, on the application of the liquidator, or of any creditor or contributory, examine into the conduct of the promoter, director, liquidator or officer, and compel him to repay or restore the money or property or any part thereof respectively with interest at such rate as the court thinks just, or to contribute such sum to the assets of the registered business company by way of compensation in respect of the misapplication, retainer, misfeasance or breach of trust as the court thinks just.

(2) The provisions of this section shall have effect notwithstanding that the offence is one for which the offender may be criminally liable.

Supplementary Provisions as to Winding up.

§70.263. Disqualification for appointment as liquidator.

A body corporate shall not be qualified for appointment as liquidator of a registered business company, whether in a winding up by or under the supervision of the court or in a voluntary winding up, and any appointment made in contravention of this provision shall be void.

§70.264. Enforcement of duty of liquidator to make returns.

(1) If any liquidator, who has made any default in filing, delivering or making any return, account or other document, or in giving any notice which he is by law required to file, deliver, make or give, fails to make good the default within one month after the service on him of a notice requiring him to do so, the court may, on an application made to the court by any contributory or creditor of the registered business company or by the Registrar or the Deputy Registrar, make an order directing the liquidator to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a liquidator in respect of any such default.

§70.265. Notification that a registered business company is in liquidation.

Where a registered business company is being wound up, whether by or under the supervision of the court or voluntarily, every invoice, order for goods or business letter issued by or on behalf of the registered business company or a liquidator of the registered business company, or a receiver or manager of the property of the registered business company, being a document on or in which the name of the registered business company appears, shall contain a statement that the registered business company is being wound up.

§70.266. Books of registered business company to be evidence.

Where a registered business company is being wound up, all books and papers of the registered business company and of the liquidators shall, as between the contributories of the registered business company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

§70.267. Disposal of books and papers of registered business company.

(1) When a registered business company has been wound up and is about to be dissolved, the books and papers of the registered business company and of the liquidators may be disposed of as follows, that is to say:

- (a) In the case of a winding up by, or subject to the supervision of, the court in such way as the court directs;
- (b) In the case of a members' voluntary winding up, in such way as the registered business company by extraordinary resolution directs, and, in the case of a creditors' voluntary winding up, in such way as the committee of inspection or, if there is no such committee, as the creditors of the registered business company, may direct.

(2) After five years from the dissolution of the registered business company no responsibility shall rest on the registered business company, the liquidators, or any person to whom the custody of the books and papers has been committed, by reason of any book or paper not being forthcoming to any person claiming to be interested therein.

(3) Provision may be made by regulations for enabling the court to prevent, for such period (not exceeding five years from the dissolution of the registered business company) as the court may think proper, the destruction of the books and papers of a registered business company which has been wound up, and for enabling any creditor or contributory of the registered business company to make representations to the court.

§70.268. Information as to pending liquidations.

(1) If, where a registered business company is being wound up, the winding up is not concluded within one year after its commencement, the liquidator shall, at such intervals as may be prescribed, until the winding up is concluded, send to the Registrar or the Deputy Registrar a statement in the prescribed form and containing the prescribed particulars with respect to the proceedings in and position of the liquidation.

(2) Any person stating himself in writing to be a creditor or contributory of the registered business company shall be entitled, by himself or by his agent, at all reasonable times to inspect the statement, and to receive a copy thereof or extract therefrom.

§70.269. Resolutions passed at adjourned meetings of creditors and contributories.

Where a resolution is passed at an adjourned meeting of any creditors or contributories of a registered business company, the resolution shall, for all purposes, be treated as having been passed on the date on which it was in fact passed, and shall not be deemed to have been passed on any earlier date.

Supplementary Powers of Court.

§70.270. Meetings to ascertain wishes of creditors or contributories.

(1) The court may, as to all matters relating to the winding up of a registered business company, have regard to the wishes of the creditors or contributories of the registered business company, as proved to it by any sufficient evidence, and may, if it thinks fit, for the purpose of ascertaining those wishes, direct meetings of the creditors or contributories to be called, held and conducted in such manner as the court directs, and may appoint a person to act as chairman of any such meeting and to report the result thereof to the court.

(2) In the case of creditors, regard shall be had to the value of each creditor's debt.

(3) In the case of contributories, regard shall be had to the number of votes conferred on each contributory by this Law or by the articles of the registered business company.

Provisions as to Dissolution.

§70.271. Power of court to declare dissolution of registered business company void.

(1) Where a registered business company has been dissolved, the court may at any time within two years of the date of the dissolution, on an application being made for the purpose by the liquidator of the registered business company or by any other person who appears to the court to be interested, make an order, upon such terms as the court thinks fit, declaring the dissolution to have been void, and thereupon such proceedings may be taken as might have been taken if the registered business company had not been dissolved.

(2) It shall be the duty of the person on whose application the order was made, within one month after the making of the order, or such further time as the court may allow, to deliver to the Registrar or the Deputy Registrar for registration a certified copy of the order.

§70.272. Registrar or Deputy Registrar may strike defunct registered business company off Register.

(1) Where the Registrar or the Deputy Registrar has reasonable cause to believe that a registered business company is not carrying on business or in operation, he may send to the office of the registered business company in Liberia, or, where the registered business company does not have a place of business in Liberia, to the registered agent and to the principal office of the registered business company by post a letter enquiring whether the registered business company is carrying on

business or in operation and stating that if an answer is not received to the letter within three months from the date thereof, it is proposed to strike the name of the registered business company off the register.

- (2) If the Registrar or the Deputy Registrar either:
- (a) Receives an answer to the effect that the registered business company is not carrying on business or in operation; or
 - (b) Does not, within three months after sending the letter, receive any documents in respect of the deposit of which, with the Registrar or the Deputy Registrar, a registered business company is in default,

he may send to the registered business company by post, a notice that at the expiration of three months from the date of that notice, the name of the registered business company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the registered business company will be dissolved.

(3) If in any case where a registered business company is being wound up, the Registrar or the Deputy Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the registered business company are fully wound up, and the returns required to be made by the liquidator have not been made for a period of six consecutive months, the Registrar or the Deputy Registrar shall send to the registered business company or the liquidator, if any, a like notice as is provided in subsection (2).

(4) At the expiration of the time mentioned in the notice the Registrar or the Deputy Registrar may, unless cause to the contrary is previously shown by the registered business company, strike its name off the register, and shall send notice thereof to the registered business company and thereafter the registered business company shall be dissolved:

Provided that:

- (a) The liability, if any, of every director, officer and member of the registered business company shall continue and may be enforced as if the registered business company had not been dissolved; and
- (b) Nothing in this subsection shall affect the power of the court to wind up a registered business company the name of which has been struck off the register.

(5) A notice to be sent under this section to a liquidator may be addressed to the liquidator at his last known place of business, and a letter or notice to be sent under this section or under section 70.273 to a registered business company may be addressed to the registered business company at its office in Liberia or, in the case of a registered business company not having a place of business in Liberia, at the office of the registered agent of the registered business company.

§70.273. Restoration of dissolved registered business companies to the Register.

(1) A registered business company or any member or creditor thereof who feels aggrieved by the registered business company having been struck off the register under section 70.272 may, before the expiration of ten years from the dissolution of a registered business company under that section, make application to the Registrar or the Deputy Registrar to restore the registered business company to the register.

(2) An application made under subsection (1) shall be accompanied by an affidavit of:

- (a) The applicant's interest in the matter;
- (b) A statement of the facts on which the application is based; and
- (c) The relief sought.

(3) The Registrar or the Deputy Registrar may, in his discretion, require that a person making an application under subsection (1), give notice of that application (including the facts on which the application is based and the relief sought) to such other person as the Registrar or the Deputy Registrar may specify, being a person who appears to the Registrar or the Deputy Registrar to be concerned or to have an interest.

(4) On an application being made to the Registrar or the Deputy Registrar to restore a registered business company, the Registrar or the Deputy Registrar shall require the applicant to publish an advertisement in a newspaper circulating:

- (a) In the county in Liberia in which is located the office of the registered business company; or
- (b) Where the registered business company does not have a place of business in Liberia:
 - (i) In the county in Liberia in which is located the office of the registered agent of the registered business company; and
 - (ii) In the place outside Liberia in which is located the principal office of the registered business company,

to the effect that the applicant has made an application to the Registrar or the Deputy Registrar to restore the registered business company to the register and that unless written objection is made to the Registrar or the Deputy Registrar within one month of the date of publication, the Registrar or the Deputy Registrar may restore the registered business company to the register.

(5) The Registrar or the Deputy Registrar shall not make a direction under this section to restore the name of the registered business company to the register or otherwise earlier than one month after the date of publication of the notice published for the purposes of subsection (4).

(6) On receipt of any written objection to the restoration of the registered business company,

the Registrar or the Deputy Registrar shall forthwith notify the applicant of the receipt of the objection, the terms of the objection, and of the identity of the objector.

(7) On receipt of an application under this section the Registrar or the Deputy Registrar, if satisfied that there are good grounds for restoration of the registered business company to the register, may direct the name of the registered business company to be restored to the register.

(8) A direction given under this section may be made subject to conditions and the Registrar or the Deputy Registrar may include such further directions and such provisions as seem just for placing the registered business company and all other persons in the same position as nearly as may be as if the name of the registered business company had not been struck off.

(9) On the Registrar or the Deputy Registrar restoring a registered business company to the register the registered business company shall be deemed to have continued in existence as if its name had not been struck off and the Registrar or the Deputy Registrar may make such provisions as seem just for placing the registered business company and all other persons in the same position as nearly as may be as if the name of the registered business company had not been struck off.

(10) Where an application to restore a registered business company to the register has been made under subsection (1), the Registrar or the Deputy Registrar may, in his discretion, refuse to consider the application and require that the person by whom the application was made to apply to the court for an order to restore the registered business company.

(11) The court may, on application under subsection (10), refuse the application or order the Registrar or the Deputy Registrar to restore the registered business company to the register.

(12) In any proceedings under this section, the court may determine any question which may be necessary or expedient to decide in connection with restoration of the registered business company to the register.

(13) The Registrar or the Deputy Registrar shall be entitled to appear and be heard on any application to the court under this section and shall appear if so directed by the court.

(14) Any order made by the court under this section shall direct that notice of the order shall be served on the Registrar or the Deputy Registrar in the prescribed manner and the Registrar or the Deputy Registrar shall, on receipt of the notice, act accordingly.

(15) After the expiration of a period of ten years from the date deferred to in subsection (1), if a registered business company or any member or creditor thereof feels aggrieved by the registered business company having been struck off the register, the court on an application made by the registered business company or member may, if satisfied that the registered business company was at the time of the striking off carrying on business or in operation, or otherwise that it is just that the registered business company be restored to the register, order the name of the registered business company to be restored to the register, and upon a certified copy of the order being delivered to the Registrar or the Deputy Registrar for registration the registered business company shall be deemed to have continued in existence as if its name had not been struck off; and the court may by the order give such directions and make such provisions as seem just for placing the registered business

company and all other persons in the same position as nearly as may be as if the name of the registered business company had not been struck off.

PART VII.

RECEIVERS AND MANAGERS

§70.274. Disqualification for appointment as receiver.

A body corporate shall not be qualified for appointment as receiver of the property of a registered business company.

§70.275. Power to appoint liquidator as receiver.

Where an application is made to the court to appoint a receiver on behalf of the debenture holders or other creditors of a registered business company which is being wound up by the court, the liquidator may be so appointed.

§70.276. Notification that receiver or manager appointed.

Where a receiver or manager of the property of a registered business company has been appointed, every invoice, order for goods or business letter issued by or on behalf of the registered business company or the receiver or manager or the liquidator of the registered business company, being a document on or in which the name of the registered business company appears, shall contain a statement that a receiver or manager has been appointed.

§70.277. Power of court to fix remuneration on application of liquidator.

The court, may, on an application made to the court by the liquidator of a registered business company, by order fix the amount to be paid by way of remuneration to any person who, under the powers contained in any instrument, has been appointed as receiver or manager of the property of the registered business company, and may from time to time, on an application made either by the liquidator or by the receiver or manager, vary or amend any order so made.

§70.278. Delivery to Registrar of accounts of receivers and managers.

Every receiver or manager of the property of a registered business company who has been appointed under the powers contained in any instrument shall, within one month, or such longer period as the Registrar or the Deputy Registrar may allow, after the expiration of the period of six months from the date of his appointment and of every subsequent period of six months, and within one month after he ceases to act as receiver or manager, deliver to the Registrar or the Deputy Registrar for registration an abstract in the prescribed form showing his receipts and his payments during that period of six months, or, where he has ceased to act, during the period from the end of the period to which the last preceding abstract related up to the date of his so ceasing, and the aggregate amount

of his receipts and of his payments during all preceding periods since his appointment.

§70.279. Enforcement of duty of receiver to make returns.

- (1) If:
 - (a) Any receiver of the property of a registered business company, who has made default in filing, delivering or making any return, account or other document or in giving any notice, which a receiver is by law required to file, deliver, make or give, fails to make good the default within fourteen days after the service on him of a notice requiring him to do so; or
 - (b) Any receiver or manager of the property of a registered business company who has been appointed under the powers contained in any instrument, has, after being required at any time by the liquidator of the registered business company so to do, failed to render proper accounts of his receipts and payments and to pay over to the liquidator the amount properly payable to him,

the court may, on an application made for the purpose, make an order directing the receiver or manager, as the case may be, to make good the default within such time as may be specified in the order.

(2) In the case of any such default as is mentioned in paragraph (a) of subsection (1) an application for the purposes of this section may be made by any member or creditor of the registered business company or by the Registrar or the Deputy Registrar, and the order may provide that all costs of and incidental to the application shall be borne by the receiver, and in the case of any such default as is mentioned in paragraph (b) of that subsection the application shall be made by the liquidator.

(3) Nothing in this section shall be taken to prejudice the operation of any enactments imposing penalties on receivers in respect of such default as is mentioned in paragraph (a) of subsection (1).

PART VIII.

GENERAL PROVISIONS AS TO REGISTRATION

§70.280. Keeping of the Register and Index by the Registrar or the Deputy Registrar.

(1) The Registrar or the Deputy Registrar shall keep a public register in the form of an index of registered business companies registered under this Law and may determine the form of the index and the information to be contained in the index may be recorded and kept by him in any form he thinks fit, provided it is possible to inspect the information contained in the index and to produce a copy of it in printed form and this shall be sufficient compliance with any duty of his to keep, file or record any information and he may retain in such form as he thinks fit in respect of each registered business company documents delivered to, filed with, or served on him and which he is required to

register under this Law together with a copy of any document issued by him.

(2) The index in respect of nonresident registered business companies kept in accordance with subsection (1) shall be kept in duplicate in the office of the Deputy Registrar designated as the location of the register and by him in the office of the Minister of Foreign Affairs.

(3) The Registrar or the Deputy Registrar may appoint one or more Assistant Registrars, and any Assistant Registrar so appointed may, subject to any directions given to him by the Registrar, exercise all the powers and perform all the duties of the Registrar or the Deputy Registrar.

§70.281. Delivery to the Registrar or the Deputy Registrar of documents in printed form.

(1) This section applies to the delivery to the Registrar or the Deputy Registrar under any provision of this Law of documents in printed form.

(2) The document shall:

- (a) State in a prominent position the name and the registered number of the registered business company to which it relates;
- (b) Contain the information and be in the form prescribed by the Registrar or the Deputy Registrar; and
- (c) Conform to such requirements as the Registrar or the Deputy Registrar may specify for the purpose of enabling him to copy the document.

(3) If a document is delivered to the Registrar or the Deputy Registrar which does not comply with the requirements of this section, he may serve on the person by whom the document was delivered (or if there are two or more such persons, on any of them), a notice indicating the respect in which the document does not comply.

(4) Where the Registrar or the Deputy Registrar serves such a notice as is specified in subsection (3), then, unless a replacement document:

- (a) Is delivered to him within one month after the service of the notice; and
- (b) Complies with the requirements of this section (or section 70.282) or is not rejected by him for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to him:

Provided that for the purposes of any enactment imposing a penalty for failure to deliver, so far as it imposes a penalty for continued contravention, no account shall be taken of the period between the delivery of the original document and the end of the period of one month after service of the Registrar's or the Deputy Registrar's notice.

