

Fourth Schedule

[ss. 2B & 43]

(Amended 12 of 2005 s. 16)

Form of Statement in lieu of Prospectus to be delivered to Registrar by a Company which does not issue a Prospectus or which does not go to Allotment on a Prospectus Issued, and Reports to be set out therein

(Fourth Schedule replaced 78 of 1972 s. 21. Amended L.N. 187 of 1993; 83 of 1995 s. 23; Amended 28 of 2012 ss. 912 & 920)

(Format changes—E.R. 1 of 2014)

Part I

Form of Statement and Particulars to be contained therein

COMPANIES (WINDING UP AND MISCELLANEOUS PROVISIONS) ORDINANCE

Statement in lieu of Prospectus delivered for registration by

[Insert the name of the company]

Pursuant to section 43 of the Companies (Winding Up and Miscellaneous Provisions) Ordinance

Delivery for registration duly authorized by (Insert the name of every director who has authorized and signed this Statement).

The amount of the issued share capital of the company.

Divided into

\$		
Shares of \$		each.
”	”	”
”	”	”

Amount (if any) of above capital which consists of redeemable shares.

The earliest date on which the company has power to redeem these shares.

Names, descriptions and addresses of directors or proposed directors.

If 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.

Number and amount of shares and debentures agreed to be issued as fully or partly paid up otherwise than in cash.

1.	shares of
	\$ fully paid.
2.	shares upon which \$
	per share credited as paid.
3.	debentures
	\$

The consideration for the intended issue of those shares and debentures.	4. Consideration—
Number, description and amount of any shares or debentures which any person has or is entitled to be given an option to subscribe for, or to acquire from a person to whom they have been allotted or agreed to be allotted with a view to his offering them for sale.	1. shares of \$ and debentures of \$
Period during which option is exercisable.	2. Until
Price to be paid for shares or debentures subscribed for or acquired under option.	3.
Consideration for option or right to option.	4. Consideration—
Persons to whom option or right to option was given or, if given to existing shareholders or debenture holders as such, the relevant shares or debentures.	5. Names and addresses—
Names and addresses of vendors of property purchased or acquired, or proposed to be purchased or acquired by the company except where the contract for its purchase or acquisition was entered into in the ordinary course of the business intended to be carried on by the company or the amount of the purchase money is not material.	
Amount (in cash, shares or debentures) payable to each separate vendor.	
Amount (if any) paid or payable (in cash or shares or debentures) for any such property, specifying amount (if any) paid or payable for goodwill.	Total purchase price \$
Short particulars of any transaction relating to any such property which was completed within the 2 preceding years and in which any vendor to the company or any person who is, or was at the time thereof, a promoter, director or proposed director of the company had any interest direct or indirect.	Cash \$ Shares \$ Debentures \$ Goodwill \$
Amount (if any) paid or payable as commission for subscribing or agreeing to subscribe or procuring or agreeing to procure subscriptions for any shares or debentures in the company; or	Amount paid. Amount payable.
Rate of the commission	Rate per cent.
The number of shares, if any, which persons have agreed for a commission to subscribe absolutely.	
Estimated amount of preliminary expenses.	\$
By whom those expenses have been paid or are payable.	
Amount paid or intended to be paid to any promoter.	Name of promoter. Amount \$
Consideration for the payment	Consideration—
Any other benefit given or intended to be given to any promoter.	Name of promoter— Nature and value of benefit—
Consideration for giving of benefit.	Consideration—
Dates of, parties to and general nature of every material	

contract (other than contracts entered into in the ordinary course of the business intended to be carried on by the company or entered into more than 2 years before the delivery of this statement).

Time and place at which the contracts or copies thereof may be inspected or (1) in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, and (2) in the case of a contract wholly or partly in a language other than the official languages, a copy of a translation thereof in English or Chinese or embodying a translation in English or Chinese of the parts in a language other than the official languages, as the case may be, being a translation certified in the prescribed manner to be a correct translation.

Names and addresses of the auditors of the company (if any).

Full particulars of the nature and extent of the interest 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.

(Signatures of the persons above-named as directors or proposed directors, or of their agents authorized in writing.)

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Date:

(Amended 23 of 1998 s. 2; Amended 28 of 2012 ss. 912 & 920)

Part II

Reports to be set out

1. Where it is proposed to acquire a business, a report made by accountants (who shall be named in the statement) upon—
 - (a) the profits or losses of the business in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and
 - (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)*
2. (1) Where it is proposed to acquire shares in an undertaking which by reason of the acquisition

or anything to be done in consequence thereof or in connexion therewith will become a subsidiary of the company, a report made by accountants (who shall be named in the statement) with respect to the profits and losses and assets and liabilities of the other undertaking in accordance with sub-paragraph (2) or (3), as the case requires, indicating 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.

- (2) If the other undertaking has no subsidiaries, the report referred to in sub-paragraph (1) shall — (*Amended 12 of 2005 s. 16*)
- (a) so far as regards profits and losses, deal with the profits or losses of the undertaking in respect of each of the 5 financial years immediately preceding the delivery of the statement to the Registrar; and
 - (b) so far as regards assets and liabilities, deal with the assets and liabilities of the undertaking at the last date to which the financial statements of the undertaking were prepared. (*Amended 28 of 2012 ss. 912 & 920*)
- (3) If the other undertaking has subsidiaries, the report referred to in sub-paragraph (1) shall — (*Amended 12 of 2005 s. 16*)
- (a) so far as regards profits and losses, deal separately with the other undertaking's profits or losses as provided by sub-paragraph (2), and in addition deal either— (*Amended 12 of 2005 s. 16*)
 - (i) as a whole with the combined profits or losses of its subsidiaries, so far as they concern members of the other undertaking; or
 - (ii) individually with the profits or losses of each subsidiary, so far as they concern members of the other undertaking;or, instead of dealing separately with the other undertaking's profits or losses, deal as a whole with the profits or losses of the other undertaking and, so far as they concern members of the other undertaking, with the combined profits or losses of its subsidiaries; and
 - (b) so far as regards assets and liabilities, deal separately with the other undertaking's assets and liabilities as provided by the last foregoing sub-paragraph and, in addition, deal either— (*Amended 12 of 2005 s. 16*)
 - (i) as a whole with the combined assets and liabilities of its subsidiaries, with or without the other undertaking's assets and liabilities; or
 - (ii) individually with the assets and liabilities of each subsidiary;
- and shall indicate as respects the assets and liabilities of the subsidiaries the allowance to be made for persons other than members of the company.

(*Amended 12 of 2005 s. 16*)

Part III

Provisions Applying to Parts I and II of this Schedule

3. In this Schedule the expression **vendor** (賣主) includes a vendor as defined in Part III of the Third Schedule, and the expression **financial year** (財政年度) has the meaning assigned to it in that Part of that Schedule.
4. If in the case of a business which has been carried on, or of an undertaking which has been carrying on business, for less than 5 years, the financial statements of the business or undertaking

have only been prepared in respect of 4 years, 3 years, 2 years or 1 year, Part II shall have effect as if references to 4 years, 3 years, 2 years or 1 year, as the case may be, were substituted for references to 5 years.

(Amended 12 of 2005 s. 16; 28 of 2012 ss. 912 & 920)

5. 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.
6. Any report by accountants required by Part II shall be made by accountants authorized under the Companies Ordinance (Cap. 622) 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 12 of 2005 s. 16; 28 of 2012 ss. 912 & 920)

7. For the purposes of Part I, 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.
8. For the purposes of Part I, **address** (地址) in the case of a natural person means the place of his usual residence.
