

PRINCIPALITY
OF
HUTT RIVER



By Authority of
HRH PRINCE LEONARD

INTERNATIONAL BUSINESS
COMPANIES ACT
Act No. 3 of 2009

PRINCIPALITY OF HUTT RIVER
INTERNATIONAL BUSINESS COMPANIES ACT
Acr No. 3 of 2009

Arrangement of Sections

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PRINCIPALITY OF HUTT RIVER

INTERNATIONAL BUSINESS COMPANIES ACT

Act No. 3 of 2009

An Act to provide for the incorporation, registration and operation of International Business Companies.

BE IT DULY PROCLAIMED AND ENACTED by HRH Prince Leonard, Sovereign Head of State, as follows:-

PART 1 PRELIMINARY

INTERPRETATION

1. (1) In this Act unless the context otherwise requires: -

“Absolute majority” means more than 75% of all votes entitled to be cast;

“Certified copy” means a copy of an original document certified as a true copy thereof by such person as the Registrar of Companies shall deem acceptable;

“Company” means an International Business Company incorporated or continued under this Act;

“Company limited by guarantee” means a company having the liability of its members limited by its constitution to such amount as the members undertake to contribute to the assets of the company in the event of it being wound up;

“Company limited by shares” means a company having the liability of its members limited by its constitution to the amount, if any, unpaid on the shares respectively held by them;

“Company limited both by shares and by guarantee” means a company having the liability of its members limited by its constitution:-

(a) in the case of members who have given a guarantee, to such amount as they have respectively undertaken to contribute to the assets of the company in the event of it being wound up;

(b) in the case of members who are shareholders, to the amount, if any, unpaid on the shares respectively held by them;

“Company number” means the identification number given in respect of each company by the Registrar of Companies;

“Court” means the Supreme Court of the Principality of Hutt River;

“Director” includes any person occupying the position of director of a company by whatever name called and any person held out by the company to be a director;

“Distribution” means a direct or indirect transfer of money or other property (except the company's own shares) or incurring of indebtedness by a company to or for the benefit of a member in respect of any of its shares, and may be in the form of a declaration or payment of a dividend, a purchase, redemption or other acquisition of shares, a distribution of indebtedness, or otherwise;

“Euro” means currency of the European Community;

“First Schedule Debenture” means the debenture set out in the First Schedule hereto;

“Incorporator” means any person who has signed a constitution as an incorporator pursuant to section 2;

“Member” means any person:-

- (a) who agrees to become a member of a company and whose name is entered in the Register of Members; or
- (b) who from time to time is the holder of any shares in the company; or
- (c) who is deemed to be a member pursuant to section 6;

“Minister” means the Minister of the Principality of Hutt River for the time being responsible for finance;

“Model Constitution” means a constitution prescribed by the Registrar of Companies pursuant to Section 3(4);

“Person resident in the Principality of Hutt River” means a person who ordinarily resides in the Principality of Hutt River or carries on business from an office or other fixed place of business within the Principality of Hutt River, and includes a company incorporated under this Act;

“Registered Agent” refers to the agent of the company who is resident in the Principality of Hutt River, has been approved for this purpose by the Registrar of Companies and who shall, at all times, have in the Principality of Hutt River an office registered with the Government registry there;

“Registered share” means any share issued by an International Business Company standing in the register of members of the company in the name of a member;

“Register” means the Register of International Business Companies maintained by the Registrar of Companies in accordance with section 5 (2);

“Registrar of Companies” means the person appointed to the position of Registrar of Companies under this Act;

“Resolution” in relation to a resolution of directors means:-

- (a) a resolution approved at a duly constituted meeting of directors or of a committee of directors by affirmative vote of a simple majority, or such larger majority as may be specified in the constitution, of the directors present at the meeting who voted; or
- (b) a resolution, notice of which has been given to all directors entitled to receive notice of meetings, which has been consented to in writing by an absolute majority, or such larger majority as may be specified in the constitution, of all the directors or of all members of a committee of directors, as the case may be; and, where a director is given more than one vote in any circumstances, he shall be counted for the purposes of establishing a majority by the number of votes he is entitled to cast;

“Resolution” in relation to a resolution of members means:-

- (a) a resolution approved at a duly constituted meeting of the members by the affirmative vote of a simple majority, or such larger majority as may be specified in the constitution either generally or in respect of certain matters, of the votes of the members present at the meeting and entitled to vote thereon and who voted; or

- (b) resolution, notice of which has been given to all members entitled to receive notice of meetings, which is consented to in writing by an absolute majority or such larger majority as may be specified in the constitution either generally or in respect of certain matters of all the members who are entitled to vote thereon;

“Seal and Common Seal”, in relation to a company, means the common corporate seal referred to in section 62;

“Securities” includes shares and debt obligations of every kind, and options, warrants and rights to acquire shares or debt obligations;

“Simple majority” means more than half of all votes validly cast; should a tie occur in the vote then the chairman of the meeting, in addition to any other votes that he may have, shall be entitled to casting a tie-breaking vote;

“Solvency test” has the meaning attributed to it in subsection (3);

“Treasury shares” means shares of a company that were previously issued but were repurchased or otherwise acquired by the company and not cancelled;

“Writing” includes printing typewriting, photography, telex, cable, fax, email and any other method of representing or reproducing words on paper or a similar medium.

Words and expressions importing the masculine gender shall include the feminine and Vice versa.

Words and expressions in the singular shall include the plural and vice versa.

- (2) Subject to any limitations in the constitution, shares that a company purchases, redeems or otherwise acquires may be cancelled or held as treasury shares.
- (3) (a) A company satisfies the solvency tests if:-
- (i) it is able to pay its debts as they become due in the normal course of business; and
 - (ii) the realizable value of the company's assets is greater than the aggregate of the present value of its liabilities, whether contingent or otherwise.
- (b) In determining whether a company satisfies the solvency test regard may be had either to financial statements prepared on the basis of accounting practices and principles that are reasonable in the circumstances, or a fair valuation or other method reasonable in the circumstances. Should any person have cause to dispute the validity of the financial statements then an independent audit may be arranged after negotiations between the Registrar of Companies, the Director/s of the Company and the person/s who wish to have the audit conducted as to who shall bear the costs and who shall conduct the audit, with particular regards to ensuring that no information may be divulged by the auditor to any other party than those with whom the negotiations have been made.
- (c) In this subsection, “realizable value”, in relation to any asset, means the price that would be paid for that asset by a purchaser in an “arms length” transaction.

PART 2
COMPANY FORMATION AND CONSTITUTION

FORMATION

2. (1) Subject to the requirements of this Act, one or more persons may for any lawful purpose, by signing a constitution as an incorporator, form an international business company under this Act.
- (2) Every international business company incorporated under this Act shall be:-
- (a) a company limited by shares;
 - (b) a company limited by guarantee; or
 - (b) a company limited both by shares and by guarantee.

CONSTITUTION

3. (1) The constitution of every company shall state:-
- (a) the name of the company;
 - (b) the address within the Principality of Hutt River of the first registered office of the company;
 - (c) the name and address within the Principality of Hutt River of the first registered agent of the company;
 - (d) the objects or purposes for which the company is to be incorporated;
 - (e) whether the company is a company limited by shares, a company limited by guarantee or a company limited both by shares and by guarantee;
 - (f) in the case of a company limited by guarantee, that each member undertakes to contribute to the assets of the company in the event of it being wound-up while he is a member or within three months, or such longer period as may be specified in the constitution, after he ceases to be a member, for payment of the debt and liabilities of the 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 amongst themselves, such amount as may be required, not exceeding a specified amount.
 - (g) in the case of a company limited both by shares and guarantee, that each member giving a guarantee undertakes to contribute to the assets of the company in the event of it being wound-up while he is a member or within three months, or such longer period as may be specified in the constitution, after he ceases to be a member, for payment of the debt and liabilities of the 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 amongst themselves, such amount as may be required, not exceeding a specified amount.
- (2) For the purposes of subsections (1)(d), the constitution may contain a statement either alone or with other objects or purposes that the objects or purposes of the company are unrestricted.
- (3) The constitution may name the first directors of the company but does not have to.
- (4) The Registrar of Companies shall prescribe a model constitution for companies wishing to be incorporated under this Act.

- (5) The constitution of every company shall prescribe regulations for the company and the company may in its constitution adopt all or any of the regulations contained in the model constitution appropriate for its type.
- (6) In so far as the constitution does not exclude or modify them, regulations contained in the model constitution appropriate for its type shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in its duly registered constitution.
- (7) The constitution of every company shall be:-
 - (a) printed
 - (b) divided into paragraphs numbered consecutively; and
 - (c) signed by each incorporator.
- (8) Subject to the provisions of this Act, the constitution, when registered, shall bind the company and its members from time to time to the same extent as if each member had signed his name and affixed his seal thereto and as if there were contained in the constitution, on the part of himself, his heirs, executors and administrators, a covenant to observe the provisions of the constitution.

NAMES

- 4 (1) Subject to subsection (2), an international business company shall have as part of and at the end of its name:-
 - (a) the word "Corporation" or the abbreviation "Corp";
 - (b) the word "Incorporated" or the abbreviation "Inc.";
 - (c) the word "Limited" or the abbreviation "Ltd";
 - (d) the words "Sendirian Berhad" or the abbreviation "Sdn Bhd";
 - (e) the words "Societe a Responsabilite Limitee" or the abbreviation "SARL";
 - (f) the words "Besloten Vennootschap" or the abbreviation "B.V."; or
 - (g) the words "Gesellschaft mit beschränkter Haftung" or the abbreviation "GmbH"
- (2) Notwithstanding the provisions of subsection (1), a company may, in lieu of any of the words or abbreviations specified therein, have as part of its name any other words or popular abbreviations of those words in any language being abbreviations which a registered agent can satisfy the Registrar of Companies connotes the existence of a body corporate as distinct from any other person or entity and such words or abbreviation may appear at the beginning, the end or elsewhere in the name of the company in accordance with common practice.
- (3) No company shall have a name that:-
 - (a) is identical with that under which a company in existence is already incorporated under this Act or so nearly resembles the name as to be calculated to deceive or confuse, except where the company in existence gives its consent; or
 - (b) contains the words "Assurance", "Bank", "Building Society", "Chamber of Commerce", "Chartered", "Cooperative", "Imperial", "Insurance", "Municipal", "Royal", "Trust Company", "Trustee Company" or a word conveying a similar

meaning, or any other word that, in the opinion of the Registrar, suggests or is calculated to suggest:-

- (i) the patronage of the *Sovereign* Head of State or that of a member of the Royal Family; or
 - (ii) a connection with the *Sovereign* Head of State's Government or a department thereof; or
 - (iii) a connection with a society or body incorporated by Royal Charter;
- except with the approval of the Registrar in writing;
- (c) that is a globally © copyrighted name or bears a very close resemblance to such a name which could be calculated to deceive or confuse;
 - (d) is indecent, offensive or, in the opinion of the Registrar, undesirable;
 - (e) contains other than characters or numerals of any language or such other symbols as may be approved by the Registrar of Companies.
- (4) If the name of a company is to contain other than Romanized characters or Arabic numerals, a certified translation of the name in the English language shall be provided to the Registrar of Companies the prior approval of which to the use of the name shall be obtained.
- (5) The Registrar of Companies will have the authority to reject any name without having to give his reason for such rejection.
- (6) A company may, by resolution and with the written approval of the Registrar of Companies, change its name. There shall, however, be:-
- (a) a waiting period of three months between the time the company makes the request and the time when the Registrar of Companies will make this name change official by issuing a certificate of change of name; and
 - (b) subject to the Registrar of Companies' approval otherwise there shall be a limit of one name change per Company per 5 year period.
- (7) Where a company is registered with a name that contravenes subsections (1), (2), (3) or (4) the Registrar of Companies may give notice to the company to change its name and if it fails to do so within 60 days from the date of the notice the Registrar of Companies shall change the name of the company to such name as he deems appropriate and shall publish a notice of the change on the Principality's website www.principality-hutt-river.com/gov.
- (8) Where the name of a company is changed the Registrar of Companies shall enter the new name in the Register in place of the former name and shall issue a certificate of change of name.
- (9) The change of name of a company shall take effect from the date of the certificate issued under subsection (7) and shall not affect any rights or obligations of the company or render defective any legal proceedings by or against it, and any legal proceedings that may have been commenced by or against it in its former name may be continued by or against it in its new name.
- (10) Subject to subsection (14); where a company carries on business under any name other than its registered name or continues to use its former name after it has been changed, the company and every officer who permits the use of the former name shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.

- (11) A change of name of a company shall not be deemed to be an amendment to its constitution;
- (12) The Registrar of Companies shall, upon a request made by any person, reserve for three months any name under which a company may be registered.
- (13) During a period for which a name is reserved no company, other than the company or intended company for which the name is reserved, shall be registered by that name.
- (14) Companies wishing to carry on business under a name other than their company name, or a name which is not identical to their incorporated name (i.e. does not wish to use Ltd., etc. in their trading name), must apply for a Registration of Business Name and subsections (3) to (13) shall apply with regard to acceptance of the business name.

INCORPORATION

- 5. (1) A person wishing to incorporate a company shall file its constitution with the Registrar of Companies.
- (2) Where it is satisfied that all the requirements of this Act in respect of incorporation and all matters precedent and incidental thereto have been complied with, the Registrar of Companies shall:-
 - (a) record the name of the company and the fact that a constitution has been filed in a register to be maintained by him and which shall be known as the Register of International Business Companies; and.
 - (b) issue a certificate of incorporation authenticated by his official seal certifying that the company is incorporated and stating the type of limited liability it is incorporated with.
- (3) A company shall, from the date of incorporation shown on the certificate, be a body corporate with perpetual succession being a entity distinct from its members.
- (4) A certificate of incorporation issued by the Registrar of Companies shall be conclusive evidence that the requirements of this Act in respect of incorporation have been complied with and that the company has been incorporated under this Act on and from the date stated in the certificate, under the name contained in its constitution.
- (5) If a company is trading under its registered name then the place of incorporation, company number and the address of its registered office in the Principality of Hutt River shall be included on the website of the company and the company's stationery; and a copy of the certificate of incorporation shall be made available to any member of the public who requests to see it.
- (6) Where it is satisfied that all the requirements of this Act in respect of registering a business name have been complied with, the Registrar of Companies shall:-
 - (a) record the business name and the details of the company under which it is registered in a register to be maintained by him and which shall be known as the Register of Business Names; and.
 - (b) issue a certificate authenticated by his official seal stating that the business name is registered and the name of the company to whom it is registered.
- (7) Where a company is carrying on business under a registered business name then the place where the business name is registered, the business registration number and the address of the registered office in the Principality of Hutt River of the company to whom it is registered shall be included on the website of the company and any stationery relating to that business; and a copy of the certificate of registration of

business name shall be made available to any member of the public who requests to see it.

- (8) Where an incorporator files a constitution containing false statements the Minister may cancel the registration, where the Registrar has failed to act.

INCORPORATORS TO BE FIRST MEMBERS

6. Each incorporator shall, from the date of incorporation, be deemed to be a member of the company equally with any other incorporator until the allotment of any shares in the company at which time, unless shares are allotted to him, he shall cease to be a member.

AMENDMENT OF CONSTITUTION

7. (1) Subject to any limitations therein, a company may amend its constitution by a resolution of members or, where permitted by its constitution, by a resolution of directors.
- (2) (a) A company that amends its constitution shall within 14 days of the date of resolution being passed file with the Registrar of Companies a certified copy of the resolution, along with the original constitution, thus amending the constitution;
- (b) The copy of the resolution filed in accordance with this subsection shall be certified by:-
- (i) the lawyer, or other person engaged in advising the company, or
- (ii) the registered agent of the company.
- (3) An amendment to a constitution shall have effect from the time the amendment is registered by the Registrar of Companies.
- (4) A company that contravenes subsection (2) shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.
- (5) A director who permits the contravention of subsection (2) shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.

COPIES OF CONSTITUTION

8. (1) A company shall, when requested by any member, send or provide to him a copy of its constitution being in accordance with any amendments thereto subject to payment of such amount not exceeding fifty Euros as the directors may determine to be reasonably necessary to defray the costs of preparing and furnishing it.
- (2) Where an amendment is made to a company's constitution, every copy of the constitution issued after the date of the amendment shall be in accordance with the amendment.
- (3) A director of a company who permits the contravention of this section shall be liable on conviction to a fine of five hundred Euros.