§70.282. Delivery to the Registrar or the Deputy Registrar of documents otherwise than in printed form.

(1) This section applies to the delivery to the Registrar or the Deputy Registrar under any provision of this Law of documents other than in printed form.

(2) Any requirement to deliver a document to the Registrar or the Deputy Registrar, or to deliver a document in the prescribed form, is satisfied by the communication to the Registrar or the Deputy Registrar of the requisite information in any non-printed form prescribed for the purposes of this section by the Registrar or the Deputy Registrar in accordance with the Electronic Transactions Law.

(3) Where the document is required to be signed or sealed, it shall instead be authenticated in such manner as may comply with the Electronic Transactions Law.

(4) A document shall:

- (a) Contain in a prominent position the registered number of the registered business company to which it relates;
- (b) Contain the information and be in the form prescribed by the Registrar or the Deputy Registrar; and
- (c) Be furnished in such manner, and conform to such requirements as the Registrar or the Deputy Registrar may specify for the purpose of enabling him to read and copy the document.

(5) If a document is delivered to the Registrar or the Deputy Registrar which does not comply with the requirements of this section, he may serve on the person by whom the document was delivered (or, if there were two or more such persons, on any of them), a notice indicating the respect in which the document does not comply.

(6) Where the Registrar or the Deputy Registrar serves such a notice, then, unless a replacement document:

- (a) Is delivered to him within one month after service of the notice; and
- (b) Complies with the requirements of this section (or section 70.281) or is not rejected by him for failure to comply with those requirements,

the original document shall be deemed not to have been delivered to him:

Provided that for the purposes of any enactment imposing a penalty for failure to deliver, so far as it imposes a penalty for continued contravention, no account shall be taken of the period between the delivery of the original document and the end of the period of one month after service of the Registrar's or the Deputy Registrar's notice.

§70.283. Capitalization tax and filing fees.

(1) Prior to filing with the Registrar or the Deputy Registrar of the memorandum and articles of incorporation of a registered business company a fee in the following amounts shall be paid to the Minister of Finance and a receipt therefor shall accompany the documents presented for filing:

- (a) US\$ 2.00 for each US\$ 1,000 of par value share capital authorized up to and including US\$ 125,000;
- (b) US\$ 0.50 for each US\$ 1,000 of par value share capital authorized in excess of US\$ 125,000 and not in excess of US\$ 1,000,000;
- (c) US\$ 0.25 for each US\$ 1,000 of par value share capital authorized in excess of US\$ 1,000,000 and not in excess of US\$ 2,000,000;
- (d) US\$ 0.10 for each US\$ 1,000 of par value share capital authorized in excess of US\$ 2,000,000;
- (e) US\$ 0.20 for each share without nominal or par value authorized up to and including twelve hundred and fifty shares;
- (f) US\$ 0.05 for each share without nominal or par value authorized in excess of twelve hundred and fifty and not in excess of ten thousand shares;
- (g) US\$ 0.0025 for each share without nominal or par value authorized in excess of ten thousand and not in excess of twenty thousand shares;
- (h) US\$ 0.001 for each share without nominal or par value authorized in excess of twenty thousand shares;

and in no case shall less than US\$ 100.00 be paid on filing of memorandum and articles of incorporation.

(2) On filing with the Registrar or the Deputy Registrar:

- (a) An amendment to the memorandum which has the effect of increasing the authorized share capital of a registered business company or the number of shares without par value; or
- (b) Articles of merger or consolidation of two or more registered business companies,

a fee shall be paid computed in accordance with subsection (1) on the basis of the share capital or number of shares provided for in the articles of amendment or articles of merger or consolidation:

Provided that that all fees paid by the registered business company with respect to the shares authorized prior to such amendment or merger or consolidation shall be deducted from the amount to be paid but in no case shall the amount payable be less than US\$ 10.00.

(3) On filing with the Registrar or the Deputy Registrar any document required or permitted by this law to be filed a fee of US\$ 10.00 shall be paid to the Minister of Finance.

(4) Fees for certifying copies of documents and for searching, filing, recording or indexing papers shall be determined and published by the Registrar or the Deputy Registrar from time to time.

(5) Every registered business company, reregistered registered business company or re-domiciled registered business company shall pay to the Minister of Finance an annual registration fee of US\$ 150.00, which fee shall be:

(a) Due and payable on the anniversary date of the existence of the registered business company or of the registration, as the case may be;

(b) A preferred debt in the case of insolvency.

(6) A registered business company that neglects, refuses or fails to pay the annual fee when due shall cease to be in goodstanding unless such fee is paid in full, and, prior to the date at which the provisions of section 70.272 apply to such registered business company, a registered business company that has ceased to be in goodstanding by reason of such neglect, refusal or failure shall be restored to and have the status of a registered business company in goodstanding upon the payment of the annual fee for each year for which such registered business company neglected, refused or failed to pay an annual fee.

(7) Notwithstanding that a registered business company is not in goodstanding, it shall remain a registered business company formed under this Law, but the Registrar or the Deputy Registrar shall not accept for filing any document required or permitted by this Law to be filed and no certificate of goodstanding shall be issued with respect to such registered business company unless or until such registered business company shall have been restored to and have the status of a registered business company in goodstanding.

(8) A registered business company that has ceased to be in goodstanding by reason of its neglect, refusal or failure to pay an annual fee may not maintain any action, suit or proceeding in any court until such registered business company has been restored to and has the status of a registered business company in goodstanding and no action, suit or proceeding may be maintained in any court by any successor or assignee of such registered business company, or on any right, claim or demand arising on the transaction of business by such registered business company, after it has ceased to be in goodstanding until such registered business company has paid any annual fee then due and payable:

Provided that the neglect, refusal or failure of a registered business company to pay an annual fee shall not impair the validity on any contract, deed, mortgage, security interest, lien or act of such registered business company or prevent such registered business company from defending any action, suit or proceeding with any court.

(9) A shareholder, director or officer of a registered business company is not liable for the debts, obligations or liabilities of such registered business company solely by reason of the neglect, refusal or failure of such registered business company to pay an annual fee or by reason of such

registered business company ceasing to be in good standing.

(10) The Registrar or the Deputy Registrar may prescribe a fee in respect of the performance by the Registrar or the Deputy Registrar of any function under this Law not otherwise specified in this section including the receipt by him of any notice or other document or application which under this Law is required to be given to, delivered to, served on, filed with, sent to, received by or forwarded to him or which he is required to issue, certify, copy or enter on the register and in the absence of the prescribed fee being paid the Registrar shall not be required to perform any function otherwise required of him under this Law.

(11) Provision may be made under subsection (10) in respect of supplementary fees payable where any notice or document which, under this Law is required to be given to, delivered to, served on, filed with, sent to, received by or forwarded to the Registrar or the Deputy Registrar within a specified time, is given to, delivered to, served on, filed with, sent to, received by or forwarded to him outside of the specified time.

§70.284. Inspection, production and evidence of documents kept by Registrar or Deputy Registrar.

(1) Any person may inspect the index and any records kept by the Registrar or the Deputy Registrar for the purposes of this Law and may require:

- (a) An extract from the index or a copy of a document in such form as the Registrar or the Deputy Registrar considers appropriate; or
- (b) A certified copy of, or extract from any such record.

(2) A copy of an extract from a record certified in writing by the Registrar or the Deputy Registrar (whose official position it is unnecessary to prove), to be an accurate record of the contents the index or of any document recorded by him under this Law, is in all legal proceedings, admissible in evidence as of equal validity with the original document and as evidence of any facts stated therein, of which direct oral evidence would be admissible.

(3) Any person may require a certificate of the incorporation of a registered business company or a certificate of goodstanding, signed by the Registrar or the Deputy Registrar.

(4) Any requirement of this Law as to the supply by the Registrar or the Deputy Registrar of a document may, if the Registrar or the Deputy Registrar thinks fit, be satisfied by the communication by the Registrar or the Deputy Registrar of the requisite information in any non-printed form approved by him.

(5) Where the document is required to be signed by the Registrar or the Deputy Registrar or sealed with his official seal and is a communication in a non-printed form, it shall instead be authenticated in such manner as may comply with the requirements of the Electronic Transactions Law.

(6) No process for compelling the production of a record by the Registrar or the Deputy Registrar shall issue from any court except with the leave of the court, and any such process shall bear on it a statement that it is issued with the leave of the court.

§70.285. Enforcement of duty of registered business company to make returns to Registrar.

(1) If a registered business company, having made default in complying with any provision of this Law which requires it to file with, deliver or send to the Registrar or the Deputy Registrar any return, account or other document, or to give notice to him of any matter, fails to make good the default within one month after the service of a notice on the registered business company requiring it to do so, the court may, on an application made to the court by any member or creditor of the registered business company or by the Registrar or the Deputy Registrar, make an order directing the registered business company and any officer thereof to make good the default within such time as may be specified in the order.

(2) Any such order may provide that all costs of and incidental to the application shall be borne by the registered business company or by any officers of the registered business company responsible for the default.

(3) Nothing in this section shall be taken to prejudice the operation of any enactment imposing penalties on a registered business company or its officers in respect of any such default.

§70.286. Service of documents on registered business company.

A document may be served on a registered business company by leaving it at or sending it by post to the office of the registered business company in Liberia, or, in the case of a registered business company which does not have a place of business in Liberia, by leaving it at or sending it by post to the office of the registered agent in Liberia and the provisions of Chapter 3 of Part I of this Title in respect of service shall apply.

PART IX.

PENALTY AND DEFAULT PROVISIONS

§70.287. Penalty for false statement.

An officer or auditor of a registered business company shall be guilty of an offence punishable on conviction by a fine if he knowingly and with intent to deceive:

- (a) Falsely represents the financial position of the registered business company to any person;
- (b) Withholds information relating to the financial position of the registered business company or any other matter regulated by this Law from any person entitled to receive that information;

- (c) Falsifies any document:
 - (i) To be delivered under this Law to the Registrar or the Deputy Registrar;
 - (ii) Required by this Law to be prepared in respect of the registered business company.

§70.288. Default provisions.

(1) Where a registered business company or an officer of a registered business company is in default of a requirement under this Law an application may be made to the court by the registered business company or by a member or creditor of the registered business company specifying the default and seeking a remedy.

(2) Where the court is satisfied that it is just and equitable in the circumstances to do so, it may order the remedy sought, or may make such other order as it sees fit:

- (a) For the attainment of the objects of this Law; and
- (b) To obtain compliance with this Law.

(3) Where the order of the court under subsection (2) has the effect of granting the application, the court shall order that the costs of the applicant in bringing the application as well as the costs of the action shall be met:

- (a) Where the application and the order are in respect of default by the registered business company, by the registered business company;
- (b) Where the application and the order are in respect of default by the registered business company but, in the opinion of the court, the default was the responsibility of an officer, by that officer;
- (c) Where the application and the order are in respect of default by an officer, by that officer.

§70.289. Saving for privileged communications.

Where proceedings are instituted under this Law against any person, nothing in this Law shall be taken to require any person who has acted as attorney for the defendant to disclose any privileged communication made to him in that capacity.

§70.290. Power of court to grant relief in certain cases.

(1) If in any proceedings for negligence, default, breach of duty or breach of trust against a person to whom this section applies it appears to the court hearing the case that that person is or may be liable in respect of the negligence, default, breach of duty or breach of trust, but that he has acted honestly and reasonably, and that, having regard to all circumstances of the case, including those

connected with his appointment, he ought fairly to be excused for the negligence, default, breach of duty or breach of trust, that court may relieve him, either wholly or partly, from his liability on such terms as the court thinks fit.

(2) Where any person to whom this section applies has reason to apprehend that any claim will or might be made against him in respect of any negligence, default, breach of duty or breach of trust, he may apply to the court for relief, and the court on any such application shall have the same power to relieve him as under this section it would have had if it had been a court before which proceedings against that person for negligence, default, breach of duty or breach of trust had been brought.

(3) Where any case to which subsection (1) applies is being tried by a judge with a jury, the judge, after hearing the evidence, may, if he is satisfied that the defendant ought in pursuance of that subsection to be relieved either in whole or in part from the liability sought to be enforced against him, withdraw the case in whole or in part from the jury and forthwith direct judgment to be entered for the defendant on such terms as to costs or otherwise as the judge may think proper.

(4) The persons to whom this section applies are the following:

- (a) Directors and secretaries of a registered business company;
- (b) Officers of a registered business company;
- (c) Persons employed by a registered business company as auditors.

PART X.

BRANCH REGISTRATION

§70.291. Application of Part X.

(1) This Part shall apply to:

- (a) A private limited company which:
 - (i) Is incorporated outside of Liberia; and
 - (ii) Registers a branch of the company in Liberia;
- (b) A branch of a private limited company registered under this Part.

(2) A branch registered under this Part shall be a “*registered business branch*”.

§70.292. Documents to be delivered to Registrar for registration by companies establishing a branch in Liberia.

(1) A company incorporated outside Liberia proposing to establish a registered business branch in Liberia, shall deliver to the Registrar for registration:

- (a) A certified copy of the charter, statutes or memorandum and articles of the company, or other instrument constituting or defining the constitution of the company, and, if the instrument is not written in the English language, a certified translation thereof, which instrument and the translation thereof, and, where the instrument is in the English language and a certified translation thereof into another language is attached thereto, that instrument and the translation thereof, shall form a part of the registered instrument;
- (b) A list of the directors and secretaries of the company, containing such particulars with respect to directors and secretaries as are by this Law required to be contained with respect to directors and secretaries in the register of the directors and secretaries of a registered business company;
- (c) The address of the principal office in Liberia or, where the company does not have a principal office in Liberia, the name and address of the registered agent in Liberia and written confirmation from the registered agent of acceptance of the appointment;
- (d) A return containing:
 - (i) Such particulars about the company as are specified in section 70.293;
 - (ii) Such particulars about the branch as are specified in section 70.294.

(2) If at the date on which the company proposes to opens a branch in Liberia the company is subject to any proceedings referred to in section 70.298(1) or 70.299(1) the company shall deliver a return under section 70.298 or, as the case may be, 70.299 within one month of that date.

(3) If on or before that date a person has been appointed to be liquidator of the company and continues in that office at that date, section 70.298 shall have effect as if it required a return to be made under that section within one month of the date of the branch being registered.

(4) Part VIII of this Law shall apply *mutatis mutandis* to the registration of a registered business branch.

§70.293. Particulars of company required.

(1) The particulars referred to in section 70.292(1)(d)(i) are:

- (a) The corporate name of the company;
- (b) The law under which the company is incorporated and its legal form;

- (c) If it is registered in the country of its incorporation, the identity of the register in which it is registered and the number with which it is so registered;
- (d) A list of the company's directors and secretary, containing with respect to each director and secretary, the particulars required to be included on the return of directors and secretaries required to be made in accordance with sections 70.144 and 70,145, as the case may be;
- (e) The extent of the powers of the directors to represent the company in dealings with third parties and in legal proceedings, together with a statement as to whether they may act alone or must act jointly and, if jointly, the name of any other person concerned;
- (f) The address of the principal office of the company;
- (g) The objects of the company;
- (h) The amount of the issued share capital of the company;
- (j) The names and registered numbers of any other registered business branches of the company registered in Liberia.

§70.294. Particulars of registered business branch required.

The particulars referred to in section 70.292(1)(d) (ii) are:

- (a) The address in Liberia of the registered business branch, or where the principal office of the registered business branch is not in Liberia, the name and address of the registered agent and the address of the principal office;
- (b) The business to be carried on by the registered business branch;
- (c) If different from the name of the company, the name in which the registered business branch proposes to register:

Provided that the provisions of section 70.17 shall apply in respect of any name with which it is proposed to register the registered business branch;

- (d) A list of the directors and secretary of the registered business branch, containing with respect to each director and secretary, the particulars required to be included on the return of directors and secretaries required to be made in accordance with sections 70.144 and 70.145, as the case may be;
- (e) The extent of the powers of the directors to represent the registered business branch in dealings with third parties and in legal proceedings, together with a statement as to whether they may act alone or must act jointly and, if jointly, the name of any other person concerned.

