



**Isle of Man**

*Ellan Vannin*

**AT 16 of 2003**

**COMPANIES, ETC. (AMENDMENT) ACT  
2003**





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## COMPANIES, ETC. (AMENDMENT) ACT 2003

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## COMPANIES, ETC. (AMENDMENT) ACT 2003

*Received Royal Assent:* 9 December 2003

*Passed:* 9 December 2003

*Commenced:* See legislative history

AN ACT to amend the law relating to companies, etc; and for connected purposes.

### PART 1 – SUBSTITUTION AND INSERTION OF SECTIONS IN THE COMPANIES ACT 1931

1 [Repealed]<sup>1</sup>

2 [Substitutes section 36 of the *Companies Act 1931*.]

3 [Repealed]<sup>2</sup>

4 [Substitutes section 72 of the *Companies Act 1931*.]

5 [Inserts section 85A in the *Companies Act 1931*.]

6 [Substitutes section 94 of the *Companies Act 1931*.]

7 **Substitution of new section for section 108**

For section 108 (annual return to be made by company not having share capital and company limited by guarantee and having a share capital), substitute —

**“108 Annual return to be made by company not having share capital and company limited by guarantee**

(1) Every company not having a share capital and every company limited by guarantee but which is not a company limited by

guarantee and having a share capital shall make a return stating —

- (a) the address of the registered office of the company;
  - (b) all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is the secretary of the company as are required by this Act to be contained with respect to the directors and the secretary respectively in the register of the directors and the secretary of the company;
  - (c) the number of members and in the case of a company limited by guarantee, the aggregate of the amount guaranteed;
  - (d) the company's principal business or activity by reference to such classification as may by regulations be prescribed by the Isle of Man Financial Services Authority;<sup>3</sup>
  - (e) such other particulars as may be prescribed.
- (2) There shall be included in the return a statement containing particulars of the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Department under this Act or which would have been required so to be registered if created after the first day of January, nineteen hundred and nine.<sup>4</sup>
- (3) The return shall be in the prescribed form.”<sup>5</sup>

## 8 Insertion of new section 108A

After section 108 insert —

### **“108A. Annual return to be made by company limited by guarantee and having a share capital**

- (1) The annual return of a company limited by guarantee and having a share capital shall contain a list of all persons who, at the date of the return, are shareholding members of the company, and of all persons who have ceased to be shareholding members since the date of the last return or, in the case of the first return, of the incorporation of the company.
- (2) The list must state the names and addresses of all the past and present shareholding members therein mentioned, and the number of shares held by each of the existing shareholding members at the date of the return, specifying shares transferred since the date of the last return, or, in the case of the first return, of the incorporation of the company by persons who are still shareholding members and have ceased to be shareholding

members respectively and the dates of registration of the transfers, and, if the names therein are not arranged in alphabetical order, must have annexed to it an index sufficient to enable the name of any person in the list to be readily found:

- (3) Provided that, where the company has converted any of its shares into stock and given notice of the conversion to the Department, the list must state the amount of stock held by each of the existing shareholding members instead of the amount of shares and the particulars relating to shares hereinbefore required.<sup>6</sup>
- (4) The return must also state —
  - (a) the address of the registered office of the company;
  - (b) all such particulars with respect to the persons who at the date of the return are the directors of the company and any person who at that date is the secretary of the company as are required by this Act to be contained with respect to the directors and the secretary respectively in the register of the directors and the secretary of the company;
  - (c) the number of guarantee members and the aggregate of the amount guaranteed;
  - (d) the company's principal business or activity by reference to such classification as may by regulation be prescribed by the Department;<sup>7</sup>
  - (e) the total amount of the indebtedness of the company in respect of all mortgages and charges which are required to be registered with the Department under this Act, or which would have been required to be registered if created after the 18th January 1909; and<sup>8</sup>
  - (f) such other particulars as may be prescribed.
- (5) The return shall be in the prescribed form.”<sup>9</sup>

9 to 10 [Substitutes sections 144 and 273A respectively of the *Companies Act 1931*.]

11 to 14 [Repealed]<sup>10</sup>

15 [Substitutes section 340A of the *Companies Act 1931*.]

16 [Inserts section 340B in the *Companies Act 1931*.]

## PART 2 – SUBSTITUTION AND INSERTION OF SECTIONS IN THE LIMITED LIABILITY COMPANIES ACT 1996

17 [Substitutes section 11 of the *Limited Liability Companies Act 1996*.]