PART 3
COMPANY POWERS, RESTRICTIONS AND LIABILITIES

POWERS

9. (1) Subject to any limitations in its constitution or this Act, a company shall, irrespective of corporate benefit, have the capacity, rights, powers and privileges of a natural person who is *sui juris* including but not limited to the powers to:-
- (a) guarantee a liability or obligation of any person and to secure any of its obligations by mortgage, pledge or other charge of or over any of its assets for that purpose;
 - (b) protect the assets of the company for the benefit of the company, its creditors and its members and, at the discretion of the directors, for any person having a direct or indirect interest in the company; and
 - (c) make gifts of any of the property of the company, provided that it will, after making any such gift, continue to satisfy the solvency test.
- (2) For the purpose of subsection (1)(b), notwithstanding any other provision of this Act or of any other enactment or rule of law for the time being in force in the Principality of Hutt River to the contrary, save the law as to fraudulent preference and the law as to dispositions made with intent to defraud creditors, the directors may cause the company to transfer any of its business, assets or liabilities in trust to one or more trustees and, with respect to such transfer, the directors may provide that the company, its creditors, members, partners or any person having a direct or indirect interest in the company, or any of them, may be the beneficiaries.
- (3) Where expressly permitted by its constitution, a company shall have the power by way of settlement or other disposition, to give the right to a person not being a member of the company to share in any part of its gains or profits to the exclusion of the members.
- (4) Any settlement or disposition made in accordance with subsection (3) shall be treated as if it was a distribution to a member and section 28 shall apply.

RESTRICTIONS ON INTERNATIONAL BUSINESS COMPANIES

10. (1) An international business company shall not:-
- (a) carry on business within the Principality of Hutt River, or any State of the Commonwealth of Australia;
 - (b) acquire or own an interest in immovable property situated in the Principality of Hutt River other than a lease referred to in subsection (2)(b);
 - (c) carry on banking business as defined by the International Banking Act 2004 unless a license under the provisions of that Act has been granted;
 - (d) carry on trust business as defined by the Trust Companies Act to be enacted after this date;
 - (e) carry on insurance business as defined by the Insurance Act to be enacted after this date;
 - (f) carry on the business of a University except under special legislation;
 - (g) carry on the business of a Casino or gambling in general except under special legislation;
 - (h) carry on Securities related business except under special legislation;

- (i) at any time have less than one member; or
 - (j) make any invitation to the public to:-
 - (i) subscribe for any shares or debentures in the company; or
 - (ii) deposit money with or lend money to the company.
- (2) For the purposes of subsection (1)(a) an international business company shall not be treated as carrying on business in the Principality of Hutt River by reason that it:-
 - (a) carries on business with another company incorporated under this Act or in furtherance of the business of the company carried on outside the Principality of Hutt River;
 - (b) conducts its business electronically by offering its goods or services:-
 - (i) from a place of business in the Principality of Hutt River; or
 - (ii) through an internet or other electronic service provider located in the Principality of Hutt River;
 - (c) advertises or makes it known through statements on websites that it may be contacted at an address in the Principality of Hutt River or it uses a Principality of Hutt River domain address;
 - (d) leases premises from which to carry on its business as permitted by this Act;
 - (e) makes or maintains deposits with a person licensed to carry on banking business pursuant to the International Banking Act 2004;
 - (f) obtains professional services from its registered agent, counsel, attorney, accountant, bookkeeper, trust companies, management companies, investment advisers, insurance brokers or agents or other similar persons carrying on business within the Principality of Hutt River;
 - (g) maintains its books and records within the Principality of Hutt River
 - (h) holds meetings within the Principality of Hutt River of its directors or members:
 - (i) holds shares, debt obligations or other securities in a company incorporated under this Act; or
 - (j) issues shares, debt obligations or other securities to any person resident in the Principality of Hutt River or any company incorporated under this Act.
- (3) A company may be wound up by the court upon a petition presented by the Registrar of Companies if it contravenes any of the provisions of subsection (1)
- (4) A company that contravenes subsection (1) shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.
- (5) A director or an officer who permits the contravention of subsection (1) shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.

VALIDITY OF ACTS OF COMPANY

11. (1) The validity of an act done by a company shall not be called into question on the ground of lack of capacity by reason of anything in the company's constitution.
- (2) A member of a company may bring proceedings to restrain the doing of an act provided that no such proceedings shall lie in respect of an act to be done in fulfilment of a legal obligation arising from a previous act of the company.

POWER OF DIRECTORS TO BIND COMPANY

12. (1) The power of the directors or officers to bind the company in favour of a person dealing with a company in good faith, shall be deemed to be free of any limitation deriving from:-
 - (a) the company's constitution; or
 - (b) any resolution of the members or of any class thereof.
- (2) For the purposes of this section:-
 - (a) a person deals with a company if he is a party to any transaction or other act to which the 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 as derived from the company's constitution or any resolution of the members or of any class thereof.
- (3) It remains the duty of the directors of a company to observe any limitations on their powers flowing from the company's constitution or from any resolution of members or any class thereof and subsection (1) does not affect:-
 - (a) any right of a member of the 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 an act to be done in fulfilment of a legal obligation arising from a previous act of the company; or
 - (b) any liability incurred by the directors of the company or any other person, by reason of the directors exceeding their powers.

NO DUTY TO ENQUIRE AS TO CAPACITY OF COMPANY OR AUTHORITY OF DIRECTORS

13. (1) A party to a transaction with a company is not bound to enquire as to whether it is permitted by the company's constitution or as to any limitation on the powers of the directors to bind the company or authorize others to do so.
- (2) A person having dealings with a company is, subject to subsection (4), entitled to make, in relation to those dealings, the assumption referred to in subsection (3) and in any proceeding in relation to those dealings, any assertion by the company that the matters that the person is so entitled to assume were not correct shall be disregarded.
- (3) The assumptions that a person is, by virtue of subsection (2), entitled to make in relation to dealings, transactions or acts with a company are:-
 - (a) that, at all relevant times, the constitution of the company has been complied with;
 - (b) that a person who appears, from the register of directors of the company, to be a director of that company has been duly appointed and has authority to

bind the company, and authorize others to do so, free of any limitation under the constitution of the company;

- (c) that a person who is held out by the company to be an officer or an agent of the company has been duly appointed and has authority to exercise the powers and perform the duties customarily exercisable or performed by an officer or agent of the kind concerned;
 - (d) that a document has been duly authorized and executed by the company in accordance with sections 64 or 68, whether or not the common seal of the company has been affixed and without the need to enquire as to whether or not a valid meeting of the relevant officers was, in fact, properly held; and
 - (e) that the officers of the company properly perform their duties to the company.
- (4) Notwithstanding subsection (2), a person is not entitled to make an assumption referred to in subsection (3) in relation to dealings with the company if at the relevant time he has actual knowledge, or suspected, that such assumption was not correct.

CHANGE OF STATUS

14. (1) Every company incorporated (or continued) under this Act may, unless its constitution otherwise provides, change its status from any of the types of companies specified in paragraphs (a) to (c) of section 2(2) to any other type of company specified therein in accordance with this section and such change may be effected notwithstanding that at some earlier time the company has been any other (or the same) type of company as provided under that subsection.
- (2) A company may change its status if all of the following requirements are complied with:-
- (a) the proposed change is specifically authorized by a special resolution of the members of the company and is given effect to, as provided by subsection (3) within six months from the date of such resolution; and
 - (b) the directors make a statutory declaration lodged with the Registrar of Companies that:-
 - (i) the change of status will, in their honest belief, not result in the company thereby being incapable of meeting its obligations to its creditors as they fall due; and
 - (ii) the company has complied with all the provisions of this Act (including the payment of any fees due to the Office of the Registrar of Companies); and
 - (iii) the constitution will be duly amended within three weeks to reflect the change of status.
- (3) The change of status of a company shall take effect upon the day upon which a copy of the amended constitution filed by the company is registered by the Registrar of Companies.
- (4) Where:-
- (a) any member of a company did not vote in favour of the members' special resolution to change the status of the company; and
 - (b) the change of status may have the effect of increasing the liability of that member;

then except in so far as that change was made in accordance with the rights of that member as were specified in the constitution of the company at the time that person

became a member, that member may exercise the rights of a dissenter pursuant to Section 88.

- (5) A member who has forfeited his membership interest pursuant to subsection (4) shall receive from the company such amount as may be specified in the constitution or as may be agreed or, failing that such amount as may be determined by the Registrar of Companies (or a chartered accountant approved by the Registrar of Companies, whose costs are to be paid by the company) as representing that member's proportional interest in the realizable net tangible assets of the company save however that any such amount shall be paid only to the extent to which the company would not otherwise be rendered insolvent.
- (6) A certificate of change of status, in the form of a certificate of incorporation issued by the Registrar of Companies shall be conclusive evidence that all the requirements of this Act with respect to the change of status have been complied with and that the company is henceforth of the type stated in that certificate, being a company validly incorporated pursuant to this Act.
- (7) Any change in status of a company pursuant to this section shall not operate to:-
 - (a) create a new legal entity;
 - (b) prejudice or affect the identity of the body corporate, or its continuity;
 - (c) affect the property or rights or obligations of the company; or
 - (d) render defective any legal proceedings whatsoever.

PART 4 CAPITAL AND DIVIDENDS

NATURE OF SHARES

- 15. (1) A share is a form of personal property that represents an entitlement in respect of the capital, income or control of a company and confers on the holder all or some of the following rights:
 - (a) the right to share in the distribution of income of the company;
 - (b) the right to share in the distribution of the surplus assets of the company upon its liquidation;
 - (c) the right to vote at meetings of the company;
 - (d) the right to repayment at a future date of any sum in consideration of which the share was issued;
 - (e) the right to be paid a return at a specified rate on the sum in consideration of which the share was issued together with such other rights and privileges and subject to such limitations or conditions as may be provided for in the constitution of the company or upon the issue of the share.
- (2) Unless otherwise specified in its constitution or upon the issue of the share, each share has attached to it the following:-
 - (a) the right to one vote at any meeting of the company (other than a meeting of a class of members of which the holder of the share is not a member) which is held to do any one or more of the following:
 - (i) to appoint or remove a director;
 - (ii) to approve any alteration to the constitution;

- (b) the right to an equal share in dividends authorized by the directors in respect of its class or series;
- (c) the right to an equal share in the distribution of the surplus assets of the company.
- (3) The residents of any country may hold shares either in their own name, or beneficially, in any company that is formed under this Act with the exception of residents of the Commonwealth country of Australia.

TYPES OF SHARES

16. (1) Subject to any limitations in its constitution, a company shall have the power to issue registered shares which may be:-
- (a) shares having special, conditional, enhanced, limited or no voting rights;
 - (b) shares with or without par value;
 - (c) numbered or unnumbered shares;
 - (d) convertible common, ordinary, preferential or redeemable shares;
 - (e) shares that entitle participation only in certain assets, if any;
 - (f) shares, the holders of which are entitled to forfeit them;
 - (g) shares in any one or more currencies;
 - (h) options, warrants or rights, or instruments of a similar nature, to acquire any securities of the company;
 - (i) securities that, at the option of the holder thereof or of the company or upon the happening of a specified event, are convertible into, or exchangeable for, other securities in the company or any property then owned or to be owned by the company;
- or any combination thereof.
- (2) Without limiting subsection (1) shares may carry the right to suspend the voting rights of other shares.
- (3) A registered share shall be transferable unless otherwise specified in the company's constitution or upon the issue of the share.

ALTERATIONS OF CAPITAL

17. Subject to its constitution a company may by resolution of members or, where permitted by its constitution, by resolution of its directors:-
- (a) purchase, redeem or otherwise acquire and hold its own shares;
 - (b) increase or reduce the number of its shares;
 - (c) change the currency in which any of its shares are denominated;
 - (d) change par value shares to no par value and vice versa;
 - (e) increase or decrease the par value of any of its shares;

- (f) divide any shares into a larger number of shares of the same class or series or combine any of its shares into a smaller number of shares of the same class or series, provided where shares with par value are divided or combined the aggregate par value of the new shares shall be equal to the aggregate par value of the old shares;
- (g) determine the number of classes and series of shares and the number of shares of each such class and series, the par value of shares with par value and the value at which shares with no par value are to be issued; and
- (h) determine the designations, powers, preferences, rights qualifications, limitations or restrictions of each class and series of shares;

or any combination or variation thereof.

FRACTIONAL SHARES

18. Subject to any limitations in its constitution, a company may issue fractions of a share and unless and to the extent otherwise provided in the constitution, a fractional share has the corresponding fractional liabilities, limitations, preferences, privileges, qualifications, restrictions, rights and other attributes of a whole share of the same class or series.

RIGHTS OF HOLDERS OF CLASSES OF SHARES

19. (1) If the share capital of a company is divided into different classes of shares and provision is made in its constitution for authorizing the variation or abrogation of the rights attached to any class of shares in the company, and 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 holders of those shares, the rights attached to any class of shares are at any time varied or abrogated in pursuance of the said provisions, the holders of not less in the aggregate than 10 per centum of the issued shares of that class, being persons who did not consent to or vote in favour of the resolution for the variation or abrogation, may apply to the court to have the variation or abrogation cancelled and if any such application is made, the variation or abrogation shall not have effect until confirmed by the court.
- (2) An applicant shall be deemed not to have consented to or voted in favour of the resolution for the variation or abrogation if any relevant fact was not disclosed by the company to the member before he so consented or voted.
- (3) The application under this section shall be made within 28 days after the date that consent was given or the resolution was passed or within such further time as the court may allow.
- (4) Upon hearing an application under this section, the court shall make an order confirming or setting aside the variation or abrogation on such terms as appear to it to be just.
- (5) The issue by a company of:-
- (a) a First Schedule debenture; or
 - (b) shares limiting or affecting any rights previously conferred on the holders of any existing shares or class or series of shares,

shall be deemed to be a variation of the rights of any other shares issued by the company to which the holders of those shares may object and the provisions of this section shall apply *mutatis mutandis* to such deemed variation.

ALLOTMENT OF SHARES

20. Subject to any limitations in its constitution, the unissued shares and treasury shares of a company shall be at the disposal of the directors who may offer, allot, grant options over or otherwise dispose of such shares to such persons, at such times and upon such terms as they may, by resolution, determine.

CONSIDERATION FOR SHARES

21. (1) Each share in a company shall be issued for valuable consideration which, subject to any limitations in its constitution, may include money, services rendered, personal property (including other shares, debt obligations and other securities in the company), an interest in real property, a promissory note or other binding obligation to contribute money or property, or any combination thereof.
- (2) Subject to any limitations in its constitution, a company may issue shares for such amount as may be determined by the directors, except that in the case of shares with par value, the amount shall not be less than the par value and, in the absence of fraud, the decision of the directors as to the value of the consideration received by the company in respect of the issue shall be conclusive, unless a question of law is involved.
- (3) A share issued by a company upon conversion of or in exchange for another share or a debt obligation or other security in the company, shall be treated for all purposes as having been issued for money equal to the consideration received or deemed to have been received by the company in respect of the other share, debt obligation or security.

ISSUE AND EFFECT OF SHARE WARRANTS

22. (1) Subject to any limitations in its constitution or upon the terms which the share is issued, a company shall at the request of a holder of any fully paid up registered share and upon surrender of the certificate of the registered share, if any, issue a share warrant which shall, where applicable, bear the same number as any certificate surrendered. A share warrant shall constitute conclusive evidence of the right to the title to the share specified in that share warrant.
- (2) Subject to any limitations in its constitution or upon the terms which the share is issued, a company shall at the request of a holder of any share warrant, in exchange for that share warrant, issue a share certificate or share certificates in respect of the shares specified in the share warrant.
- (3) The holder of a share warrant issued by a company shall be deemed not to be a member of that company and, subject to subsection (4), shall not be entitled to exercise any of the rights or receive any of the benefits of membership of the company unless and until such time as the share warrant is surrendered.
- (4) Any share warrant issued by a company may carry coupons or other certificates for the payment of dividends and, in respect of any other rights determined in accordance with the constitution or the terms of issue of the share warrant, such coupons or certificates may be divisible from any other rights attaching to that share warrant.
- (5) The exchange of any share certificate for a share warrant or vice versa in accordance with subsections (1) or (2) shall not constitute a cancellation of the existing share or the issue of a new share.