§70.295. Return and documents to be delivered to Registrar where documents, etc. altered.

(1) If, after a company has delivered a return under section 70.292 or 70.293 any alteration is made in:

- (a) Its charter, statutes or memorandum and articles (or other instrument constituting or defining its constitution); or
- (b) Any of the particulars referred to in section 70.292 or 70.293,

the company shall, within one month of the date of the change deliver to the Registrar or the Deputy Registrar for registration a return containing particulars of the alteration:

Provided that in the case of an alteration to any of the documents referred to in paragraph (a), the return shall be accompanied by a certified copy of the document as altered, together with, if the document is not written in the English language, a translation of it into English, certified to be a true translation, or, where the document is written in the English language, it may be accompanied by a translation thereof, certified to be a true translation, into another language.

(2) Where:

- (a) A company has more than one registered business branch in Liberia, and
- (b) An alteration relates to more than one of those registered business branches,

subsection (1) shall have effect to require the company to deliver a return in respect of each of the registered business branches to which the alteration relates.

§70.296. Duty to state name, etc.

Every registered business branch to which this Part applies shall cause the following particulars to be stated in legible characters in all letter paper and order forms used in carrying on the business of the branch:

- (a) The place of registration of the branch;
- (b) The registered number of the branch;
- (c) In respect of the company of which it is a branch:
 - (i) The identity of the registry in which the company is registered in its country of incorporation;
 - (ii) The number with which the company is registered;
 - (iii) The legal form of the company;

- (iv) The location of the principal office of the company; and
- (v) If applicable, the fact that the company is being wound up.

§70.297. Documents to be filed on cessation of business.

If a company to which this Part applies closes a registered business branch in Liberia, it shall forthwith give notice of that fact to the Registrar or the Deputy Registrar; and from the date on which notice is so given it is no longer obliged to deliver documents to the Registrar or the Deputy Registrar in respect of that registered business branch.

§70.298. Particulars to be delivered to the Registrar on winding up.

(1) Where a company to which this Part applies is being wound up, it shall deliver to the Registrar or the Deputy Registrar for registration within one month of the commencement of the winding up a return in the prescribed form containing the following particulars:

- (a) The name of the company;
- (b) Whether the company is being wound up by an order of a court and, if so, the name and address of the court and the date of the order;
- (c) If the company is not being so wound up, as a result of what action the winding up has commenced;
- (d) Whether the winding up has been instigated by:
 - (i) The company's members;
 - (ii) The company's creditors; or
 - (iii) Some other person or persons, specifying the identity of that person or those persons;
- (e) The date on which the winding up became or will become effective.

(2) A person appointed to be the liquidator of a company to which this Part applies, shall deliver to the Registrar or the Deputy Registrar for registration within one month of his appointment a return in the prescribed form containing the following particulars:

- (a) His name and address;
- (b) The date of his appointment; and
- (c) A description of such of his powers, if any, as are derived otherwise than from the applicable law or the company's constitution.

(3) The liquidator of a company to which this Part applies, shall deliver to the Registrar or the Deputy Registrar for registration a return in the prescribed form within one month of the occurrence of the following events:

- (a) The termination of the winding up of the company; and
- (b) The company ceasing to be registered, in circumstances where ceasing to be registered is an event of legal significance,

which shall include the following particulars:

- (c) In the case of subparagraph (a), the name of the company and the date on which the winding up terminated; and
- (d) In the case of paragraph (b), the name of the company and the date on which the company ceased to be registered.

(4) The obligation to deliver a return under subsections (1), (2) or (3) shall apply in respect of each registered business branch which the company has in Liberia.

§70.299. Particulars to be delivered to the Registrar in insolvency proceedings, etc..

(1) Where a company to which this Part applies becomes subject to any of the following proceedings (other than proceedings for the winding up of the company), that is to say, insolvency proceedings or an arrangement or composition or any analogous proceedings, it shall deliver to the Registrar or the Deputy Registrar for registration in the prescribed form, a return containing the following particulars:

- (a) The name of the company;
- (b) Whether the proceedings are by order of a court and, if so, the name and address of the court and the date of the order;
- (c) If the proceedings are not by order of a court, as a result of what action the proceedings have been commenced;
- (d) Whether the proceedings have been instigated by:
 - (i) The company's members;
 - (ii) The company's creditors; or
 - (iii) Some other person or persons, specifying the identity of that person or those persons;
- (e) The date on which the proceedings became or will become effective.

(2) Where a company to which this Part applies ceases to be subject to any of the proceedings mentioned in subsection (1), it shall deliver to the Registrar or the Deputy Registrar for registration a return containing the following particulars:

- (a) The name of the company; and
- (b) The date on which it ceased to be subject to the proceedings.

(3) The period allowed for delivery of a return under subsection (1) or (2) is one month from the date on which the company becomes subject or, as the case may be, ceases to be subject to the proceedings concerned.

(4) The obligation to deliver a return under this section shall apply in respect of each branch which the company has in Liberia.

§70.300. Annual return in respect of registered business branch.

The provisions of section 70.110 or 70.111, as the case may be, shall apply *mutatis mutandis* in respect of a registered business branch as they apply in respect of a registered business company, with the variation that the return shall contain the information required by a return under section 70.292 in respect of the company and the registered business branch.

PART XI.

RE-DOMICILIATION

§70.301. Eligibility to apply to establish domicile in Liberia.

A private company domiciled outside Liberia may, if permitted to do so by its constitution, apply to establish its domicile as a registered business company in Liberia.

§70.302. Application to establish domicile in Liberia.

(1) An application by a private company to establish domicile in Liberia shall be made to the Registrar or the Deputy Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the company, and, if the name has been changed, the name with which the company was established, and the name, if different, under which re-domiciliation as a Liberian registered business company is sought;
 - (ii) The date of establishment of the company, and if registered, the date of registration;

- (iii) The jurisdiction of establishment of the company;
 - (iv) The date on which it is proposed to redomicile as a Liberian registered business company;
 - (v) That the re-domiciliation has been approved in accordance with the relevant law and the constitution of the company;
 - (vi) Confirmation by the officers of the company that at the date of redomiciliation as a Liberian registered business company the company will have done in the jurisdiction in which it was established everything required by the relevant legislation of that jurisdiction preparatory to re-domiciliation in another jurisdiction and that the company will cease to be a company domiciled in that jurisdiction;
- (b) A copy of the resolution or other instrument of the company resolving to re-domicile as a Liberian registered business company, approved in the manner prescribed by the constitution of the company, which shall specify:
- (i) That the company shall be re-domiciled in Liberia as a Liberian registered business company;
 - (ii) The proposed name of the Liberian registered business company if different from the present name of company;
 - (iii) Such other provisions with respect to the proposed re-domiciliation as a Liberian registered business company as the governing body considers necessary or desirable;
- (c) Where the company is registered in the jurisdiction in which it is established, a certificate of goodstanding in respect of the company issued by the competent authority in that jurisdiction or other evidence to the satisfaction of the Registrar or the Deputy Registrar that the company is in compliance with registration requirements of that jurisdiction;
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the company in the jurisdiction in which it is established;
- (e) Any amendments to the instrument constituting or defining the constitution of the company that are to take effect on the registration of the company as a Liberian registered business company;
- (f) The memorandum and articles of incorporation in accordance with section 70.4 which are to be the memorandum and articles of incorporation of the Liberian registered business company; and

- (g) Where the company carries on in or from the jurisdiction of its incorporation a business which, if conducted in or from within Liberia, would require to be licensed as a banking or insurance activity and the company is licensed or authorized by a competent authority in that jurisdiction, evidence of the consent of that competent authority to the re-domiciliation and, if the company proposes to carry on such an activity as a re-domiciled registered business company, evidence of the authorization to do so by the competent authority in Liberia in respect of that activity;
- (h) The name and address of the registered agent in Liberia and the agent's acceptance of the appointment,

and:

- (j) Where in this section there is reference to the jurisdiction in which the company is established, that reference shall, in respect of a company domiciled in a jurisdiction other than that in which it is established, be read to include a reference to the jurisdiction of domicile;
- (k) Subject to paragraph (l), the provisions of sections 1.4.1 to 1.4.5 and 1.4.7 of Chapter 1 of Part I of this Title shall apply, with the variation that execution shall be by an officer or other person performing in relation to that company the function of an officer and duly authorized for this purpose;
- (l) The information and evidence required by this subsection shall be in the English language or if it is not written in the English language, shall be accompanied by a certified translation thereof, and the documents and the translation, and, where the instrument is in the English language and a certified translation thereof into another language is attached thereto, that translation, shall form a part of the document.

(2) The provisions of section 70.17 shall apply in respect of the name in which a company may apply to re-domicile as a Liberian registered business company.

§70.303. Registration as a re-domiciled registered business company in Liberia.

(1) The Registrar or the Deputy Registrar shall, if he is satisfied that the requirements of this Law in respect of re-domiciliation as a Liberian registered business company have been met, register and retain the documents referred to in section 70.302(1) and certify that the company has established domicile in Liberia and has existence as the Liberian registered business company specified in the documents supplied in compliance with section 70.302(1), in accordance with those documents on the date of the issue of the certificate, or, in the case of a certificate to which subsection (2) applies, on the specified date.

(2) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of the making of an application under subsection (1), the company applying for re-domiciliation as a Liberian registered business company has specified a date (in this section and section 70.304 referred to as "the specified date") no later than 12 months after the date of the making of the application as the date of re-domiciliation, the certificate issued by the Registrar or the Deputy Registrar shall

show the specified date as the date of re-domiciliation.

§70.304. Effect of establishing domicile in Liberia.

(1) A certificate given by the Registrar or the Deputy Registrar in accordance with section 70.303(1) in respect of any re-domiciled registered business company shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that re-domiciliation, and matters precedent and incidental thereto, have been complied with and that the registered business company is authorized to be so re-domiciled and is re-domiciled and under the provisions of this section;
- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in the case of a certificate to which section 70.303(2) applies, from the specified date, unless endorsed in accordance with subsection (3).

(2) If, at the time of the issue by the Registrar or the Deputy Registrar of the certificate of re-domiciliation in accordance with section 70.303(1), any provisions of the instrument constituting or defining the constitution of the registered business company do not, in any respect, accord with this Law:

- (a) The instrument constituting or defining the constitution of the company shall continue to govern the re-domiciled registered business company until:
 - (i) The memorandum and articles of incorporation complying with this Law are in effect; or
 - (ii) The expiration of a period of 12 months immediately following the date of the issue of that certificate or, in the case of a certificate to which section 70.303(2) applies, the specified date,whichever is the sooner;
- (b) Any provisions of the instrument constituting or defining the constitution of the company that are in any respect in conflict with this Law cease to govern the re-domiciled registered business company when the memorandum and articles of incorporation in accordance with this Law are in effect;
- (c) The re-domiciled registered business company shall give effect to a memorandum and articles of incorporation as may be necessary to accord with this Law within a period of 12 months immediately following the date of the issue of the certificate or, in the case of a certificate to which section 70.303(2) applies, from the specified date.

(3) Where:

- (a) At the date of the issue of a certificate of re-domiciliation or at any time thereafter

within a period of 12 months immediately following the date of the issue of that certificate; or

- (b) In the case of a certificate to which section 70.303(2) applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar or the Deputy Registrar is satisfied that:

- (c) The re-domiciled registered business company has ceased to be a company under the relevant provisions of the law in the jurisdiction in which it was established; and
- (d) The memorandum and articles of incorporation accord in all respects with this Law and the objects of the re-domiciled registered business company,

he may, on the application of the re-domiciled registered business company to which the certificate has been issued endorse that certificate to the effect that the re-domiciled registered business company is from the date of the endorsement to be deemed to be re-domiciled and in existence in Liberia under this Law and that shall be the effective date of re-domiciliation.

(4) If, by a date 12 months immediately following the date of the issue of a certificate in accordance with subsection (1) of section 70.303 or, in the case of a certificate to which subsection (2) of that section applies, following the specified date, the re-domiciled registered business company has not satisfied the Registrar or the Deputy Registrar that:

- (a) It has ceased to be a company under the relevant provisions of the law in the jurisdiction in which it was established; and
- (b) The memorandum articles of incorporation accord in all respects with this Law and the objects of the registered business company as a Liberian registered business company,

the Registrar or the Deputy Registrar shall revoke the certificate issued under section 70.303(1) and:

- (c) That certificate and any re-domiciliation under this section shall be of no further force or effect; and
- (d) The Registrar or the Deputy Registrar shall strike the re-domiciled registered business company from the register.

(5) With effect from the date of the issue of a certificate of re-domiciliation:

- (a) The Liberian registered business company to which the certificate relates:
 - (i) Is a registered business company re-domiciled and deemed to be incorporated in Liberia under this Law and having as its existence date the date on which it was established in another jurisdiction; and

- (ii) Shall be a registered business company incorporated in Liberia for the purpose of any other Law;
- (b) The memorandum and articles of incorporation of the registered business company as filed in accordance with section 70.302(1)(f) are the memorandum and articles of the Liberian registered business company;
- (c) The property of every description and the business of the company are vested in the Liberian registered business company;
- (d) The Liberian registered business company is liable for all of the claims, debts, liabilities and obligations of the company;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the company or against any officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate of re-domiciliation by or against the company or against any officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the Liberian registered business company or against the officer or agent thereof, as the case may be;
- (g) Unless otherwise provided in the resolution of re-domiciliation filed in accordance with section 70.302(1), the company re-domiciling as a Liberian registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the re-domiciliation shall constitute a continuation of the existence of the re-domiciling company as the Liberian registered business company and shall not:

- (h) Constitute a dissolution of the company;
 - (j) Create a new legal entity; or
 - (k) Prejudice or affect the continuity of the Liberian registered business company as a re-domiciled registered business company.
- (6) Nothing in this Part shall operate to—
- (a) Create a new legal entity; or
 - (b) Prejudice or affect the continuity of the re-domiciled registered business company;
or
 - (c) Affect the property of the re-domiciled registered business company.

§70.305. Eligibility to apply to establish domicile in another jurisdiction.

A registered business company incorporated or domiciled in Liberia may, if permitted to do so by its constitution and by the applicable law in the jurisdiction into which it proposes to establish domicile, apply to establish domicile outside Liberia in another jurisdiction.

§70.306. Application to establish domicile in another jurisdiction.

(1) An application by a Liberian registered business company to establish domicile outside Liberia in another jurisdiction and to cease to be a Liberian registered business company shall be made to the Registrar or the Deputy Registrar in the form prescribed by him and shall be accompanied by:

- (a) A certificate setting out:
 - (i) The name of the Liberian registered business company, and, if the name has been changed, the name with which the Liberian registered business company was established, and the name, if different, under which registration as a re-domiciled company is sought;
 - (ii) The date of existence of the Liberian registered business company;
 - (iii) The jurisdiction to which the Liberian registered business company proposes to re-domicile and the name and address of the competent authority in that jurisdiction;
 - (iv) The date on which the Liberian registered business company proposes to redomicile;
 - (v) The address for service of the Liberian registered business company as a re-domiciled company in the jurisdiction of re-domiciliation;
 - (vi) That the proposed re-domiciliation has been approved in accordance with the relevant law and the constitution of the Liberian registered business company;
 - (vii) Confirmation by the officers of the Liberian registered business company that at the date of redomiciliation the Liberian registered business company will have done everything required by this Law preparatory to re-domiciliation in another jurisdiction and that, on redomiciliation in the other jurisdiction, the Liberian registered business company will cease to be a registered business company domiciled in Liberia;
- (b) A copy of the resolution or other instrument of the members of the Liberian registered business company resolving to re-domicile, approved in the manner prescribed by the constitution of the Liberian registered business company, which shall specify:

- (i) That the Liberian registered business company shall be re-domiciled out of Liberia;
 - (ii) The proposed name of the re-domiciled company if different from the present name of the Liberian registered business company;
 - (iii) Such other provisions with respect to the proposed re-domiciliation as the members consider necessary or desirable;
- (c) A certificate of goodstanding in respect of the Liberian registered business company issued by the Registrar or the Deputy Registrar;
 - (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced in Liberia against the Liberian registered business company;
 - (e) Where the registered business company carries on in or from Liberia a business which requires that the registered business company be licensed to carry on banking or insurance activity, evidence of the consent of the competent authority in respect of that activity to the re-domiciliation in another jurisdiction of the registered business company;
 - (f) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with this Law or the consent in writing to the re-domiciliation of every registered mortgagee or chargee has been obtained;
 - (g) The address of the registered agent in Liberia which shall be retained during the period of one year or such longer period until the Liberian registered business company has been deemed to be a company domiciled in the other jurisdiction, and evidence of acceptance of the appointment by the registered agent; and
 - (h) Any amendments to the memorandum and articles of incorporation that are to take effect on the registration of the re-domiciled company in the other jurisdiction,

and subject to subsection (2) the provisions of sections 1.4.1 to 1.4.5 and 1.4.7 of Chapter 1 of Part I of this Title shall apply.

