

KEY FACTS COMPANIES

COMPANIES INCORPORATED OR REGISTERED IN HONG KONG ARE GOVERNED BY THE COMPANIES ORDINANCE.

HONG KONG COMPANY

Company Name

The name of a company must be stated in its articles of association. The name can be in English, in Chinese or in both English and Chinese. The company name must end with the word “Limited” or its equivalent in Chinese characters. A company name may not be identical to that of an existing company. Prior to incorporation a company name search must be conducted to confirm the availability of a proposed name. Ready-made companies are available.

Articles of Association

Every company must have an articles of association, which is the only constitutional document of a company. It sets out the regulations governing the administration of the company including the procedures for shareholder’s and director’s meetings and any restrictions on the issue and transfer of shares.

Founder Member Share

Each founder member is required to subscribe to at least one share in the company.

Share Capital

There is no limitation on the number of issued shares. Shares of a Hong Kong company have no par value. No capital duty is payable to the Government for the incorporation.

Shareholder

A private company must have at least one registered shareholder, but the shareholder may be a nominee of a third party whose name does not need to appear on official documents. There are no restrictions on the nationality or residence of the shareholder and shareholder meetings may be held in or outside Hong Kong. Bearer shares are not permitted.

Significant Controller

Effective from 1 March 2018, a Hong Kong company is statutorily required to keep a Significant Controllers Register (SCR) in its registered office or a designated location in Hong Kong. The SCR may be kept in hard copy or electronic form. A company is required to make the SCR available for inspection by law enforcement officers upon demand.

Director

A private company must have at least one director who is a natural person, other director(s) may be either an individual or body corporate. Listed companies and their subsidiaries must have at least two individuals as directors.

There are no restrictions on the nationality or residence of directors. Meetings may be held in or outside Hong Kong.

Reserve Director

Where a company has only one shareholder who is also the sole director, the company can nominate in a general meeting a reserve director who will act in the place of the sole director in the event of his death.

Secretary

A company secretary must be appointed. An individual secretary must be ordinarily resident in Hong Kong. A corporate secretary must have its registered office or a place of business in Hong Kong.

A sole director of a private company cannot serve as the secretary of the company. A body corporate cannot serve as the secretary if the sole director is the only director of that body corporate.

Registered Office

A company must maintain a registered office in Hong Kong. A PO box address is not permitted. The company's registered office must be filed with the Companies Registry when the company is incorporated.

Time

A company is incorporated by filing with the Registrar of Companies the prescribed form signed by the initial founder member and director. The actual incorporation takes place when the Registrar issues the certificate of incorporation and this normally takes approximately four to five working days after filing the papers.

A company can be incorporated on the same day with the service company and officer of Trident Hong Kong acting as the founder member and the first director to file the incorporation documents via e-Registration.

Business Registration

Every company is required to register with the Commissioner of Inland Revenue under the Business Registration Ordinance. The application for a business registration certificate must specify the type of business to be carried on and all places of business maintained in Hong Kong. The certificate is valid for a 12-month period from incorporation and must be renewed annually.

Annual Meetings

A private single member company is not required to hold an annual general meeting. A private company with more than one member is allowed to dispense with holding an annual general meeting in respect of a particular financial year by passing a members' unanimous resolution. A copy of the resolution is required to be delivered to the Companies Registry for registration.

Otherwise, a general meeting of shareholders must be held at least once every calendar year. At that time the profit and loss accounts and balance sheet of the company are laid before the shareholders together with the directors' and auditors' reports.

Public Filings

The names and personal particulars of the directors and secretary must be filed with the Companies Registry when the company is incorporated. If shares are issued after a company has been incorporated, a return of allotment must be filed with the Registrar, disclosing the identities of the members and their shareholdings. However, where nominee shareholders and directors are used, the beneficial owners do not need to be disclosed. Registers of the company's members, directors and secretaries, mortgages and charges (if any) together with its minutes and accounts must also be kept by the company but may only be inspected by shareholders.

A private company is required to file an annual return each year within 42 days of the company's anniversary date of incorporation.

Accounts & Audit

Directors are required under the Companies Ordinance to maintain proper books of accounts of the company to be kept at its registered office or at such other place as the directors may think fit. Every company is required by law to appoint an auditor or firm of auditors each year at its general meeting. The first auditor may be appointed by the director(s) and may hold office until the following annual general meeting. An auditor must be qualified by virtue of the Hong Kong Professional Accountants Ordinance and completely independent of the company.

A director's report and auditor's report must be attached to the company's annual accounts before the same are presented at the company's annual general meeting for consideration by its members. In case of a private company (other than a member of a group of companies which contains a public company), its audited accounts must be laid before its annual general meeting not more than nine months from its financial year-end.

Taxes

A Hong Kong company is only taxed on its profits arising in or derived from a trade or business carried on in Hong Kong. There is no tax on dividends paid by a company otherwise chargeable to profits tax. Local tax law does not discourage the accumulation of profits in a Hong Kong company. Accordingly, there is no tax on accumulated earnings and profits and no requirement that a dividend must be paid.

Apart from profits tax, there is also a personal income tax and a property tax in Hong Kong, both of which should be taken into account when establishing a company.

Deregistration

A private company which has no outstanding liabilities may apply to the Registrar of Companies to be deregistered with the unanimous consent of its shareholders. Applications can be made to the Registrar to deregister defunct, solvent private companies. Prior to the submission of application to the Registrar, the applicant must obtain a written notice of no objection from the Commissioner of Inland Revenue. It will take approximately six to eight months to complete the above work and the deregistration process.

NON-HONG KONG COMPANIES WITH A PLACE OF BUSINESS IN HONG KONG

Any company incorporated outside Hong Kong that establishes a place of business in Hong Kong is subject to the Companies Ordinance. Within one month of establishing a place of business in Hong Kong, the Company must deliver for registration the following documents and information to the Registrar of Companies:

- > A copy, certified in prescribed manner, of its memorandum and articles of association or equivalent document defining the constitution of the company, and its certificate of incorporation.
- > A list of the directors and secretary showing the full name (including former names or aliases), residential address, date of appointment, and number and issuing country of passport of each.
- > The address of the principal place of business and the place of incorporation (if any); the address of the registered office in the place of incorporation; and details of the intended address of the principal place of business in Hong Kong.
- > A copy, certified in specified manner, of the company's latest audited accounts—unless the preparation of accounts is not required by the law of a company's place of incorporation or the company has been incorporated for less than 18 months. The accounts must be in the form required by the law of the place of its incorporation or, if no such form is specified by law, in the form in which they are submitted to the shareholders of the company.

Upon registration, the company is required to maintain its business registration in the same manner as a company incorporated in Hong Kong.

The company is also required to file an annual return with the Registrar of Companies within 42 days of each anniversary of the date of registration at a prescribed fee.

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