SHARE CERTIFICATES

- 23 (1) Subject to any provisions in the constitution of a company, the directors shall resolve whether or not share certificates shall be issued and in respect of which classes of its shares they shall be issued.

- (2) A share certificate issued by a company shall be:-
 - (a) signed by at least two directors of the company or, if company only has one director, by that director; or
 - (b) under the common seal of the company, with or without the signature of any director of the company;

and the constitution may provide for the signatures or common seal to be facsimiles.
- (3) A share certificate issued by a company specifying a share held by a member of that company shall be *prima facie* evidence of the title of the member to the share specified.

TRANSFER OF REGISTERED SHARES

24. (1) Subject to any limitations in the constitution:-
 - (a) registered shares which are transferable may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee.
 - (b) a company shall on the application of the transferor or on receipt from the transferee of a transfer as aforesaid of a registered share in the company enter in its Register of Members the name of the transferee of the share.
 - (c) in the absence of a written instrument of transfer as aforesaid the directors may accept such evidence of a transfer of shares as they consider appropriate.
- (2) A company shall not be required to treat a transferee of a registered share in the company as a member until the transferee's name has been entered in the Register of Members.
- (3) A transfer of registered shares of a deceased, or bankrupt member of a company made by his personal representative, guardian or trustee, as the case may be, or a transfer of registered shares owned by a person as a result of a transfer from a member by operation of law, shall be as valid as if the personal representative, guardian, trustee or transferee had been the registered holder of the shares at the time of the execution of the instrument of transfer.

TRANSFER OF SHARE WARRANTS

25. A share warrant shall be transferable by delivery of the certificate relating thereto.

FORFEITURE OF SHARES

26. When a holder of a share, being so entitled, forfeits that share, his liability in respect of the share shall be limited to the amount of any outstanding liability, if any, unpaid on those shares where the call is made within a period of three months after the date of forfeiture provided that a forfeiture, or where there have been previous forfeitures, the last forfeiture shall not be effective if the forfeiture by itself or in combination with any other forfeiture results in the reduction of the number of members of the company to less than one.

SEIZURE

27. (1) Where a governmental authority, whether it is legally constituted or not, in any jurisdiction outside the Principality of Hutt River by or in connection with:-
 - (a) any nationalization, expropriation, confiscation, coercion, force or duress, or similar action; or

- (b) the imposition of any tax, assessment or other government charge,

takes or seizes any shares or other interest in a company incorporated under this Act, the company itself or a person holding shares or any other interest in a company, including an interest as a creditor, may apply to the court for an order that the company disregard the taking or seizure and continue to treat the person who would have held shares or any other interest in the company but for the taking or seizure of the shares or other interest as continuing to hold the shares or other interest.

- (2) Without affecting subsection (1), where a person whose shares or other interest have been taken or seized as referred to in subsection (1) is other than a natural person, the person making the application under subsection (1) or the company itself, may apply to the court for an additional order for the company to treat the persons believed by the company to have held the direct or indirect beneficial interests in the shares or other interests in the company as the holder of those shares or other interest.
- (3) The court may, upon application made to it under subsection (1) or (2), grant such relief as it considers just, equitable and proper and may order that any shares of or other interest in the company vest in the company as trustee or in such other trustees as the court may appoint upon such trusts and for such purposes as the court may determine.

DISTRIBUTIONS

28. (1) Subject to any limitations in its constitution, the directors of a company may by resolution authorize a distribution by the company at such time and of such amount and to such members as they think fit, provided that they are satisfied that the company will, after the distribution, continue to satisfy the solvency test.
- (2) In applying the solvency test for the purposes of this section,
- (a) “debts” shall include fixed preferential returns on shares ranking ahead of those in respect of which a distribution is made; and
- (b) “liabilities” shall include the amount that would be required, if the company was to be wound up immediately after the distribution, to satisfy the fixed entitlements of all members or other persons at that time;
- except to the extent where that fixed preferential return or entitlement is by virtue of the constitution or the terms upon which any shares were issued, subject to the power of the directors to make the distribution.
- (3) Any resolution authorizing a distribution shall record the directors’ opinion that the company will, after the distribution, satisfy the solvency test and shall record the names of the directors who voted in favour of the resolution.
- (4) A distribution to a member made at a time when the company did not immediately after the distribution satisfy the solvency test as modified by this section may be recovered by the company from the member unless the member:-
- (a) received the distribution in good faith and without knowledge of the company’s failure to satisfy the solvency test; and
- (b) has altered his position in reliance on the validity of the distribution, so that having regard to all the circumstances it would be inequitable to require repayment in full or at all, as the case may be.
- (5) Where a distribution has been made and, either:-
- (a) the procedure set out in subsection (3) has not been followed; or

- (b) the procedure set out in subsection (3) was followed but there did not exist reasonable grounds for the opinion set out in the resolution;

those directors who failed to take reasonable steps to ensure that the procedure set out in subsection (3) was followed or who voted in favour of the resolution shall be personally liable to the company to restore the distribution, except in so far as it may be recoverable from the members under subsection (4).

- (6) If in any action brought against a director or member under this section the court is satisfied that the company could properly have made a distribution of lesser value that would not have caused the company to fail the solvency test, the court may:-
 - (a) relieve the director from liability in respect of the amount that could have been paid; or
 - (b) permit the member to retain the distribution made up to the value of any distribution that might properly have been made.

DIVIDENDS

- 29. (1) Subject to any limitations in its constitution and to Section 28 a company may, by a resolution of directors, declare and pay dividends in money, shares or other property.
- (2) Any person entitled to receive a dividend of shares may elect not to receive them.
- (3) A division of the shares of a class or series into a larger number of shares of the same class or series, having in the case of shares with par value a proportionately smaller par value, shall not constitute a dividend of shares.

ACQUISITION OF OWN SHARES

- 30. (1) Subject to any limitations in its constitution and to Section 28 a company may purchase, redeem or otherwise acquire and hold its own shares provided that such transaction does not result in the company being the sole member.
- (2) Subject to any provision to the contrary in its constitution, a company may provide financial assistance, whether directly or indirectly, and whether by way of loan, guarantee, or otherwise, for the purpose of, or in connection with, the purchase or subscription of its own shares, the shares of any subsidiary or holding company.
- (3) There shall be no requirement to meet the solvency test where shares are purchased, redeemed or otherwise acquired:-
 - (a) pursuant to a right of a member to have his shares redeemed or to have his share exchanged for money or other property of the company;
 - (b) in exchange for newly issued shares in the company;
 - (c) by virtue of the provisions of section 86; or
 - (d) pursuant to an order of the court.
- (4) Subject to any limitations in the constitution, shares that a company purchases, redeems or otherwise acquires may be cancelled or held as treasury shares.

SHARES DISABLED IN RESPECT OF VOTING AND DIVIDENDS

- 31. Where shares in a company are held:-
 - (1) by the company as treasury shares those shares are not entitled to vote or to have dividends paid thereon; and

- (2) by another company of which the first company holds, directly or indirectly, shares having more than 50 per cent of the votes in the election of directors of that other company, the shares of the first company held by that other company are not entitled to vote or to have dividends paid thereon and the shares shall not be treated as outstanding for any purpose under this Act except for the purpose of determining the capital of the first company.

INCREASE OR REDUCTION OF CAPITAL

32. (1) Subject to any limitations in the constitution the capital of a company may, by resolution of directors, be:-
- (a) increased; or
 - (b) reduced by:-
 - (i) returning to members any amount received by the company upon the issue of any of its shares;
 - (ii) cancelling any capital that is lost or not represented by assets having a realizable value.
- (2) A company may, if so authorized by its constitution and with the consent of the members affected, convert any amount of the capital of the company to debt obligations owed by the company to the holder of those shares (whether by repayment or by direct conversion to an instrument).
- (3) A reduction of capital is a distribution and shall be subject to Section 28.
- (4) Any capital reduction transaction effected otherwise than in accordance with the provisions of this section shall be void at the absolute discretion of a liquidator or any creditor of the company.

PART 5 REGISTERED OFFICE AND AGENT

REGISTERED OFFICE

33. (1) A company shall at all times have a registered office in the Principality of Hutt River that must have been approved for this purpose by the Registrar of Companies.
- (2) Upon incorporation the address of the registered office set out in the constitution shall be the first registered office of the company.
- (3) The directors of a company may by resolution change the address of the registered office of the company, which change shall be notified by the company in writing to the Registrar of Companies within 14 days of the change occurring.
- (4) A company that fails to notify the Registrar of Companies of a change of address of the registered office of the company will be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.

REGISTERED AGENT

34. (1) A company shall at all times have a registered agent, who shall be a resident at an address within the Principality of Hutt River, who shall have been approved for this purpose by the Registrar of Companies and the *Sovereign* or Minister, who may impose conditions.
- (2) Upon incorporation the person named in the constitution as the registered agent shall be the first registered agent of the company.

- (3) The directors of a company may by resolution change the registered agent of the company, which change shall be notified in writing to the Registrar of Companies within 14 days of the change occurring.
- (4) Being a registered agent shall not by itself make the registered agent an officer of the company.

PART 6 DIRECTORS AND OFFICERS

MANAGEMENT BY DIRECTORS

35. Subject to any limitations in its constitution, the business and affairs of a company shall be managed by or under the direction of a board of directors that consists of one or more persons who may be natural persons or bodies corporate.

APPOINTMENT, TERM AND REMOVAL OF DIRECTORS

36. (1) The first directors of a company shall be and any subsequent directors may be appointed by the members for such term as the members may determine or where permitted by its constitution, the directors may also appoint directors for such term as they may determine.
- (2) A director shall cease to hold office on the expiry of his term or on his death, resignation or removal or, in the case of a corporate director, upon its entering liquidation or upon its ceasing to be a body corporate.
- (3) Subject to any limitations in the constitution:-
- (a) a director shall cease to hold office if the other directors, being not less than the majority thereof, request his resignation in writing;
 - (b) a director may resign his office by giving written notice of his resignation to the company and the resignation shall have effect from the date the notice is received by the company or from such later date as may be specified. The resignation of a director will not serve to absolve him of any personal liability to the company on any contract or for any tort or breach of fiduciary duty or other actionable wrong committed by him whilst in office;
 - (c) if a director shall cease to hold office before the expiry of his term the remaining directors may by resolution appoint a new director in his place to complete his term;
 - (d) a director shall not be required to hold shares in the company;
 - (e) the members may at any time remove a director from office by majority vote, should a tie occur in the vote then the chairman of the meeting, in addition to any other votes that he may have, shall be entitled to casting a tie-breaking vote.

NUMBER OF DIRECTORS

37. The number of directors being not less than one may be fixed by the constitution or, if not so fixed may be fixed by the members.

POWER OF DIRECTORS

38. The directors shall have all the powers of the company that are not reserved to its members in its constitution or under this Act.

EMOLUMENTS OF DIRECTORS

39. Subject to any limitations in the constitution, the emoluments of any director in respect of services to be rendered by him as a director may be determined by a resolution of directors or set forth in the company constitution.

COMMITTEES OF DIRECTORS

40. (1) The directors may, by resolution, designate one or more committees, each consisting of one or more directors.
- (2) Subject to any limitations in the constitution, each committee shall have such powers and authority as are set forth in the resolution establishing the committee, except that no committee shall have power or authority to appoint or remove directors.

MEETINGS OF DIRECTORS

41. (1) Subject to any limitations in the constitution, the directors of a company may meet at such times and in such manner and places within or outside the Principality of Hutt River as they may determine to be necessary or desirable.
- (2) A director shall be deemed to be present at a meeting of directors if:-
- (a) he participates by telephone or other real time electronic means of audio interactive communication time; and
 - (b) all directors participating in the meeting are able to hear each other and recognize each other's voice.

NOTICE OF MEETINGS OF DIRECTORS

42. (1) Subject to any requirement in the constitution to give longer notice, each director shall be given not less than two days notice of meetings of directors.
- (2) Subject to any limitations in the constitution, a meeting of directors not held in accordance with subsection (1) shall be valid if all the directors, or such majority thereof entitled to vote at the meeting as may be specified in the constitution, have waived the notice of the meeting; and for this purpose, the presence of a director at the meeting shall be deemed to constitute waiver on his part.
- (3) The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, shall not invalidate the meeting however it must be determined that all reasonable efforts were made to notify all directors in a timely manner in a method appropriate with past communications.

QUORUM FOR MEETINGS OF DIRECTORS

43. The quorum for a meeting of directors may be fixed by the constitution, but where no quorum is so fixed a meeting of directors shall be properly constituted for all purposes if at the commencement of the meeting two directors are present in person or by alternate, provided that if a company has only one director that director shall constitute a quorum.

RESOLUTIONS OF DIRECTORS

44. Where any action is required, or permitted to be made, or done, by the directors of a company, it may be made or done by a resolution of directors.

ALTERNATE DIRECTORS

45. (1) Subject to any limitations in the constitution, a director may by written instrument appoint an alternate who need not be another director.

- (2) An alternate appointed under subsection (1) shall be entitled to attend meetings in the absence of the director who appointed him and to vote and act in his place.
- (3) An alternate director shall be responsible as a director for all his acts or omissions when acting in the place of the director who appointed him.
- (4) The appointment of an alternate director shall cease:-
 - (a) at the expiration of the period, if any, for which he was appointed
 - (b) if his appointor terminates his appointment and gives written notice to that effect to the company;
 - (c) if his appointor for any reason ceases to be a director;
 - (d) if the alternate director resigns by notice in writing to the company;
 - (e) in the case of a corporation, if it enters liquidation or ceases to be a body corporate;
 - (f) in the case of an individual, he becomes bankrupt or makes any arrangement or composition with his creditors generally; or
 - (g) if he becomes of unsound mind or of such infirm health as to be incapable of managing his affairs.

OFFICERS AND AGENTS

- 46. (1) The directors may, by resolution, appoint any person, including a director, to be an officer or agent of the company.
- (2) Subject to any limitations in the constitution, any officer or agent may be given such powers and authority of the directors, including the power and authority to affix the common seal of the company, as are set forth in the constitution or in the resolution appointing him, except that no officer or agent may be given any power or authority with respect to the matters requiring a resolution of directors under this Act.
- (3) The Directors may remove an officer or agent appointed under subsection (1) and may revoke or vary a power conferred on him under subsection (2)

STANDARD OF CARE

- 47. Every director, officer and agent of a company, in performing his functions, shall act in good faith and in the best interest of the company and shall exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

RELIANCE ON RECORDS AND REPORTS

- 48. Every director, officer and agent of a company, in performing his functions, is entitled to rely on the Register of Members kept under section 57, the books of accounts, records, minutes, copies of consents to resolutions kept under section 61 and any report made to the company by any other director, officer, agent or by any person selected by the company.

CONFLICT OF INTERESTS

- 49. (1) Subject to subsection (2) and to any limitations in the constitution, no agreement or transaction between:-
 - (a) a company; and
 - (b) one or more of its directors or connected persons, or any person in which any director or liquidator has a financial interest, or whom any director or liquidator is related, including as a director or liquidator of that other person,

shall be void or voidable by reason only that the director or connected person is present at the meeting of directors, or at the meeting of the committee of directors, that approves the agreement or transaction or that the vote or consent of the director or connected person is counted for that purpose.

- (2) An agreement or transaction referred to in subsection (1) shall be valid if:-
 - (a) the material facts of the interest of each director or connected person in the agreement or transaction and his interest in or relationship to any other party to the agreement or transaction are disclosed in good faith or are known by the members entitled to vote at a meeting of members; and
 - (b) the agreement or transaction is approved or ratified by a resolution of members.
- (3) Subject to limitation in the constitution, a director who has an interest in any business to be considered at a meeting of directors or members may be counted for purposes of determining whether the meeting is duly constituted in accordance with this Act.

INDEMNIFICATION

- 50. (1) Subject to subsection (2) and any limitation in its constitution, a company shall indemnify against all expenses, including legal fees, judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person, or director, who acted honestly and in good faith in the best interests of the company.
- (2) In the case of criminal proceedings, the indemnities set out in subsection (1) shall take effect where the person, or director, has no reasonable cause to believe that his conduct was unlawful, and who:-
 - (a) is or was a party, or is threatened to be made a party, to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director or an officer of the company; or
 - (b) is or was, at the request of the company, serving as a director or an officer of, or in any other capacity is or was acting for, another company or body corporate or a partnership, joint venture, trust or other enterprise.

