



## **Third Schedule**

[ss. 2B, 38, 38A, 38AA, 38D, 42, 342,  
342A, 342AA, 342C & 360 & 2nd, 4th,  
20th & 21st Schs.]

*(Amended 12 of 2005 s. 15; 8 of 2011 s. 20)*

### **Matters to be Specified in Prospectus and Reports to be set out therein**

*(Third Schedule replaced 78 of 1972 s. 21)*

*(Format changes—E.R. 1 of 2014)*

## **Part I**

### **Matters to be Specified**

1. The general nature of the business of the company, and if the company carries on 2 or more activities which are material having regard to profits or losses, assets employed or any other factor, information as to the relative importance of each such activity.
2. The authorized share capital or maximum number of shares issuable under the articles and the description and nominal value (if any) of the shares into which the authorized share capital is divided, the amount of share capital issued or agreed to be issued, and the amount paid up on the shares which have been issued.

*(Amended 28 of 2012 ss. 912 & 920)*

3. Sufficient particulars and information to enable a reasonable person to form as a result thereof a valid and justifiable opinion of the shares or debentures and the financial condition and profitability of the company at the time of the issue of the prospectus, taking into account the nature of the shares or debentures being offered and the nature of the company, and the nature of the persons likely to consider acquiring them.

*(Amended 30 of 2004 s. 2)*

4. The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.
5. The number of shares, if any, fixed by the articles as the qualification of a director, and any provision in the articles as to the remuneration of the directors.
6. The names, descriptions and addresses of the directors or proposed directors.
7. Where shares are offered to the public for subscription, particulars as to—
  - (a) the minimum amount which, in the opinion of the directors, must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters—
    - (i) the purchase price of any property purchased or to be purchased which is to be defrayed in whole or in part out of the proceeds of the issue;

- (ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;
  - (iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;
  - (iv) working capital;

but, so long as the general purpose of the issue is clearly stated and the issue is fully underwritten, this sub-paragraph need not be complied with, and

  - (b) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.
- 8. The date and time of the opening of the subscription lists.
- 9. The amount payable on application and allotment on each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the 2 preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.
- 10. The number, description and amount of any shares in or debentures of the company which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option, that is to say—
  - (a) the period during which it is exercisable;
  - (b) the price to be paid for shares or debentures subscribed for under it;

- (c) the consideration (if any) given or to be given for it or for the right to it;
  - (d) the names and addresses of the persons to whom it or the right to it was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.
- 11. The number and amount of shares and debentures which within the 2 preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash, and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.
- 12.
  - (1) As respects any property to which this paragraph applies—
    - (a) the names and addresses of the vendors;
    - (b) the amount payable in cash, shares or debentures to the vendor and, where there is more than 1 separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor;
    - (c) short particulars of any transaction relating to the property completed within the 2 preceding years in which any vendor of the property to the company or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company had any interest direct or indirect.
  - (2) The property to which this paragraph applies is property purchased or acquired by the company or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property—

- (a) the contract for the purchase or acquisition whereof was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or
  - (b) as respects which the amount of the purchase money is not material.
- 13. The amount, if any, paid or payable as purchase money in cash, shares or debentures for any property to which paragraph 12 applies, specifying the amount, if any, payable for goodwill.
- 14. The amount, if any, paid within the 2 preceding years, or payable, as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscriptions, for any shares in or debentures of the company, or the rate of any such commission.
- 15. The amount or estimated amount of preliminary expenses and the persons by whom any of those expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of those expenses have been paid or are payable.
- 16. Any amount or benefit paid or given within the 2 preceding years or intended to be paid or given to any promoter, and the consideration for the payment or the giving of the benefit.