(2) The information and evidence required by subsection (1) shall be in the English language or if it is not written in the English language, shall be accompanied by a certified translation thereof, and the documents and the translation, and, where the instrument is in the English language and a certified translation thereof into another language is attached thereto, that translation, shall form a part of the document.

§70.307. Consent to establish domicile in another jurisdiction.

(1) The Registrar or the Deputy Registrar shall, if he is satisfied that the requirements of this

Law in respect of re-domiciliation to another jurisdiction have been met:

- (a) Certify that the Liberian registered business company is permitted to establish domicile in the jurisdiction specified in the documents supplied in compliance with section 70.306(1), in accordance with those documents, and that it may cease to be registered in Liberia on the date of the issue of the certificate, or, in the case of a certificate to which subsection (2) applies, on the specified date;
- (b) Enter in the index kept for this purpose in respect of a Liberian registered business company to which a certificate has been issued under this paragraph the fact of the issue of the certificate.

(2) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under section 70.306(1), the Liberian registered business company applying for re-domiciliation has specified a date (in this section and section 70.309 referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of re-domiciliation, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of re-domiciliation.

(3) A certificate given by the Registrar or the Deputy Registrar in accordance with subsection (1) in respect of any Liberian registered business company shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that re-domiciliation, and matters precedent and incidental thereto, have been complied with and that the registered business company is authorized to be so re-domiciled under the provisions of this section;
- (b) Valid for a period of 12 months from the date of the issue of the certificate or, in the case of a certificate to which subsection (2) applies, from the specified date, unless endorsed in accordance with subsection (4).

§70.308. Effect of establishing domicile in another jurisdiction.

(1) With effect from the date of the issue of a certificate of re-domiciliation under section 70.307(1):

- (a) The registered business company to which the certificate relates shall cease to be:
 - (i) A Liberian registered business company registered in Liberia under this Law; and
 - (ii) A Liberian registered business company registered in Liberia for the purpose of any other Law;
- (b) The memorandum and articles incorporation of the re-domiciled company (or other instrument constituting or defining the constitution of the company), as amended by the resolution or equivalent document establishing domicile in the other jurisdiction,

are the memorandum and articles of incorporation of the re-domiciled company;

- (c) The property of every description and the business of the Liberian registered business company are vested in the re-domiciled company;
- (d) The re-domiciled company is liable for all of the claims, debts, liabilities and obligations of the Liberian registered business company;
- (e) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the Liberian registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
- (f) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate of re-domiciliation by or against the Liberian registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the re-domiciled company or against the officer or agent thereof, as the case may be;
- (g) Unless otherwise provided in the resolution of re-domiciliation filed in accordance with section 70.306(1), the Liberian registered business company re-domiciling as a re-domiciled company in another jurisdiction shall not be required to wind up its affairs or pay its liabilities and distribute its assets,

and the re-domiciliation shall constitute a continuation of the existence of the re-domiciling registered business company and shall not:

- (h) Constitute a dissolution of the Liberian registered business company;
- (j) Create a new legal entity; or
- (k) Prejudice or affect the continuity of the re-domiciled company.

§70.309. Termination of registration.

- (1) Where:
 - (a) At the date of the issue of a certificate of re-domiciliation or at any time thereafter within a period of 12 months immediately following the date of the issue of that certificate; or
 - (b) In the case of a certificate to which section 70.307(2) applies, at the specified date or at any time thereafter within a period of 12 months immediately following that date,

the Registrar or the Deputy Registrar is satisfied, by the service on him of a certificate of continuation executed by the governing body of the re-domiciled company, that the registered business company has become a company under the relevant provisions of the law in the jurisdiction specified in the

certificate of re-domiciliation, he may endorse the certificate of re-domiciliation to the effect that the registered business company is from the date of the endorsement to be deemed to be re-domiciled and no longer registered in Liberia under this Law and that shall be the effective date of re-domiciliation.

(2) If, by a date 12 months immediately following the date of the issue of a certificate in accordance with subsection (1) of section 70.307 or, in the case of a certificate to which subsection (2) of that section applies, following the specified date, the Liberian registered business company has not satisfied the Registrar or the Deputy Registrar that it has become a company under the relevant provisions of the law in the jurisdiction to which it proposed to re-domicile, the Registrar or the Deputy Registrar shall revoke the certificate issued under section 70.307(1) and:

- (a) That certificate and any re-domiciliation under that section shall be of no further force or effect; and
- (b) The Liberian registered business company shall continue as a Liberian registered business company in Liberia under the provisions of this Law.

§70.310. Index of registered business companies domiciled in another jurisdiction.

The Registrar shall maintain an index of Liberian registered business companies in respect of which a certificate issued in accordance with section 70.307(1) is in force, or which has been endorsed in accordance with section 70.309, and in that index shall record the name in which the registered business company is re-domiciled in the other jurisdiction and whether the registered business company has ceased to be registered under this Law

PART XII.

REREGISTRATION

§70.311. Reregistration of limited registered business company as unlimited.

(1) Subject to the provisions of this section and section 70.312, a registered business company which is registered as limited may be reregistered as unlimited in pursuance of an application in that behalf complying with the requirements of this section.

(2) A registered business company is precluded from reregistering under this section if it is limited by virtue of registration under section 70.313.

(3) A registered business company which has previously been reregistered as unlimited shall not be reregistered under this section.

(4) An application under this section shall be:

- (a) In the prescribed form; and

- (b) Signed by a director or the secretary of the registered business company; and
 - (c) Delivered to the Registrar or the Deputy Registrar; and
 - (d) Accompanied by the documents specified in subsection (7).
- (5) An application under this section shall set out such alterations in the registered business company's memorandum as:
- (a) If it is to have a share capital, are requisite to bring it (in substance and in form) into conformity with the requirements of this Law with respect to the memorandum of a registered business company to be formed as an unlimited company having a share capital; or
 - (b) If it is not to have a share capital, are requisite in the circumstances.
- (6) The application under this section shall set out such alterations in the articles as:
- (a) If the registered business company is to have a share capital, are requisite to bring the articles (in substance and in form) into conformity with the requirements of this Law with respect to the articles of a registered business company to be formed as an unlimited company having a share capital; or
 - (b) If the registered business company is not to have a share capital, are requisite in the circumstances.
- (7) The documents to be lodged under subsection (4)(d) with the Registrar or the Deputy Registrar are:
- (a) The prescribed form of assent to the registered business company being reregistered as unlimited, subscribed by or on behalf of all the members of the registered business company;
 - (b) A declaration made by the directors of the registered business company:
 - (i) That the persons by whom or on whose behalf the form of assent is subscribed constitute the whole of the membership of the registered business company; and
 - (ii) If any of the members have not subscribed that form themselves, that the directors have taken all reasonable steps to satisfy themselves that each person who subscribed it on behalf of a member was lawfully empowered so to do;
 - (c) A printed copy of the memorandum incorporating the alterations in it set out in the application;

- (d) A printed copy of the articles incorporating the alterations set out in the application; and
 - (e) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering as a limited registered business company and registering as an unlimited registered business company.
- (8) For the purposes of this section:
- (a) Subscription to the form of assent by the legal personal representative of a deceased member of a registered business company is deemed subscription by him;
 - (b) A trustee in bankruptcy of a member of a registered business company is, to the exclusion of the latter, deemed to be a member of the registered business company.

§70.312. Certificate of reregistration under section 70.311.

- (1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 70.311 and shall:
- (a) Register the memorandum and articles; and
 - (b) Issue to the registered business company a certificate of incorporation appropriate to the status to be assumed by it by virtue of that section.
- (2) On the issue of the certificate referred to in subsection (1)(b):
- (a) The status of the registered business company, by virtue of the issue, is changed from limited to unlimited; and
 - (b) The alterations in the memorandum set out in the application and any alteration to the articles so set out take effect as if duly made by resolution of the registered business company; and
 - (c) The provisions of this Law apply accordingly to the memorandum and articles as altered.
- (3) The certificate issued under subsection (1)(b) is conclusive evidence that the requirements of section 70.311 in respect of reregistration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be reregistered under this Law in pursuance of that section and was duly so registered.
- (4) Where a registered business company is issued with a certificate under subsection (1):
- (a) The constitution of the reregistered registered business company shall be that set out

in the application made under section 70.311;

- (b) The property of every description and the business of the registered business company continue to be vested in the reregistered registered business company;
- (c) The reregistered registered business company continues to be liable for all of the claims, debts, liabilities and obligations of the registered business company;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the registered business company or against any member, director, officer or agent thereof is thereby released or impaired; and
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the reregistered registered business company or against the member, director, officer or agent thereof as the case may be;
- (f) Unless otherwise provided in the application made under section 70.311, the reregistered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the reregistration shall not constitute a dissolution of such registered business company and shall constitute a continuation of the existence of the registered business company in the form of the reregistered registered business company.

(5) For the avoidance of doubt it is hereby declared that a registered business company reregistered by virtue of section 70.311 is a continuation of that registered business company prior to that .

§70.313. Reregistration of unlimited registered business company as limited.

(1) Subject to the provisions of this section and section 70.314, a registered business company which is registered as unlimited may be reregistered as limited if:

- (a) A special resolution that it should be so reregistered is passed; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) A registered business company is precluded from reregistering under this section if it is unlimited by virtue of registration under section 70.311.

(3) The special resolution referred to in subsection (1)(a) shall state whether the registered business company is to be limited by shares or by guarantee and:

- (a) If it is to be limited by shares, shall state what the share capital shall be and provide

for the making of such alterations:

- (i) In the memorandum as are necessary to bring it (in substance and in form) into conformity with the requirements of this Law with respect to the memorandum of a registered business company so limited; and
 - (ii) In the articles as are requisite in the circumstances;
- (b) If it is to be limited by guarantee, shall provide for the making of such alterations in its memorandum and articles as are necessary to bring them (in substance and in form) into conformity with the requirements of this Law with respect to the memorandum and articles of a registered business company so limited.
- (4) The special resolution referred to in subsection (1)(a) is subject to section 70.120.
- (5) An application for the registered business company to be reregistered as limited, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.
- (6) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (5) are:
- (a) A printed copy of the memorandum as altered in pursuance of the special resolution;
 - (b) A printed copy of the articles so altered;
 - (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering as an unlimited registered business company and reregistering as a limited registered business company; and
 - (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that company has been discharged in accordance with this Law or the consent in writing of every registered mortgagee or chargee to the de-registration of the registered business company as an unlimited registered business company and reregistration as a limited registered business company has been obtained.

§70.314. Certificate of reregistration under section 70.313.

- (1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 70.313 and shall issue to the registered business company a certificate of incorporation appropriate to the status to be assumed by it by virtue of that section.

- (2) On the issue of the certificate under subsection (1):
- (a) The status of the registered business company, by virtue of the issue, is changed from unlimited to limited; and
 - (b) The alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.
- (3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.313 in respect of reregistration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be reregistered in pursuance of that section and was duly so reregistered.
- (4) Where a registered business company is issued with a certificate under subsection (1):
- (a) The constitution of the reregistered registered business company shall be that set out in the application made under section 70.313;
 - (b) The property of every description and the business of the registered business company continue to be vested in the reregistered registered business company;
 - (c) The reregistered registered business company continues to be liable for all of the claims, debts, liabilities and obligations of the registered business company;
 - (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
 - (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the reregistered registered business company or against the member, director, officer or agent thereof as the case may be;
 - (f) Unless otherwise provided in the application made under section 70.313, the reregistered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the reregistration shall not constitute a dissolution of such registered business company and shall constitute a continuation of the existence of the registered business company in the form of the reregistered registered business company.
- (5) For the avoidance of doubt it is hereby declared that a registered business company reregistered by virtue of section 70.313 is a continuation of that registered business company prior to that .

§70.315. Power of registered business company to provide for reserve share capital on reregistration.

An unlimited registered business company having a share capital may, by its resolution for reregistration as a limited registered business company in pursuance of this Law, do either or both of the following things, namely:

- (a) Increase the nominal amount of its share capital by increasing the nominal amount of each of its shares, but subject to the condition that no part of the increased capital shall be capable of being called up except in the event and for the purposes of the registered business company being wound up;
- (b) Provide that a specified portion of its uncalled share capital shall not be capable of being called up except in the event and for the purposes of the registered business company being wound up.

§70.316. Reregistration of registered business company limited by shares as registered business company limited by guarantee and not having share capital.

(1) Subject to the provisions of this section and section 70.317, a registered business company which is registered as limited by shares or as limited by shares and by guarantee may be reregistered as limited by guarantee and not having share capital if:

- (a) A special resolution that it should be so reregistered is passed by the vote of each member entitled to receive notice of an extraordinary meeting of the registered business company; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) A registered business company is precluded from reregistering under this section if it is limited by shares by virtue of registration under section 70.318.

(3) The special resolution referred to in subsection (1)(a) shall state the share capital of the registered business company and shall provide:

- (a) That the total amount of the guarantee of the members from time to time shall not fall below the amount of the share capital of the registered business company at the date of the resolution; and
- (b) For the making of such alterations:
 - (i) In the memorandum as are necessary to bring it (in substance and in form) into conformity with the requirements of this Law with respect to the memorandum of a registered business company limited by guarantee and not having share capital; and

(ii) In the articles as are requisite in the circumstances.

(4) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(5) An application for the registered business company to be reregistered as limited by guarantee and not having share capital, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(6) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (5) are:

- (a) A printed copy of the memorandum as altered in pursuance of the special resolution;
- (b) A printed copy of the articles so altered;
- (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering as a registered business company limited by shares and reregistering as a registered business company limited by guarantee; and
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with the Law.

(7) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law

(8) For the purposes of this section “*share capital*” shall include:

- (a) The nominal value of the allotted shares of every class in the registered business company, whether or not paid up and whether or not paid up in cash or otherwise; and
- (b) Any amount in the share premium account of the company.

§70.317. Certificate of reregistration under section 70.316.

(1) The Registrar shall retain the application and other documents delivered to him under section 70.316 and shall issue to the registered business company a certificate of incorporation appropriate to the status to be assumed by it by virtue of that section.

(2) On the issue of the certificate under subsection (1):

- (a) The status of the registered business company, by virtue of the issue, is changed from

limited by shares or limited by shares and by guarantee, as the case may be, to limited by guarantee; and

- (b) The alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.

(3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.316 in respect of reregistration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be reregistered in pursuance of that section and was duly so registered.

(4) Where a registered business company is issued with a certificate under subsection (1):

- (a) The constitution of the reregistered registered business company shall be that set out in the application made under section 70.316;
- (b) The property of every description and the business of the registered business company continue to be vested in the reregistered registered business company;
- (c) The reregistered registered business company continues to be liable for all of the claims, debts, liabilities and obligations of the registered business company;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the reregistered registered business company or against the member, director, officer or agent thereof as the case may be;
- (f) Unless otherwise provided in the application made under section 70.316, the reregistered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the reregistration shall not constitute a dissolution of such registered business company and shall constitute a continuation of the existence of the registered business company in the form of the reregistered registered business company.

(5) For the avoidance of doubt it is hereby declared that a registered business company reregistered by virtue of section 70.316 and in respect of which a certificate has been issued under subsection (1) is a continuation of that registered business company prior to that reregistration.