PERSONAL LIABILITY

- 51. (1) The liability of a member is limited to any amount expressly provided for in the constitution, including any amount unpaid on any share held by the member.
- (2). Where a share is issued and the constitution or the terms of the issue render the member liable to calls, or otherwise imposes a liability on its holder, that liability attaches to the holder of the share for the time being, and not to any prior holder of the share, whether or not the liability became enforceable before the share became the property of the current holder.
- (3). Where all or part of the consideration for the issue of a share remains unsatisfied and the person to whom the share was issued no longer holds that share liability in respect of that unsatisfied consideration does not attach to subsequent holders of the share, but remains the liability of the person to whom the share was issued, or any other person who assumed that liability at the time of issue.
- (4). A member is not liable for any obligation of the company by virtue only of his status as a member.
- (5). Nothing in this section shall affect a member's personal liability to the company on any contract or for any tort or breach of fiduciary duty or other actionable wrong committed by him.

- (6). Save as may be specified by this Act or by contract, the members of a company do not owe any duty, liability or obligation to the company, any creditor of the company or any other company related to the company.
- (7). Until such time as a company is dissolved pursuant to the provisions of this Act, the company shall continue its corporate existence without rendering defective any legal or other proceedings instituted against the company or affecting any property, rights, powers, authorities, duties, functions, liabilities or obligations of the company or any other person.

PART 7 COMPANY ADMINISTRATION

MEETINGS OF MEMBERS

52. (1) Subject to any limitations in the constitution, the directors of a company may convene meetings of the members of the company at such times and in such manner and places within or outside the Principality of Hutt River as the directors consider necessary or desirable.
- (2) Subject to any provision in the constitution for a lesser percentage, upon the written request of members holding not less than 25 per cent of the votes of the outstanding voting shares in the company, the directors shall convene a meeting of members.
- (3) Subject to any limitations in the constitution, a member shall be deemed to be present at a meeting of members if:-
- (a) he participates by telephone or other real time electronic means of audio interactive communication; and
 - (b) all members participating in the meeting are able to hear each other and recognize each other's voice.
- (4) A member may be represented at a meeting of members by nominating, in writing on a signed statement witnessed by any person not associated with the company, a proxy who may speak and vote on behalf of the member.
- (5) Subject to there being no provisions to the contrary in the constitution, the following provisions shall apply in respect of joint ownership of shares:
- (a) if two or more persons hold shares jointly each of them may be present in person or by proxy at a meeting of members and each may speak as a member;
 - (b) if only one of them is present in person or by proxy, he may vote on behalf of all of them; and
 - (c) if two or more are present in person or by proxy, the first of them named in the Register of Members in respect of the share shall vote on behalf of all of them.

NOTICE OF MEETINGS OF MEMBERS

53. (1) Subject to a requirement in the constitution to give longer notice, the directors shall give not less than seven days notice of meetings of members to those persons whose names on the date the notice is given appear as members in the Register of Members and are entitled to vote at the meeting.
- (2) Notwithstanding subsection (1) but subject to any limitations in the constitution, a meeting of members called at shorter notice shall be valid if members holding not less than a 90 per cent majority, or such lesser majority as may be specified in the constitution, of:-

- (a) the total number of the shares of the members entitled to vote on all the matters to be considered at the meeting; or
- (b) the votes of each class or series of shares where members are entitled to vote thereon as a class or series;

have waived notice of the meeting and for this purpose, the presence of a member in person or by proxy at the meeting shall be deemed to constitute waiver on his part.

- (3) The failure of a member to receive notice of a meeting, or the inadvertent failure of the directors to give notice of a meeting to a particular member, shall not invalidate a meeting or any actions taken at such meeting.

QUORUM FOR MEETING OF MEMBERS

- 54. Except as otherwise provided in the constitution a meeting of members shall be properly constituted for all purposes if at the commencement of the meeting two members are present in person or by proxy, provided that where a company only has one member that member shall constitute a quorum.

VOTING BY MEMBERS

- 55. (1) Except as otherwise provided in the constitution, all shares vote as one class and each whole share has one vote.
- (2) The directors of a company may, in the notice of a meeting, fix any date being on or before the meeting as the record date for determining those shares that are entitled to vote at the meeting and unless so fixed it shall be seven days prior to the meeting.

SERVICE OF NOTICE ON MEMBERS

- 56. (1) Any notice, information or written statement required under this Act to be given to members by a company shall be served in the manner prescribed in its constitution, or in the absence of any such provision in the case of members holding registered shares, by personal service or by mail addressed to each member at the address shown in the Register of Members.
- (2) Notwithstanding any other provisions of this Act and subject to the constitution, notice to the person first named in the Register of Members for any share jointly held shall be deemed to be notice to all holders of that share.

REGISTER OF MEMBERS

- 57. (1) A company shall cause to be kept one or more registers to be known as the Register of Members containing:-
 - (a) the names and addresses of the persons who hold registered shares in the company;
 - (b) the number of each class and series of registered shares held by each person;
 - (c) the date on which the name of each person was entered in the Register of Members;
 - (d) the date on which any person ceased to be member;
 - (e) with respect to each certificate for shares issued:-
 - (i) the identifying number of the certificate,
 - (ii) the identifying name on the certificate,

- (iii) the number of each class or series of shares issued specified therein, and
- (iv) the date of issue of the certificate;

provided that the company may delete from the Register of Members information relating to shares issued that have been cancelled.

- (2) The Register of Members may be in such form as the directors may approve but if it is magnetic, electronic or other data storage form, the company must be able to produce legible evidence of its contents within a reasonable time when required by the Registrar of Companies.
- (3) A copy of the Register of Members, commencing from the date of the incorporation of the company, shall be kept at the registered office of the company.
- (4) The Register of Members shall be *prima facie* evidence of any matters directed or authorized by this Act to be contained therein.
- (5) A company that wilfully contravenes this section shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.
- (6) A director who permits the contravention of this section shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar to be commiserate with damages caused by lack of compliance.

PARTICULARS IN REGISTER IN RELATION TO SHARE WARRANTS

58. (1) Upon the issue of a share warrant in respect of any share, a company shall:-
- (a) in the case of the surrender of a certificate of a registered share, strike out of its Register of Members and any branch register wherein the share is registered the name of the member entered therein as holding the share in respect of which the share warrant is issued; and
 - (b) enter in the Register of Members the following particulars:-
 - (i) the fact of the issue of the share warrant and the surrender of the share certificate; and
 - (ii) the date of the issue of the share warrant.
- (2) Upon the surrender of a share warrant, the date of such surrender shall be entered as if it were the date on which the person ceased to be a member.

RECTIFICATION OF REGISTER OF MEMBERS

59. (1) If there is unreasonable delay in entering any information in the Register of Members or information that is required to be entered in the Register of Members is omitted therefrom or inaccurately entered therein any member of the company, or any person who is aggrieved by any omission, inaccuracy or delay in the entering of any information may apply to the court for an order that the Register of Members be rectified;
- (2) The court may in any proceedings under subsection (1):-
- (a) either grant or refuse the application, with or without costs to be paid by the applicant; and
 - (b) order the rectification of the Register of Members; and

- (c) direct the company to pay all costs of the application and any damages the applicant may have sustained; and
- (d) determine any question relating to the right of a person who is a party to the proceedings to have his name entered in or omitted from the Register of Members, whether the question arises between:-
 - (i) two or more members or alleged members; or
 - (ii) between members or alleged members and the company,
 and generally the court may in proceedings determine any question that may be necessary or expedient for the rectification of the Register of Members.

SERVICE OF DOCUMENTS ON COMPANY

- 60. (1) Any summons, notice, order, document, process, information or written statement may be served on a company by leaving it at, or sending it by registered mail addressed to, the registered office of the company; or by leaving it with, or sending it by registered mail to, the registered agent of the company.
- (2) Service of any summons, notice, order, document, process, information or written statement served on a company by registered mail may be proved by showing that it:-
 - (a) was mailed in such time as to permit its being delivered in the normal course of delivery, within the period prescribed for service; and
 - (b) was correctly addressed and the postage was prepaid.

BOOKS AND RECORDS

- 61. (1) A company shall keep such accounts and records as are necessary in order to reflect its financial position.
- (2) A company shall keep:-
 - (a) minutes of all meetings of, and copies of all resolutions consented to by:-
 - (i) directors;
 - (ii) members,
 - (iii) committees of directors;
 - (iv) committees of members; and
 - (b) a register of all its directors, an up-to-date copy of which shall be kept at the registered office of the company, which shall contain the following particulars in respect of each director:-
 - (i) in the case of an individual, his present, full names, any former names, his usual residential address and citizenship, e-mail or telephone number; and
 - (ii) in the case of a company, its full name, company registration number, expiry date of registration, name of director or authorised officer/agent and registered office in its country of legal existence.
- (3) The accounts, records, minutes, copies of resolutions and register required by this section shall be kept at the registered office of the company or at such other place as the directors may determine.

- (4) A company that wilfully contravenes this section shall be liable on conviction to a daily default fine of ten Euros commencing 14 days from the time which the company was first advised of the contravention.
- (5) An officer who permits the contravention of this section shall be liable on conviction to a daily default fine of ten Euros commencing 14 days from the time which he was first notified of the contravention.

SEAL

- 62. (1) A company may have a seal which shall have on its face the full name of the company and the words "Common Seal" or "Corporate Seal" and an imprint thereof shall be kept at the registered office of the company.
- (2) The directors may, subject to the constitution, prescribe a method for the attestation of the affixing of the seal which may, with the authority of the directors, be affixed anywhere in the world.

INSPECTION OF BOOKS AND RECORDS

- 63. (1) A member of a company may, in person or by some other person, inspect during normal business hours the Register of Members, minutes of all meetings of members and resolutions of members of the company and to make copies or extracts there from.
- (2) A person other than a member may only carry out an inspection under subsection (1) if he is authorized to do so by power of attorney granted to him by the member or some other form of written authority acceptable to the directors.

EXECUTION OF CONTRACTS

- 64. (1) Contracts on behalf of a company may be made as follows:-
 - (a) A contract which if made by natural persons would by law be required to be in writing under seal, may be made on behalf of the company either:-
 - (i) in writing under the common seal of the company and signed by a director or by some other person appointed by the directors for the purpose: provided that such signature need not be made contemporaneously with the affixing of the common seal of the company; or
 - (ii) in the case of a company having only one director, under the signature of that director; or
 - (iii) in the case of a company having two or more directors, under the signature of any two directors;
 - (b) A contract which if made between natural persons would by law be required to be in writing signed by the parties to be charged therewith, may be made on behalf of the company in writing and signed by any person acting under its authority, express or implied;
 - (c) A contract, which if made between natural 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 company by any person acting under its authority express or implied.
- (2) A contract entered into in accordance with this section:-
 - (a) is valid and binding on the company and its successors and all other parties to it; and

- (b) may be varied or discharged in the same manner in which it is authorized by this section to be made.

PRE-INCORPORATION CONTRACTS

65. (1) In this section, the term “pre-incorporation contract” means:-
- (a) a contract purporting to be made by a company before its incorporation;
 - (b) a contract made by a person on behalf of a company before and in contemplation of its incorporation.
- (2) Notwithstanding any enactment or rule of law, a pre-incorporation contract may be ratified within such period as may be specified in the contract, or if no period is specified, then within a period of 90 days after the incorporation of the company in the name of which, or on behalf of which, it has been made. A contract so ratified shall, upon ratification, be valid and enforceable as if the company had been a party to the contract when it was made.
- (3) A pre-incorporation contract may be ratified by a company in the same manner as a contract may be entered into on behalf of a company under section 64.
- (4) Notwithstanding any enactment or rule of law, in a pre-incorporation contract, unless a contrary intention is expressed in the contract, there is an implied warranty by the person who purports to make the contract in the name of, or on behalf of, the company:-
- (a) that the company will be incorporated within such period as may be specified in the contract, or if no period is specified, then within 90 days after the making of the contract; and
 - (b) that the company will ratify the contract within such period as may be specified in the contract, or if no period is specified, then within 90 days after the incorporation of the company.
- (5) The amount of any damages recoverable in an action for breach of a warranty implied by virtue of subsection (4) shall be the same as the amount of damage that would be recoverable in an action against the company for damages for breach by the company of the unperformed obligations under the contract had the contract been ratified and then cancelled..
- (6) Where a company after its incorporation does not ratify a pre-incorporation contract, any party to that contract may apply to the Court for an order:-
- (a) directing the company to return any property, whether real or personal, acquired pursuant to the contract to that party; or
 - (b) for any other relief in favour of that party respecting any such property; or
 - (c) validating the contract, whether in whole or in part;
- and the Court may, if it considers it just and equitable to do so, make any order or grant such relief as it thinks fit and whether or not an order has been made under subsection (5).
- (7) In any proceedings against a company for breach of a pre-incorporation contract that has been ratified by the company, the court may, on the application of the company, any other party to the proceedings, or of its own motion, make such order for payment of damages or other relief, in addition to or in substitution for any order which may be made against the company, against any person by whom that contract was made in the name of, or on behalf of the company, as the court considers just and equitable.

- (8) Where a company, after its incorporation, enters into a contract with the same parties in the same terms as, or in substitution for, a pre-incorporation contract (not being a contract ratified by the company under this section), the liability of any person under subsection (4) (including any liability under an order made by the court there under for the payment of damages) shall be discharged.
- (9) If a pre-incorporation contract has not been ratified by a company, or validated by the court under subsection (6), the company may not enforce or otherwise take the benefit of that contract.

NOTES AND BILLS OF EXCHANGE

66. A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed by a company if it is made, accepted or endorsed in the name of the company:-

- (a) by or on behalf or on account of the company; or
- (b) by a person acting under the authority of the company;

and if so endorsed, the person signing the endorsement shall not be liable thereon.

APPOINTMENT OF AGENTS

- 67. (1) A company may by an instrument in writing authorize any person, either generally or in respect of any specified matters, as its agent to act on behalf of the company and to execute contracts, agreements, deeds and other instruments on behalf of the company.
- (2) A contract, agreement, deed or other instrument executed on behalf of the company by an agent appointed under subsection (1), is binding on the company and has the same effect as if it were under the seal of the company.

AUTHENTICATION OR ATTESTATION

- 68. (1) A document requiring authentication or attestation by a company may be signed by a director, a secretary or by an authorized officer or agent of the company, and need not be under its seal.
- (2) The registered agent of a company may verify the signature of any director, officer or agent of the company.

CORPORATE REPRESENTATIVE AT MEETINGS

- 69. A body corporate being a director, member or creditor of a company may act by a natural person who has been appointed for the purpose by a written resolution of its directors.

PART 8 REGISTRATION OF CHARGES

FILING OF CHARGES

- 70. (1) In this Part:-

“charge” means any form of security interest fixed or floating, over property, other than an interest arising by operation of law; and

“property” in the context of what is subject to a charge, includes all property, wherever situate, including future property.
- (2) Subject to this Part, where a company acquires any property subject to a charge to which this section applies or such a charge is created by a company, the company or

any other person interested in the charge shall cause to be lodged with the Registrar of Companies for filing within 42 days after the relevant date:-

- (a) A copy of the instrument, if any, by which the charge is created or evidenced; or
 - (b) A statement in the prescribed form giving a short description of the property charged, the amount thereby secured, the nature of the instrument, and the names of the persons entitled to the benefit thereof.
- (3) The relevant date is in the case of a charge over property acquired by the company, the date of the acquisition and in the case of a charge created by the company, the date upon which the charge is created.
- (4) Where the instrument or a statement is not lodged with the Registrar of Companies in accordance with subsection (2), the charge shall, so far as any security on the company's property or undertaking is conferred thereby, but without prejudice to any contract or obligations for repayment of the money thereby secured, be void against a liquidator and any creditor of the company.
- (5) Nothing in subsection (2) shall prejudice any contract or obligation for repayment of the money secured by the charge and, when a charge becomes void under this section, the money secured thereby shall immediately become payable
- (6) The charges to which this section applies are charges (including any charge securing a contingent debt or obligation) whether fixed or floating on any property of a company other than a charge under which the chargee is entitled to possession either of the goods or of a document of title to them.
- (7) (a) Where a charge created in the Principality of Hutt River affects property outside the Principality of Hutt River the instrument creating or purporting to create a charge or a copy thereof accompanied by a statutory declaration verifying the same may be lodged for filing under and in accordance with subsection (2) notwithstanding that further proceedings may be necessary to make the charge valid or effectual according to the law of the place in which the property is situated
- (b) A charge is not excluded from this section because the chargee is entitled to take possession in case of default or on the occurrence of some other event.
- (8) When a series of debentures containing, or giving by reference to any other instrument, any charge to the benefit of which the debenture holders of the series are entitled *pari passu* is created by a company, it shall be sufficient if there is lodged with the Registrar of Companies within 42 days after the execution of the instrument creating the charge, or, if there is no such instrument, after the execution of the first debenture of the series, a statement containing the following particulars:-
- (a) The total amount secured by the whole series;
 - (b) The date of the resolution authorizing the issue of the series and the date of the covering instrument, if any, by which the security is created or defined;
 - (c) A general description of the property charged; and
 - (d) The name of the trustee, if any, for the debenture holders,
- together with:-
- (i) The instrument creating the charge; or
 - (ii) A copy of the instrument and a statutory declaration verifying the execution of the instrument and verifying the copy to be a true copy.