18 [Inserts sections 11A, 11B, 11C and 11D in the *Limited Liability Companies Act 1996*.]

19 [Substitutes section 50 of the *Companies Act 1931*.]

20 [Inserts section 52A in the *Companies Act 1931*.]

## PART 3 – SUBSTITUTION AND INSERTION OF SECTIONS IN THE REGISTRATION OF BUSINESS NAMES ACT 1918

21 [Substitutes section 8 of the *Registration of Business Names Act 1918*.]

22 [Inserts section 9A in the *Registration of Business Names Act 1918*.]

23 [Substitutes section 15 of the *Registration of Business Names Act 1918*.]

24 [Repealed]<sup>11</sup>

## PART 4 – SUBSTITUTION AND INSERTION OF SECTIONS IN THE PARTNERSHIP ACT 1909

25 [Repealed]<sup>12</sup>

26 [Inserts section 51A in the *Partnership Act 1909*.]

27 [Substitutes section 57 of the *Partnership Act 1909*.]

28 [Inserts section 60 in the *Partnership Act 1909*.]

## **PART 5 – SUBSTITUTION AND INSERTION OF SECTIONS IN THE INDUSTRIAL AND BUILDING SOCIETIES ACT 1892**

29 and 30 [Substitute sections 10 and 15 respectively of the *Industrial and Building Societies Act 1892*.]

31 [Inserts section 24A in the *Industrial and Building Societies Act 1892*.]

## **PART 6 – SUPPLEMENTARY PROVISIONS**

### **32 Amendments and repeals**

- (1) The enactments specified in Schedule 1 are amended in accordance with that Schedule.
- (2) The enactments specified in Schedule 2 are repealed to the extent specified in column 3 of that Schedule.

### **33 Short title and commencement**

- (1) This Act may be cited as the Companies, etc. (Amendment) Act 2003.
- (2) This Act shall come into operation on such day or days as the Treasury may by order appoint and different days may be so appointed for different provisions and different purposes.<sup>13</sup>



## Schedule 1

## AMENDMENT OF ENACTMENTS

## Section 32(1)

## MISCELLANEOUS AMENDMENTS

[Sch 1 amended by Fiduciary Services Act 2005 Sch 3, by Collective Investment Schemes Act 2008 Sch 7, by Company Officers (Disqualification) Act 2009 Sch 5 and by Foreign Companies Act 2014 Sch, and amends the following Acts —

Partnership Act 1909 q.v.

Registration of Business Names Act 1918 q.v.

Companies Act 1931 q.v.

Companies Act 1974 q.v.

Interpretation Act 1976 q.v.

Companies Act 19 82 q.v.

Income Tax (Exempt Companies) Act 1984 q.v.

Legal Practitioners Registration Act 1986 q.v.

Companies Act 1992 q.v.

International Business Act 1994 q.v.

Limited Liability Companies Act 1996 q.v.]

[The amendments set out below have not yet been brought into operation.]

*Registration of Business Names Act 1918*

8. In section 5(1)(e) (manner and particulars of registration), insert “the date of birth and”, after “surname,” (in the second place where it occurs), and omit “and the other business occupation (if any)”.

*Companies Act 1931*

8. In section 107(1) (annual return to be made by company having a share capital), after “share capital” insert “but which is not a company limited by guarantee and having a share capital,”.

9. In section 107(3), after paragraph (d) insert —

“(dd) the company’s principal business or activity, by reference to such classification as may by regulations be prescribed by the Department;”.<sup>14</sup>

10. In section 109 (general provisions as to annual returns —

- (b) in section 109(4), for “either of the two last foregoing sections of this Act”, substitute “section 107, 108 or 108A”.

12. For section 143(1)(a) (register of directors), substitute —

“ (a) in the case of an individual, his date of birth, his present first names and surname, any former first names or surnames and his full residential address; and ”.