§70.318. Reregistration of registered business company limited by guarantee and not having share capital as registered business company limited by shares.

(1) Subject to the provisions of this section and section 70.319, a registered business company which is registered as limited by guarantee and not having share capital may be reregistered as limited by shares if:

- (a) A special resolution that it should be so reregistered is passed; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) A registered business company is precluded from reregistering under this section if it is limited by guarantee by virtue of registration under section 70.316.

(3) The special resolution referred to in subsection (1)(a) shall state the total amount of the guarantee of the members at the date of the resolution and shall provide:

- (a) That the amount of the share capital of the reregistered registered business company from time to time shall not fall below the total amount of the guarantee of the members at the date of the resolution; and
- (b) For the making of such alterations:
 - (i) In the memorandum as are necessary to bring it (in substance and in form) into conformity with the requirements of this Law with respect to the memorandum of a registered business company limited by shares; and
 - (ii) Are requisite to bring the articles (in substance and in form) into conformity with the requirements of this Law with respect to the articles of a registered business company to be formed as a limited registered business company having a share capital.

(4) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(5) An application for the registered business company to be reregistered as limited by shares, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(6) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (5) are:

- (a) A printed copy of the memorandum as altered in pursuance of the special resolution;
- (b) A printed copy of the articles so altered; and

- (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering as a registered business company limited by guarantee and reregistering as a registered business company limited by shares.

§70.319. Certificate of reregistration under section 70.318.

(1) The Registrar shall retain the application and other documents delivered to him under section 70.18 and shall issue to the registered business company a certificate of incorporation appropriate to the status to be assumed by it by virtue of that section.

(2) On the issue of the certificate under subsection (1):

- (a) The status of the registered business company, by virtue of the issue, is changed from limited by guarantee to limited by shares; and
- (b) The alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.

(3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.318 in respect of reregistration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be reregistered in pursuance of that section and was duly so registered.

(4) Where a registered business company is issued with a certificate under subsection (1):

- (a) The constitution of the reregistered registered business company shall be that set out in the application made under section 70.318;
- (b) The property of every description and the business of the registered business company continue to be vested in the reregistered registered business company;
- (c) The reregistered registered business company continues to be liable for all of its claims, debts, liabilities and obligations of the registered business company;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the reregistered registered business company or against

the member, director, officer or agent thereof as the case may be;

- (f) Unless otherwise provided in the application made under section 70318, the reregistered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the reregistration shall not constitute a dissolution of such registered business company and shall constitute a continuation of the existence of the registered business company in the form of the reregistered registered business company.

(5) For the avoidance of doubt it is hereby declared that a registered business company reregistered by virtue of section 70.318 and in respect of which a certificate has been issued under subsection (1) is a continuation of that registered business company prior to that reregistration.

§70.320. De-registration of a registered business company limited by shares or guarantee or both on registration as a limited partnership.

(1) Subject to the provisions of this section and section 70.321, a registered business company which is registered as limited by shares or by guarantee or by shares and guarantee may be de-registered on being registered as a limited partnership under Part III of this Title if:

- (a) A special resolution that it should be so de-registered is passed by the vote of each member entitled to receive notice of an extraordinary meeting of the registered business company; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) The special resolution referred to in subsection (1)(a) shall state the share capital or the total amount of the guarantee or both, as the case may be, of the registered business company and shall provide:

- (a) That the total amount of the capital of the limited partnership from time to time shall not fall below the amount of the share capital or the total amount of the guarantee or the total of both, as the case may be, of the registered business company at the date of the resolution; and
- (b) For the method of converting shares or membership or both, as the case may be, into participation in the capital of the limited partnership, specifying which members shall become the limited partners and which shall become the general partners and the sum contributed to the capital of the limited partnership by each shareholder or member or both, as the case may be; and
- (c) For the making of such alterations in the memorandum and articles as are necessary to bring them (in substance and in form) into conformity with the requirements of Part III of this Title as the limited partnership agreement.

(3) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(4) An application for the registered business company to be de-registered on registration under Chapter III of this Title as a limited partnership, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(5) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (4) are:

- (a) A printed copy of the memorandum and articles as altered in pursuance of the special resolution to be the limited partnership agreement containing the matters required by Part III of this Title;
- (b) A certificate of good standing in respect of the registered business company issued by the Registrar or the Deputy Registrar;
- (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering under this Law and registering under Part III of this Title;
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the registered business company in Liberia;
- (e) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with this Law or the consent in writing to the de-registration of every registered mortgagee or chargee has been obtained.

(6) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.

(7) For the purposes of this section “*share capital*” shall include:

- (a) The nominal value of the allotted shares of every class in the registered business company, whether or not paid up and whether or not paid up in cash or otherwise; and
- (b) Any amount in the share premium account of the registered business company.

§70.321. Certificate of de-registration under section 70.320.

(1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 70.320 and, on being satisfied that the requirements of that section are satisfied, de-register the body as a registered business company registered under this Law and

issue to the company a certificate of de-registration and continuation for the purpose of registration as a limited partnership on the date and at the time signified by the Registrar of Deeds as the date and time at which the registration of the body under Part III of this Title shall occur and such certificate shall be valid for a period of twelve months unless it is endorsed in accordance with subsection (6).

(2) On the issue of the certificate under subsection (1) the alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.

(3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.320 in respect of de-registration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be de-registered in pursuance of that section and was duly so de-registered.

(4) Where a registered business company is issued with a certificate under subsection (1):

- (a) The constitution of the de-registered registered business company as a limited partnership shall be that set out in the application made under section 70.320;
- (b) The property of every description and the business of the de-registered registered business company continue to be vested in the limited partnership;
- (c) The limited partnership continues to be liable for all of the claims, debts, liabilities and obligations of the de-registered registered business company;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the de-registered registered business company or against any member, director, officer or agent thereof is thereby released or impaired; and
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the de-registered registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the limited partnership or against the member, partner, officer or agent thereof as the case may be;
- (f) Unless otherwise provided in the application made under section 70.320, the de-registered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the de-registration shall not constitute a dissolution of such de-registered registered business company and shall constitute a continuation of the existence of the registered business company in the form of the limited partnership.

(5) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under section 70.320, the registered business company applying for de-

registration has specified a date (in this section referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of de-registration, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of de-registration.

(6) A registered business company de-registered under this section may, within a period of twelve months from the date of the issue of a certificate in accordance with subsection (1), or from the specified date, file an instrument of continuation executed by an authorized officer or representative of the limited partnership certifying:

- (a) That the de-registered registered business company is continued as a limited partnership under the relevant provisions of Part III of this Title;
- (b) The effective date of the registration as a limited partnership,

and the Registrar or the Deputy Registrar shall file and retain such certificate in the record of the de-registered registered business company and shall endorse the certificate issued under subsection (1) to the effect that, with effect from the date and time of the endorsement the de-registered registered business company is no longer organized under this Law, and where no such endorsement is made within the period the certificate issued under subsection (1) shall lapse and be of no force or effect.

(7) For the avoidance of doubt it is hereby declared that a limited partnership registered under Part III of this Title as a result of the procedures contained in section 70.320 and this section is on the date and time referred to in subsection (6) a continuation of the undertaking of the registered business company de-registered by virtue of those procedures.

§70.322. De-registration of a registered business company limited by shares or guarantee or both on registration as a corporation.

(1) Subject to the provisions of this section and section 70.323, a registered business company which is registered as limited by shares or by guarantee or by shares and guarantee may be de-registered on being registered as a corporation under Part I of this Title if:

- (a) A special resolution that it should be so de-registered is passed by the vote of each member entitled to receive notice of an extraordinary meeting of the registered business company; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) The special resolution referred to in subsection (1)(a) shall state the share capital or the total amount of the guarantee or both, as the case may be, of the registered business company and shall provide:

- (a) That the total amount of the capital of the corporation from time to time shall not fall below the amount of the share capital or the total amount of the guarantee or the total

of both, as the case may be, of the registered business company at the date of the resolution; and

- (b) For the method of converting shares or membership or both, as the case may be, into the share capital or membership of the corporation, or both, as the case may be; and
- (c) For the making of such alterations in the memorandum and articles as are necessary to bring them (in substance and in form) into conformity with the requirements of Part I of this Title as the articles of incorporation of the corporation.

(3) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(4) An application for the registered business company to be de-registered on registration under Chapter I of this Title as a corporation, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(5) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (4) are:

- (a) A printed copy of the memorandum and articles as altered in pursuance of the special resolution to be the articles of incorporation containing the matters required by Part I of this Title;
- (b) A certificate of good standing in respect of the registered business company issued by the Registrar or the Deputy Registrar;
- (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering under this Law and registering under Part I of this Title;
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the registered business company in Liberia;
- (e) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with this Law or the consent in writing to the de-registration of every registered mortgagee or chargee has been obtained.

(6) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.

(7) For the purposes of this section “*share capital*” shall include:

- (a) The nominal value of the allotted shares of every class in the registered business company, whether or not paid up and whether or not paid up in cash or otherwise; and
- (b) Any amount in the share premium account of the registered business company.

§70.323. Certificate of de-registration under section 322.

(1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 70.322 and, on being satisfied that the requirements of that section are satisfied, de-register the body as a registered business company registered under this Law and issue to the company a certificate of de-registration and continuation for the purpose of registration as a corporation on the date and at the time signified by the Registrar or the Deputy Registrar as the date and time at which the registration of the body under Part I of this Title shall occur and such certificate shall be valid for a period of twelve months unless it is endorsed in accordance with subsection (6).

(2) On the issue of the certificate under subsection (1) the alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.

(3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.322 in respect of de-registration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be de-registered in pursuance of that section and was duly so de-registered.

(4) Where a registered business company is issued with a certificate under subsection (1):

- (a) The constitution of the de-registered registered business company as a corporation under Part I of this Title shall be that set out in the application made under section 70.322;
- (b) The property of every description and the business of the de-registered registered business company continue to be vested in the corporation;
- (c) The corporation continues to be liable for all of the claims, debts, liabilities and obligations of the de-registered registered business company;
- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the de-registered registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the de-registered registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the corporation or against the member, partner,

officer or agent thereof as the case may be;

- (f) Unless otherwise provided in application made under section 70.322, the de-registered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the de-registration shall not constitute a dissolution of such de-registered registered business company and shall constitute a continuation of the existence of the registered business company in the form of the corporation.

(5) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under section 70.322, the registered business company applying for de-registration has specified a date (in this section referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of de-registration, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of de-registration.

(6) A registered business company de-registered under this section may, within a period of twelve months from the date of the issue of a certificate in accordance with subsection (1), or from the specified date, file an instrument of continuation executed by an authorized officer or representative of the corporation certifying:

- (a) That the de-registered registered business company is continued as a corporation under the relevant provisions of this Part I of this Title;
- (b) The effective date of the registration as a corporation,

and the Registrar or the Deputy Registrar shall file and retain such certificate in the record of the de-registered registered business company and shall endorse the certificate issued under subsection (1) to the effect that, with effect from the date and time of the endorsement the de-registered registered business company is no longer organized under this Law, and where no such endorsement is made within the period the certificate issued under subsection (1) shall lapse and be of no force or effect.

(7) For the avoidance of doubt it is hereby declared that a corporation registered under Part I of this Title as a result of the procedures contained in section 322 and this section is on the date and time referred to in subsection (6) a continuation of the undertaking of the registered business company de-registered by virtue of those procedures.

§70.324. De-registration of a registered business company limited by shares or guarantee or both on registration as a limited liability company.

(1) Subject to the provisions of this section and section 70.325, a registered business company which is registered as limited by shares or by guarantee or by shares and guarantee may be de-registered on being registered as a limited liability company under Chapter 14 of this Title if:

- (a) A special resolution that it should be so de-registered is passed by the vote of each member entitled to receive notice of an extraordinary meeting of the registered business

company; and

- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) The special resolution referred to in subsection (1)(a) shall state the share capital or the total amount of the guarantee or both, as the case may be, of the registered business company and shall provide:

- (a) That the total amount of the contributions to the participations in the limited liability company from time to time shall not fall below the amount of the share capital or the total amount of the guarantee or the total of both, as the case may be, of the registered business company at the date of the resolution; and
- (b) For the method of converting shares or membership or both, as the case may be, into contributions to the participations in the limited liability company; and
- (c) For the making of such alterations in the memorandum and articles as are necessary to bring them (in substance and in form) into conformity with the requirements of Chapter 14 of this Title as the management agreement of the limited liability company.

(3) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(4) An application for the registered business company to be de-registered on registration under Chapter 14 of this Title as a limited liability company, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(5) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (4) are:

- (a) A printed copy of the memorandum and articles as altered in pursuance of the special resolution to be the management agreement containing the matters required by Chapter 14 of this Title;
- (b) A certificate of good standing in respect of the registered business company issued by the Registrar or the Deputy Registrar;
- (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering under this Law and registering under Chapter 14 of this Title;
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the registered business company in Liberia;

- (e) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with this Law or the consent in writing to the de-registration of every registered mortgagee or chargee has been obtained.
- (6) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.
- (7) For the purposes of this section “*share capital*” shall include:
 - (a) The nominal value of the allotted shares of every class in the registered business company, whether or not paid up and whether or not paid up in cash or otherwise; and
 - (b) Any amount in the share premium account of the registered business company.

§70.325. Certificate of de-registration under section 70.324.

- (1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 70.324 and, on being satisfied that the requirements of that section are satisfied, de-register the body as a registered business company registered under this Law and issue to the company a certificate of de-registration and continuation for the purpose of registration as a limited liability company on the date and at the time signified by the Registrar or the Deputy Registrar as the date and time at which the registration of the body under Chapter 14 of this Title shall occur and such certificate shall be valid for a period of twelve months unless it is endorsed in accordance with subsection (6).
- (2) On the issue of the certificate under subsection (1) the alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.
- (3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.324 in respect of de-registration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be de-registered in pursuance of that section and was duly so de-registered.
- (4) Where a registered business company is issued with a certificate under subsection (1):
 - (a) The management agreement of the de-registered registered business company as a limited liability company under Chapter 14 of this Title shall be that set out in the application made under section 70.324;
 - (b) The property of every description and the business of the de-registered registered business company continue to be vested in the limited liability company;
 - (c) The limited liability company continues to be liable for all of the claims, debts,

liabilities and obligations of the de-registered registered business company;

- (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the de-registered registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
- (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the de-registered registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the limited liability company or against the member, manager, officer or agent thereof as the case may be;
- (f) Unless otherwise provided in the application made under section 70.324, the de-registered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the de-registration shall not constitute a dissolution of such de-registered registered business company and shall constitute a continuation of the existence of the registered business company in the form of the limited liability company.

(5) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under section 70.324, the registered business company applying for de-registration has specified a date (in this section referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of de-registration, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of de-registration.

(6) A registered business company de-registered under this section may, within a period of twelve months from the date of the issue of a certificate in accordance with subsection (1), or from the specified date file an instrument of continuation executed by an authorized officer or representative of the limited liability company certifying:

- (a) That the de-registered registered business company is continued as a limited liability company under the relevant provisions of this Chapter 14 of this Title;
- (b) The effective date of the registration as a limited liability company,

and the Registrar or the Deputy Registrar shall file and retain such certificate in the record of the de-registered registered business company and shall endorse the certificate issued under subsection (1) to the effect that, with effect from the date and time of the endorsement the de-registered registered business company is no longer organized under this Law, and where no such endorsement is made within the period the certificate issued under subsection (1) shall lapse and be of no force or effect.

(7) For the avoidance of doubt it is hereby declared that a limited liability company registered under Chapter 14 of this Title as a result of the procedures contained in section 70.324 and this section is on the date and time referred to in subsection (6) a continuation of the undertaking of the registered business company de-registered by virtue of those procedures.

§70.326. De-registration of a registered business company limited by shares or guarantee or both on registration as a private foundation.

(1) Subject to the provisions of this section and section 70.327, a registered business company which is registered as limited by shares or by guarantee or by shares and guarantee may be de-registered on being registered as a private foundation under Chapter 60 of this Title if:

- (a) A special resolution that it should be so de-registered is passed by the vote of each member entitled to receive notice of an extraordinary meeting of the registered business company; and
- (b) The requirements of this section are complied with in respect of the resolution and otherwise.

