

**第 19 部****調查及查訊**

(格式變更——2013 年第 1 號編輯修訂紀錄)

**第 1 分部 —— 導言****838. 釋義**

(1) 在本部中 ——

**文件** (document) 指 ——

- (a) 任何註冊紀錄冊、登記冊、簿冊或紀錄帶；
- (b) 向資訊系統的任何輸入或自資訊系統的任何輸出 (不論屬何形式)；及
- (c) 任何其他文件或類似的材料 (不論是以機械、電子、磁力、光學、人手或其他方式製作的)；

**代理人** (agent) 就公司而言，包括 ——

- (a) 其銀行或律師；及
- (b) 受該公司聘用為核數師的人，不論該人是否該公司的高級人員；

**紀錄** (record) 指不論以何種方式編纂或貯存的任何資料紀錄，並包括 ——

- (a) 任何簿冊、契據、合約、協議、憑單及收據；
- (b) 與資訊系統並用或以資訊系統製作的任何文件或其他材料；
- (c) 並非以可閱讀形式記錄但能夠以該形式重現的任何資料；
- (d) 載有聲音或其他非視覺影像的數據以使該等聲音或數據能夠重播或重現 (不論是否藉其他設備的輔助)

**Part 19****Investigations and Enquiries**

(Format changes—E.R. 1 of 2013)

**Division 1—Preliminary****838. Interpretation**

(1) In this Part—

**agent** (代理人), in relation to a company, includes—

- (a) a banker or solicitor of the company; and
- (b) a person, whether an officer of the company or not, who is engaged as an auditor of the company;

**authorized institution** (認可機構) has the meaning given by section 2(1) of the Banking Ordinance (Cap. 155);**books** (簿冊) includes accounts and accounting information, however compiled or stored, and whether or not recorded in a legible form;**delegate** (獲轉授人) —

- (a) in relation to an inspector, means a person to whom the inspector has delegated any power under section 850(1);
- (b) in relation to the Financial Secretary, means a person to whom the Financial Secretary has delegated any power under section 870;
- (c) in relation to the Registrar, means a public officer to whom the Registrar has delegated any power under section 874;

**document** (文件) means—

- (a) any register, books or tape recording;

的任何文件、紀錄碟、紀錄帶、聲軌或其他器件；  
及

- (e) 載有視覺影像以使該等影像能夠重現（不論是否藉其他設備的輔助）的任何影片（包括微縮影片）、紀錄碟、錄影帶或其他器件；

**高級人員** (officer) 就法人團體而言，指其董事、經理或公司秘書，或任何其他參與其管理的人；

**資料** (information) 包括 ——

- (a) 數據、文字、影像、聲音編碼、電腦程式、軟件及數據庫；及  
(b) (a) 段所述各項的任何組合；

**認可機構** (authorized institution) 具有《銀行業條例》(第 155 章) 第 2(1) 條給予該詞的涵義；

**審查員** (inspector) 指 ——

- (a) 根據第 840 或 841 條獲委任調查某公司的事務的人；或  
(b) 根據第 853 條獲委任繼續調查的人；

**獲轉授人** (delegate) ——

- (a) 就審查員而言，指已根據第 850(1) 條獲轉授該審查員的任何權力的人；  
(b) 就財政司司長而言，指已根據第 870 條獲轉授財政司司長的任何權力的人；  
(c) 就處長而言，指已根據第 874 條獲轉授處長的任何權力的公職人員；

**簿冊** (books) 包括不論以何種方式編纂或貯存及不論是否以可閱讀的形式記錄的帳目及會計資料。

(2) 就本部而言，如 ——

- (a) 某法人團體及某公司屬同一公司集團的成員；或  
(b) 該法人團體及該公司實質上是由同一人控制，

- (b) any input or output, in whatever form, into or from an information system; and  
(c) any other document or similar material (whether produced mechanically, electronically, magnetically, optically, manually or by any other means);

**information** (資料) includes—

- (a) data, text, images, sound codes, computer programmes, software and databases; and  
(b) any combination of the things mentioned in paragraph (a);

**inspector** (審查員) means—

- (a) a person appointed under section 840 or 841 to investigate a company's affairs; or  
(b) a person appointed under section 853 to continue an investigation;

**officer** (高級人員), in relation to a body corporate, means a director, manager or company secretary of, or any other person involved in the management of, the body corporate;

**record** (紀錄) means any record of information (however compiled or stored) and includes—

- (a) any books, deed, contract, agreement, voucher and receipt;  
(b) any document or other material used with or produced by an information system;  
(c) any information that is recorded otherwise than in a legible form but is capable of being reproduced in a legible form;  
(d) any document, disc, tape, sound track or other device in which sounds or other data (not being visual images) are

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該法人團體即屬該公司的有聯繫法人團體。

## 第 2 分部 —— 由審查員調查公司的事務

### 第 1 次分部 —— 導言

#### 839. 釋義

在本分部中 ——

**中期報告** (interim report) 指第 855 條所述的中期報告；

**公司** (company) ——

(a) 在第 840 條中，包括註冊非香港公司；

(b) 在第 841 條中，包括非香港公司；

**最終報告** (final report) 指第 856 條所述的最終報告；

**調查** (investigation) 指第 840 或 841 條所指的對某公司的事務進行的調查。

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embodied so as to be capable (with or without the aid of other equipment) of being reproduced; and

(e) any film (including a microfilm), disc, tape or other device in which visual images are embodied so as to be capable (with or without the aid of other equipment) of being reproduced.

(2) For the purposes of this Part, a body corporate is an associated body corporate of a company if—

(a) the body corporate and the company are members of the same group of companies; or

(b) the body corporate and the company are substantially controlled by the same person.

## Division 2—Investigation of Company's Affairs by Inspectors

### Subdivision 1—Preliminary

#### 839. Interpretation

In this Division—

**company** (公司) —

(a) in section 840, includes a registered non-Hong Kong company;

(b) in section 841, includes a non-Hong Kong company;

**final report** (最終報告) means the final report mentioned in section 856;

**interim report** (中期報告) means the interim report mentioned in section 855;

**investigation** (調查) means an investigation into a company's affairs under section 840 or 841.

**第 2 次分部 —— 財政司司長委任審查員調查公司的事務****Subdivision 2—Appointment by Financial Secretary of  
Inspectors to Investigate Company's Affairs****840. 應公司或成員的申請而委任審查員**

- (1) 如某公司已藉特別決議宣布應調查其事務，財政司司長可應該公司的申請，委任一人進行該調查。
- (2) 如有關公司屬 ——
  - (a) 有股本的公司，並有 ——
    - (i) 最少 100 名成員提出申請；或
    - (ii) 持有為數最少 10% 已發行股份的成員提出申請；或
  - (b) 無股本的公司，並有為數最少 10% 名列其成員登記冊的人提出申請，財政司司長亦可應申請委任一人調查該公司的事務。
- (3) 為第 (1) 或 (2) 款的目的而提出的申請，須以財政司司長所要求的證據作支持，以證明申請人有充分理由要求進行有關調查。
- (4) 財政司司長除非信納委任第 (1) 或 (2) 款所指的人調查某公司的事務是符合公眾利益的，否則不得作出該項委任。
- (5) 財政司司長可在根據第 (1) 或 (2) 款作出委任前，要求申請人就第 (1) 或 (2) 款所指的委任，為繳付調查開支提供一項保證，款額為財政司司長所指明者。

**840. Appointment of inspector on application by company or members**

- (1) The Financial Secretary may, on application by a company, appoint a person to investigate the company's affairs if the company has by special resolution declared that the company's affairs ought to be so investigated.
- (2) The Financial Secretary may also appoint a person to investigate a company's affairs—
  - (a) for a company having a share capital, on application by—
    - (i) at least 100 members; or
    - (ii) members holding at least 10% of the shares issued; or
  - (b) for a company not having a share capital, on application by at least 10% in number of the persons on the company's register of members.
- (3) An application for the purposes of subsection (1) or (2) must be supported by the evidence required by the Financial Secretary to show that the applicant has good reason for requesting the investigation.
- (4) The Financial Secretary must not appoint a person under subsection (1) or (2) to investigate a company's affairs unless the Financial Secretary is satisfied that it is in the public interest to do so.
- (5) The Financial Secretary may, before making an appointment under subsection (1) or (2), require an applicant for an appointment under subsection (1) or (2) to give security

for the payment of the expenses of the investigation, in an amount specified by the Financial Secretary.