- (9) For the purposes of subsection (7) where more than one issue is made of debentures in the series, there may be lodged with the Registrar of Companies within 42 days after each issue particulars of the date and amount of each issue, but an omission so to do shall not affect the validity of the debentures issued.
- (10) Where a charge requiring registration under this section is created before the lapse of 42 days after the creation of a prior unregistered charge, and it comprises all or any part of the property comprised in the prior charge, and the subsequent charge is given as a security for the same debt as is secured by the prior charge, or any part of the debt, then to the extent to which the subsequent charge is a security for the same debt or part thereof and so far as it is related to the property comprised in the prior charge, the subsequent charge shall not be operative or have any validity unless it is proved to the satisfaction of the Registrar of Companies that it was given in good faith for the purpose of correcting some material error in the prior charge or under other proper circumstances and not for the purpose of avoiding or evading the provisions of this Part.
- (11) Where the property of a company continued under Part 11 of this Act was, immediately prior to its continuation, subject to a charge to which this section applies, the company or any person interested in the charge may, within 42 days of the date of continuation, file the documents referred to in subsection (2) and make application to the Registrar of Companies in the prescribed form to have the charge registered in accordance with this Part.
- (12) Upon application being made to register a charge pursuant to subsection 11:-
- (a) Where, immediately prior to continuation:-
- (i) the law of the jurisdiction from which the company continued made provision for the registration of charges in similar terms to this Act; and
- (ii) the charge was registered under that law,
- the Registrar of Companies shall register the charge in accordance with section 72. The registration shall be subject to the terms and conditions, if any, that the registration of the charge was subject to in the company's previous jurisdiction and, where the property of a company was, immediately prior to continuation, subject to other charges registered under the law of its previous jurisdiction, the charge shall be registered with the same priority as it had in relation to those other charges, which the Registrar of Companies may also register whether or not application has been made for their registration under subsection (11);
- (b) In all other cases on being satisfied that, having regard to the circumstances and in particular to the law relating to charges in the company's former jurisdiction, the position of creditors and members will not be prejudiced, the Registrar of Companies may on such terms and conditions as seem to him to be expedient, register the charge in accordance with section 72.
- (13) Where the property of a company continued under Part 11 was, immediately prior to continuation, subject to a charge and application is not made to register the charge pursuant to subsection (11), or where the Registrar of Companies refuses to register a charge pursuant to subsection (12) that charge shall be subject to the provisions of subsection (4).

VALIDITY OF CHARGES IN CERTAIN CIRCUMSTANCES

71. (1) Notwithstanding any rule of law to the contrary, any charge or security given, or purported to be given, by any person ("the chargor") in favour of another person ("the chargee") where:-

- (a) the charged property is or includes a debt due or to become due to the chargor from the chargee; and
 - (b) which debt is situated in the Principality of Hutt River
- shall be deemed to be a charge over an asset and shall be as valid and enforceable to the same extent as if the charge or security had been given over that debt in favour of any other person.
- (2) For the purpose of subsection (1) of this section, a debt is deemed to be situated in the Principality of Hutt River if either:-
 - (a) the chargor is an International Business Company; or
 - (b) the chargee is an International Business Company and
 - (i) the contract or deed evidencing the debt has been entered into (by one or all of the parties) in the Principality of Hutt River; or
 - (ii) the contract or deed evidencing the debt is, or is to be, given effect to (whether in whole or in part) in the Principality of Hutt River.
 - (3) Nothing in this section shall be construed in any way to limit the validity or effect of:-
 - (a) any contractual, legal or equitable right of set off arising between the parties (including any right of a bank and the rules relating to matters of account between parties); or
 - (b) any provision creating other rights, powers, obligations) between a debtor and a creditor;

and for the avoidance of doubt, the parties to any contract or deed shall construe nothing in this section to require the giving of any charge or security.
 - (4) For the purposes of this section any reference to a debt becoming due includes a reference to:-
 - (a) a credit balance of an account (whether or not ascertained at any particular time);
 - (b) a contingent claim;
 - (c) proceeds and receivables due from time to time.
 - (5) Where a charge or security of the type referred to in subsection (1) has been given, or purported to have been given, by a company that has not been registered in accordance with this Part, the charge may be registered pursuant to this Part within 42 days of the commencement of registration under this Act.

REGISTER OF CHARGES

- 72. (1) The Registrar of Companies shall keep a register of all the charges lodged for filing under this Part and shall enter in the register with respect to those charges the following particulars:-
 - (a) In the case of a charge to holders of a series of debentures, such particulars as are required to be contained in a statement furnished under section 70(8); and

- (b) In the case of any other charge:-
 - (i) if the charge is a charge created by a company, the date of its creation and, if the charge was a charge existing on property acquired by a company, the date of the acquisition of the property;
 - (ii) the amount secured by the charge;
 - (iii) a description sufficient to identify the property charged; and
 - (iv) the name of the person entitled to the charge.
- (2) The Registrar of Companies shall upon payment of the prescribed fee issue a certificate of every charge filed stating, if applicable, the amount secured by the charge and this shall be conclusive evidence that the requirements as to filing have been complied with.

ENDORSEMENT OF CERTIFICATE OF REGISTRATION ON DEBENTURES

- 73. (1) A company shall cause to be endorsed on every debenture forming one of a series of debentures, or certificate of debenture stock, which is issued by the company and the payment of which is secured by a charge so registered:-
 - (a) a copy of the certificate of filing under section 72 (2); or
 - (b) a statement that filing has been effected and the date of filing.
- (2) Subsection (1) shall not apply to any debenture or certificate of debenture stock issued by a company before the charge was filed.
- (3) Every person who knowingly and wilfully authorizes or permits the delivery of any debenture or certificate of debenture stock that is not endorsed as required by this section commits an offence against this Act.

SATISFACTION AND RELEASE OF CHARGES

- 74. (1) Where, with respect to a registered charge created by a company:-
 - (a) the debt for which the charge was given has been paid or satisfied in whole or in part; or
 - (b) the property or undertaking charged or any part thereof has been released from the charge or has ceased to form part of the company's property or undertaking;

the company may lodge with the Registrar of Companies in the prescribed form a memorandum of satisfaction in whole or in part of the fact that the property or undertaking or any part thereof has been released from the charge or has ceased to form part of the company's property or undertaking, as the case may be, and the Registrar of Companies shall file such memorandum.
- (2) The memorandum must be accompanied by the prescribed fee and supported by evidence sufficient to satisfy the Registrar of Companies of the payment, satisfaction, release or ceasing referred to in subsection (1).

EXTENSIONS AND RECTIFICATIONS

- 75. The Registrar of Companies, on being satisfied that the omission to file a charge within the time required or that the omission or mis-statement of any particular with respect to any such charge or in any 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 members or that, on other grounds, it is just and equitable to grant relief, may, on application

lodged by the company responsible for the omission or mis-statement or any person interested and on such terms and conditions as seem to the Registrar of Companies just and expedient, direct that the time for filing be extended or that the omission or mis-statement be rectified.

DOCUMENTS MADE OUTSIDE THE PRINCIPALITY OF HUTT RIVER

76. Where under this Part an instrument, deed, statement or other document is required to be lodged with the Registrar of Companies within a specified time, the time so specified shall in relation to an instrument, deed statement or other document executed or made in a place outside the Principality of Hutt River, be extended by 28 days or such further period as the Registrar of Companies may from time to time allow.

EXEMPTION FROM PART 8 GRANTED TO SHIP OWNING COMPANIES

77. Notwithstanding anything in this Part, a ship-owning company shall be exempted from registering any charge created by the company and registered in the office of the Registrar of Maritime Affairs yet to be appointed in accordance with the Maritime Act yet to be enacted.

PART 9 DEBENTURES

POWER TO ISSUE DEBENTURES

78. (1) Subject to this Part and to the terms and conditions of its constitution a company shall have power to issue debentures on such terms and conditions as it thinks fit and in particular but without limiting the generality of the foregoing may issue debentures:-
- (a) constituting a charge on any or all the assets of the company;
 - (b) as First Schedule debentures.
- (2) The debt payable under any debenture whether sealed or signed on behalf of the company shall be a specialty debt of the company and where issued by a branch of a company shall be located at that branch.
- (3) Each First Schedule debenture issued by a company shall, so far as it does not exclude or modify the terms contained in the First Schedule, be deemed to have been issued upon such terms and conditions.
- (4) Where a debenture is issued as a First Schedule debenture it shall, subject to the terms of the debenture, have the following effect:-
- (a) The holders of such debentures shall have the right and power to vote and to demand a poll and thereby to determine all those matters in respect of which the members had the right and power to vote and to demand a poll before those rights and powers of the members became suspended in accordance with the terms of the debenture;
 - (b) Every holder of such debenture, or the trustee for any such holder, shall have one vote for each whole Euro, or its equivalent in any other currency, of the principal sum the subject of the debenture outstanding at the time when the votes are counted;
 - (c) The holders of such debentures may cast their votes by proxy in writing without attending a meeting;
 - (d) A resolution in writing signed by a majority in value of the holders of such debentures shall be as effectual as would a resolution passed by a similar majority at a meeting duly convened and held for the purpose;

- (e) The constitution of the company may not be altered without the consent of the debenture holders;
 - (f) Any provision in this Act or the constitution of the company by which anything is required or permitted to be done by general meeting or by a resolution of the members shall be construed as requiring or permitting the same to be done by a resolution of those debenture holders in whom the right and power to vote are for the time being vested, passed by such majority of votes as would, if the votes were votes of members, be the majority necessary to pass the resolution;
 - (g) Subject to paragraph (d) notice of a meeting of those debenture holders, in whom the right and power to vote are for the time being vested shall be given to such debenture holders and their trustees, if any, in the same manner as notice of a meeting of members is required to be given to members;
 - (h) Unless it is otherwise provided by the terms of the debenture, the quorum for any meeting of the holders of such debentures shall be 2;
 - (i) Upon the redemption of any such debenture the rights and powers referred to above of the holders of such debentures shall cease and determine; and
 - (j) The holder of a First Schedule debenture shall not be deemed to be or to have been a member of a company by reason only of the holding of such debenture or the exercise by him or on his behalf of any rights or powers or discretions pursuant to the terms of the debenture or the dealing in any way with the debenture.
- (5) Notwithstanding any other provision of this Act or any implication that apart from this subsection might arise or would arise at law or in equity, the holding or dealing with any First Schedule debenture shall not impose or imply and shall be deemed (subject to any express provision contained in the terms of issue of such debenture or arising as a necessary implication therefrom) never to have imposed or implied any duty on the part of the holder of the First Schedule debenture to exercise any right or power or discretion contained in or arising out of the First Schedule debenture for any particular purpose or to exercise any such right or power or discretion whether or not subject to any fiduciary or other like obligations whatsoever;
- (6) Every debenture of a company shall bear a serial number, shall be sealed or signed on behalf of the company or the branch of the company which issues it and shall contain:-
- (a) the name of the company;
 - (b) the date of issue of the debenture;
 - (c) a statement of the name of the debenture holder;
 - (d) a statement of the amount of principal (if any) for which such debenture is issued;
 - (e) the date upon which such principal is due and payable, if not payable on demand;
 - (f) the currency or currencies in which the principal and interest are payable;
 - (g) the rate of interest, if any, per annum payable thereon;
 - (h) a statement of the quorum for a meeting of debenture holders.
- (7) Where the provisions of this Act and of the constitution of a company that gives the members of the company the right and power to vote and to demand a poll have been suspended or have otherwise been modified pursuant to the terms of a First

Schedule debenture then (subject to there being no other unredeemed First Schedule debentures under the terms of which such provisions are to remain suspended) those provisions shall upon redemption of that First Schedule debenture resume full force and effect in respect of that company in the same manner and to the same extent as before those provisions were suspended or were modified. Where such provisions resume full force and effect in any other circumstances then in the absence of any provisions to the contrary in the constitution or in any relevant First Schedule debenture they shall likewise resume full force and effect in the same manner and to the same extent as before those provisions were suspended or modified.

COMPANY TO MAINTAIN REGISTER OF DEBENTURES

79. (1) Subject to the provisions of this section every company that issues debentures shall keep and maintain:-
- (a) a register of debentures at the registered office of the company in the Principality of Hutt River containing the information required pursuant to section 78(5);
 - (b) a copy of all the terms of the debentures issued by the company with the register of holders of debentures at that registered office.
- (2) A company may cause to be kept in any place outside the Principality of Hutt River a branch register of debentures.
- (3) A branch register of debentures of a company shall be kept in the same manner in which the principal register is by this Act required to be kept.
- (4) A company may discontinue a branch register and thereupon all entries in that register shall be transferred to some other branch register kept by the company or to the principal register.
- (5) Where a debenture is registered on a branch register the debenture and all rights arising therefrom shall be situated in the place where it is registered and unless otherwise expressed in the debenture the principal and interest is payable in the money of the place of registration calculated at the exchange rate at noon on the date on which it becomes due and payable.
- (6) A debenture registered in a branch register shall be distinguished from a debenture registered in the principal register.
- (7) The costs of maintaining branch registers shall, unless the debenture otherwise provides, be borne rateably according to the amount of the principal represented by the debentures registered therein by the holders of those debentures.
- (8) Debentures may be transferred from one register to another by the holder or the company provided the written consent of the other party is first obtained, which consent shall not be unreasonably withheld.
- (9) Upon the surrender to a company of a registered debenture, the company shall enter in the appropriate register of debentures the fact and date of its surrender.

PART 10
MERGER, CONSOLIDATION, SALE OF ASSETS,
FORCED REDEMPTIONS, ARRANGEMENTS AND DISSENTERS

INTERPRETATION FOR PURPOSES OF PART 10

80. In this Part:-

“consolidated company” means the new company that results from the consolidation of two or more constituent companies;

“consolidation” means the fusion of two or more constituent companies into a new company;

“constituent company” means an existing company participating in a merger or consolidation with one or more other existing companies;

“merger” means the merging of two or more constituent companies into one of the constituent companies;

“parent company” means a company that owns more than 50 percent of the outstanding voting shares of each class and series of shares in another company, provided that for the purposes of section 82 it means a company that owns more than 90 percent of such shares as aforesaid;

“subsidiary company” means a company more than 50 percent of whose outstanding voting shares are owned by another company, provided that for the purposes of section 82 it means a company more than 90 percent of whose shares as aforesaid are owned by another company;

“surviving company” means that constituent company into which one or more other constituent companies are merged.