17. The dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than 2 years before the date of issue of the prospectus; and a statement that a copy of every such material contract has been delivered to the Registrar for registration.
18. The names and addresses of the auditors, if any, of the company, and, if the prospectus invites the public to subscribe for debentures which are stated in the prospectus to be guaranteed, the names and addresses of the auditors, if any, of the guarantor corporation.
19. Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or, where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connexion with the promotion or formation of the company.
20. If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

21. In the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.
22. The contents or a sufficient summary of the contents of the articles of the company with regard to any borrowing powers exercisable by the directors and the manner of variation of such powers.
23. Particulars of any bank overdrafts or other similar indebtedness of the company and its subsidiaries, if any, as at the latest practicable date or, if there are no bank overdrafts or other similar indebtedness, a statement to that effect.
24. Particulars of any hire purchase commitments, guarantees or other material contingent liabilities of the company and its subsidiaries, if any, or, if there are none such, a statement to that effect.
25. Particulars of the authorized debentures of the company and its subsidiaries, if any, the amount issued and outstanding or agreed to be issued, or if no debentures are outstanding a statement to that effect.
26. If the prospectus invites the public to subscribe for debentures of the company—
  - (a) the rights conferred upon the holders thereof, including rights in respect of interest and redemption, and particulars of the security, if any, therefor;



- (b) the designation of such debentures which shall incorporate—
  - (i) in the case of debentures not secured by a charge on assets of the company—
    - (A) the word “unsecured” if the designation is in English;
    - (B) the expression in Chinese “無保證” if the designation is in Chinese; or
    - (C) both such word and expression respectively if the designation is both in English and Chinese; and
  - (ii) in the case of debentures secured to a substantial extent by a specific mortgage or charge—
    - (A) the word “mortgage” if the designation is in English;
    - (B) the expression in Chinese “按揭” if the designation is in Chinese; or
    - (C) both such word and expression respectively if the designation is both in English and Chinese; (*Replaced 3 of 1997 s. 57*)
- (c) particulars of any guarantee subsisting in respect of the debentures, including the name and address of the guarantor, and the designation or any description of the debentures shall only incorporate the word “guaranteed” or the expression in Chinese “獲擔保” if they are guaranteed to a substantial extent by a legally enforceable guarantee. (*Replaced 3 of 1997 s. 57*)

27. A statement as to the gross trading income or sales turnover (as may be appropriate) of the company during each of the 3 financial years immediately preceding the issue of the prospectus including an explanation of the method used for the computation of such income or turnover, and a reasonable break-down between the more important trading activities; but a bank, discount house or other company whose business is in the opinion of the directors of a character that such a statement is either not practicable or not of value may instead include an explanation of the absence of such a statement.

*(Amended 86 of 1992 s. 18; 30 of 2004 s. 2)*

28. If the prospectus offers shares in the company for sale to the public—
- (a) the names, addresses and descriptions of the vendor or vendors of the shares, or, if there are more than 10 vendors, the like particulars of the 10 principal vendors and a statement of the number of other vendors;
  - (b) particulars of any beneficial interest possessed by any director of the company in any shares so offered for sale.
29. The name, date and country of incorporation, whether public or private (if applicable), the general nature of the business, the issued capital and the proportion thereof held or intended to be held, of every company the whole of the capital of which or a substantial proportion thereof is held or intended to be held, or whose profits or assets make or will make a material contribution to the figures in the auditors' report or to the next financial statements of the company.

*(Amended 28 of 2012 ss. 912 & 920)*

30. A statement of the persons holding or beneficially interested in any substantial part of the share capital of the company and the amounts of the holdings in question.

## **Part II**

### **Reports to be set out**

31. (1) A report by the auditors of the company with respect to—
- (a) profits and losses and assets and liabilities of the company in accordance with subparagraph (2) or (3), as the case required; and
  - (b) the rates of the dividends, if any, paid by the company in respect of each class of shares in the company in respect of each of the 3 financial years immediately preceding the issue of the prospectus, giving particulars of each such class of shares on which such dividends have been paid and particulars of the cases in which no dividends have been paid in respect of any class of shares in respect of any of those years,
- and, if no financial statements have been prepared in respect of any part of the period of 3 years ending on a date 3 months before the issue of the prospectus, containing a statement of that fact.
- (2) If the company has no subsidiaries, the report shall—
- (a) so far as regards profits and losses, deal with the profits or losses of the company in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and
  - (b) so far as regards assets and liabilities, deal with the assets and liabilities of the company at the last date to which the financial statements of the company were prepared.