20. [Repealed]<sup>15</sup>

#### *Limited Liability Companies Act 1996*

5. In Schedule 3, after paragraph 4 (duty of limited liability company to register charges on property acquired), insert —

#### **“4A. Registration of supplemental particulars<sup>1</sup>**

- (2) The Department shall keep, with respect to each limited liability company, in the register prescribed by paragraph 11, the further particulars (if any) which may be delivered to the Department under this paragraph but the Department shall not be required to issue a certificate of the registration of the further particulars filed.”<sup>16</sup>

6. In Schedule 3, after paragraph 10 (right to inspect copies of instruments creating mortgages and charges and limited liability company’s register of charges), add —

#### **“11. Register of charges to be kept by Department**

- (1) The Department shall keep, with respect to each limited liability company, a register in the prescribed form of all the charges requiring registration under this Schedule, and shall, on payment of the fee prescribed under section 50, enter in the register with respect to such charges the following particulars —
- (a) in the case of a charge to the benefit of which the holders of a series of debentures are entitled, such particulars as are specified in sub-paragraph (5) of paragraph 2 of this Schedule;
- (b) in the case of any other charge —
- (i) if the charge is a charge created by the limited liability company, the date of its creation, and if the charge was a charge existing on property acquired by the limited liability company, the date of the acquisition of the property; and

<sup>1</sup> The inserted section 4A of the 1996 is in force by virtue of SD 688/04 apart from subsection (2).

- (ii) the amount secured by the charge; and
- (iii) short particulars of the property charged; and
- (iv) the persons entitled to the charge.<sup>17</sup>

- (2) The Department shall give a certificate of the registration of any charge registered in pursuance of this Schedule, stating the amount thereby secured, and the certificate shall be conclusive evidence that the requirements of this Schedule as to registration have been complied with.<sup>18</sup>
- (3) The register kept in pursuance of this paragraph shall be open to inspection by any person on payment of the fee prescribed under section 50.

## 12. Notice

- (1) A person taking a charge requiring registration under paragraph 1 of this Schedule shall be taken to have notice of any matter requiring registration and disclosed on the register at the time the charge is created.
- (2) Otherwise a person shall not be taken to have notice of any matter by reason of it being disclosed on the register or by reason of his having failed to search the register in the course of making such inquiries as ought reasonably to be made.
- (3) The above provisions have effect subject to any other statutory provision as to whether a person is to be taken to have notice of any matter disclosed on the register.

## 13. Endorsement of certificate of registration on debentures

- (1) The limited liability company shall cause a copy of every certificate of registration given under paragraph 11(2) to be endorsed on every debenture or certificate of debenture stock which is issued by the limited liability company, and the payment of which is secured by the charge so registered:

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

- (2) If any person knowingly and wilfully authorises or permits the delivery of any debenture or certificate of debenture stock which under the provisions of this section is required to have endorsed on it a copy of a certificate of registration without the copy being so endorsed upon it, he shall, without prejudice to any other liability, be liable to —

- (a) on information, a fine;
- (b) on summary trial, a fine not exceeding £5,000.”.

## Schedule 2

## ENACTMENTS REPEALED

## Section 32(2)

[Sch 2 repeals the following Acts in part —

Registration of Business Names Act 1918

Companies Act 1931

Registration of Business Names Act 1954

Companies Act 1968

Companies Act 1974

Companies Act 1982

Companies Act 1986

Companies Act 1992

Limited Liability Companies Act 1996

Companies (Transfer of Domicile) Act 1998

Companies (Transfer of Functions) Act 2000.]

[The repeals set out below have not yet been brought into operation.]

Short title	Extent of repeal
Companies Act 1931.	Section 107(6).
Companies Act 1982.	Section 34.
Companies Act 1986.	Section 18(1)(d).Section 18(2).
Companies Act 1992.	In Schedule 2 —entry 13
Limited Liability Companies Act 1996.	Section 52(3)(c).
Corporate Service Providers Act 2000.	In Schedule 3 —entry 1.



## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> S 1 repealed by Company and Business Names etc Act 2012 Sch.

<sup>2</sup> S 3 repealed by Companies (Prohibition of Bearer Shares) Act 2011 Sch 2.

<sup>3</sup> Para (d) amended by SD2015/0090 as amended by SD2015/0276.

<sup>4</sup> Subs (2) amended by SD155/10 Sch 2.

<sup>5</sup> S 7 not yet in force.

<sup>6</sup> Subs (2) amended by SD155/10 Sch 2.

<sup>7</sup> Para (d) amended by SD155/10 Sch 2.

<sup>8</sup> Para (e) amended by SD155/10 Sch 2.

<sup>9</sup> S 8 not yet in force.

<sup>10</sup> Ss 11 to 14 repealed by Foreign Companies Act 2014 Sch.

<sup>11</sup> S 24 repealed by Company and Business Names etc Act 2012 Sch.

<sup>12</sup> S 25 repealed by Company and Business Names etc Act 2012 Sch.