MERGER AND CONSOLIDATION

81. (1) Two or more companies may merge or consolidate in accordance with this section.
- (2) The directors of each constituent company that proposes to participate in a merger or consolidation shall approve a written plan of merger or consolidation containing:-
- (a) the name of each constituent company and the name proposed for the surviving company or the consolidated company;
 - (b) in respect of each constituent company:-
 - (i) the designation and number of outstanding shares of each class and series of shares specifying each such class and series entitled to vote on the merger or consolidation; and
 - (ii) a specification of each class and series, if any, entitled to vote as a class or series;
 - (c) the terms and conditions of the proposed merger or consolidation, including the manner and basis of converting shares in each constituent company into shares, debt obligations or other securities in the surviving company or consolidated company, or into money or other property, or a combination thereof;
 - (d) in respect of a merger, a statement of any amendment to the constitution of the surviving company to be brought about by the merger; and

- (e) in respect of a consolidation, the directors approve everything required to be included in the constitution for a company except statements as to facts not available at the time of the plan of consolidation.
- (3) Some or all shares of the same class or series of shares in each constituent company may be converted into a particular or mixed kind of property and other shares of the class or series, or all shares of other classes or series of shares, may be converted into other property.
- (4) (a) Approval of the plan of merger or consolidation shall be by a resolution of the members and for the purpose thereof outstanding shares of a class or series of shares shall be entitled to vote on the merger or consolidation as a class or series if:-
 - (i) the constitution so provides; or
 - (ii) the plan of merger or consolidation contains any provisions that, if contained in a proposed amendment to the constitution, would entitle the class or series to vote on the proposed amendment as a class or series;
- (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of merger or consolidation, shall be given to each member whether or not entitled to vote on the merger or consolidation;
- (c) if it is proposed to obtain the written consent of members, a copy of the plan of merger or consolidation shall be given to each member, whether or not entitled to consent to the plan of merger or consolidation;
- (d) after approval of the plan of merger or consolidation by the directors and members of each constituent company, articles of merger or consolidation shall be executed by each company and shall contain:-
 - (i) the plan of merger or consolidation and, in the case of consolidation, any statement required to be included in the constitution of a company,
 - (ii) the date on which the constitution of each constituent company was registered by the Registrar of Companies,
 - (iii) the manner in which the merger or consolidation was authorized with respect to each constituent company;
- (e) the articles of merger or consolidation shall be submitted to the Registrar of Companies who shall retain and register them in the Register;
- (f) upon the registration of the articles of merger or consolidation, the Registrar of Companies shall issue a certificate authenticated by its official seal certifying that the articles of merger or consolidation have been registered.
- (5) A certificate of merger or consolidation issued by the Registrar of Companies shall be *prima facie* evidence of compliance with all requirements of this Act in respect of the merger or consolidation.

MERGER WITH SUBSIDIARY

82. (1) A parent company may merge with one or more subsidiary companies registered under this Act without the authorization of the members of any such subsidiary company in accordance with this section.

- (2) The parent company shall approve a written plan of merger containing:-
 - (a) the name of each constituent company and the name of the surviving company;
 - (b) in respect of each constituent company:-
 - (i) the designation and number of outstanding shares of each class and series of shares, and
 - (ii) the number of shares of each class and series of shares in each subsidiary company owned by the parent company; and
 - (c) the terms and conditions of the proposed merger, including the manner and basis of converting shares in each company to be merged into shares, debt obligations or other securities in the surviving company, or money or other property,

or a combination thereof.
- (3) Some or all shares of the same class or series of shares in each company to be merged may be converted into property of a particular or mixed kind and other shares of the class or all shares of other classes or series of shares may be converted into other property; but, if the parent company is not the surviving company, shares of each class and series of shares in the parent company may only be converted into similar shares of the surviving company.
- (4) A copy of the plan of merger or an outline thereof shall be given to every member of each subsidiary company to be merged unless the giving of that copy or outline has been waived by that member.
- (5) Articles of merger shall be executed by the parent company and shall contain:-
 - (a) the plan of merger;
 - (b) the date on which the constitution of each constituent company was registered by the Registrar of Companies;
 - (c) if the parent company does not own all the shares in each subsidiary company, the date on which a copy of the plan of merger or an outline thereof was made available to the members of each subsidiary company.
- (6) The articles of merger shall be submitted to the Registrar of Companies who shall retain and register them in the Register.
- (7) Upon the registration of the articles of merger, the Registrar of Companies shall issue a certificate authenticated by its official seal certifying that the articles of merger have been registered.
- (8) A certificate of merger issued by the Registrar of Companies shall be *prima facie* evidence of compliance with all the requirements of this Act in respect of the merger.

EFFECT OF MERGER OR CONSOLIDATION

83. (1) A merger or consolidation shall be effective on the date the articles of merger or consolidation are registered by the Registrar of Companies or such date subsequent thereto, not exceeding 30 days, as is stated in the articles of merger or consolidation.
- (2) As soon as a merger or consolidation becomes effective:-
 - (a) the surviving company or the consolidated company insofar as is consistent with its constitution, as amended or established by the articles of merger or

consolidation, has all the rights, privileges, immunities, powers, objects and purposes of each of the constituent companies;

- (b) in the case of a merger, the constitution of the surviving company is automatically amended to the extent, if any, that changes in its constitution are contained in the articles of merger;
 - (c) in the case of a consolidation, the statements contained in the articles of consolidation that are required or authorized to be contained in the constitution of a company incorporated under this Act, shall be the constitution of the consolidated company;
 - (d) property of every description, including choices in action and the business of each of the constituent companies, immediately vests in the surviving company or the consolidated company; and
 - (e) the surviving company or the consolidated company shall be liable for all claims, debts, liabilities and obligations of each of the constituent companies.
- (3) Where a merger or consolidation occurs:-
- (a) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause existing, against a constituent company or against any member, director, officer or agent thereof, shall be released or impaired by the merger or consolidation; and
 - (b) no proceedings, whether civil or criminal pending at the time of a merger or consolidation by or against a constituent company, or against any member director, officer or agent thereof, shall be abated or discontinued by the merger or consolidation, but:-
 - (i) the proceeding may be enforced, prosecuted, settled or compromised by or against the surviving company or the consolidated company or against the member, director, officer or agent, as the case may be, or
 - (ii) the surviving company or the consolidated company may be substituted in the proceedings for a constituent company.
- (4) The Registrar of Companies shall strike off the Register:-
- (a) a constituent company that is not the surviving company in a merger;
 - (b) a constituent company that participates in a consolidation.

MERGER OR CONSOLIDATION WITH FOREIGN COMPANY

84. (1) One or more companies incorporated under this Act may merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside the Principality of Hutt River in accordance with this section, including where one of the constituent companies is a parent company and the other constituent companies are subsidiary companies, if the merger or consolidation is permitted by the laws of the jurisdiction in which the companies incorporated outside the Principality of Hutt River are incorporated.
- (2) The following provisions shall apply in respect of a merger or consolidation under this section:-
- (a) a company incorporated under this Act shall comply with the provisions of this Act with respect to the merger or consolidation, as the case may be, of companies incorporated under this Act and a company incorporated under the laws of a jurisdiction outside the Principality of Hutt River shall comply with the laws of that jurisdiction; and

- (b) if the surviving company or the consolidated company is to be incorporated under the laws of a jurisdiction outside the Principality of Hutt River, it shall submit to the Registrar of Companies:-
 - (i) an agreement that a service of process may be effected on it in the Principality of Hutt River in respect of proceedings for the enforcement of any claim, debt, liability or obligation of a constituent company incorporated under this Act or in respect of proceedings for the enforcement of the rights of a dissenting member of a constituent company incorporated under this Act against the surviving company or the consolidated company,
 - (ii) an irrevocable appointment of the Registrar of Companies as its agent to accept service of process in proceedings referred to in subparagraph (i),
 - (iii) an agreement that it will promptly pay to the dissenting members of a constituent company incorporated under this Act the amount, if any, to which they are entitled under this Act with respect to the rights of dissenting members, and
 - (iv) a certificate of merger or consolidation issued by the appropriate authority of the foreign jurisdiction where it is incorporated; or if the appropriate authority of the foreign jurisdiction does not issue a certificate of merger or consolidation, then, such evidence of the merger or consolidation as the Registrar of Companies considers acceptable.
- (3) The effect under this section of a merger or consolidation shall be the same as in the case of a merger or consolidation under section 81 if the surviving company or the consolidated company is incorporated under this Act, but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside the Principality of Hutt River, the effect of the merger or consolidation shall be the same as in the case of a merger or consolidation under section 81 except insofar as the laws of the other jurisdiction otherwise provide.
- (4) If the surviving company or the consolidated company is incorporated under this Act, the merger or consolidation shall be effective on the date the articles of merger or consolidation are registered by the Registrar of Companies or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of merger or consolidation; but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside the Principality of Hutt River, the merger or consolidation shall be effective as provided by the laws of that other jurisdiction.

DISPOSITION OF ASSETS

85. Any sale, transfer, exchange or other disposition of more than 75 per cent, by value, of the assets of a company, other than a transfer pursuant to the power described under section 9(2), if not made in the usual manner or regular course of the business carried on by the company, shall be as follows:-
- (a) the proposed sale, transfer, exchange or other disposition shall be approved by the directors;
 - (b) upon approval of the proposed sale, transfer, exchange or other disposition, the directors shall submit the proposal to the members for it to be authorized by a resolution of members;
 - (c) if a meeting of members is to be held, notice of the meeting, accompanied by an outline of the proposal, shall be given to each member, whether or not he is entitled to vote on the sale, transfer, exchange or other disposition; and

- (d) if it is proposed to obtain the written consent of members, an outline of the proposal shall be given to each member, whether or not he is entitled to consent to the sale, transfer, exchange or other disposition.

REDEMPTION OF MINORITY SHARES

86. (1) Subject to any limitations in the constitution:-
- (a) members holding 90 per cent of the votes of the outstanding shares entitled to vote; and
 - (b) members holding 90 per cent of the votes of the outstanding shares of each class and series of shares entitled to vote as a class or series,
- on a merger or consolidation under this Part, may give a written instruction to a company incorporated under this Act directing the company to redeem the shares held by the remaining members.
- (2) Upon receipt of the written instruction referred to in subsection (1), the company shall redeem the shares specified in the written instruction irrespective of whether or not the shares are by their terms redeemable.
 - (3) The company shall give written notice to each member whose shares are to be redeemed stating the redemption price and the manner in which the redemption is to be made.

ARRANGEMENTS

87. (1) In this section “arrangement” means:-
- (a) a reorganization or reconstruction of a company incorporated under this Act;
 - (b) a merger or consolidation of one or more companies incorporated under this Act with one or more other companies, if the surviving company or the consolidated company is a company incorporated under this Act;
 - (c) a separation of two or more businesses carried on by a company incorporated under this Act;
 - (d) any combination of the things specified in paragraphs (a) to (c).
- (2) The directors of a company may, by a resolution of directors, approve a plan of arrangement that contains the details of the proposed arrangement.
 - (3) Upon approval of the plan of arrangement by the directors, the company shall make application to the court for approval of the proposed arrangement.
 - (4) The court may, upon an application made to it under subsection (3), make an interim or final order that is not subject to an appeal unless a question of law is involved in which case notice of appeal shall be given within the period of 20 days immediately following the date of the order, and in making the order the court may:-
 - (a) determine to whom notice of the proposed arrangement is to be given;
 - (b) determine whether any person’s approval of the proposed arrangement should be obtained and the manner of obtaining such approval;
 - (c) determine whether any holder of shares, debt obligations or other securities in the company may dissent from the proposed arrangement and receive payment of the fair value of his shares, debt obligations or other securities under section 88;
 - (d) conduct a hearing and permit any interested persons to appear; and

- (e) approve or reject the plan of arrangement as proposed or with such amendments as it may direct.
- (5) Where the court makes an order approving a plan of arrangement, the directors of the company if they are still desirous of executing the plan shall confirm the plan of arrangement as approved by the court including any amendments directed to be made by the court.
- (6) The directors of the company, upon confirming the plan of arrangement, shall:-
 - (a) give notice to the persons to whom the order of the court requires notice to be given; and
 - (b) submit the plan of arrangement to those persons for approval, if any, as the order of the court requires.
- (7) After the plan of arrangement has been approved by those persons by whom the order of the court may require approval, articles of arrangement shall be executed by the company and shall contain:-
 - (a) the plan of arrangement;
 - (b) the order of the court approving the plan of arrangement; and
 - (c) the manner in which the plan of arrangement was approved, if approval was required by the order of the court.
- (8) The articles of arrangement shall be submitted to the Registrar of Companies who shall retain and register them in the Register.
- (9) Upon registration of the articles of arrangement, the Registrar of Companies shall issue a certificate authenticated by its official seal certifying that the articles of arrangement have been registered.
- (10) A certificate of arrangement issued by the Registrar of Companies shall be *prima facie* evidence of compliance with all the requirements of this Act in respect of the arrangement.
- (11) An arrangement shall be effective on the date the articles of arrangement are registered by the Registrar of Companies or on such date subsequent thereto, not exceeding 30 days, as shall be stated in the articles of arrangement.

RIGHTS OF DISSENTERS

88. (1) A member of a company shall be entitled to payment of the fair value of his shares upon dissenting from:-
- (a) a merger, if the company is a constituent company, unless the company is the surviving company and the member continues to hold the same or similar shares;
 - (b) a consolidation, if the company is a constituent company;
 - (c) any sale, transfer, exchange or other disposition of more than 75 per cent of the assets or business of the company, if not made in the usual or regular course of the business carried on by the company, but not including:-
 - (i) a disposition pursuant to an order of the jurisdiction in the matter;
 - (ii) a disposition at fair value for money on terms requiring all or substantially all net proceeds to be distributed to the members in accordance with their respective interests within one year after the date of disposition; or

- (iii) a transfer pursuant to the power described in section 9(2);
 - (d) a redemption of his shares by the company pursuant to section 86; and
 - (e) an arrangement, if approved by the court.
- (2) A member who desires to exercise his entitlement under subsection (1) shall give to the company, before the meeting of members at which the proposed action is submitted to a vote, or at the meeting but before the vote, written objection to the action; but a written objection shall not be required from a member to whom the company did not give notice of the meeting in accordance with this Act or where the proposed action is authorized by written consent of members without a meeting.
- (3) An objection under subsection (2) shall include a statement that the member proposes to demand payment for his shares if the proposed action is taken.
- (4) Within 20 days immediately following the date on which the vote of members authorizing the action is taken, or the date on which written consent of members without a meeting is obtained, the company shall give written notice of the authorization or consent to each member who gave written objection or from whom written objection was not required, except those members who voted for, or consented to in writing, the proposed action.
- (5) A member to whom the company was required to give notice electing to dissent shall, within 20 days immediately following the date on which the notice referred to in subsection (4) is given, give to the company a written notice of his decision to elect to dissent, stating:-
 - (a) his name and address;
 - (b) the number and classes or series of shares in respect of which he dissents; and
 - (c) a demand for payment of the fair value of his shares;

and a member who elects to dissent from a merger under section 81 shall give to the company a written notice of his decision to elect to dissent within 20 days following the date on which the copy of the plan of merger or an outline thereof is given to him in accordance with section 81.
- (6) A member who dissents shall do so in respect of all shares that he holds in the company.
- (7) Upon the giving of a notice of election to dissent, the member to whom the notice relates shall cease to have any of the rights of a member except the right to be paid the fair value of his shares.
- (8) Within seven days following the date of the expiration of the period within which members may give their notices of election to dissent, or within seven days following the date on which the proposed action is put into effect, whichever is later, the company or, in the case of a merger or consolidation, the surviving company or the consolidated company, shall make a written offer to each dissenting member to purchase his shares at a specified price that the company determines to be their fair value; and if, within 30 days immediately following the date on which the offer is made, the company making the offer and the dissenting member agree upon the price to be paid for his shares, the company shall pay to the member the amount in money upon the surrender of the certificates representing his shares.
- (9) If the company and a dissenting member fail within the period of 30 days referred to in subsection (8) to agree on the price to be paid for the shares owned by the member, within 20 days immediately following the date on which the period of 30 days expires, the following shall apply:-

- (a) the company and the dissenting member shall each appoint an arbitrator willing to so act;
 - (b) the two arbitrators shall fix the fair value of the shares owned by the dissenting member as of the close of business on the day prior to the date on which the vote of members authorizing the action was taken or the date on which written consent of members was obtained, excluding any appreciation or depreciation directly or indirectly induced by the action or its proposal, and that value is binding on the company and the dissenting member for all purposes;
 - (c) In the event that the two appointed arbitrators cannot within 90 days or such longer period as agreed by the dissenting members and the company agree upon the fair value of the shares pursuant to subparagraph (b), the dissenting members may upon giving the company 14 days notice apply to the court to appoint a single arbitrator who shall determine the fair value in accordance with the paragraph (b); and
 - (d) the company shall pay to the member the amount in money upon the surrender by him of the certificates representing his shares.
- (10) Shares acquired by the company pursuant to subsection (8) or (9) shall be cancelled but if they are shares of a surviving company, they shall be available for re-issue.
- (11) The enforcement by a member of his entitlement under this section excludes the enforcement by the member of a right to which he might otherwise be entitled by virtue of his holding shares, except that this section does not exclude the right of the member to institute proceedings to obtain relief on the ground that the action is illegal.