#### 841. 原訟法庭或財政司司長主動委任審查員

- (1) 原訟法庭如藉命令宣布應調查某公司的事務，財政司司長須委任一人進行該調查。
- (2) 財政司司長如覺得 ——
  - (a) 有情況顯示，某公司是為欺詐或非法目的而組成；
  - (b) 有情況顯示 ——
    - (i) 該公司的事務正以或曾以不公平地損害普遍成員或某名或某些成員的利益的方式處理；
    - (ii) 有人正在或曾經出於欺詐該公司的債權人或任何其他人的債權人的意圖，而處理該公司的事務；或
    - (iii) 有人正為或曾為任何其他欺詐或非法目的而處理該公司的事務；或
  - (c) 有情況顯示關涉該公司的組成或其事務的管理的人，在該公司的組成或管理方面，對該公司、其成員或其債權人作出欺詐行為、失當行為或其他不當行為，可委任一人調查該公司的事務。
- (3) 財政司司長除非信納委任第 (2) 款所指的人調查某公司的事務是符合公眾利益的，否則不得作出該項委任。
- (4) 儘管某公司正進行自發清盤，財政司司長仍可根據第 (2) 款委任一人調查該公司的事務。

#### 841. Appointment of inspector on Court's or Financial Secretary's initiative

- (1) The Financial Secretary must appoint a person to investigate a company's affairs if the Court by order declares that the company's affairs ought to be so investigated.
- (2) The Financial Secretary may appoint a person to investigate a company's affairs if it appears to the Financial Secretary that there are circumstances suggesting that—
  - (a) the company was formed for a fraudulent or unlawful purpose;
  - (b) the company's affairs are being or have been conducted—
    - (i) in a manner unfairly prejudicial to the interests of its members generally or of one or more members;
    - (ii) with intent to defraud its creditors or the creditors of any other person; or
    - (iii) for any other fraudulent or unlawful purpose; or
  - (c) the persons concerned with the formation of the company or the management of its affairs have, in relation to the formation or management, engaged in fraud, misfeasance or other misconduct towards it, its members or its creditors.
- (3) The Financial Secretary must not appoint a person under subsection (2) to investigate a company's affairs unless the Financial Secretary is satisfied that it is in the public interest to do so.

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#### 842. 審查員委任通知須交付處長

- (1) 根據第 840 或 841 條獲委任為審查員的人，須將委任通知交付處長登記。
- (2) 通知須在有關委任作出的日期後 15 日內交付處長，並須符合指明格式。

### 第 3 次分部 —— 財政司司長向審查員作出指示的權力

#### 843. 財政司司長在調查方面作出指示的一般權力

- (1) 財政司司長可在調查方面向審查員作出指示。
- (2) 財政司司長可 ——
  - (a) 主動地根據本條作出指示；或
  - (b) 應審查員的要求根據本條作出指示。
- (3) 財政司司長可更改或撤銷根據本條作出的指示。

#### 844. 財政司司長可就調查標的等方面作出指示

- (1) 在不局限第 843 條的原則下，財政司司長可就以下任何或所有事宜，向審查員作出指示 ——

- (4) The Financial Secretary may appoint a person under subsection (2) to investigate a company's affairs even though the company is in the course of being wound up voluntarily.

#### 842. Notice of appointment as inspector to be delivered to Registrar

- (1) A person who is appointed as an inspector under section 840 or 841 must deliver a notice of the appointment to the Registrar for registration.
- (2) The notice must be delivered to the Registrar within 15 days after the date of the appointment and must be in the specified form.

### Subdivision 3—Financial Secretary's Powers to Give Directions to Inspectors

#### 843. General power of Financial Secretary to give directions regarding investigation

- (1) The Financial Secretary may give directions to an inspector regarding an investigation.
- (2) The Financial Secretary may give directions under this section—
  - (a) on the Financial Secretary's own initiative; or
  - (b) at the request of the inspector.
- (3) The Financial Secretary may vary or revoke any directions given under this section.

#### 844. Financial Secretary may give directions regarding subject matter of investigation etc.

- (1) Without limiting section 843, the Financial Secretary may give directions to an inspector with respect to any or all of the following—



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- (a) 有關調查的範圍或標的 (不論是否藉參照某公司在指明範圍的運作、某指明交易、某指明期間內或其他方面而訂定)；
- (b) 審查員在進行調查時須考慮或不得考慮的事宜；
- (c) 審查員在進行調查時須採取或不得採取的步驟。
- (2) 在不局限第 843 條的原則下，財政司司長亦可向審查員作出指示，要求有關調查的中期報告或最終報告 ——
  - (a) 須載有該審查員對某指明事宜的意見；
  - (b) 不得提述某指明事宜；
  - (c) 須符合某指明格式或以某指明方式提交；或
  - (d) 須在某指明日期前完成。
- (3) 在本條中 ——  
**指明** (specified) 指根據本條作出的指示所指明。

#### 845. 財政司司長可指示終止或暫停調查

- (1) 在不局限第 843 條的原則下，財政司司長可在某調查完成前的任何時間，指示審查員 ——
  - (a) 終止該調查；或
  - (b) 在財政司司長所指明的期間內，暫停該調查。
- (2) 如審查員根據第 841(1) 條獲委任，則除非有以下情況，否則財政司司長不得作出第 (1)(a) 款所指的指示 ——
  - (a) 財政司司長覺得 ——

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- (a) the terms or subject matter of the investigation (whether by reference to a specified area of a company's operation, a specified transaction, a specified period of time or otherwise);
- (b) the matters the inspector must take into account or must not take into account in conducting the investigation;
- (c) the steps the inspector must take or must not take in conducting the investigation.
- (2) Without limiting section 843, the Financial Secretary may also give directions to an inspector to require that the interim report or final report of the investigation—
  - (a) is to include the inspector's opinion with respect to a specified matter;
  - (b) is not to make reference to a specified matter;
  - (c) is to be made in a specified form or manner; or
  - (d) is to be completed by a specified date.
- (3) In this section—  
**specified** (指明) means specified in directions given under this section.

#### 845. Financial Secretary may give directions to terminate or suspend investigation

- (1) Without limiting section 843, the Financial Secretary may, at any time before the completion of an investigation, direct the inspector—
  - (a) to terminate the investigation; or
  - (b) to suspend the investigation for a period as specified by the Financial Secretary.