(2) The special resolution referred to in subsection (1)(a) shall state the share capital or the total amount of the guarantee or both, as the case may be, of the registered business company and shall provide:

- (a) That the total amount of the endowed assets of the private foundation from time to time shall not fall below the amount of the share capital or the total amount of the guarantee or the total of both, as the case may be, of the registered business company at the date of the resolution; and
- (b) For the method of converting shares or membership or both, as the case may be, into participations in the endowed assets of the private foundation; and
- (c) For the making of such alterations in the memorandum and articles as are necessary to bring them (in substance and in form) into conformity with the requirements of the Chapter 60 of this Title as the memorandum of endowment and management articles, if any, of the private foundation.

(3) The special resolution referred to in subsection (1)(a) is subject to section 70.120.

(4) An application for the registered business company to be de-registered on registration under Chapter 60 of this Title as a private foundation, framed in the prescribed form and signed by a director or by the secretary of the registered business company, shall be delivered to the Registrar or the Deputy Registrar, together with the necessary documents not earlier than the day on which the copy of the special resolution forwarded under section 70.120 is received by him.

(5) The documents required to be delivered to the Registrar or the Deputy Registrar for the purposes of subsection (4) are:

- (a) A printed copy of the memorandum and articles as altered in pursuance of the special resolution to be the memorandum of endowment and management articles, if any, containing the matters required by Chapter 60 of this Title, together with a copy of the extract of particulars required by section 60.20;

- (b) A certificate of good standing in respect of the registered business company issued by the Registrar or the Deputy Registrar;
 - (c) Where the registered business company carries on in or from within Liberia a business which is authorized to carry on banking or insurance activities, evidence of the consent of the competent authority under the relevant legislation to the registered business company de-registering under this Law and registering under Chapter 60 of this Title;
 - (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the registered business company in Liberia;
 - (e) Evidence to the satisfaction of the Registrar or the Deputy Registrar that any mortgage or other charge recorded in respect of that registered business company has been discharged in accordance with this Law or the consent in writing to the de-registration of every registered mortgagee or chargee has been obtained.
- (6) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Law.
- (7) For the purposes of this section “*share capital*” shall include:
- (a) The nominal value of the allotted shares of every class in the registered business company, whether or not paid up and whether or not paid up in cash or otherwise; and
 - (b) Any amount in the share premium account of the registered business company.

§70.327. Certificate of de-registration under section 326.

- (1) The Registrar or the Deputy Registrar shall retain the application and other documents delivered to him under section 326 (except the memorandum of endowment and management articles, if any, referred to in subsection (5)(a), which shall be endorsed by him and returned to the registered business company) and, on being satisfied that the requirements of section 70.326 are satisfied, de-register the body as a registered business company registered under this Law and issue to the company a certificate of de-registration and continuation for the purpose of registration as a private foundation on the date and at the time signified by the Registrar or the Deputy Registrar as the date and time at which the registration of the body under Chapter 60 of this Title shall occur and such certificate shall be valid for a period of twelve months unless it is endorsed in accordance with subsection (6).
- (2) On the issue of the certificate under subsection (1) the alterations in the memorandum of the registered business company specified in the special resolution and the alterations in, and additions to, the articles of the registered business company so specified take effect.
- (3) The certificate issued under subsection (1) is conclusive evidence that the requirements of section 70.326 in respect of de-registration and of matters precedent and incidental to it have been complied with, and that the registered business company was authorized to be de-registered in

pursuance of that section and was duly so de-registered.

- (4) Where a registered business company is issued with a certificate under subsection (1):
 - (a) The constitution of the de-registered registered business company as a private foundation under Chapter 60 of this Title shall be that set out in the application made under section 70.326;
 - (b) The property of every description and the business of the de-registered registered business company continue to be vested in the private foundation;
 - (c) The private foundation continues to be liable for all of the claims, debts, liabilities and obligations of the de-registered registered business company;
 - (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the de-registered registered business company or against any member, director, officer or agent thereof is thereby released or impaired;
 - (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate by or against the de-registered registered business company or against any member, director, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the private foundation or against an officer or agent thereof as the case may be;
 - (f) Unless otherwise provided in the application made under section 70.326, the de-registered registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the de-registration shall not constitute a dissolution of such de-registered registered business company and shall constitute a continuation of the existence of the registered business company in the form of the private foundation.
- (5) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under section 70.326, the registered business company applying for de-registration has specified a date (in this section referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of de-registration, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of de-registration.
- (6) A registered business company de-registered under this section may, within a period of twelve months from the date of the issue of a certificate in accordance with subsection (1), file an instrument of continuation executed by an authorized officer or representative of the private foundation certifying:
 - (a) That the de-registered registered business company is continued as a private foundation under the relevant provisions of this Chapter 60 of this Title;

(b) The effective date of the registration as a private foundation,

and the Registrar or the Deputy Registrar shall file and retain such certificate in the record of the de-registered registered business company and shall endorse the certificate issued under subsection (1) to the effect that, with effect from the date and time of the endorsement the de-registered registered business company is no longer organized under this Law, and where no such endorsement is made within the period the certificate issued under subsection (1) shall lapse and be of no force or effect.

(7) For the avoidance of doubt it is hereby declared that a private foundation registered under Chapter 60 of this Title as a result of the procedures contained in section 70.326 and this section is on the date and time referred to in subsection (6) a continuation of the undertaking of the registered business company de-registered by virtue of those procedures.

§70.328 Reregistration of another entity as registered business company.

(1) A limited partnership, a corporation, a limited liability company or a private foundation registered and existing under the laws of Liberia (in this section referred to as a “legal entity”) may reregister as a registered business company under this Law.

(2) In the event that a legal entity shall have resolved to reregister and continue as a registered business company, the legal entity shall file with the Registrar or the Deputy Registrar:

(a) A certificate setting out:

- (i) The name of the legal entity, and if the name has been changed the name with which the legal entity was formed, and the name, if different, under which reregistration as a continued registered business company is sought;
- (ii) The date of formation of the legal entity;
- (iii) The date on which it is proposed to reregister;
- (iv) That the de-registration and reregistration has been approved in accordance with the relevant law and the constitution of the legal entity;
- (v) The name and address of the registered agent in Liberia and evidence of acceptance of the appointment by the registered agent; and
- (vi) The memorandum and articles of incorporation which are to be the memorandum and articles of incorporation after reregistration;

(b) A copy of the resolution or other instrument of the legal entity made:

- (i) In accordance with the requirements of the relevant law, that is to say, in the case of a in the case of a limited partnership Part III, in the case of a corporation Part I, in the case of a limited liability company Chapter 14, in the case of a private foundation Chapter 60;

- (ii) In accordance with its constitution; and
- (iii) In the form required in respect of the particular entity,
which shall specify:
 - (iv) That the entity shall be de-registered and reregistered as a registered business company and specifying whether the registered business company will be limited by shares or by guarantee, or by both, or will be unlimited;
 - (v) The proposed name of the registered business company if different from the present name of the entity;
 - (vi) The share capital or the total amount of the membership contributions or both, as the case may be, of the registered business company;
 - (vii) That the total amount from time to time of the capital or membership contributions or the sum of both of the registered business company shall not fall below the amount of the contributions of the limited partnership, or the share capital, or members' guarantee, or the sum of both, of the corporation, or the contributions of the limited liability company, or the endowed capital of the foundation at the date of the resolution;
 - (viii) The method of converting partnership interests, shareholder or membership interests or both, membership interests or donor interests, as the case may be, into shares or membership interests or both in the registered business company;
 - (ix) The rights attaching to the shareholdings or membership or both, as the case may be, in the case of reregistration of:
 - (aa) A limited partnership, in respect of the limited partners and the general partners;
 - (bb) A corporation, in respect of the shareholders and members;
 - (cc) A limited liability company, in respect of the members and the manager;
 - (dd) A private foundation, in respect of the donors;
 - (x) The arrangements for the election or appointment of directors;
 - (xi) The proposed memorandum and articles of incorporation after reregistration;
 - (xii) Such other provisions with respect to the proposed reregistration as, in the case of:
 - (aa) A limited partnership, the partners;

- (bb) A corporation, the members or the directors;
- (cc) A limited liability company, the members or the manager;
- (dd) A private foundation, the officers and, if required by the memorandum of endowment or the management articles, the supervisory board,
consider necessary or desirable;

- (c) A certificate of goodstanding in respect of the legal entity, or other evidence to the satisfaction of the Registrar or the Deputy Registrar that the entity is in compliance with requirements of the relevant law;
- (d) Evidence to the satisfaction of the Registrar or the Deputy Registrar that no proceedings for insolvency have been commenced against the legal entity,

and the provisions of section 1.4 of Chapter 1 of Part I of this Title shall apply with the variation that execution shall be by any director, officer, partner, trustee or other person performing in relation to that legal entity the function of an officer and duly authorized for this purpose.

(3) The provisions of section 70.17 shall apply in respect of the name under which the legal entity proposes to reregister and continue as a registered business company.

(4) The Registrar or the Deputy Registrar shall, if he is satisfied that the requirements of this section have been met, and that the legal entity is de-registered issue to the entity a certificate of registration as a registered business company as specified in the documents supplied in compliance with subsection (2).

(5) Notwithstanding section 1.4.6(d) of Chapter 1 of Part I of this Title, where, at the time of making an application under this section, the entity applying for reregistration as a registered business company has specified a date (in this section referred to as “the specified date”) no later than 12 months after the date of the making of the application as the date of reregistration, the certificate issued by the Registrar or the Deputy Registrar shall show the specified date as the date of reregistration.

(6) A certificate given by the Registrar or the Deputy Registrar in accordance with subsection (4) in respect of any reregistered and continued registered business company shall be:

- (a) Conclusive evidence that all the requirements of this Law in respect of that reregistration and continuation and matters precedent and incidental thereto have been complied with and that the registered business company is a registered business company authorized to be so reregistered and continued and is reregistered and continued under the provisions of this section; and
- (b) Valid for a period of twelve months from the date of issue or from the specified date, as the case may be, unless endorsed in accordance with subsection (9).

- (7) With effect from the date of the issue of a certificate of registration under subsection (4):
- (a) The registered business company to which the certificate relates:
 - (i) Is a registered business company registered and continued and deemed to be incorporated in Liberia under this Law and having as its existence date the date on which it was first formed; and
 - (ii) Shall be a registered business company incorporated in Liberia for the purpose of any other Law;
 - (b) The property of every description and the business of the legal entity, is vested in the registered business company;
 - (c) The registered business company is liable for all of the claims, debts, liabilities and obligations of the legal entity;
 - (d) No conviction, judgment, ruling, order, debt, liability or obligation due or to become due and no cause existing against the legal entity or against any member, partner, manager, officer or agent thereof is thereby released or impaired;
 - (e) No proceedings whether civil or criminal pending at the time of the issue by the Registrar or the Deputy Registrar of the certificate of registration and continuation by or against the legal entity or against any member, partner, manager, officer or agent thereof are thereby abated or discontinued, but the proceedings may be enforced, prosecuted, settled or compromised by or against the registered business company or against the member, partner, manager, officer or agent thereof as the case may be;
 - (f) Unless otherwise provided in the resolution of reregistration adopted in accordance with subsection (2), the legal entity reregistering as the registered business company shall not be required to wind up its affairs or pay its liabilities and distribute its assets, and the reregistration shall not constitute a dissolution of such legal entity and shall constitute a continuation of the existence of the converting legal entity in the form of the registered business company.
- (8) If, at the time of the issue by the Registrar or the Deputy Registrar of the certificate of registration and continuation, any provisions of the memorandum or the articles of incorporation of the reregistered and continued registered business company do not, in any respect, accord with this Law:
- (a) The constitution of the legal entity shall continue to govern the registered business company until the memorandum and articles complying with this Law are in effect or until the expiration of a period of twelve months immediately following the date of the issue of that certificate, whichever is the sooner;
 - (b) Any provisions of the constitution of the legal entity that are in any respect in conflict with this Law cease to govern the registered business company when a memorandum

and articles of incorporation in accordance with this Law are in effect;

- (c) The registered business company shall give effect to articles of incorporation as may be necessary to accord with this Law within a period which is not later than twelve months immediately following the date of the issue of that certificate.

(9) Where, at the time of issue of a certificate of registration and continuation, or at the specified date, or at any time thereafter within a period of twelve months, the Registrar or the Deputy Registrar is satisfied that:

- (a) The registered business company has ceased to be a legal entity under the provisions of the relevant law; and
- (b) The memorandum and articles of incorporation accord in all respects with this Law and the objects of the registered business company,

he may, on the application of the registered business company to whom the certificate has been issued, endorse that certificate to the effect that the registered business company is from that date to be deemed to be incorporated in Liberia under this Law and that shall be the effective date of reregistration and continuation.

(10) If, by a date twelve months after the date on which the Registrar or the Deputy Registrar issued a certificate under subsection (4), or after the specified date, as the case may be, the registered business company has not satisfied the Registrar or the Deputy Registrar that the registered business company has ceased to be a legal entity under the statutory provisions from which it purported to de-register, the Registrar or the Deputy Registrar may revoke the registration and continuation as a registered business company of the legal entity and the certificate issued under subsection (4) shall be of no further force or effect.

(11) Nothing in this section shall operate to:

- (a) Create a new legal entity; or
- (b) Prejudice or affect the continuation of the legal entity as the registered business company.

§70.329. Index of registered business companies de-registered on registration as another registered entity.

The Registrar shall maintain an index of registered business companies in respect of which a certificate issued in accordance with section 70.321, 70.323, 70.325 or 70.327 is in force, or which has been endorsed in accordance with those sections, and in that index shall record the name in which the registered business company is registered as another registered entity and address for service as that other entity and whether the registered business company has ceased to be registered under this Law.

PART XIII.

RECTIFICATION OF REGISTER

§70.330. Interpretation.

In this Part, unless the context shall otherwise require:

“*Register*” means a register provided for in this Law and in respect of which an application for rectification has been made or the Registrar or the Deputy Registrar proposes to make a rectification.

§70.331. Application for rectification.

(1) A person in respect of which an entry in a register:

- (a) Has been omitted;
- (b) Is incorrect; or
- (c) Has been included in error,

may apply, in the form prescribed by the Registrar or the Deputy Registrar, to the Registrar or the Deputy Registrar for rectification of the register.

(2) An application made under subsection (1) shall be accompanied by a statement of the applicant’s interest in the matter, the facts on which the application is based and the relief sought.

(3) The Registrar or the Deputy Registrar may, in his discretion, require that a person making an application under subsection (1), give notice of that application (including the statement of interest, the facts on which the application is based and the relief sought) to such other person as the Registrar or the Deputy Registrar may specify, being a person who appears to the Registrar or the Deputy Registrar to be concerned or to have an interest.

(4) An application for rectification of a register may be made by a person other than the person in respect of whom the entry:

- (a) Has been omitted;
- (b) Is incorrect; or
- (c) Has been included in error,

and the requirements of subsection (2) shall apply to such an application:

Provided that such an application shall not be considered by the Registrar or the Deputy Registrar unless he is satisfied that the person by whom the application was made has an interest, and for this purpose the Registrar or the Deputy Registrar may require the applicant to furnish such information as, in the discretion of the Registrar or the Deputy Registrar, is necessary to ascertain whether or not the person has an interest.

(5) Where an application is made under subsection (4), the Registrar or the Deputy Registrar shall require the applicant to give notice of the application (including the statement of interest, the facts on which the application is based and the relief sought) to the person in respect of which rectification of the entry (or insertion or omission of the entry, as the case may be,) in the register is sought, and the Registrar or the Deputy Registrar may require that that information be given to such other persons as the Registrar or the Deputy Registrar may specify.

§70.332. Initiation of rectification procedure by the Registrar or the Deputy Registrar.

(1) The Registrar may, without an application having been made under section 70.331, rectify the register where, in his view, an entry:

- (a) Has been omitted;
- (b) Is incorrect; or
- (c) Has been included in error.