- (3) If the company has subsidiaries, the report shall—
- (a) so far as regards profits and losses, deal separately with the company's (other than subsidiaries) profits or losses as provided by sub-paragraph (2) and, in addition, deal either—
    - (i) as a whole with the combined profits or losses of its subsidiaries; or
    - (ii) individually with the profits or losses of each subsidiary,or, instead of dealing separately with the company's profits or losses, deal as a whole with the profits or losses of the company and with the combined profits or losses of its subsidiaries; and
  - (b) so far as regards assets and liabilities, deal separately with the company's (other than subsidiaries) assets and liabilities as provided by sub-paragraph (2) and, in addition, deal either—
    - (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the company's assets and liabilities; or
    - (ii) individually with the assets and liabilities of each subsidiary,
- and shall indicate as respects the profits or losses and assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

*(Replaced 30 of 2004 s. 2. Amended 28 of 2012 ss. 912 & 920)*

32. If the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in the purchase of any business, a report made by accountants (who shall be named in the prospectus) upon—
- (a) the profits or losses of the business in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and (*Amended 86 of 1992 s. 18*)
  - (b) the assets and liabilities of the business at the last date to which the financial statements of the business were prepared. (*Amended 28 of 2012 ss. 912 & 920*)
33. (1) if—
- (a) the proceeds, or any part of the proceeds, of the issue of the shares or debentures are or is to be applied directly or indirectly in any manner resulting in the acquisition by the company of shares in any other undertaking; and
  - (b) by reason of that acquisition or anything to be done in consequence thereof or in connexion therewith that undertaking will become a subsidiary of the company,
- a report made by accountants (who shall be named in the prospectus) upon—
- (i) the profits or losses of the other undertaking in respect of each of the 3 financial years immediately preceding the issue of the prospectus; and (*Amended 86 of 1992 s. 18*)
  - (ii) the assets and liabilities of the other undertaking at the last date to which the financial statements of the undertaking were prepared. (*Amended 28 of 2012 ss. 912 & 920*)

- (2) The said report shall—
- (a) indicate how the profits or losses of the other undertaking dealt with by the report would, in respect of the shares to be acquired, have concerned members of the company and what allowance would have fallen to be made, in relation to assets and liabilities so dealt with, for holders of other shares, if the company had at all material times held the shares to be acquired; and
  - (b) where the other undertaking has subsidiaries, deal with the profits or losses and the assets and liabilities of the undertaking and its subsidiaries in the manner provided by paragraph 31(3) in relation to the company and its subsidiaries.

*(Amended 12 of 2005 s. 15)*

34. (1) This paragraph shall apply in the case of every company whose financial statements at the last date to which the financial statements have been prepared disclose that either a value exceeding 10 per cent of the value of the assets of the company or a value of not less than \$3,000,000 is placed on the company's interests in land or buildings. *(Amended 28 of 2012 ss. 912 & 920)*
- (2) A valuation report with respect to all the company's interests in land or buildings which shall include the following particulars of each property—
- (a) the address;
  - (b) a brief description;
  - (c) the use at the date of the report;
  - (d) the nature of the tenure;
  - (e) a summary of the terms of any sub-leases or tenancies, including repair obligations, granted by the company;
  - (f) the approximate age of buildings;

- (g) the present capital value;
  - (h) the estimated current net rental, being the estimated average net annual income from the property accruing to the company over a long period of years (not being less than 3 years) before taking into account tax and any interest or mortgage expenses but after taking into account management and maintenance expenses.
- (3) A report for the purposes of sub-paragraph (2) shall state—
- (a) whether the valuation—
    - (i) is the current value in the open market, stating whether—
      - (A) on an investment basis, or
      - (B) on a development basis, or
      - (C) on a future capital realization basis;
    - (ii) is the current value as an asset of a going concern;
    - (iii) is the value after development has been completed; or
    - (iv) has any other basis (which should be stated);
  - (b) where the valuation is based on value after development has been completed—
    - (i) the date when the development is expected to be completed;
    - (ii) the estimated cost of carrying out the development or (where part of the development has already been carried out) the estimated cost of completing the development; and
    - (iii) the estimated value of the property in the open market in its present condition.