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- (i) 在有關調查的過程中調查所得的事宜顯示，有人已犯香港法律所訂的刑事罪行；及
- (ii) 該等事宜已轉介執法機關；或
- (b) 原訟法庭批准作出該等指示。

#### 第 4 次分部 —— 審查員的權力

##### 846. 審查員可要求交出紀錄及文件等

- (1) 獲委任調查某公司的事務的審查員，可藉書面通知，要求第 (2) 款所指明的任何人，作出以下任何或所有事情 ——
  - (a) 在該通知所指明的時間內，在該通知所指明的地點，交出該通知所指明並符合以下說明的任何紀錄或文件 ——
    - (i) 攸關該調查，或可能攸關該調查；及
    - (ii) 是由該人保管或控制的；
  - (b) 在向該審查員交出該紀錄或文件前，採取所有合理步驟將之保存；
  - (c) 在該通知所指明的時間及地點，面見該審查員，並在經宣誓或不經宣誓的情況下，回答該審查員向該人提出的關乎受調查的任何事宜的任何問題；
  - (d) 回答在該通知所指明並關乎受調查的任何事宜的任何問題；

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- (2) If the inspector is appointed under section 841(1), the Financial Secretary must not give directions under subsection (1)(a) unless—
  - (a) it appears to the Financial Secretary that—
    - (i) matters have come to light in the course of the investigation which suggest that a criminal offence under the laws of Hong Kong has been committed; and
    - (ii) those matters have been referred to a law enforcement agency; or
  - (b) the giving of the directions is approved by the Court.

#### Subdivision 4—Inspectors' Powers

##### 846. Inspector may require production of records and documents etc.

- (1) An inspector appointed to investigate a company's affairs may, by notice in writing, require any of the persons specified in subsection (2) to do any or all of the following—
  - (a) produce, within the time and at the place specified in the notice, any record or document specified in the notice that—
    - (i) is or may be relevant to the investigation; and
    - (ii) is in the person's custody or power;
  - (b) take all reasonable steps to preserve the record or document before it is produced to the inspector;
  - (c) attend before the inspector at the time and place specified in the notice, and answer any question, whether on oath or otherwise, relating to any matter under investigation that the inspector may raise with the person;



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- (e) 向審查員提供該人按理有能力提供的與該調查有關連的一切其他協助。
- (2) 上述的人為 ——
- (a) 有關公司；
  - (b) 該公司的高級人員或前高級人員；
  - (c) 該公司的代理人或前代理人；
  - (d) 被該審查員基於合理理由相信符合以下說明的人 ——
    - (i) 管有包含或相當可能包含攸關有關調查的資料的任何紀錄或文件；或
    - (ii) 以其他方式管有該資料。
- (3) 審查員不得根據第 (1) 款要求認可機構交出關乎其客戶的事務的任何紀錄或文件，或披露關乎其客戶的任何資料，但如該審查員 ——
- (a) 有合理理由相信，該客戶可能能夠提供攸關該調查的資料；及
  - (b) 信納為該調查的目的，交出該紀錄或文件或披露該資料屬必需，並以書面證明此事，
- 則不在此限。
- (4) 在第 (1)(b) 款中，提述保存某紀錄或文件，包括阻止某人 ——
- (a) 移離、處置或銷毀該紀錄或文件；
  - (b) 刪除、增添或以其他方式更改載於該紀錄或文件的記項或其他詳情；或
  - (c) 以任何其他方式干擾該紀錄或文件，或致使或准許其他人干擾該紀錄或文件。
- (5) 為施行第 (1)(c) 款，審查員可為任何人監誓。

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- (d) answer any question relating to any matter under investigation that is specified in the notice;
- (e) give the inspector all other assistance in connection with the investigation that the person is reasonably able to give.
- (2) The persons are—
- (a) the company;
  - (b) an officer or former officer of the company;
  - (c) an agent or former agent of the company;
  - (d) a person whom the inspector has reasonable grounds to believe—
    - (i) to be in possession of any record or document that contains, or is likely to contain, information relevant to the investigation; or
    - (ii) otherwise to be in possession of that information.
- (3) An inspector must not require an authorized institution to produce any record or document, or disclose any information, relating to the affairs of a customer of the institution under subsection (1) unless—
- (a) the inspector has reasonable grounds to believe that the customer may be able to provide information relevant to the investigation; and
  - (b) the inspector is satisfied that the production or disclosure is necessary for the purposes of the investigation and so certifies in writing.
- (4) In subsection (1)(b), a reference to preserving a record or document includes preventing a person from—
- (a) removing, disposing of or destroying the record or document;

**847. 審查員可要求交出董事帳目**

- (1) 如獲委任調查某公司的事務的審查員有合理理由相信，該公司的董事或前董事正維持或曾維持第 (2) 款所指明的帳戶，則該審查員可藉書面通知，要求該董事或前董事向該審查員交出關乎由該董事或前董事管有或控制的帳戶的所有文件。
- (2) 上述帳戶是有關董事或前董事在銀行、接受存款公司或類似的財務機構（不論是否在香港或其他地方）所維持的任何類別的帳戶（不論是否單獨或與他人聯名維持），而有以下項目曾存入該帳戶或從該帳戶支出——
  - (a) 任何就該董事席位而獲得的、符合以下說明的薪酬、退休利益或補償：其詳情在違反第 383 條的情況下，並未載列於關乎該公司的任何財政年度的財務報表的附註內；
  - (b) 惠及該董事或前董事的任何貸款或類似貸款，或因惠及該董事或前董事的交易而獲得的任何款項，或用於該等交易的融資的任何款項，而該貸款、類似貸款或款項的詳情是在違反第 383 條的情況下，並未載列於關乎該公司的任何財政年度的財務報表的附註內的；或
  - (c) 以任何方式與該董事或前董事對該公司或其成員的不當行為（不論是否屬欺詐性質）有關連的任何款項。

- (b) erasing, adding to or altering in any other manner an entry or other particulars contained in the record or document; or
  - (c) interfering in any other manner with, or causing or permitting any other person to interfere with, the record or document.
- (5) An inspector may administer an oath to any person for the purposes of subsection (1)(c).

**847. Inspector may require production of director's accounts**

- (1) If an inspector appointed to investigate a company's affairs has reasonable grounds to believe that a director or former director of the company maintains or has maintained an account specified in subsection (2), the inspector may, by notice in writing, require the director or former director to produce to the inspector all documents relating to the account that are in the possession, or under the control, of the director or former director.
- (2) The account is one of whatever description maintained by the director or former director (whether alone or jointly with any other person) with a bank, deposit-taking company or similar financial institution (whether in Hong Kong or elsewhere), into or out of which there has been paid—
  - (a) any emolument, retirement benefit or compensation in respect of the directorship, particulars of which are not contained in the notes to the financial statements of the company for any financial year, contrary to section 383;
  - (b) any loan or quasi-loan in favour of the director or former director, or any money that has resulted from or has been used in the financing of any dealing in favour of the director or former director, particulars of which are not contained in the notes to the financial statements

**848. 第 846 及 847 條的補充條文：要求解釋等的權力**

- (1) 如任何人遵從根據第 846 或 847 條施加的要求而交出某紀錄或文件，審查員可——
  - (a) 複製或複印該紀錄或文件，或以其他方式記錄其細節；及
  - (b) 藉書面通知，要求該人就該紀錄或文件提供任何資料或解釋。
- (2) 任何人如遵從根據第 (1) 款或第 846 條施加的要求而給予任何回答或提供任何資料或解釋，審查員可藉書面通知，進一步要求該人在該進一步要求所指明的時間內，藉法定聲明核實該項回答、資料或解釋。
- (3) 任何人如沒有遵從根據第 (1) 款或第 846 條施加的要求而給予任何回答或提供任何資料或解釋，而其理由是該項回答、資料或解釋並非該人所知悉的或並非由該人所管有的，審查員可藉書面通知，進一步要求該人在該進一步要求所指明的時間內，藉法定聲明核實該項理由及事實。
- (4) 第 (2) 或 (3) 款所述的法定聲明，可由審查員監理。

of the company for any financial year, contrary to section 383; or

- (c) any money that has been in any way connected with any misconduct of the director or former director (whether fraudulent or not) towards the company or its members.