PART 11 CONTINUATION

CONTINUATION

89. (1) A company incorporated under the laws of a jurisdiction other than the Principality of Hutt River, which does not prohibit the continuation of companies outside that jurisdiction may apply to continue as a company incorporated under this Act provided that on continuation it will not be in breach of section 10.
- (2) A company applying to be continued under this Act shall file with the Registrar of Companies:-
- (a) a constitution which complies with this section and section 3 to be effective upon continuance, (the new constitution);
 - (b) a certified copy of its existing constitution and certificate of incorporation;
 - (c) a certified copy of a resolution passed by a simple majority in value of the members entitled to vote, to:-
 - (i) continue the company under this Act;
 - (ii) approve the new constitution;
 - (iii) appoint one or more persons to sign the new constitution; and
 - (iv) authorize one or more persons who may give notice to the Registrar of Companies by fax, telex, telegram, cable or registered mail, that the new constitution be registered.

- (3) The new constitution, in addition to complying with the provisions of section 3 shall contain:-
 - (a) the existing name and subject to section 4, the name under which it is to be continued;
 - (b) the jurisdiction in which it is incorporated; and
 - (c) the date it was incorporated.
- (4) Provided it is satisfied that all requirements in respect of continuation and all matters precedent and incidental thereto have been complied with the Registrar of Companies may retain the documents filed under subsection (2) and grant a permit to continue the company under this Act.
- (5) Subject to subsection (4), upon receipt of notice of exercise of the authority pursuant to subsection (2)(c)(iv) which may be contemporaneous with the filing of the documents required by subsection (2) the Registrar of Companies shall issue a dated certificate of continuation authenticated by its official seal certifying that the company is incorporated under this Act.
- (6) The Registrar of Companies shall not prior to the notice referred to in subsection (2)(c)(iv), permit any person to inspect the documents referred to in subsection (2) and shall not divulge any information in respect thereof.
- (7) Prior to registration of the new constitution a company may rescind or amend the written authorization referred to in subsection (2)(c)(iv) by delivering to the Registrar of Companies a written notice of rescission or amendment.
- (8) If the Registrar of Companies does not receive a notice referred to in subsection (2)(c)(iv) from a person named in the written authorization within two years following the date on which the permit to continue is granted by the Registrar of Companies under subsection (4), the permit shall lapse.

CERTIFICATE OF CONTINUATION

90. A certificate of continuation issued by the Registrar of Companies under section 89(5) shall be *prima facie* evidence of compliance with all requirements of this Act in respect of continuation.

EFFECT OF CONTINUATION

91. (1) From the time of the issue by the Registrar of Companies of a certificate of continuation under section 89(5):-
 - (a) the company to which the certificate relates:-
 - (i) continues to be a body corporate incorporated under this Act, under the name designated in the articles of continuation;
 - (ii) is capable of exercising all powers of a company incorporated under this Act; and
 - (iii) is no longer to be treated as a company incorporated under the laws of a jurisdiction outside the Principality of Hutt River;
 - (b) the constitution of the company, or its equivalent, as amended by the articles of continuation, shall be the constitution of the company;
 - (c) property of every description, including choices in action and the business of the company, shall continue to be vested in the company; and
 - (d) the company shall continue to be liable for all of its claims, debts, liabilities, and obligations,

- (2) Where a company is continued under this Act:-
 - (a) no conviction, judgment, ruling, order, claim, debt, liability, or obligation due or to become due and no cause existing, against the company or against any member, director, officer or agent thereof, is released or impaired by its continuation as a company under this Act; and
 - (b) no proceedings, whether civil or criminal, pending at the time of the issue by the Registrar of Companies of a certificate of continuation under section 89(5) by or against the company, or against any member, director, officer or agent thereof, are abated or discontinued by its continuation as a company under this Act, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent thereof, as the case may be.
- (3) All shares in the company that were outstanding prior to the issue by the Registrar of Companies of a certificate of continuation under section 89(5) in respect of the company shall be deemed to have been issued in conformity with this Act, but a share that at the time of the issue of the certificate of continuation was not fully paid remains unpaid, and until the share is paid up, the member holding the share remains liable for the amount unpaid on the share.
- (4) If at the time of the issue by the Registrar of Companies of a certificate of continuation under section 89(5) in respect of the company any provisions of the constitution of the company do not in any respect accord with this Act:-
 - (a) the provisions of the constitution continue to govern the company until the provisions are amended to accord with this Act or for a period of two years immediately following the date of the issue of the certificate of continuation, whichever is the sooner;
 - (b) any provisions of the constitution of the company that are in any respect in conflict with this Act cease to govern the company when the provisions are amended to accord with this Act or after expiration of a period of two years after the date of issue of the certificate of continuation whichever is the sooner; and
 - (c) the company shall make such amendments to its constitution as may be necessary to accord with this Act within a period that is not later than two years immediately following the date of the issue of the certificate of continuation.

CONTINUATION UNDER FOREIGN LAW

92. (1) Subject to any limitations in its constitution a company may, by a resolution of directors or by a resolution of members, be continued as a company incorporated under the laws of a jurisdiction outside the Principality of Hutt River in the manner provided under those laws.
- (2) A company that continues its jurisdiction outside the Principality of Hutt River shall, provided that the laws of the jurisdiction outside the Principality of Hutt River permit the continuation, cease to be a company incorporated under this Act upon the company complying with those laws.
- (3) Where a company continues under the laws of a jurisdiction outside the Principality of Hutt River:-
 - (a) the company continues to be liable for all of its claims, debts, liabilities and obligations that existed prior to this continuation as a company under the laws of the jurisdiction outside the Principality of Hutt River;

- (b) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause existing against the company or against any member, director, officer or agent thereof, is released or impaired by its continuation as a company under the laws of the jurisdiction outside the Principality of Hutt River; and
- (c) no proceedings, whether civil or criminal, pending by or against the company, or against any member, director, officer or agent thereof, are abated or discontinued by its continuation as a company under the laws of the jurisdiction outside the Principality of Hutt River, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent, as the case may be.

PART 12

WINDING-UP, DISSOLUTION AND STRIKING-OFF

WINDING-UP BY EXPIRY OF TIME

93. A company shall commence to wind-up and dissolve upon the expiration of such time as may be prescribed in its constitution for its existence.

MEMBERS VOLUNTARY WINDING-UP AND DISSOLUTION

94. (1) A company with a share capital that has never issued shares may voluntarily commence to wind-up and dissolve by a resolution of directors.
- (2) A company that has previously issued shares, or a company that is limited by guarantee, may voluntarily commence to wind-up and dissolve by a resolution of members.

POWERS OF DIRECTORS IN A MEMBERS VOLUNTARY WINDING-UP AND DISSOLUTION

95. Upon the commencement of a winding-up and dissolution required under section 93 or permitted under section 94 the directors power shall be limited:-
- (a) to authorizing a liquidator, by resolution, to carry on the business of the company provided that the liquidator determines that to do so would be necessary or in the best interests of the creditors or members of the company; and
 - (b) to rescinding the articles of dissolution as permitted under section 99.

DUTIES OF LIQUIDATOR IN A MEMBERS VOLUNTARY WINDING-UP

96. (1) A liquidator shall, upon his appointment in accordance with this Part and upon the commencement of a winding-up and dissolution, proceed:-
- (a) to identify all assets of the company;
 - (b) to identify all creditors of and claimants against the company;
 - (c) to pay or provide for payment of, or to discharge, all claims, debts, liabilities and obligations of the company;
 - (d) to distribute any surplus assets of the company in accordance with the constitution;
 - (e) to prepare or cause to be prepared a statement of account in respect of the actions and transactions of the liquidator; and
 - (f) to send a copy of the statement of account to members if so required by the plan of dissolution required by section 98.

- (2) A transfer, including a prior transfer, described in section 9(2) of all or substantially all of the assets of a company incorporated under this Act for the benefit of the creditors and members of the company, is sufficient to satisfy the requirements of subsection (1)(c) and (d).

POWERS OF LIQUIDATOR

97. (1) In order to perform the duties imposed on him under sections 96, a liquidator has all powers of the company that are not reserved to the members under this Act or in the constitution, including, but not limited to, the power:-
- (a) to take custody of the assets of the company and, in connection therewith to register any property of the company in the name of the liquidator or that of his nominee;
 - (b) to sell any assets of the company at public auction or by private sale with, or without any notice;
 - (c) to collect the debts and assets due or belonging to the company;
 - (d) to borrow money from any person for any purpose that will facilitate the winding-up and dissolution of the company and to pledge or mortgage any property of the company as security for any such borrowing;
 - (e) to negotiate, compromise and settle any claim, debt, liability or obligation of the company;
 - (f) to prosecute and defend, in the name of the company or in the name of the liquidator or otherwise, any action or other legal proceedings;
 - (g) to retain counsel and attorneys, accountants and other advisers and appoint agents;
 - (h) to carry on the business of the company, if the liquidator has received authorization to do so in the plan of liquidation or by a resolution of directors permitted under section 95, as the liquidator may determine to be necessary or to be in the best interest of the creditors or members of the company;
 - (i) to execute any contract, agreement or other instrument in the name of the company or in the name of the liquidator; and
 - (j) to make any distribution in money or in other property or partly in each, and if in other property, to allot the property, or an undivided interest therein, in equal or unequal proportions.
- (2) Notwithstanding subsection (1)(h), a liquidator shall not, without the permission of the court, carry on for a period in excess of two years the business of a company that is being wound-up and dissolved under this Act.

PROCEDURE ON WIND-UP AND DISSOLUTION

98. (1) The directors of a company required under section 93 or proposing under section 94 to wind-up and dissolve the company shall approve a plan of dissolution containing:-
- (a) a statement of the reason for the winding-up and dissolving;
 - (b) a statement that the company is, and will continue to be, able to discharge or pay or provide for the payment of all claims, debts, liabilities and obligations in full;
 - (c) a statement that the winding-up will commence on the date when articles of dissolution are submitted to the Registrar of Companies or on such date

subsequent thereto, not exceeding 30 days, as is stated in the articles of dissolution;

- (d) a statement of the estimated time required to wind-up and dissolve the company;
 - (e) a statement as to whether the liquidator is authorized to carry on the business of the company if the liquidator determines that to do so would be necessary or in the best interest of the creditors or members of the company;
 - (f) a statement of the name and address of each person to be appointed a liquidator and the remuneration proposed to be paid to each liquidator; and
 - (g) a statement as to whether the liquidator is required to send to all members a statement of account prepared or caused to be prepared by the liquidator in respect of his actions or transactions.
- (2) If a winding-up and dissolution is being effected in a case where section 94 is applicable:-
- (a) the plan of dissolution shall be authorized by a resolution of members, and the holders of the outstanding shares of a class or series of shares are entitled to vote on the plan of dissolution as a class or series only if the constitution so provides;
 - (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of dissolution shall be given to each member, whether or not entitled to vote on the plan of dissolution; and
 - (c) if it is proposed to obtain the written consent of members, a copy of the plan of dissolution shall be given to each member, whether or not entitled to consent to the plan of dissolution.
- (3) After approval of the plan of dissolution by the directors, and if required by the members in accordance with subsection (2), articles of dissolution shall be executed by the company and shall contain:-
- (a) the plan of dissolution; and
 - (b) the manner in which the plan of dissolution was authorized.
- (4) Articles of dissolution shall be submitted to the Registrar of Companies who shall retain and register them in the Register and within 30 days immediately following the date on which the articles of dissolution are submitted to the Registrar of Companies, the Registrar of Companies shall cause to be published, on the Principality's website www.principality-hutt-river.com/gov, a notice stating:-
- (a) that the company is in dissolution;
 - (b) the date of commencement of the dissolution; and
 - (c) the names and addresses of the liquidators.
- (5) A winding-up and dissolution commences on the date the articles of dissolution are registered by the Registrar of Companies or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of dissolution.
- (6) A liquidator shall, upon completion of a winding-up and dissolution submit to the Registrar of Companies a statement that the wind-up and dissolution has been completed and upon receiving the notice, the Registrar of Companies shall:-
- (a) strike the company off the Register; and

- (b) issue a certificate of dissolution authenticated by its official seal certifying that the company has been dissolved.
- (7) Where the Registrar of Companies issues a certificate of dissolution authenticated by its official seal certifying that the company has been dissolved:-
 - (a) the certificate shall be *prima facie* evidence of compliance with all requirements of this Act in respect of dissolution; and
 - (b) dissolution of the company is effective from the date of issue of the certificate.
- (8) Immediately following issue by the Registrar of Companies of a certificate of dissolution under subsection (6), the Registrar of Companies shall cause to be published on the Principality's website www.principality-hutt-river.com/gov a notice that the company has been dissolved and has been struck off the Register.
- (9) A company that wilfully contravenes subsection (4) shall be liable on conviction to a daily default fine of no less than ten Euros and no more than an amount determined by the Registrar of Companies to be commiserate with damages caused by lack of compliance.

RESCISSION OF WINDING-UP AND DISSOLUTION

99. (1) In the case of a winding-up and dissolution permitted under section 94, a company may prior to submitting to the Registrar of Companies a notice specified in section 98(4), rescind the articles of dissolution by:-
- (a) a resolution of directors in the case of a winding-up and dissolution under section 94(1); or
 - (b) a resolution of members in the case of a winding-up and dissolution under section 94(2).
- (2) A copy of a resolution referred to in subsection (1) shall be submitted to the Registrar of Companies who shall retain and register it in the Register.
- (3) Within 30 days immediately following the date on which the resolution referred to in subsection (1) has been submitted to the Registrar of Companies, the Registrar of Companies shall cause a notice stating that the company has rescinded its intention to wind-up and dissolve to be published on the Principality's website www.principality-hutt-river.com/gov.

WINDING-UP AND DISSOLUTION OF COMPANY UNABLE TO PAY ITS CLAIMS, ETC.

100. (1) Where, at the commencement of a members voluntary winding-up:-
- (a) the directors or, as the case may be, the members of a company at the time of the passing of the resolution to wind-up and dissolve the company, have reasons to believe that the company will not be able to pay or provide for the payment of or discharge all claims, debts, liabilities and obligations of the company in full; or
 - (b) the liquidator after his appointment has reason to believe that the company will not be able to pay or provide for the payment of or discharge all claims, debts, liabilities and obligations of the company in full,
- then, the directors, the members or the liquidator, as the case may be, shall give notice of the fact to the Registrar of Companies.
- (2) Where a notice has been given to the Registrar of Companies under subsection (1), the liquidator shall:-

- (a) negotiate a fee for his services with the directors, or as the case may be the members, of the company, which shall take priority over all other debt obligations of the company; then
- (b) complete all winding-up and dissolution proceedings in a manner to achieve the best outcome for all parties as guided by the provisions of sections 96 and 97.

SUSPENSION AND WINDING-UP AND DISSOLUTION BY THE REGISTRAR OR THE COURT

101. (1) Notwithstanding the provisions of this Act relating to winding-up and dissolution, a company that is in breach of any section of this Act may be suspended by the Registrar of Companies until such time that the breach is remedied (not exceeding a period of 30 days) and, if the company fails to address the breach then the Registrar will move to strike the company from the Register of International Business Companies thus winding it up.
- (2) Where a company under suspension fails to remedy a breach of this Act and the Registrar fails to act then the company may be wound up by the Court.

RECEIVERS AND MANAGERS

102. In the event that receivers and managers are required to be appointed then this shall be done by an absolute majority vote by the members of the company, of receivers and managers who have been approved by the Registrar of Companies and who shall be governed by the provisions of their company policy a copy of which shall have been submitted to the members for their consideration prior to the vote being taken.

STRIKING-OFF

103. (1) Where the Registrar of Companies has reasonable cause to believe that a company is in breach of section 10 or is not carrying on business or is not in operation, the Registrar of Companies may serve on the company by post a notice that the name of the company will, upon the grounds set out therein, unless cause is shown to the contrary, be struck off the Register.
- (2) If the Registrar of Companies:-
- (a) in reply to a notice sent to the company under subsection (1), receives from the company a notice that it consents to being struck off the Register; or
 - (b) the company does not show cause to the notice served on the company under subsection (1)
- then the name of the company will be struck off the Register unless the company or another person satisfies the Registrar of Companies that the name of the company should not be struck off and the Registrar of Companies shall cause to be published on the Principality's website www.principality-hutt-river.com/gov a notice to this effect.
- (3) At the expiration of a period of 90 days immediately following the date of notice under subsection (2), the Registrar of Companies shall strike the name of the company off the Register, unless the company or any other person has within the period of 90 days satisfied the Registrar of Companies that the name of the company should not be struck off; and the Registrar of Companies shall publish notice of the striking-off on the Principality's website www.principality-hutt-river.com/gov.
- (4) If a company fails to pay the increased annual fee for registration of the company name payable under section 109 in full within 90 days of the annual fee falling due, the Registrar of Companies may publish on the Principality's website www.principality-hutt-river.com/gov and serve on the company a notice stating the amount of the fee payable and stating that the name of the company will be struck-off the Register if the company fails to pay the fee within 30 days from the date of the notice.