<sup>13</sup> ADO (Schs 1 and 2 in so far as they amend the Companies (Transfer of Domicile) Act 1998) 19/12/2003; (ss 2 to 4, 6, 9, 15, 16, 18 (in so far as it inserts the new ss 11C and 11D in the Limited Liability Companies Act 1996), ss 19, 20, 22, 27 to 31, 32(1) (i.r.o. the provisions in Sch 1 that amend the following Acts to the extent noted —

Partnership Act 1909:

para 4

Registration of Business Names Act 1918:

paras 5, 6, 11

Companies Act 1931:

paras 1 to 5, 6, 11, 13, 16 to 19, 22, 28 to 30

Companies Act 1974:

paras 1, 3 to 5

Interpretation Act 1976

Companies Act 1982

Income Tax (Exempt Companies) Act 1984

Legal Practitioners Registration Act 1986

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Financial Supervision Act 1988	
Companies Act 1992	
International Business Act 1994	
Limited Liability Companies Act 1996:	para 4),
s 32(2) (i.r.o. the provisions in Sch 2 that repeal the following Acts to the extent noted —	
Companies Act 1931:	entries relating to ss 26(2), 42(1), 82(4),
283A(2)(b), 321	
Companies Act 1968:	entries relating to ss 2, 8
Companies Act 1974:	entry relating to s 23(4)
Companies Act 1982:	entries relating to s 14(4) and (8), Part 1 of
Sch 2	
Companies Act 1986:	entry relating to s 21
Companies Act 1992:	entries relating to Sch 2 entry 4 and Sch 6
entry 6	
Limited Liability Companies Act 1996:	entries relating to s 2(2)(a) to (d)
Companies (Transfer of Functions) Act 2000:	entries relating to Sch 1 entry 9 and
Sch 2 entry 23),	
s 33	
1/3/2004 (SD883/03);	
(s 10,	
s 32(1)) ( i. r. o. the provisions in Sch 1 that amend the following Act to the extent noted —	
Companies Act 1931:	paras 14,15 and 27),
s 32(2) (i. r. o. the provisions in Sch 2 that repeal the following Acts to the extent noted —	
Companies Act 1931:	entries relating to ss 273(3), (4), (5),
319A(2),	
(4)	
Companies Act 1986:	entry relating to s 26
Companies Act 1992:	entry relating to Sch 1, entry 7)
1/4/2004 (SD177/04);	
(ss 1, 5, 11, 17, 18 (in so far as it inserts the new ss 11A and 11B in the <i>Limited Liability Companies Act 1996</i> ), ss 23 to 26,	
s 32(1) (i.r.o. the provisions in Sch 1 that amend the following Acts to the extent noted —	
Partnership Act 1909:	paras 1 to 3
Registration of Business Names Act 1918:	paras 1 to 4, 7, 9, 10, 12 and 13
Companies Act 1931:	paras 7, 10 relating to section 109(1) only,
24	
and 25	
Companies Act 1974:	para 2
Limited Liability Companies Act 1996:	paras 1, 2, 3 and 5 i.r.o. s 4A(1) and
(3) only),	

s 32(2) (i. r. o. the provisions in Sch 2 that repeal the following Acts to the extent noted –

Registration of Business Names Act 1918:

Companies Act 1931: the entries relating to section 314(2),  
319A(1)  
and 319A(5)

Registration of Business Names Act 1954:

Companies Act 1968: the entry relating to s 4

Companies Act 1974: the entry relating to s 8

Limited Liability Companies Act 1996: the entry relating to s 52(3)(a) only

Companies (Transfer of Functions) Act 2000 the entries in Sch 1 relating to entries 12,  
17,

32, 42, 43 and 44, and in

Sch 2, entries 4, 5, 31, 38, and 40)

1/11/2004 (SD688/04);

(ss12, 13,

s 32(1)) (i.r.o. the provisions in Sch 1 that amend the following Acts to the extent noted –

Companies Act 1931: paras 20 i.r.o. section 313(1)(d) and (e)  
only, 21  
and 26)

6/4/2007 (SD171/07);

(s 21)

1/1/2009 (SD725/08).

<sup>14</sup> Para (dd) amended by SD155/10 Sch 2.

<sup>15</sup> Para 20 in respect of insertion of s 313(1)(f) in Companies Act 1931, which was never in operation, repealed by Foreign Companies Act 2014 Sch.

<sup>16</sup> Subpara (2) amended by SD155/10 Sch 2.

<sup>17</sup> Subpara (1) amended by SD155/10 Sch 2.

<sup>18</sup> Subpara (2) amended by SD155/10 Sch 2.