**848. Provisions supplementary to sections 846 and 847: powers to require explanation etc.**

- (1) If a person produces a record or document in compliance with a requirement imposed under section 846 or 847, the inspector may—
  - (a) make copies, or otherwise record the details, of the record or document; and
  - (b) by notice in writing, require the person to provide any information or explanation in respect of the record or document.
- (2) If a person gives any answer or provides any information or explanation in compliance with a requirement imposed under subsection (1) or section 846, the inspector may, by notice in writing, further require the person to verify, within the time specified in that further requirement, the answer, information or explanation by a statutory declaration.
- (3) If a person does not give any answer or provide any information or explanation in compliance with a requirement imposed under subsection (1) or section 846 for the reason that the answer, information or explanation is not within the person's knowledge or in the person's possession, the inspector may, by notice in writing, further require the person to verify, within the time specified in that further requirement, that reason and fact by a statutory declaration.
- (4) A statutory declaration mentioned in subsection (2) or (3) may be taken by the inspector.

**849. 審查員可就有聯繫法人團體行使權力**

獲委任調查某公司的事務的審查員如認為對該調查屬必需的，亦可就該公司的有聯繫法人團體行使第 846、847 及 848 條所指的任何或所有權力，猶如在該等條文中提述公司即提述有聯繫法人團體一樣。

**850. 審查員轉授權力**

- (1) 獲委任調查某公司的事務的審查員，可藉書面方式，將第 846、847 及 848 條所賦予的任何或所有的權力轉授另一人。
- (2) 審查員可就有關公司或其有聯繫法人團體轉授第 (1) 款所指的權力。
- (3) 凡有 2 名或多於 2 名審查員獲委任調查某公司的事務，他們之中的每一人均可行使第 (1) 款所指的權力。

**第 5 次分部 —— 審查員的辭職、罷免及更換****851. 審查員的辭職**

審查員可藉給予財政司司長的書面通知而辭職。

**852. 財政司司長撤銷審查員的委任**

財政司司長可藉給予審查員的書面通知，撤銷該審查員的委任。

**849. Inspector may exercise powers in relation to associated body corporate**

If an inspector appointed to investigate a company's affairs considers it necessary for the purposes of the investigation, the inspector may also exercise any or all of the powers under sections 846, 847 and 848 in relation to an associated body corporate of the company, as if the references to a company in those sections were references to an associated body corporate.

**850. Delegation of powers by inspector**

- (1) An inspector appointed to investigate a company's affairs may delegate in writing any or all of the powers conferred under sections 846, 847 and 848 to another person.
- (2) An inspector may delegate powers under subsection (1) in relation to the company or an associated body corporate of the company.
- (3) If 2 or more inspectors are appointed to investigate a company's affairs, the power under subsection (1) is exercisable by each of them.

**Subdivision 5—Resignation, Removal and Replacement of Inspectors****851. Resignation of inspector**

An inspector may resign by notice in writing to the Financial Secretary.

**852. Revocation of appointment of inspector by Financial Secretary**

The Financial Secretary may revoke the appointment of an inspector by notice in writing to the inspector.

**853. 替代審查員的委任**

- (1) 如某審查員去世或辭職，或某審查員的委任被撤銷，則財政司司長可委任另一人繼續有關調查。
- (2) 就本分部（本條除外）而言，根據第(1)款獲委任繼續調查的人——
  - (a) 在前審查員是根據本分部某條文委任的情況下，須視為是根據該條文委任；及
  - (b) 受根據本分部向前審查員作出且未被撤銷的指示的規限。

**854. 前審查員須移交文件等**

- (1) 本條——
  - (a) 在財政司司長已根據第 845(1)(a) 條向審查員作出終止調查的指示的情況下，適用於該審查員；或
  - (b) 適用於——
    - (i) 已辭任審查員的人；或
    - (ii) 屬遭撤銷委任的前審查員的人。
- (2) 上述審查員或人士須向下述的人交出該審查員或該人已在有關調查的過程中取得或製成的任何文件——
  - (a) 財政司司長；或
  - (b) 如財政司司長有此指示——
    - (i) 根據第 853(1) 條獲委任繼續該調查的人；或
    - (ii) 第 881(2)(a) 或 (b) 條所提述的人。
- (3) 如財政司司長有此指示，上述審查員或上述人士亦須將其因為有關調查而獲悉的任何事宜，告知下述的人——

**853. Appointment of replacement inspector**

- (1) If an inspector dies or resigns, or an inspector's appointment is revoked, the Financial Secretary may appoint another person to continue the investigation.
- (2) For the purposes of this Division (except this section), a person appointed to continue an investigation under subsection (1)—
  - (a) is to be regarded as having been appointed under the provision of this Division under which the former inspector was appointed; and
  - (b) is subject to any direction given to the former inspector under this Division that has not been revoked.

**854. Former inspector must hand over documents etc.**

- (1) This section applies to—
  - (a) an inspector to whom the Financial Secretary has given a direction to terminate the investigation under section 845(1)(a); or
  - (b) a person—
    - (i) who has resigned as an inspector; or
    - (ii) whose appointment as an inspector has been revoked.
- (2) The inspector or person must produce any document that the inspector or person has obtained or generated during the course of the investigation to—
  - (a) the Financial Secretary; or
  - (b) if directed by the Financial Secretary—
    - (i) a person appointed to continue the investigation under section 853(1); or



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- (a) 財政司司長；
- (b) 根據第 853(1) 條獲委任繼續該調查的人；或
- (c) 第 881(2)(a) 或 (b) 條所提述的人。
- (4) 第(2)款所述的文件，須以財政司司長所指示的形式交出。

### 第 6 次分部 —— 審查員的報告

#### 855. 審查員提交中期報告等

- (1) 如 ——
  - (a) 財政司司長有此指示，審查員須就有關調查擬備中期報告；及
  - (b) 審查員認為擬備中期報告是適當的，可隨時就該調查擬備中期報告。
- (2) 如有根據第 845(1)(a) 條作出的指示，指示審查員終止某調查，則財政司司長先前作出的第 (1)(a) 款提述的指示，不再有效。
- (3) 中期報告須在財政司司長所指示的時間內，交付財政司司長，如財政司司長沒有指示，中期報告須在擬備後的一段合理時間內，交付財政司司長。
- (4) 審查員須在將中期報告交付財政司司長後的一段合理時間內，將關於該事實的通知交付處長登記，該通知須符合指明格式。
- (5) 不論是否已經擬備或將會擬備中期報告 ——

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- (ii) a person referred to in section 881(2)(a) or (b).
- (3) The inspector or person must also, if directed by the Financial Secretary, inform—
  - (a) the Financial Secretary;
  - (b) a person appointed to continue the investigation under section 853(1); or
  - (c) a person referred to in section 881(2)(a) or (b), of any matter that came to the inspector's or person's knowledge as a result of the investigation.
- (4) A document mentioned in subsection (2) must be produced in a form as directed by the Financial Secretary.

### Subdivision 6—Reports by Inspectors

#### 855. Interim report to be made by inspector etc.

- (1) An inspector—
  - (a) must, if directed by the Financial Secretary, prepare an interim report on the investigation; and
  - (b) may at any time prepare an interim report on the investigation if the inspector considers it appropriate to do so.
- (2) If an inspector is directed under section 845(1)(a) to terminate an investigation, any direction previously given by the Financial Secretary referred to in subsection (1)(a) ceases to have effect.
- (3) An interim report must be delivered to the Financial Secretary within the time directed by the Financial Secretary or, in the absence of directions, within a reasonable time after it is prepared.