(2) Where the Registrar or the Deputy Registrar, in exercise of his powers under subsection (1), proposes to rectify the register, he shall give notice of his intention to the person in respect of whose entry the rectification is to be made and to such other persons, if any, as, in the discretion of the Registrar or the Deputy Registrar, the Registrar or the Deputy Registrar considers have an interest or are concerned.

(3) A notice under subsection (2) shall include the facts on which the Registrar's or the Deputy Registrar's intention to rectify is based and the rectification he proposes to make.

(4) The Registrar or the Deputy Registrar may apply to the court for rectification of the register and in relation to such an application, the provisions of section 70.335 shall apply.

§70.333. Representations to be taken into account.

(1) Where, in accordance with subsection (3) or (5) of section 70.331 or section 70.332(2) notice of an application or of an intention, as the case may be, has been given, the Registrar or the Deputy Registrar shall not, for a period of one month after the notice (or, in the case of more than one notice, the last notice) has been served, rectify the register.

(2) The registrar shall take into account any representations made within the period of one month specified in subsection (1) in deciding whether or not to exercise his discretion under section

70.334 or 70.335:

Provided that the Registrar or the Deputy Registrar shall not take into account any representation so made unless, in his discretion, he is satisfied that the person by whom that representation was made, has an interest or is concerned.

§70.334. Rectification.

(1) Where the Registrar is satisfied that there has been an error of the kind specified in section 70.331(1) and that it would be appropriate for him to rectify the register, he may do so by making an entry therein or varying or deleting an entry therein, and may do so from a current date or from such date past or present as shall appear to the Registrar or the Deputy Registrar appropriate having regard to the circumstances of the case.

(2) Where the Registrar or the Deputy Registrar has decided in accordance with subsection (1) to rectify the register, he shall:

- (a) Rectify the register showing therein the date from which the rectification shall take effect and the date of the rectification;
- (b) Notify any person by whom an application was made under section 70.331;
- (c) Notify any other person who in the opinion of the Registrar or the Deputy Registrar has an interest or is concerned.

§70.335. Application to the court.

(1) Where an application for rectification of a register has been made under section 70.331, the Registrar or the Deputy Registrar may, in his discretion, refuse to consider the application and require that the person by whom the application was made apply to the court for an order for rectification.

(2) The court may, on an application under subsection (1), refuse the application or order the register to be rectified by the making of an entry therein or the variation or deletion of any entry therein.

(3) In any proceedings under this section the court may determine any question which may be necessary or expedient to decide in connection with the rectification of the register.

(4) The Registrar or the Deputy Registrar shall be entitled to appear and be heard on any application under this section.

(5) Any order made by the court under this section shall direct that notice of the order shall be served on the Registrar or the Deputy Registrar in the prescribed manner and the Registrar or the Deputy Registrar shall, on receipt of the notice, rectify the register accordingly.

§70.336. Effect of rectification.

(1) Where, as the result of a decision under section 70.334 or an order under section 70.335 a register is rectified, except as is provided for in subsection (2), the entry, as rectified, shall be deemed to have taken effect on the date from which the rectification is shown in the register to be effective, and to have been made correctly or not to have been made, as the case may be.

(2) No person who has obtained in respect of an entry which is subsequently rectified in the register a certified copy or extract or certificate in respect of that entry prior to the date of rectification, shall be affected in respect of that copy extract or certification by the rectification.

PART XIV.

MISCELLANEOUS

§70.337. Notice.

(1) Where there is provision in this Law for the service of notice on any person, the notice shall be in writing and may be served in person, by post, by fax or electronically.

(2) In respect of service:

(a) In person, the date of service shall be the date on which the notice was deposited at the address last notified to the secretary of a registered business company by the person entitled to receive service as his address for service or, where no address has been so notified, the last known address of that person for the receipt of written communications;

(b) By post, the date of service shall be the date one week after the date on which the notice was posted and service shall be at the address last notified to the secretary of a registered business company by the person entitled to receive service as his address for service or, where no address has been so notified, the last known address of that person for the receipt of written communications;

(c) By fax or electronic means, the date of service shall be the date of transmission recorded by the transmitter and the address shall be the fax number or electronic address last notified to the secretary of a registered business company by the person entitled to receive service as his number or address for receipt of fax or electronic communications.

(3) The provisions of Chapter 3 of Part I of this Title shall apply *mutatis mutandis* to the service of process on a registered business company.

§70.338. Power of Registrar or Deputy Registrar to prescribe.

(1) The Registrar or the Deputy Registrar may prescribe anything, other than a matter falling within subsection (2), required or permitted by this Law to be prescribed, and, without prejudice to the generality of the foregoing, may:

- (a) Amend the Schedule;
- (b) Provide for such other matters as are reasonably necessary for or incidental to the due administration of this Law,

and may make different provisions in respect of different matters and may make such transitional provisions as the Registrar or the Deputy Registrar may determine.

(2) Where by this Law any person is required to:

- (a) Make an application;
- (b) Deliver a document;
- (c) Provide an extract;
- (d) Confirm or certify any information,

to the Registrar or the Deputy Registrar he shall, subject to the provisions of this Law, do so in a form and, where appropriate, on a form prescribed for the purpose by the Registrar or the Deputy Registrar.

(3) Subject to the provisions of this Law, any certificate or other document to be issued by the Registrar or the Deputy Registrar shall be in a form prescribed by the Registrar or the Deputy Registrar.

SCHEDULE.

Sections 70.2, 70.10, 70.13 and 70.116

TABLE A

REGULATIONS FOR MANAGEMENT OF A REGISTERED BUSINESS COMPANY LIMITED BY SHARES.

Preliminary.

1. (1) In these regulations:

“The Law” means the Registered Business Companies Law.

(2) When any provision of the Law is referred to, the reference is to that provision as modified by any statute for the time being in force.

(3) Unless the context otherwise requires, expressions defined in the Law or any statutory modification thereof in force at the date at which these regulations become binding on the registered business company, shall have the meanings so defined.

Shares.

2. Subject to the provisions, if any, in that behalf of the memorandum of association, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital or otherwise, as the registered business company may from time to time by special resolution determine, and any preference share may, with the sanction of a special resolution, be issued on the terms that it is, or at the option of the registered business company is liable, to be redeemed.

3. If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meetings shall *mutatis mutandis* apply, but so that the necessary quorum shall, except in the case of a single shareholder registered business company, be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

4. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the registered business company or signed by the authorized signatories specifying the share or shares held by him and the amount paid up thereon,

provided that in respect of a share or shares held jointly by several persons the registered business company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

5. If a share certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, and on such terms, if any, as to evidence and indemnity, as the directors think fit.

6. No part of the funds of the registered business company shall directly or indirectly be employed in the purchase of, or in loans upon the security of, the registered business company's shares, but nothing in this regulation shall prohibit transactions mentioned in the proviso to section 70.39(1) of the Law.

Lien.

7. The registered business company shall have a lien on every share (not being a fully-paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the registered business company shall also have a lien on all shares (other than fully-paid shares) standing registered in the name of a single person for all moneys presently payable by him or his estate to the registered business company; but the directors may at any time declare any share to be wholly or in part exempt from the provisions of this regulation. The registered business company's lien, if any, on a share shall extend to all dividends payable thereon.

8. The registered business company may sell, in such manner as the directors think fit, any shares on which the registered business company has a lien but no sale shall be made unless some sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

9. For giving effect to any such sale the directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

10. The proceeds of the sale shall be received by the registered business company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable, and the residue shall (subject to a like lien for sums not presently payable as existed upon the shares prior to the sale) be paid to the person entitled to the shares at the date of the sale.

Calls on Shares.

11. The directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares provided that no call shall exceed one-fourth of the nominal amount of the share, or be payable at less than one month from the last call; and each member shall (subject to receiving at least fourteen days' notice specifying the time or times of payment) pay to the registered business company at the time or times so specified the amount called on his shares.

12. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

13. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at the rate of five per cent per annum from the day appointed for the payment thereof to the time of the actual payment, but the directors shall be at liberty to waive payment of that interest wholly or in part.

14. The provisions of these regulations as to the liability of joint holders and as to payment of interest shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.

15. The directors may make arrangements on the issue of shares for difference between the holders in the amount of calls to be paid and in times of payment.

16. The directors may, if they think fit, receive from any member willing to advance the same all or any part of the moneys uncalled and unpaid upon any shares held by him; and upon all or any of the moneys so advanced may (until the same would, but for such advance, become presently payable) pay interest at such rate (not exceeding, without the sanction of the registered business company in general meeting, six per cent (6%)) as may be agreed upon between the member paying the sum in advance and the directors.

Transfer and Transmission of shares.

17. The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of members in respect thereof.

18. Shares shall be transferred in the following form, or in any usual or common form which the directors shall approve:

“I, A.B., of _____, in consideration of the sum of _____, paid to me, by C. D. of _____ (hereinafter called ‘the said transferee’) do hereby transfer to the said transferee the share [or shares] numbered _____ in the undertaking called the Registered Business Company Limited, to hold unto the said transferee, subject to the several conditions on which I hold the same: and I, the said transferee, do hereby agree to take the said share [or shares] subject to the conditions aforesaid. As witness our hands the _____ day of _____ 20_____.

Witness to the signatures of _____ etc.”

19. The directors may decline to register any transfer of shares, not being fully paid shares, to a person of whom they do not approve, and may also decline to register any transfer of shares on which the registered business company has a lien. The directors may also suspend the registration of transfers during the fourteen days immediately preceding the ordinary general meeting in each year.

The directors may decline to recognize any instrument of transfer unless the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer.

If the directors refuse to register a transfer of any shares, they shall within one month after the date on which the transfer was delivered to the registered business company send to the transferee notice of the refusal.

20. The legal personal representatives of a deceased sole holder of a share shall be the only persons recognized by the registered business company as having any title to the share. In the case of a share registered in the names of two or more holders, the survivors or survivor, or the legal personal representatives of the deceased survivor, shall be the only persons recognized by the registered business company as having any title to the share.

21. Any person becoming entitled to a share in consequence of the death or bankruptcy of a member shall, upon such evidence being produced as may from time to time be properly required by the directors, have the right, either to be registered as a member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

22. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a member in respect of the share, be entitled in respect of it to exercise any right conferred by membership in relation to meetings of the registered business company.

Forfeiture of Shares.

23. If a member fails to pay any call or installment of a call on the day appointed for payment thereof, the directors may, at any time thereafter during such time as any part of such call or installment remains unpaid, serve a notice on him requiring payment of so much of the call or installment as is unpaid, together with any interest which may have accrued.

24. The notice shall name a further day (not earlier than the expiration of fourteen days from the date of the notice) on or before which the payment required by the notice is to be made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited.

25. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

26. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the directors think fit.

27. A person whose shares have been forfeited shall cease to be a member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay to the registered business company all moneys which at the date of forfeiture, were presently payable by him to the registered business company in respect of the shares, but his liability shall cease if and when the registered business company receive payment in full of the nominal amount of the shares.

28. A statutory declaration in writing that the declarant is a director of the registered business company, and that a share in the registered business company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The registered business company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute a transfer of the share in favor of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share, and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

29. The provisions of these regulations as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

Conversion of shares into Stock.

30. The company may by ordinary resolution convert any paid-up shares into stock and reconvert any stock into paid-up shares of any denomination.

31. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as, and subject to which, the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; but the directors may from time to time fix the minimum amount of stock transferable, and restrict or forbid the transfer of fractions of that minimum, but the minimum shall not exceed the nominal amount of the shares from which the stock arose.

32. The holders of stock shall, according to the amount of the stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the registered business company, and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the registered business company) shall be conferred by any such aliquot part of stock as would not, if existing in shares, have conferred that privilege or advantage.

33. Such of the regulations of the registered business company as are applicable to paid-up shares shall apply to stock, and the words “share” and “shareholder” therein shall include “stock” and “stockholder.”

Alteration of Capital.

34. The registered business company may from time to time by ordinary resolution increase

the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.

35. Subject to any direction to the contrary that may be given by the registered business company in general meeting, all new shares shall, before issue, be offered to such persons as at the date of the offer are entitled to receive notices from the registered business company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the directors may dispose of those shares in such manner as they think most beneficial to the registered business company. The directors may likewise so dispose of any new shares which (by reason of the ratio, which the new shares bear to shares held by persons entitled to an offer of new shares) cannot, in the opinion of the directors, be conveniently offered under this regulation.

36. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

37. The registered business company may by ordinary resolution:

- (a) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) Sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the memorandum of association subject, nevertheless, to the provisions of section 70.63(1)(d) of the Law;
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any person.

38. The registered business company may by special resolution reduce its share capital and any capital redemption reserve fund in any manner and with, and subject to, any incident authorized, and consent required, by law.

General Meetings.

39. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the registered business company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the registered business company's incorporation occurs, and at such place, as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following and, except in the case of a single shareholder registered business company, may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

40. The above-mentioned general meetings shall be called ordinary general meetings; all other

general meetings shall be called extraordinary general meetings.

41. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or in default, may be convened by such requisitionists, as provided by section 70.115 of the Law.

Notice of General Meetings.

42. Subject to the provisions of section 70.118(2) of the Law relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the registered business company in general meeting, to such persons as are, under the regulations of the registered business company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

43. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

44. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of sanctioning a dividend, the consideration of the accounts, balance sheets and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

45. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

46. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour for the time appointed for the meeting the members present shall be a quorum.

47. The chairman, if any, of the board of directors shall preside as chairman at every general meeting of the registered business company.

48. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

49. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place,

but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

50. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands), demanded by at least three members present in person or by proxy entitled to vote or by one member or two members so present and entitled, if that member or those two members together hold not less than fifteen per cent (15%) of the paid-up capital of the registered business company, and, unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the registered business company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of, or against, that resolution.

51. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

52. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

53. A poll demanded on the election of a chairman or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of members.

54. On a show of hands every member present in person shall have one vote. On a poll every member shall have one vote for each share of which he is the holder.

55. In the case of joint holders the vote of the senior who tenders a vote whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

56. If a member is suffering from mental disorder, a person authorized in that behalf may vote on behalf of the member, either on a show of hands or on a poll.

57. No member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the registered business company have been paid.

58. On a poll votes may be given either personally or by proxy.

59. The instrument appointing a proxy shall be in writing under the hand of the appointor or

of his attorney duly authorized in writing, or, if the appointor is a corporation, either under seal, or under the hand of an officer or attorney duly authorized. A proxy need not be a member of the registered business company.

60. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the principal office of the registered business company not less than forty-eight hours before the time for holding the meeting or adjourned meeting, at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

61. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:

“ Registered Business Company Limited.
I, of , being a member of the Registered Business Company Limited, hereby appoint of, as my proxy, to vote for me and on my behalf at the [ordinary or extraordinary, as the case may be] general meeting of the registered business company to be held on the day of , and at any adjournment thereof.

Signed this day of .”

62. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

63. Any corporation which is a member of the registered business company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the registered business company or of any class of members of the registered business company, and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the registered business company.

Directors.

64. The number of the directors and the names of the first directors shall be determined in writing by a majority of the subscribers of the memorandum of association.

65. The remuneration of the directors shall from time to time be determined by the registered business company in general meeting.

Powers and duties of Directors.

66. The business of the registered business company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the registered business company, and may exercise all such powers of the registered business company, as are not, by the Law, or by these

articles, required to be exercised by the registered business company in general meeting, subject, nevertheless, to any regulation of these articles, to the provisions of the Law, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the registered business company in general meeting; but no regulation made by the registered business company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made. Subject to the provisions of the Law, a secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit; and any secretary so appointed may be removed by them.

67. The directors may from time to time appoint one or more of their body to the office of managing director or manager for such term and at such remuneration (whether by way of salary, or commission, or participation in profits or partly in one way and partly in another) as they think fit, and a director so appointed shall not, while holding that office, be subject to retirement by rotation, or taken into account in determining the rotation of retirement of directors; but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a director, or if the registered business company in general meeting resolve that his tenure of the office of managing director or manager be determined.