- (5) If a company fails to pay the increased annual fee stated in the notice referred to in subsection (4) within 30 days of the date of the notice, the Registrar of Companies shall strike the name of the company off the Register and shall publish notice of the striking-off on the Principality's website www.principality-hutt-river.com/gov.
- (6) A company that has been struck off the Register under this section remains liable for all claims, debts, liabilities and obligations of the company, and the striking-off does not affect the liability of any of its members, directors, officers or agents.
- (7) A company that has been struck off the Register pursuant to this section shall be deemed to have been dissolved.

RESTORATION TO REGISTER

104. (1) If the name of a company has been struck off the Register under section 103 the Registrar of Companies, or a creditor, member or liquidator thereof, may at any time apply within ten years of the date of striking-off to the court to have the name of the company restored to the Register.
- (2) If upon an application under subsection (1) the court is satisfied that:-
- (a) at the time the name of the company was struck-off the Register, the company was an International Business Company; and
 - (b) it would be fair and reasonable for the name of the company to be restored to the Register,
- the court may order the name of the company to be restored to the register upon payment to the Registrar of Companies of all fees payable by virtue of section 108 and all annual fees payable by virtue of section 109 or such lesser amounts as the court may order, without any increase for late payment, and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck-off the Register.
- (3) If the name of a company has been struck-off the register under section 103(5) the company, or a creditor, member or liquidator thereof, may within three years immediately following the date of the strike-off, apply to the Registrar of Companies to have the name of the company restored to the Register, and upon payment to the Registrar of Companies of:-
- (a) all fees due under section 108
 - (b) the fee stated in the notice referred to in section 103(4); and
 - (c) a fee in the amount stated in the notice referred to in paragraph (b) for each year or part thereof during which the name of the company remained struck-off the Register, the Registrar of Companies shall restore the name of the company to the Register and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck-off the Register but the name must be changed if that name then exists on the Register.
- (4) For purposes of this Part, the appointment of an official liquidator under section 106 operates as an order to restore the name of the company to the Register.

EFFECT OF STRIKING-OFF

105. (1) Where the name of a company has been struck off the Register, neither the company nor a director, member, liquidator or receiver thereof, may:-
- (a) commence or defend any legal proceedings in the name of the company;
 - (b) carry on any business or in any way deal with the assets of the company;

- (c) make any claim or claim any rights for, or in the name of, the company; or
 - (d) act in any way with respect to the affairs of the company.
- (2) Notwithstanding subsection (1), where the name of the company has been struck-off the Register, the company, or a director, member, liquidator or receiver thereof, may:-
- (a) continue to defend proceedings that were commenced against the company prior to the striking-off;
 - (b) continue to carry on legal proceedings that were instituted on behalf of the company prior to the date of striking-off; and
 - (c) make application for restoration of the name of the company to the Register.

APPOINTMENT OF OFFICIAL LIQUIDATOR

106. The court may appoint a person to be the official liquidator in respect of a company the name of which has been struck off the Register.

DISSOLUTION OF COMPANY STRUCK-OFF

107. (1) If the name of a company has been struck off the Register under section 103 the Registrar of Companies may, if he determines that it is in the best interest of the Principality of Hutt River to do so, apply to the court to have the company put into liquidation and a person shall be appointed as the official liquidator thereof.
- (2) The duties of an official liquidator in respect of a company in liquidation pursuant to subsection (1) shall be limited to:-
- (a) identifying and taking possession of all assets of the company;
 - (b) calling for claims by requesting the Registrar of Companies to place a notice supplied by him on the Principality's website www.principality-hutt-river.com/gov, and in such other manner as he deems appropriate, requiring all claims to be submitted to him within such period as he may determine not exceeding 90 days from the date of the advertisement; and
 - (c) applying those assets that he recovers in satisfaction of all other claims admitted by him and determining the priority of those claims.
- (3) In order to perform the duties with which he is charged under subsection (2), the official liquidator may exercise such powers as the court may consider reasonable to confer on him.
- (4) The official liquidator may require such proof as he considers necessary to prove any claim submitted to him and he may admit, reject or settle claims on the basis of the evidence submitted to him.
- (5) When the official liquidator has completed his duties, he shall submit a written report of his conduct of the liquidation proceedings to the Registrar of Companies and, upon receipt of the report by the Registrar of Companies, all assets of the company, wherever situate, that are not disposed of, become property of the Government and the company shall be dissolved.
- (6) The official liquidator shall be entitled to such remuneration out of assets of the company for his services as the court approves and such remuneration will take priority over all other claims and be set aside before any other liabilities or obligations of the company are met.

- (7) No liability shall attach to an official liquidator:-
- (a) to account to creditors of the company who have not submitted claims within the time allowed by him; or
 - (b) for any failure to locate any assets of the company.

PART 13 FEES AND PENALTIES

FEES

108. (1) There shall be paid to the Government Treasury of the Principality of Hutt River the following:-
- (a) Euro 200 upon the registration of a company;
 - (b) Euro 50 upon the registration of an amendment to the constitution of a company;
 - (c) Euro 500 upon the registration of articles of merger or consolidation or articles of arrangement;
 - (d) Euro 200 upon the issue of a permit to continue a company under this Act;
 - (e) Euro 100 upon the issue of a certificate of continuation of a company under this Act;
 - (f) Euro 100 upon the registration of articles of dissolution;
 - (g) Euro 100 upon the registration of a resolution rescinding articles of dissolution;
 - (h) No charge for simple advice of good standing; however if a certificate is required:
Euro 20 upon the issue of a certificate of good standing;
 - (i) Euro 25 upon the issue of a copy or extract, whether or not certified, of a document or a part of a document;
 - (j) Euro 35 for the issue of a replacement document or certificate;
 - (k) Euro 100 upon the issue of a certificate of change of name;
 - (l) Euro 250 upon the restoration to the Register of a company incorporated under this Act, the name which was struck off the Register;
 - (m) Euro 10 upon the filing of any other document under this Act;
 - (n) Euro 10 upon the reservation of a name;
 - (o) Euro 100 upon the filing of a charge pursuant to section 70;
 - (p) Euro 50 upon the filing of a memorandum of satisfaction or release pursuant to section 74;
 - (p) Euro 100 for making application for an extension or rectification pursuant to section 75.
 - (q) Euro 100 upon the registration of a business name;

The above fees, and any changes to the amounts payable thereon, will be shown on the fee schedule on the Principality's website at www.principality-hut-river.com/gov or by request or notice.

- (2) The Registrar of Companies may charge a fee in respect of costs reasonably incurred in the performance of his duties under this Act.

ANNUAL FEES

109. (1) Every Company shall:-
- (a) on or before its anniversary of incorporation, or continuance, in the Principality of Hutt River each year pay to the National Treasury an annual fee of Euro 200 at which time, should all other matters of compliance with this Act be in order, a current certificate of incorporation will be issued;
- and, if the company has registered any business names,
- (b) on or before the anniversary of registration of a business name in the Principality of Hutt River each year pay to the National Treasury an annual renewal fee of Euro100 at which time, should all other matters of compliance with this Act be in order, a current certificate of registration of business name will be issued.
- (2) If a company fails to pay the amount due under subsection (1) by the due date, the Annual Fee shall be increased by 10 per cent of that amount for each month or part thereof during which the fee remains unpaid up to a maximum of 30%.

PENALTIES PAYABLE TO THE NATIONAL TREASURY

110. (1) Any penalty incurred under this Act shall be paid to the National Treasury.
- (2) The Minister may waive any penalties if he is satisfied that no public harm has been done, or grant a specified time for rectification of any failure or events under this Act.

COMPANY STRUCK OFF LIABLE FOR FEES, ETC

111. A company shall continue to be liable for all fees and penalties payable under this Act notwithstanding that the name of the company has been struck-off the Register and all those fees and penalties shall have priority to all other claims against the assets of the company.

INCOME OF THE OFFICE OF THE REGISTRAR OF COMPANIES

112. The Registrar of Companies shall direct all payments for fees and penalties due to the Office of the Registrar of Companies, under this Act, to the National Treasury. Any costs for the operation of this Office will be borne by the National Treasury.

REFUSAL OF ACTION WHERE FEES OR PENALTIES ARE OUTSTANDING

113. The Registrar of Companies may refuse to take any action required of it under this Act if any fees or penalties due by the applicant to the Office of the Registrar of Companies are outstanding.

PART 14 EXEMPTIONS

EXEMPTIONS

114. No exchange controls shall be applied to any company nor to any transactions relating to the business of any company registered in accordance with this Act.

**PART 15
MISCELLANEOUS**

CERIFICATE OF GOOD STANDING

115. (1) The Registrar of Companies shall, upon request by any person issue a certificate of good standing authenticated by its official seal certifying that a company is of good standing if it is satisfied that:-
- (a) the name of the company is on the Register; and
 - (b) the company has paid all fees and penalties due and payable.
- (2) The certificate of good standing issued under subsection (1) shall contain a statement as to whether:-
- (a) the company has submitted to the Registrar of Companies articles of merger or consolidation that have not yet become effective;
 - (b) the company has submitted to the Registrar of Companies articles of arrangement that have not yet become effective;
 - (c) the company is in the process of being wound-up and dissolved; or
 - (d) any proceedings to strike the name of the company off the Register have been instituted.

REPLACEMENT OF DOCUMENTS

116. Where it is proved to the satisfaction of the Registrar of Companies that any document or certificate issued by him has been lost or destroyed it shall upon application made by any person entitled thereto, issue a duplicate thereof.

SECRECY

117. (1) Any person who, except when required by a court of competent jurisdiction, with respect to any company otherwise than for the purposes of the administration of this Act or for the carrying on of the business of the company, in the Principality of Hutt River or elsewhere, divulges, attempts, offers or threatens to divulge or induces or attempts to induce other persons to divulge any information concerning or respecting:-
- (a) the shareholding in, or beneficial ownership of any shares in a company;
 - (b) the management of such company; or
 - (c) any of the business, financial or other affairs or transactions of the company;
- shall be guilty of an offence.
- (2) Any person who contravenes the provisions of subsection (1) shall, on conviction, be liable to a fine not exceeding Euro100,000 for each offence, or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

JURISDICTION

118. Subject to any provisions to the contrary in any agreement, between the parties thereto, for the purposes of determining matters relating to title and jurisdiction but not for purposes of taxation, the *situs* of the ownership of shares, debt obligations or other securities of a company incorporated under this Act shall be the Principality of Hutt River.

PENALTY FOR FALSE STATEMENTS

119. If any person in any return, report, certificate or other document, required by or for the purposes of any of the provisions of this Act wilfully makes a false statement in any material particular knowing it to be false he shall be liable on conviction to a fine not exceeding Euro 50,000 or to a term of imprisonment not exceeding three years, or to both.

PRODUCTION AND INSPECTION OF BOOKS WHERE OFFENCE SUSPECTED

120. (1) If on an application made to a judge of the court in chambers by the Attorney General there is shown to be reasonable cause to believe that any person has, while an officer of a company, committed an offence in connection with the management of the company's affairs and that the Registrar of Companies has found evidence of the offence in any books or papers under the control of the company, an order may be made:-
- (a) authorizing any person named therein to inspect the said books or papers or any of them for the purpose of investigating and obtaining evidence of the offence; or
 - (b) requiring the secretary of the company or such other officer thereof as may be named in the order to produce the said books or papers or any of them to a person named in the order at a place so named.
- (2) Subsection (1) shall apply also in relation to the books or papers of a person carrying on the business of banking so far as they are related to the company's affairs, as it applies to any books or papers of or under the control of the company.
- (3) No books or papers or any of the information contained therein obtained pursuant to subsection (1) shall be revealed to any person without further order of the court.

DECLARATION BY COURT

121. (1) A company may without the necessity of joining any other party, apply to the court, by summons supported by an affidavit, for a declaration on any question of interpretation of this Act or of the constitution of the company.
- (2) A person acting on a declaration made by the court as a result of an application made in good faith under subsection (1) shall be deemed, in so far as regards the discharge of any fiduciary or professional duty, to have properly discharged his duties in the subject matter of the application.

APPOINTMENT OF REGISTRAR OF COMPANIES

122. (1) The *Sovereign* Head of State or the Minister of Finance will appoint any person of requisite experience that he considers appropriate to the position of Registrar of Companies under this Act for a term of three years with the right of appointment for further periods of three years; and
- (a) the Registrar of Companies, by appointment, is thereby under the *Sovereign* Head of State or the Minister's direction, at all times;
 - (b) failure by the Registrar of Companies to comply with the Minister's instructions, results in instant cancellation of the Registrar's appointment;
 - (c) the authority of the Registrar of Companies is limited by this Act; any portrayal to the public, other than being a department of the Principality of Hutt River, may result in instant cancellation of the Registrar's appointment by the Minister;
 - (d) if any person acts as a Registrar of Companies, or Deputy Registrar of Companies as appointed under section 123, without the *Sovereign* Head of

State or Minister's approval of the appointment or approval of their actions, then all actions taken by them are fraudulent and a penalty of \$10,000 may be imposed by the Minister; and

- (e) the *Sovereign* Head of State and Minister's decisions are at all times final.
- (2) The *Sovereign* Head of State may make regulations with respect to the duties to be performed by the Registrar of Companies under this Act and in so doing may prescribe the place where the office for the registration of International Business Companies is located.
- (3) A certificate of appointment of a Registrar of Companies, or Deputy Registrar of Companies as appointed under section 123, which in any way is at variance to this Act shall be without any lawful validity at all.
- (4) The Minister may re-issue a corrected certificate if he is satisfied in so doing, or the Minister may appoint another Registrar of Companies.
- (5) Any certificates issued by the Registrar of Companies, or Deputy Registrar of Companies as appointed under section 123, whilst he is without lawful authority may be submitted to the Minister for his approval of a new certificate to be issued by a person holding lawful authority.

APPOINTMENT OF DEPUTY REGISTRAR OF COMPANIES

123. The Registrar of Companies may appoint a Deputy Registrar of Companies, in his place, under terms and conditions he considers to be appropriate and in compliance with this Act upon the *Sovereign* Head of State or the Minister's formal approval of the appointment.

REQUIREMENTS OF REGISTERED AGENTS

124. The Registrar of Companies may make requirements with respect to the conduct, duties and responsibilities of Registered Agents, including the requirement to positively identify the person(s) and residence of beneficial owners of International Business Companies incorporated under this Act.

COURT HEARINGS

125. For the purposes of this Act, in the event that a court hearing is deemed by the Registrar of Companies to be unlikely within a period of three months of notification, the Registrar of Companies, with the concurrence of the parties involved, may adjudicate or arbitrate, as the case may be.

COMMENCEMENT OF THIS ACT

126. This Act comes into operation on such day as HRH Prince Leonard, *Sovereign* Head of State, shall proclaim.

Revised from the International Business Companies Act No. 1 of 2004

Revisions by:
| Dame Christina M. Baikie CD, DSOL
| Hon. Deputy Registrar of Companies
| Principality of Hutt River

Principal Advisor:
David Robert DiGregorio BSBA (Boston), MComm (Sydney), CIOM
Principal Advisor on Foreign Commerce
to the Government of the Principality of Hutt River

FIRST SCHEDULE

DEBENTURE

1. This Debenture secures the principal sum shown on its face and any interest accrued thereon from time to time. It is payable in the currency set out in this Debenture.
2. The principal sum is payable by the Debenture Holder at the time or times set out in this Debenture.
3. Until payment in full, this Debenture will carry interest payable yearly on the principal sum at the rate (if any) shown in the Debenture.
4. The company is not entitled to redeem this Debenture without the Holder's consent.
5. The provisions of the Constitution of the company giving the members or any class of the members of the company the right and power to vote and to demand a poll shall, so far as they relate to the company for the period while this Debenture is unredeemed, be void and of no effect for any purpose whatsoever and the provisions contained in the International Business Companies Act 2009 shall apply.