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- (a) 審查員可在進行調查的過程中，隨時將該審查員因該調查而獲悉的任何事宜，告知財政司司長；及
- (b) 如財政司司長有此指示，審查員須將該審查員因該調查而獲悉的任何事宜，告知財政司司長。

#### 856. 審查員提交最終報告等

- (1) 審查員須在調查完成時，就該調查擬備最終報告。
- (2) 凡接獲第 845(1)(a) 條所指的指示而終止調查的審查員是——
  - (a) 根據第 840(1) 或 (2) 或 841(2) 條委任的，該審查員如接獲財政司司長的指示，仍須就該調查擬備最終報告；或
  - (b) 根據第 841(1) 條委任的，該審查員如接獲原訟法庭的指示，仍須就該調查擬備最終報告。
- (3) 最終報告須在財政司司長所指示的時間內，交付財政司司長，如財政司司長沒有指示，最終報告須在擬備後的一段合理時間內，交付財政司司長。
- (4) 審查員須在將最終報告交付財政司司長後的一段合理時間內，將關於該事的通知交付處長登記，該通知須符合指明格式。

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- (4) An inspector must, within a reasonable time after the delivery of an interim report to the Financial Secretary, deliver to the Registrar for registration a notice of that fact in the specified form.
- (5) Irrespective of whether an interim report has been or will be prepared, an inspector—
  - (a) may, at any time in the course of the investigation, inform the Financial Secretary of any matter that comes to the inspector's knowledge as a result of the investigation; and
  - (b) must inform the Financial Secretary of any matter that comes to the inspector's knowledge as a result of the investigation, if directed to do so by the Financial Secretary.

#### 856. Final report to be made by inspector etc.

- (1) An inspector must, on the completion of the investigation, prepare a final report on the investigation.
- (2) An inspector who is directed under section 845(1)(a) to terminate an investigation must still prepare a final report on the investigation if directed to do so—
  - (a) where the inspector is appointed under section 840(1) or (2) or 841(2), by the Financial Secretary; or
  - (b) where the inspector is appointed under section 841(1), by the Court.
- (3) A final report must be delivered to the Financial Secretary within the time directed by the Financial Secretary or, in the absence of directions, within a reasonable time after it is prepared.
- (4) An inspector must, within a reasonable time after the delivery of a final report to the Financial Secretary, deliver to the

Registrar for registration a notice of that fact in the specified form.

**857. 中期報告或最終報告可涵蓋有聯繫法人團體的事務**

如獲委任調查某公司的事務的審查員或其獲轉授人已根據第 846、847 或 848 條，就該公司的有聯繫法人團體行使任何權力，則只要該審查員認為該法人團體的事務攸關有關調查，該審查員亦須在中期報告或最終報告內，就該法人團體的事務提交報告。

**857. Interim report or final report may cover affairs of associated body corporate**

If an inspector appointed to investigate a company's affairs or a delegate of the inspector has exercised any of the powers under section 846, 847 or 848 in relation to an associated body corporate of the company, the inspector must also report on the affairs of that body corporate in the interim report or final report, so far as the inspector considers that the affairs of that body corporate are relevant to the investigation.

**858. 審查員須將報告送交受影響的人等**

- (1) 如獲委任調查公司的事務的審查員認為，一旦發表該調查的中期報告或最終報告或有關報告的任何部分，或就該報告或部分作出其他披露，任何在該報告內被點名的人便會因該項發表或披露而蒙受不利影響，則該審查員須在將該報告交付財政司司長前——
  - (a) 向該人送交該報告的草稿或報告草稿的該部分；及
  - (b) 給予該人合理的陳詞機會。
- (2) 在某審查員向第 (1) 款所指的人送交中期報告草稿或最終報告草稿或草稿的有關部分前，該審查員可——
  - (a) 安排將任何該報告草稿內或該報告草稿的該部分內的任何段落掩蓋或塗去；及
  - (b) 要求該人將該報告草稿或該報告草稿的該部分保密。

**858. Inspector must send report to affected persons etc.**

- (1) If, in the opinion of an inspector appointed to investigate a company's affairs, any person named in an interim report or final report on the investigation would in the event of a publication or other disclosure of the report, or any part of the report, be adversely affected by the publication or disclosure, the inspector must, before delivering the report to the Financial Secretary—
  - (a) send the draft report or that part of the draft report to the person; and
  - (b) give the person a reasonable opportunity to be heard.
- (2) Before an inspector sends a draft interim report or final report, or part of the draft report, to a person under subsection (1), the inspector may—
  - (a) cause any passages in the draft report or that part of the draft report to be concealed from view or to be obliterated; and
  - (b) require the person to keep the draft report or that part of the draft report confidential.

**859. 財政司司長須將審查員的報告送交原訟法庭存檔**

- (1) 在接獲根據第 841(1) 條委任的審查員的中期報告或最終報告後，財政司司長須在切實可行的範圍內，盡快將該報告的文本送交原訟法庭存檔。
- (2) 財政司司長可在根據第 (1) 款將有關文本送交原訟法庭存檔前，指明取覽該報告在甚麼期間內受到限制，或指明取覽該報告受何種形式的限制。

**860. 財政司司長可將審查員的報告的文本送交有關調查的申請人等**

- (1) 在接獲獲委任調查某公司的事務的審查員的中期報告或最終報告後，財政司司長可 ——
  - (a) 將該報告的文本，送交該公司的註冊辦事處；或
  - (b) 在有人提出請求的情況下，及在收取訂明費用後，將該報告的文本送交 ——
    - (i) 該公司的成員或 (如根據第 857 條，該公司的有聯繫法人團體的事務成為該報告的內容) 該法人團體的成員；
    - (ii) 該公司或法人團體的核數師；
    - (iii) 作出該報告所述的行為的人；
    - (iv) 有關調查的申請人；或
    - (v) (在財政司司長覺得任何其他人的財政利害關係受該報告所處理的事宜所影響 (不論該人是作為該公司或法人團體的債權人或可能的投資者或以其他身分而受影響) 的情況下) 該其他人。
- (2) 在將中期報告或最終報告的文本送交第 (1) 款所指的任何人前，財政司司長可 ——

**859. Financial Secretary to file copies of inspector's report with Court**

- (1) As soon as practicable after receiving an interim report or final report from an inspector appointed under section 841(1), the Financial Secretary must file a copy of the report with the Court.
- (2) The Financial Secretary may, before filing a copy of an interim report or final report with the Court under subsection (1), specify the period and manner in which access to the report is to be restricted.

**860. Financial Secretary may send copies of inspector's report to applicants of investigation etc.**

- (1) After receiving an interim report or final report from an inspector appointed to investigate a company's affairs, the Financial Secretary may—
  - (a) send a copy of the report to the company at its registered office; or
  - (b) on request and on receipt of the prescribed fee, send a copy of the report to—
    - (i) a member of the company or a member of its associated body corporate the affairs of which are reported in the report under section 857;
    - (ii) the auditors of the company or body corporate;
    - (iii) a person whose conduct is mentioned in the report;
    - (iv) the applicant for the investigation; or
    - (v) any other person whose financial interest appears to the Financial Secretary to be affected by the matters dealt with in the report, whether as a

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- (a) 安排將任何在該報告內的段落掩蓋或塗去；及
- (b) 要求該人將該報告的文本保密。

#### 861. 發表審查員的報告

- (1) 凡任何中期報告或最終報告根據本分部交付財政司司長，財政司司長可將該報告的全部或部分發表。
- (2) 在根據第 (1) 款發表任何中期報告或最終報告或有關報告的任何部分後，財政司司長須在切實可行的範圍內，盡快將該報告的文本或該部分的文本交付處長登記。
- (3) 在本條中 ——  
**發表** (publish) 包括分發、提供及傳播。

#### 862. 審查員的報告屬證據

於在法院進行的任何民事法律程序 (包括取消董事資格的法律程序) 中 ——

- (a) 如任何文件看來是由審查員擬備的中期報告或最終報告的文本，或看來是該報告的一部分的文本，並看來是經該審查員或財政司司長核證為該報告或該部分的真實文本，該文件一經交出，即可接納為證據，而無需再加證明；及

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creditor of the company or body corporate, or a possible investor or otherwise.