68. The amount for the time being remaining undischarged of moneys borrowed or raised by the directors for the purposes of the registered business company (otherwise than by the issue of share capital) shall not at any time exceed the issued share capital of the registered business company without the sanction of the registered business company in general meeting.

69. The directors shall cause minutes to be made in books provided for the purpose:

- (a) Of all appointments of officers made by the directors;
- (b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) Of all resolutions and proceedings at all meetings of the registered business company, and of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

70. Any seal of the registered business company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the registered business company is so affixed in their presence.

Disqualification of Directors.

71. The office of director shall be vacated, if the director:

- (a) Ceases to be a director by virtue of section 70.141 of the Law; or
- (b) Without the consent of the registered business company in general meeting holds any other office of profit under the registered business company except that of managing director or manager; or
- (c) Becomes bankrupt; or
- (d) Becomes prohibited from being a director by reason of any order made under section 70.209 or 70.261 of the Law; or
- (e) Is suffering from mental disorder; or
- (f) Resigns his office by notice in writing to the registered business company; or
- (g) Is directly or indirectly interested in any contract with the registered business company or participates in the profits of any contract with the registered business company:

Provided, however, that a director shall not vacate his office by reason of his being a member of any corporation which has entered into contracts with or done any work for the registered business company if he shall have declared the nature of his interest in manner required by section 70.149 of the Law, but the director shall not vote in respect of any such contract or work or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

72. At the first ordinary general meeting of the registered business company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

73. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

74. A retiring director shall be eligible for re-election.

75. The registered business company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

76. The registered business company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

77. Any casual vacancy occurring in the board of directors may be filled up by the directors, but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

78. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the registered business company at that meeting as an additional director.

79. The registered business company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

80. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

81. The quorum necessary for the transaction of the business of the directors may be fixed by the directors, and unless so fixed shall when the number of directors exceeds three, be three, and, except where there is only one director, when the number of directors does not exceed three, be two.

82. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the registered business company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the registered business company, but for no other purpose.

83. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

84. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the directors.

85. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

86. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting

shall be determined by a majority of votes of the members present, and in case of an equality of votes the chairman shall have a second or casting vote.

87. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Dividends and Reserve.

88. The registered business company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the directors.

89. The directors may from time to time pay to the members such interim dividends as appear to the directors to be justified by the profits of the registered business company.

90. No dividend shall be paid otherwise than out of profits.

91. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid on the shares, but if and so long as nothing is paid up on any of the shares in the registered business company dividends may be declared and paid according to the amounts of the shares. No amount paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this article as paid on the share.

92. The directors may, before recommending any dividend, set aside out of the profits of the registered business company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for equalizing dividends, or for any other purpose to which the profits of the registered business company may be properly applied, and pending such application may, at the like discretion either be employed in the business of the registered business company, or be invested in such investments (other than shares of the registered business company) as the directors may from time to time think fit.

93. If several persons are registered as joint holders of any share, any one of them may give effectual receipts for any dividend or other moneys payable on or in respect of the share.

94. Any dividend may be paid by check or warrant sent through the post to the registered address of the member or person entitled thereto or in the case of joint holders to any one of such joint holders at his registered address or to such person and such address as the member or person entitled or such joint holders, as the case may be, may direct. Every such check or warrant shall be made payable to the order of the person to whom it is sent or to the order of such other person as the member or person entitled or such joint holders, as the case may be, may direct.

95. No dividend shall bear interest against the registered business company.

96. The directors shall cause proper books of account to be kept with respect to:

- (a) All sums of money received and expended by the registered business company and the matters in respect of which the receipt and expenditure takes place;
- (b) All sales and purchases of goods by the registered business company; and
- (c) The assets and liabilities of the registered business company.

97. The books of account shall be kept at the principal office of the registered business company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

98. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the registered business company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the registered business company except as conferred by statute or authorized by the directors or by the registered business company in general meeting.

99. The directors shall from time to time, in accordance with section 70.126 of the Law, cause to be prepared and, unless not so required by a resolution of the registered business company to this effect, to be laid before the registered business company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

100. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the registered business company in general meeting together with a copy of the auditors' report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the registered business company.

Audit.

101. Auditors shall be appointed and their duties regulated in accordance with sections 70.133, 70.134 and 70.135 of the Law.

Notices.

102. A notice may be given by the registered business company to any member either personally or by sending it by post to him to his registered address, or to the address, if any, supplied by him to the registered business company for the giving of notices to him.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying, and posting a letter containing the notice, and to have been effected in the case of a notice of a meeting at the expiration of twenty-four hours after the letter containing the same is posted, and in any other case at the time at which the letter would be delivered in the ordinary course of post.

103. If a member has no registered address and has not supplied to the registered business company an address for the giving of notices to him, a notice addressed to him and advertised in a

newspaper circulating in the place in which the registered business company has its principal office shall be deemed to be duly given to him at noon on the day on which the advertisement appears.

104. A notice may be given by the registered business company to the joint holders of a share by giving the notice to the joint holder named first in the register of members in respect of the share.

105. A notice may be given by the registered business company to the persons entitled to a share in consequence of the death or bankruptcy of a member by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address, if any, supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

106. Notice of every general meeting shall be given in some manner hereinbefore authorized to every member except those members who (having no registered address) have not supplied to the registered business company an address for the giving of notices to them, and also to every person entitled to a share in consequence of the death or bankruptcy of a member, who, but for his death or bankruptcy, would be entitled to receive notice of the meeting. No other persons shall be entitled to receive notices of general meetings.

TABLE B.

Section 70.13.

FORM OF MEMORANDUM OF ASSOCIATION OF A REGISTERED BUSINESS COMPANY LIMITED BY SHARES.

1st. The name of the registered business company is "The Eastern Steam Packet Registered Business Company, Limited."

2nd. The name and address of the registered agent is .

3rd. The objects for which the registered business company is established are the conveyance of passengers and goods in ships or boats between such places as the registered business company may from time to time determine, and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. The share capital of the registered business company is two hundred thousand US Dollars divided into one thousand shares of two hundred US Dollars each.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a registered business company, in pursuance of this memorandum of association, and we respectively agree to take the number of shares in the capital of the registered business company set opposite our respective names.

a school for boys and the doing all such other things as are incidental or conducive to the attainment of the above object.

4th. The liability of the members is limited.

5th. Every member of the registered business company undertakes to contribute to the assets of the registered business company in the event of its being wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the registered business company contracted before he ceases to be a member, and the costs, charges and expenses of winding up, and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding ten US Dollars.

WE, the several persons whose names and addresses are subscribed, are desirous of being formed into a registered business company, in pursuance of this memorandum of association.

Names, Addresses and Descriptions of subscribers.

- | | |
|---------------------|--------------|
| 1. John Jones | Schoolmaster |
| of | |
| 2. John Smith | “ |
| of | |
| 3. Thomas Green of | “ |
| 4. John Thompson of | “ |
| 5. Caleb White | “ |
| of | |
| 6. Andrew Brown | “ |
| of | |
| 7. Caesar White | “ |
| of | |

Dated the day of 20 .

Witness to the above signatures,

A. B., of

ARTICLES OF ASSOCIATION TO ACCOMPANY PRECEDING MEMORANDUM OF ASSOCIATION.

Preliminary.

1. (1) In these regulations:

“The Law” means the Registered Business Companies Law.

(2) When any provision of the Law is referred to the reference is to such provision as modified by any law for the time being in force.

(3) Unless the context otherwise requires, expressions defined in the Law or any statutory modification thereof in force at the date at which these regulations become binding on the registered business company, shall have the meanings so defined.

Members.

2. The number of members with which the registered business company proposes to be registered is fifty (50), but the directors may from time to time register an increase of members.

3. The subscribers to the memorandum of association and such other persons as the directors shall admit to membership shall be members of the registered business company.

General Meetings.

4. The first general meeting shall be held at such time not being less than one month nor more than three months after the incorporation of the registered business company, and at such place, as the directors may determine.

5. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting) and place as may be prescribed by the registered business company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the registered business company's incorporation occurs, and at such place as the directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the directors.

6. The above-mentioned general meetings shall be called ordinary general meetings; all other general meetings shall be called extraordinary general meetings.

7. The directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitions, as proved by section 70.115 of the Law.

Notice of General Meetings.

8. Subject to the provisions of section 70.118(2) of the Law relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and in case of special business, the general nature of that business shall be given in manner hereinafter mentioned, or in such other manner, if any, as may be prescribed by the registered business company in general meeting, to such persons as are, under the regulations of the registered business company, entitled to receive such notices from the registered business company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

9. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any member shall not invalidate the proceedings at any meeting.

Proceedings at General Meetings.

10. All business shall be deemed special that is transacted at an extraordinary meeting, and all that is transacted at an ordinary meeting, with the exception of the consideration of the accounts, balance sheets, and the ordinary report of the directors and auditors, the election of directors and other officers in the place of those retiring by rotation, and the fixing of the remuneration of the auditors.

11. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business.

12. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

13. The chairman, if any, of the board of directors shall preside as chairman at every meeting of the registered business company.

14. If there is no such chairman, or if at any meeting he is not present within fifteen minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the members present shall choose some one of their number to be chairman.

15. The chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting, from which the adjournment took place. When a meeting is adjourned for ten days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

16. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least two members present in person or by proxy entitled to vote and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the registered business company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favor of, or against, that resolution.

17. If a poll is duly demanded it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

18. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.

19. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs.

Votes of Members.

20. Every member shall have one vote.

21. If a member is suffering from mental disorder, a person authorized in that behalf may vote on behalf of the member, either on a show of hands or on a poll.

22. No member shall be entitled to vote at any general meeting unless all moneys presently payable by him to the registered business company have been paid.

23. On a poll votes may be given either personally or by proxy.

24. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a corporation, either under the seal, or under the hand of an officer or attorney so authorized. A proxy need not be a member of the registered business company.

25. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the principal office of the registered business company not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, and in default the instrument of proxy shall not be treated as valid.

26. An instrument appointing a proxy may be in the following form, or any other form which the directors shall approve:

“ Registered Business Company, Limited.
I of being a member of the Registered
Business Company, Limited, hereby appoint of as my proxy to
vote for me and on my behalf at the [ordinary or extraordinary, *as the case may be*] general
meeting of the registered business company to be held on the day of
and at any adjournment thereof.

Signed this day of 20 .”

27. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

Corporations acting by Representatives at Meetings.

28. Any corporation which is a member of the registered business company may by resolution of its directors or other governing body authorize such person as it thinks fit to act as its representative at any meeting of the registered business company and the person so authorized shall be entitled to exercise the same powers on behalf of the corporation which he represents as that corporation could exercise if it were an individual member of the registered business company.

Directors.

29. The number of directors and the names of the first directors shall be determined in writing by a majority of the subscribers to the memorandum.

30. The remuneration of the directors shall from time to time be determined by the registered business company in general meeting.

Powers and duties of Directors.

31. The business of the registered business company shall be managed by the directors, who may pay all expenses incurred in getting up and registering the registered business company, and may exercise all such powers of the registered business company as are not, by the Law, or by these articles, required to be exercised by the registered business company in general meeting, subject nevertheless to any regulation of these articles, to the provisions of the Law, and to such regulations, being not inconsistent with the aforesaid regulations or provisions, as may be prescribed by the registered business company in general meeting; but no regulation made by the registered business company in general meeting shall invalidate any prior act of the directors which would have been valid if that regulation had not been made.

32. The directors shall cause minutes to be made in books provided for the purpose:

- (a) Of all appointments of officers made by the directors;
- (b) Of the names of the directors present at each meeting of the directors and of any committee of the directors;
- (c) Of all resolutions and proceedings at all meetings of the registered business company, and of the directors, and of committees of directors,

and every director present at any meeting of directors or committee of directors shall sign his name in a book to be kept for that purpose.

The Seal.

33. Any seal of the registered business company shall not be affixed to any instrument except by the authority of a resolution of the board of directors, and in the presence of a director and of the secretary or such other person as the directors may appoint for the purpose; and that director and the secretary or other person as aforesaid shall sign every instrument to which the seal of the registered

business company is so affixed in their presence.

Disqualifications of Directors.

34. The Office of director shall be vacated, if the director:
- (a) Without the consent of the registered business company in general meeting holds any other office of profit under the registered business company; or
 - (b) Becomes bankrupt; or
 - (c) Becomes prohibited from being a director by reason of any order made under section 70.209 or 70.261 of the Law;
 - (d) Is suffering from mental disorder;
 - (e) Resigns his office by notice in writing to the registered business company; or
 - (f) Is directly or indirectly interested in any contract with the registered business company and fails to declare the nature of his interest in manner required by section 70.149 of the Law.

A director shall not vote in respect of any contract in which he is interested or any matter arising thereout, and if he does so vote his vote shall not be counted.

Rotation of Directors.

35. At the first ordinary general meeting of the registered business company the whole of the directors shall retire from office, and at the ordinary general meeting in every subsequent year one-third of the directors for the time being, or, if their number is not three or a multiple of three, then the number nearest one-third, shall retire from office.

36. The directors to retire in every year shall be those who have been longest in office since their last election but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

37. A retiring director shall be eligible for re-election.

38. The registered business company at the general meeting at which a director retires in manner aforesaid may fill up the vacated office by electing a person thereto and in default the retiring director shall be deemed to have been re-elected unless at such meeting it is resolved not to fill up such vacated office.

39. The registered business company may from time to time in general meeting increase or reduce the number of directors, and may also determine in what rotation the increased or reduced number is to go out of office.

40. Any casual vacancy occurring in the board of directors may be filled up by the directors but the person so chosen shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

41. The directors shall have power at any time, and from time to time, to appoint a person as an additional director who shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the registered business company at that meeting as an additional director.

42. The registered business company may by extraordinary resolution remove any director before the expiration of his period of office, and may by an ordinary resolution appoint another person in his stead. The person so appointed shall be subject to retirement at the same time as if he had become a director on the day on which the director in whose place he is appointed was last elected a director.

Proceedings of Directors.

43. The directors may meet together for the despatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes in case of an equality of votes the chairman shall have a second or casting vote. A director may, and the secretary on the requisition of a director shall, at any time summon a meeting of the directors.

44. The quorum necessary for the transaction of the business of the directors may be fixed by the directors and, if not so fixed, shall be a majority of the directors.

45. The continuing directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the registered business company as the necessary quorum of directors, the continuing directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the registered business company, but for no other purpose.

46. The directors may elect a chairman of their meetings and determine the period for which he is to hold office; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the directors present may choose one of their number to be chairman of the meeting.

47. The directors may delegate any of their powers to committees consisting of such member or members of their body as they think fit; any committee so formed shall, in the exercise of the power so delegated, conform to any regulations that may be imposed on it by the directors.

48. A committee may elect a chairman of its meetings; but, if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

49. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present, and in case of an equality of

votes the chairman shall have a second or casting vote.

50. All acts done by any meeting of the directors or of a committee of directors, or by any person acting as a director, shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such directors or persons acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a director.

Accounts.

51. The directors shall cause proper books of accounts to be kept with respect to:

- (a) All sums of money received and expended by the registered business company and the matter in respect of which the receipt and expenditure takes place;
- (b) All sales and purchases of goods by the registered business company; and
- (c) The assets and liabilities of the registered business company.

52. The books of account shall be kept at the principal office of the registered business company, or at such other place or places as the directors think fit, and shall always be open to the inspection of the directors.

53. The directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the registered business company or any of them shall be open to the inspection of members not being directors, and no member (not being a director) shall have any right of inspecting any account or book or document of the registered business company except as conferred by statute or authorized by the directors or by the registered business company in general meeting.

54. The directors shall from time to time in accordance with section 70.126 of the Law, cause to be prepared and, unless by resolution of the registered business company not so required, to be laid before the registered business company in general meeting such profit and loss accounts, balance sheets and reports as are referred to in that section.

55. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the registered business company in general meeting together with a copy of the auditor's report shall not less than seven days before the date of the meeting be sent to all persons entitled to receive notices of general meetings of the company.

Audit.

56. Auditors shall be appointed and their duties regulated in accordance with sections 70.133, 70.134 and 70.135 of the Law.

Printed by LISCR, LLC.

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