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## **Hong Kong Company Incorporation Guide (3) - Articles of Association of a Hong Kong Private Company**

To form a company under the Hong Kong Companies Ordinance, certain documents must be prepared which will form the constitution (bylaws) of the company. The constitution or bylaws of a Hong Kong incorporated company is commonly known as Articles of Association. The Articles of Association must be registered with the Companies Registry.

Under the new Companies Ordinance, a company incorporated in Hong Kong no longer requires to have Memorandum of Association. Information should be contained in the Memorandum of Association is set out in the Article of Association.

### **1. Mandatory Clauses**

Pursuant to the Companies Ordinance, the following are the mandatory clauses that must be included in the Articles of Association:-

#### **(1) Company Name**

The company name, either in English, Chinese or both English and Chinese, must be stated on the Article of Association.

The Ordinance prohibited the company name from:

- (a) a name that is the same as a name appearing in the Index of Company Names;
- (b) a name that is the same as a name that is incorporated under a special Ordinance;
- (c) a name the use of which by the company would, in the Registrar's opinion, constitute a criminal offence;
- (d) a name that, in the Registrar's opinion, is offensive or otherwise contrary to the public interest.

Some wordings, such as words that may give the impression that the company is connected to the Government, is forbidden unless special approval is granted.

In addition, pursuant to the Business Registration Ordinance, a company may trade under a registered business name other than its registered company name. This business name should be registered in the Business Registration Department.

(2) Declaration of limited liability and liabilities or contributions of members.

The Article of Association must include an article that stating “the liability of members is limited” and “liability of members is limited to any amount unpaid on the shares held by the members” respectively and separately.

For company limited by guarantee, it must state that during winding up, each member, or member that is ceased within 1 year, should contribute an amount required (not exceeding a specified amount) to the company assets :

- (a) For the payment of the company’s debt and liabilities contracted before the person cease to be a member;
- (b) For the payment of the costs, charges and expenses of winding up the company;
- (c) For the adjustment, amount the contribution of their rights.

(3) Capital and Initial Shareholding

The article must include a clause that stating the share capital of the company and shareholding among members. In short, the article should include the name of initial shareholder and the shareholding distribution among the shareholders.

Since Authorized Capital is no longer available in Hong Kong, the company should state the information about the company’s Issued Capital.

(4) Company’s Objective

Company’s objective is no longer a mandatory clause. Unless registered with licence to dispense with “Limited”, company limited by shares are allowed to state its objective on voluntary basis.

For company with licence to dispense with “Limited”, the Article of Association must include the objective during the period that the license is in force.

## 2. Model Articles

Empowered by the Companies Ordinance, the Financial Secretary of Hong Kong prescribes Model Articles for Companies. The Model Articles will be in addition to the mandatory articles that a company is required to have.

A company may adopt any or all of the provisions of the Model Articles according to the type of company being formed. The appropriate Model Articles will apply in so far as the articles registered by the company upon incorporation do not exclude or modify them.

If the company's registered articles do not prescribe any regulation for the company, Model Article will be implied to the company's article.

For the Model Article, please refer to [Cap 622H of Companies Ordinance](#).

*If you wish to obtain more information or assistance, please visit the official website of Kaizen CPA Limited at [www.kaizencpa.com](http://www.kaizencpa.com) or contact us through the following and talk to our professionals:*

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