- (2) Before sending a copy of an interim report or final report to any person under subsection (1), the Financial Secretary may—
  - (a) cause any passage in the report to be concealed from view or to be obliterated; and
  - (b) require the person to keep the copy of the report confidential.

#### 861. Publication of inspector's report

- (1) The Financial Secretary may publish, either in whole or in part, any interim report or final report delivered to the Financial Secretary under this Division.
- (2) The Financial Secretary must deliver to the Registrar for registration a copy of any interim report or final report, or any part of an interim report or final report, that is published under subsection (1) as soon as practicable after it is published.
- (3) In this section—  
**publish** (發表) includes distribute, make available and disseminate.

#### 862. Inspector's report to be evidence

In any civil proceedings before a court (including proceedings for the disqualification of a director)—

- (a) a document purporting to be a copy of an interim report or final report prepared by an inspector, or a part of such a report, and purporting to be certified by the inspector or the Financial Secretary as a true copy of the report or part, is admissible in evidence on its production without further proof; and

- (b) 該文件一經根據 (a) 段接納為證據，即屬有關報告或其部分所述的事實的證據。

- (b) on being admitted in evidence under paragraph (a), the document is evidence of the facts stated in the report or that part of the report.

### 第 7 次分部 —— 雜項條文

### Subdivision 7—Miscellaneous

#### 863. 沒有遵從第 4 次分部等所指的要求等的罪行

- (1) 任何人無合理辯解而沒有遵從根據第 4 次分部對該人施加的要求，即屬犯罪。
- (2) 任何人出於詐騙意圖而沒有遵從根據第 4 次分部對該人施加的要求，即屬犯罪。
- (3) 任何公司的高級人員或僱員，或任何法人團體的高級人員或僱員，出於詐騙意圖而致使或容許該公司或法人團體沒有遵從根據第 4 次分部對該公司或法人團體施加的要求，即屬犯罪。
- (4) 任何人 ——
  - (a) 作出以下作為，充作遵從根據第 4 次分部對該人施加的要求 ——
    - (i) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；
    - (ii) 提供任何在要項上屬虛假或具誤導性的資料或解釋；或
    - (iii) 說出任何在要項上屬虛假或具誤導性的言詞，或作出任何在要項上屬虛假或具誤導性的陳述；並
  - (b) 知道該紀錄、文件、資料、解釋、言詞或陳述在要項上屬虛假或具誤導性，或罔顧該紀錄、文件、資料、解釋、言詞或陳述是否在要項上屬虛假或具誤導性，  
即屬犯罪。
- (5) 任何人出於詐騙意圖 ——

#### 863. Offences for failing to comply with requirements under Subdivision 4 etc.

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with any requirement imposed on the person under Subdivision 4.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with any requirement imposed on the person under Subdivision 4.
- (3) An officer or employee of a company or body corporate on which a requirement is imposed under Subdivision 4 commits an offence if the officer or employee, with intent to defraud, causes or allows the company or body corporate to fail to comply with the requirement.
- (4) A person commits an offence if the person—
  - (a) in purported compliance with a requirement imposed on the person under Subdivision 4—
    - (i) produces any record or document that is false or misleading in a material particular;
    - (ii) provides any information or explanation that is false or misleading in a material particular; or
    - (iii) says or states anything that is false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether or not, the record or document, the information or explanation,



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- (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；
- (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋；或
- (c) 說出任何在要項上屬虛假或具誤導性的言詞，或作出任何在要項上屬虛假或具誤導性的陳述，  
充作遵從根據第 4 次分部對該人施加的要求，即屬犯罪。
- (6) 任何公司的高級人員或僱員，或任何法人團體的高級人員或僱員，出於詐騙意圖而致使或容許該公司或法人團體 ——
  - (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；
  - (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋；或
  - (c) 說出任何在要項上屬虛假或具誤導性的言詞，或作出任何在要項上屬虛假或具誤導性的陳述，  
充作遵從根據第 4 次分部對該公司或法人團體施加的要求，即屬犯罪。
- (7) 任何人不得僅以遵從根據第 4 次分部對該人施加的要求可能會導致該人入罪為理由，而獲免遵從該項要求。
- (8) 儘管本條例有任何規定，在以下情況下，不得根據第 (1)、(2)、(3)、(4)、(5) 或 (6) 款就任何行為而針對任何人提起刑事法律程序 ——
  - (a) 過往已為第 864(2)(b) 條的目的，就同一行為而針對該人提起法律程序；及
  - (b) 該等法律程序仍然待決，或由於過往提起該等法律程序，因此不得為第 864(2)(b) 條的目的就同一行為而再次合法地針對該人提起法律程序。
- (9) 任何人犯第 (1) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$200,000 及監禁一年；或

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- or the thing said or stated, is false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud, in purported compliance with a requirement imposed on the person under Subdivision 4—
  - (a) produces any record or document that is false or misleading in a material particular;
  - (b) provides any information or explanation that is false or misleading in a material particular; or
  - (c) says or states anything that is false or misleading in a material particular.
- (6) An officer or employee of a company or body corporate on which a requirement is imposed under Subdivision 4 commits an offence if the officer or employee, with intent to defraud, causes or allows the company or body corporate to, in purported compliance with the requirement—
  - (a) produce any record or document that is false or misleading in a material particular;
  - (b) provide any information or explanation that is false or misleading in a material particular; or
  - (c) say or state anything that is false or misleading in a material particular.
- (7) A person is not excused from complying with a requirement imposed on the person under Subdivision 4 only on the ground that to do so might tend to incriminate the person.
- (8) Despite anything in this Ordinance, no criminal proceedings may be instituted against a person under subsection (1), (2), (3), (4), (5) or (6) in respect of any conduct if—
  - (a) proceedings have previously been instituted against the person for the purposes of section 864(2)(b) in respect of the same conduct; and



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- (b) 一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (10) 任何人犯第 (2)、(3)、(5) 或 (6) 款所訂罪行 ——
- (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 7 年；或
- (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (11) 任何人犯第 (4) 款所訂罪行 ——
- (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 2 年；或
- (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。

**864. 審查員可向原訟法庭申請就沒有遵從第 4 次分部的要求一事進行研訊**

- (1) 如任何人沒有遵從根據第 4 次分部對該人施加的要求，審查員可藉原訴傳票，向原訟法庭申請對沒有遵從該項要求一事進行研訊。
- (2) 原訟法庭如信納有關的人無合理辯解而沒有遵從有關要求，可作出以下任何其中一項或全部兩項的命令 ——

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- (b) those proceedings remain pending, or by reason of the previous institution of those proceedings, no proceedings may again be lawfully instituted against the person for the purposes of section 864(2)(b) in respect of the same conduct.
- (9) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for one year; or
- (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (10) A person who commits an offence under subsection (2), (3), (5) or (6) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (11) A person who commits an offence under subsection (4) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

**864. Inspector may apply to Court to inquire into failure to comply with requirements under Subdivision 4**

- (1) If a person fails to comply with a requirement imposed on the person under Subdivision 4, the inspector may, by originating summons, apply to the Court for an inquiry into the failure.