- (4) If the company has obtained more than one valuation report regarding any of the company's interests in land or buildings within 6 months before the issue of the prospectus then all other such reports shall be included.

### **Part III**

#### **Provisions applying to Parts I and II of Schedule**

35. Paragraphs 15 (so far as it relates to preliminary expenses) and 19 shall not apply in the case of a prospectus issued more than 2 years after the date at which the company began to carry on business.
36. Every person shall, for the purposes of this Schedule, be deemed to be a vendor who has entered into any contract, absolute or conditional, for the sale or purchase, or for any option of purchase, of any property to be acquired by the company, in any case where—
- (a) the purchase money is not fully paid at the date of the issue of the prospectus;
  - (b) the purchase money is to be paid or satisfied wholly or in part out of the proceeds of the issue offered for subscription by the prospectus;
  - (c) the contract depends for its validity or fulfilment on the result of that issue.
37. Where any property to be acquired by the company is to be taken on lease, this Schedule shall have effect as if the expression “vendor” included the lessor, and the expression “purchase money” included the consideration for the lease, and the expression “sub-purchaser” included a sub-lessee.



38. References in paragraph 10 to subscribing for shares or debentures shall include acquiring them from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.
39. For the purposes of paragraph 12 where the vendors or any of them are a firm, the members of the firm shall not be treated as separate vendors.
40. If in the case of a company which has been carrying on business, or of a business which has been carried on for less than 3 years, the financial statements of the company or business have only been prepared in respect of 2 years or 1 year, Part II shall have effect as if references to 2 years or 1 year, as the case may be, were substituted for references to 3 years.  
*(Amended 86 of 1992 s. 18; 28 of 2012 ss. 912 & 920)*
41. The expression ***financial year*** (財政年度) in this Schedule means the year in respect of which the financial statements of the company or of the business, as the case may be, are prepared, and where by reason of any alteration of the date on which the financial year of the company or business terminates the financial statements of the company or business have been prepared for a period greater or less than a year, that period is for the purposes of this Schedule to be regarded as a financial year.  
*(Amended 28 of 2012 ss. 912 & 920)*
42. Any report required by Part II shall either indicate by way of note any adjustments as respects the figures of any profits or losses or assets and liabilities dealt with by the report which appear to the persons making the report necessary or shall make those adjustments and indicate that adjustments have been made.

43. Any report by accountants required by Part II shall be made by accountants qualified under the Professional Accountants Ordinance (Cap. 50) for appointment as auditors of a company and shall not be made by any accountant who is an officer or servant, or a partner of or in the employment of an officer or servant, of the company or of the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and for the purposes of this paragraph the expression **officer** (高級人員) shall include a proposed director but not an auditor.

*(Amended 6 of 1984 s. 259; 12 of 2005 s. 15)*

44. For the purposes of paragraph 6, the description of a person, that is to say, his profession, trade or other occupation shall be stated with particularity and precision; and the description "Company Director" shall be inadequate unless supplementary information is provided stating the nature of the relevant company's business.
45. For the purposes of this Schedule, **address** (地址) in the case of a natural person means the place of his usual residence.
46. Any valuation report required by Part II—
- (a) shall not state or imply that any land or building has been professionally valued unless the valuation is made by a professionally qualified valuation surveyor who is subject to the discipline of a professional body;
  - (b) shall not be made by a person who is an officer or servant or proposed director of the company or the company's subsidiary or parent undertaking or of a subsidiary of the company's parent undertaking; and

- (c) shall not be made by a company which—
  - (i) is the company's subsidiary or parent undertaking or a subsidiary of the company's parent undertaking; or
  - (ii) has either a paid up capital of less than \$1,000,000 or the assets of which do not exceed liabilities by \$1,000,000 or more as shown in the company's last balance sheet.

*(Amended 12 of 2005 s. 15)*

47. *(Repealed 30 of 2004 s. 2)*

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