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# Companies Registry Implements One-Stop Electronic Incorporation And Business Registration Service

## Introduction

On January 21 2011 the Companies Registry ("**CR**") published External Circular No. 1/2011 ("**the Circular**"), which discussed the coming into effect, on 21 February 2011, of Parts 2 and 5 of the Companies Amendment Ordinance 2010 and the implementation of the One-stop Electronic Company Incorporation and Business Registration Service ("**the One-stop Service**"). The latter comes into effect simultaneously with the operational commencement of the Business Registration (Amendment) Ordinance 2010, also on 21 February 2011. The Circular can be viewed at [*here*](http://www.cr.gov.hk/en/publications/docs/ec1-2011-e.pdf).

The principal aim of the new Parts 2 and 5 of the Companies Amendment Ordinance is to authorise the incorporation of a company electronically and the electronic filing of documents with the Companies Registry, using the One-stop Service. These changes will allow for a much less complex technique of incorporating a company and ensure that communication can be established with the Registrar of Companies ("**the Registrar**") using electronic methods, including the delivery of documents to the Registrar in the form of electronic records and the signing of documents using digital signatures or passwords. Another facet of the new rules is that the Registrar now has the ability to issue certificates in the form of electronic records.

As these reforms require the use of a massive number of forms, the One-stop Service permitting the electronic submission of documents will be implemented in phases, rather than all at once. The initial stage, which enables a company to submit specified forms/documents for company incorporation and to notify a change to a local company name, came into effect on 21 February 2011. It should be noted that prior to the implementation of any stage of the new electronic service, the method and form of submission to the Registrar of the forms/documents concerned will be specified by the Registrar.

## The One-Stop Electronic Company And Business Registration Service

In January 2011 the CR launched its e-Registry portal for electronic incorporation and registration of companies, and the One-stop Service is now available on the portal at [*here*](https://www.eregistry.gov.hk/icris-ext/apps/por01a/index). These facilities form part of the CR's pursuit of more efficient and customer friendly service. The One-stop Service is jointly administered by the Inland Revenue Department and the CR and seeks to simplify and streamline the procedures for company incorporation and business registration.

As noted above, the One-stop Service will be introduced in stages, due to the enormous number of forms and documents involved in the process. Stage 1 permits registered users of the e Registry portal to undertake the incorporation process online, with any person who applies for incorporation of a local company or registration of a non-Hong Kong company under the CO being regarded as having made a simultaneous application for business registration. It also permits registered users to download the electronic Certificates of Incorporation and Business Registration Certificates. In uncomplicated cases, these procedures can be completed in a single day. Finally Stage 1 allows for the electronic submission of notifications of changes of local company names.

### Operation of the Service

Under the new sections 5A (1) and 5B(1) of the Business Registration Ordinance ("**BRO**"), the "Notice to Business Registration Office"[[1]](#footnote-28) is required to be submitted along with the obligatory business registration fee and levy, at the time when an application for the incorporation of a local company, or the registration of a non-Hong Kong company, is lodged with the Registry. Once an application for company incorporation or registration has been approved, the Registrar will issue a Certificate of Incorporation/Registration and Business Registration Certificate at the same time. The Certificates are in paper form for paper applications and in electronic form for electronic applications, with the two having the same legal effect.

## One-Stop Notification Of Changes Of Particulars

Under the previous regime a company was obliged, under the Companies Ordinance ("**CO**") and BRO to inform the Registrar and the Commissioner of Inland Revenue ("**the Commissioner**") respectively of changes in company particulars.

However the new section 8(2B) of the BRO alters this requirement. It states that when a company files notifications with the Registrar disclosing changes to the particulars detailed immediately below, the Registrar will transmit the particulars to the Commissioner once the related notice or return has been registered or recorded and, on the registration or recording, the company is treated as having notified the Commissioner of the relevant changes under the BRO.

The particulars in question are as follows:

For local companies: a change of company name OR change of address of registered office

For non-Hong Kong companies: a change of corporate name, a change of address of principal place of business in Hong Kong or a change to the authorized representative, or to the name and address of the authorized representative.

At present the only part of the one-stop notification for changes of particulars service available online is a change of local company name, as this is the only part of the service to have been implemented on 21 February 2011, as part of Stage 1 of the One-stop Service.

## Availability Of Revised And Newly Specified Forms

The incorporation forms [[2]](#footnote-31) have been revised by the Registrar, in keeping with the requirements of the new One-stop Service and a new Form NC3, "Consent to Act as First Director" has been released. The old forms will be accepted until 30 April 2011 and the new and revised ones were published in the Gazette on 21 January 2011. They can also be accessed and downloaded via the "Public Forms" – "Specified Forms" section on the Registry's website at www.cr.gov.hk. It is also possible to purchase the physical version of the new and revised forms on the 14th floor of the Queensway Government Offices, 66 Queensway, Hong Kong. A complete collection of Registry forms in the form of a CD ROM is also available.

It should also be noted here that the Notices to Business Registration Office [[3]](#footnote-32) are available for free from the Registry's Information Counter on the 14th floor of the Queensway Government Offices or alternatively from the "Public Forms" – "Specified Forms" – "Incorporation of Local Companies" / "Non-Hong Kong Companies" section on the Registry's website.

## Implementing The New Regime: Changes Made To Paragraphs 2 And 5 Of The Companies Ordinance Under The Companies (Amendment) Ordinance 2010

### Paragraph 2: Company Formation

* CO Sections 6(1) and 12(1) have been amended so that the signature(s) of the founder member(s) in the memorandum of association and articles of association need no longer be witnessed.
* Section 14A(3) has been altered so that incorporation forms can be signed by any person who is named in the form as a founder member.
* The new sections 14A(2)(l) and 18A allow the first director(s) of a company, should they not be the founding member who signs the incorporation form, to give the required consent to act in the new Form NC3 -"Consent to Act as First Director", if the respective statement of consent is not made in the incorporation form. However the Form NC3 must be lodged with the Registrar no more than 14 days subsequent to the company’s incorporation date. If this obligation is unfulfilled the company, every officer who is in default, and the founder member who signed the incorporation form are subject to a fine and, for continued default, to a daily default fine pursuant to section 18A(2).
* Sections 9 and 15(1) no longer demand a "signed" or certified true copy of the original of the memorandum and articles of association (if any) to be registered with the Registrar. This requirement has been replaced by that in the new sections 14 A (2) (m) and (n), which obliges the founder member who signs the incorporation form to state that the company's memorandum and articles (if any) have been signed in line with sections 6 and 12, and that the contents of the copies of the company's memorandum and articles delivered to the Registrar, with or without the part showing the signature and the date
* of signing, are the same as those of the original memorandum and articles signed by all founder members.

### Part 5 – Electronic Communications with Registrar of Companies

* The Registrar now has the ability, under the new Sections 346A and 346B, to specify the requirements for documents which are submitted to the Registry in the electronic version and to permit such documents to be signed via digital signature or password. Additionally, the Registrar may now, under the new section 348BA, issue certificates in the form of electronic records.

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1. IRBR 1 and IRBR 2 for local and non Hong Kong companies respectively [↑](#footnote-ref-28)
2. Form NC1 for companies limited by shares and Form NC1G for companies not limited by shares [↑](#footnote-ref-31)
3. IRBR 1 and IRBR 2 for local and non Hong Kong companies respectively [↑](#footnote-ref-32)