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- (a) 命令該人在原訟法庭指明的限期內，遵從該項要求；
- (b) 懲罰該人及明知而牽涉入該沒有遵從要求一事的任何其他人，懲罰的方式猶如該人及（如適用的話）該其他人犯藐視法庭罪一樣。
- (3) 儘管本條例有任何規定，在以下情況下，不得為第 (2)(b) 款的目的就任何行為而針對任何人提起法律程序——
  - (a) 過往已根據第 863(1)、(2)、(3)、(4)、(5) 或 (6) 條就同一行為而針對該人提起刑事法律程序；及
  - (b) 該等刑事法律程序仍然待決，或由於過往提起該等刑事法律程序，因此不得根據第 863(1)、(2)、(3)、(4)、(5) 或 (6) 條就同一行為而再次合法地針對該人提起刑事法律程序。

#### 865. 導致入罪的證據在法律程序中的使用

- (1) 某審查員或其獲轉授人如要求某人（**要求對象**）根據第 4 次分部就任何問題給予回答，或要求某人（**要求對象**）就任何被交出的紀錄或文件提供資料或解釋，須確保要求對象已事先獲告知或提示第 (2) 款對該審查員或其獲轉授人的該項要求，以及由要求對象給予的該項回答，或提供的該資料或解釋可獲接受為證據的限制。
- (2) 儘管本條例有任何規定，在第 (3) 款指明的條件獲符合的情況下，審查員或其獲轉授人的有關要求，以及由要求對象給予的回答，或提供的資料或解釋，不得在刑事法

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- (2) The Court may, if it is satisfied that the person has without reasonable excuse failed to comply with the requirement, do any or all of the following—
  - (a) order the person to comply with the requirement within the period specified by the Court;
  - (b) punish the person, and any other person knowingly involved in the failure, in the same manner as if the person and, if applicable, that other person had been guilty of contempt of court.
- (3) Despite anything in this Ordinance, no proceedings may be instituted against a person for the purposes of subsection (2)(b) in respect of any conduct if—
  - (a) criminal proceedings have previously been instituted against the person under section 863(1), (2), (3), (4), (5) or (6) in respect of the same conduct; and
  - (b) those criminal proceedings remain pending, or by reason of the previous institution of those criminal proceedings, no criminal proceedings may again be lawfully instituted against the person under section 863(1), (2), (3), (4), (5) or (6) in respect of the same conduct.

#### 865. Use of incriminating evidence in proceedings

- (1) If an inspector or a delegate of an inspector requires a person, under Subdivision 4, to give an answer to any question or to provide any information or explanation in respect of any record or document produced, the inspector or delegate must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the inspector's or delegate's requirement and of the answer given, or information or explanation provided, by the person.

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律程序中接納為針對要求對象的證據，但如要求對象就該項回答、資料或解釋而被控犯以下其中一項罪行——

- (a) 第 863(4)、(5) 或 (6) 條所訂罪行；
  - (b) 《刑事罪行條例》(第 200 章) 第 V 部所訂罪行；或
  - (c) 作假證供罪，
- 則就該項罪行而進行的法律程序屬例外。

(3) 上述條件是——

- (a) 有關回答、資料或解釋可能會導致要求對象入罪；及
- (b) 要求對象在給予該項回答、提供該資料或解釋前如此聲稱。

#### 866. 調查的開支

- (1) 一項調查所需的開支，須由政府一般收入中先行撥款支付，但第 (2) 款所述的人須在該款所述的範圍內，負上向政府償還該等開支的法律責任。
- (2) 上述的人及其所負上的法律責任的範圍如下——
  - (a) 某人因調查的結果，就一項罪行所提起的檢控中被法院定罪，該人須在法院命令的範圍內，負上向政府償還該調查的開支的法律責任；
  - (b) 審查員根據第 840 或 841(1) 條獲委任進行該調查，中期報告或最終報告所處理的任何法人團體須在財政司司長指示的範圍內，負上向政府償還該調查的開支的法律責任；
  - (c) 審查員應某公司或其成員的申請，根據第 840 條獲委任進行該調查，該公司或任何該等成員須在財政

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- (2) Despite anything in this Ordinance, if the conditions specified in subsection (3) are satisfied, the inspector's or delegate's requirement and the answer given, or information or explanation provided, by the person are not admissible in evidence against the person in criminal proceedings, other than those in which the person is charged with an offence in respect of the answer, information or explanation—

- (a) under section 863(4), (5) or (6);
- (b) under Part V of the Crimes Ordinance (Cap. 200); or
- (c) for perjury.

(3) The conditions are—

- (a) that the answer, information or explanation might tend to incriminate the person; and
- (b) that the person so claims before giving the answer, or providing the information or explanation.

#### 866. Expenses of investigation

- (1) The expenses of an investigation are to be defrayed in the first instance out of the general revenue but the persons mentioned in subsection (2) are liable to repay the expenses to the Government to the extent mentioned in that subsection.
- (2) Those persons and the extent of their liability are as follows—
  - (a) if, on a prosecution for an offence instituted as a result of the investigation, a person is convicted of the offence by the court, the person is liable to repay the expenses to the Government to the extent ordered by the court;
  - (b) if the inspector who conducted the investigation was appointed under section 840 or 841(1), any body corporate dealt with by the interim report or final report is liable to repay the expenses to the Government to the extent directed by the Financial Secretary;

司司長指示的範圍內，負上向政府償還該調查的開支的責任。

- (3) 在根據第 (2) 款的某段作出某命令或指示時，法院或財政司司長（視屬何情況而定）可命令或指示根據該段而負上法律責任的 2 名或多於 2 名人士，就向政府償還該命令或指示的任何有關開支，負共同法律責任，或負共同及各別法律責任。
- (4) 在根據第 (2) 款 (a) 段作出一項關乎某人的法律責任範圍的命令時，法院可進一步命令該人亦有法律責任就另一人根據該款 (b) 或 (c) 段負上的法律責任，向該另一人作彌償。
- (5) 根據第 840 或 841(1) 條獲委任進行調查的審查員如認為合適，可在該調查的中期報告或最終報告中，載列一項關於第 (2) 款 (a)、(b) 或 (c) 段所提述的人在該調查中所需繳付的有關開支的範圍的建議。
- (6) 如財政司司長有此指示，審查員須在有關調查的中期報告或最終報告中，載列第 (5) 款所述的建議。
- (7) 如第 (5) 或 (6) 款所指的審查員建議是——
  - (a) 就第 (2) 款 (a) 段所提述的人作出的，該建議——
    - (i) 在該人被定罪之前，不得向法院披露；及
    - (ii) 對法院不具約束力；及
  - (b) 就第 (2) 款 (b) 或 (c) 段所提述的人作出的，該建議對財政司司長不具約束力。
- (8) 就本條而言，一項調查的開支包括——
  - (a) 該調查附帶引起的合理開支；及
  - (b) 由財政司司長釐定的政府一般員工開支及辦公室開支的合理款額，以及由財政司司長釐定的審查員的保險費用的合理款額。
- (9) 根據第 (2) 款須向政府償還的款額，可作為欠政府的民事債項予以追討。

- (c) if the inspector who conducted the investigation was appointed under section 840 on application by a company or members of a company, the company or any of those members who made the application are liable to repay the expenses to the Government to the extent directed by the Financial Secretary.

- (3) When making an order or giving directions under a paragraph of subsection (2), the court or the Financial Secretary (as the case may be) may order or direct that 2 or more persons liable under that paragraph are to be jointly liable or jointly and severally liable for any of the expenses ordered or directed to be repaid to the Government.
- (4) On making an order on the extent of a person's liability under paragraph (a) of subsection (2), the court may further order that the person is also liable to indemnify another person against any liability to which that other person may be subject under paragraph (b) or (c) of that subsection.
- (5) If the inspector who conducted the investigation was appointed under section 840 or 841(1), the interim report or final report of the investigation may, if the inspector thinks fit, include a recommendation as to the extent to which the expenses of the investigation should be repaid by a person referred to in paragraph (a), (b) or (c) of subsection (2).
- (6) An inspector must include a recommendation mentioned in subsection (5) in the interim report or final report of the investigation if so directed by the Financial Secretary.
- (7) The recommendation of an inspector under subsection (5) or (6)—
  - (a) in relation to a person referred to in paragraph (a) of subsection (2)—
    - (i) must not be disclosed to the court until after the person has been convicted; and

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### 第 3 分部 —— 財政司司長查訊公司的事務

#### 867. 釋義

在本分部中 ——

**公司** (company) ——

- (a) 在第 868(a) 條中，包括註冊非香港公司；
- (b) 在第 868(b) 條中，包括非香港公司。

#### 868. 財政司司長可在何種情況下對公司事務進行查訊

如有以下情況，則財政司司長可對公司的事務進行查訊 ——

- (a) 財政司司長認為如此行事，會協助財政司司長決定是否根據第 840(2) 條委任審查員；或
- (b) 財政司司長覺得有充分理由如此行事。

- (ii) does not bind the court; and
- (b) in relation to a person referred to in paragraph (b) or (c) of subsection (2), does not bind the Financial Secretary.
- (8) For the purposes of this section, the expenses of an investigation include—
  - (a) reasonable expenses incidental to the investigation; and
  - (b) such reasonable sums for general staff costs and overhead expenses of the Government, and for the cost of insurance for the inspector, as are determined by the Financial Secretary.
- (9) An amount that is repayable to the Government under subsection (2) is recoverable as a civil debt due to the Government.

### Division 3—Enquiry into Company's Affairs by Financial Secretary

#### 867. Interpretation

In this Division—

**company** (公司) —

- (a) in section 868(a), includes a registered non-Hong Kong company;
- (b) in section 868(b), includes a non-Hong Kong company.

#### 868. Circumstances under which Financial Secretary may enquire into company's affairs

The Financial Secretary may enquire into a company's affairs if—

- (a) the Financial Secretary considers that doing so would assist the Financial Secretary in deciding whether to appoint an inspector under section 840(2); or



**869. 財政司司長可要求交出紀錄及文件等**

- (1) 為根據第 868 條對某公司的事務進行查訊，如財政司司長認為某紀錄或文件攸關或可能攸關該查訊，財政司司長可藉書面通知，要求下述的人在該通知所指明的時間內，在該通知所指明的地點，交出該紀錄或文件——
  - (a) 該公司；或
  - (b) 財政司司長覺得正管有該紀錄或文件的任何其他人。
- (2) 如某公司或某人遵從根據第 (1) 款施加的要求，交出某紀錄或文件，財政司司長可——
  - (a) 複製或複印該紀錄或文件，或以其他方式記錄其細節；及
  - (b) 藉書面通知，要求該公司的高級人員或前高級人員或該人就該紀錄或文件，提交任何資料或解釋。
- (3) 財政司司長不得根據第 (1) 或 (2) 款要求認可機構交出關乎其客戶的事務的任何紀錄或文件，或披露關乎其客戶的任何資料，但如財政司司長——
  - (a) 有合理理由相信，該客戶可能能夠提供攸關該查訊的資料；及
  - (b) 信納為該查訊的目的，交出該紀錄或文件或披露該資料屬必需的，並以書面證明此事，則不在此限。
- (4) 如認可機構遵從根據第 (1) 款施加的要求，交出關乎其顧客的事務的紀錄或文件，財政司司長亦可要求該顧客就該紀錄或文件提供任何資料或解釋。
- (5) 某公司或某人如沒有遵從根據第 (1) 款施加的要求交出某紀錄或文件，財政司司長可藉書面通知，要求該公司或該人盡其所知及所信，說明該紀錄或文件在何處。

- (b) it appears to the Financial Secretary that there is a good reason for doing so.

**869. Financial Secretary may require production of records and documents etc.**

- (1) For the purpose of enquiring into a company's affairs under section 868, if the Financial Secretary considers that a record or document is or may be relevant to the enquiry, the Financial Secretary may, by notice in writing, require—
  - (a) the company; or
  - (b) any other person who appears to the Financial Secretary to be in possession of the record or document,to produce the record or document within the time and at the place specified in the notice.
- (2) If a company or a person produces a record or document in compliance with a requirement imposed under subsection (1), the Financial Secretary may—
  - (a) make copies, or otherwise record the details, of the record or document; and
  - (b) by notice in writing, require an officer or former officer of the company or the person to provide any information or explanation in respect of the record or document.
- (3) The Financial Secretary must not require an authorized institution to produce any record or document, or disclose any information, relating to the affairs of a customer of the institution under subsection (1) or (2) unless—
  - (a) the Financial Secretary has reasonable grounds to believe that the customer may be able to provide information relevant to the enquiry; and



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**870. 財政司司長可轉授第 869 條所指的權力**

財政司司長可藉書面方式，將第 869 條所賦予的任何或所有權力轉授予另一人。

**871. 沒有遵從第 869 條所指的要求等的罪行**

- (1) 任何人無合理辯解而沒有遵從根據第 869 條對該人施加的要求，即屬犯罪。
- (2) 任何人出於詐騙意圖而沒有遵從根據第 869 條對該人施加的要求，即屬犯罪。
- (3) 任何公司的高級人員或僱員出於詐騙意圖而致使或容許該公司沒有遵從根據第 869 條對該公司施加的要求，即屬犯罪。
- (4) 任何人 ——
  - (a) 作出以下作為，充作遵從根據第 869 條對該人施加的要求 ——

(b) the Financial Secretary is satisfied that the production or disclosure is necessary for the purposes of the enquiry and so certifies in writing.

- (4) If an authorized institution produces a record or document relating to the affairs of its customer in compliance with a requirement imposed under subsection (1), the Financial Secretary may also require that customer to provide any information or explanation in respect of the record or document.
- (5) If a company or a person does not produce a record or document in compliance with a requirement imposed under subsection (1), the Financial Secretary may, by notice in writing, require the company or person to state, to the best of the company's or person's knowledge and belief, where the record or document is.

**870. Financial Secretary may delegate powers under section 869**

The Financial Secretary may delegate in writing any or all of the powers conferred under section 869 to another person.

**871. Offences for failing to comply with requirements under section 869 etc.**

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with any requirement imposed on the person under section 869.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with any requirement imposed on the person under section 869.
- (3) An officer or employee of a company on which a requirement is imposed under section 869 commits an offence if the officer or employee, with intent to defraud, causes or allows the company to fail to comply with the requirement.

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- (i) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
- (ii) 提供任何在要項上屬虛假或具誤導性的資料或解釋；及
- (b) 知道該紀錄、文件、資料或解釋在要項上屬虛假或具誤導性，或罔顧該紀錄、文件、資料或解釋是否在要項上屬虛假或具誤導性，即屬犯罪。
- (5) 任何人出於詐騙意圖 ——
  - (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
  - (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋，充作遵從根據第 869 條對該人施加的要求，即屬犯罪。
- (6) 任何公司的高級人員或僱員出於詐騙意圖而致使或容許該公司 ——
  - (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
  - (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋，充作遵從根據第 869 條對該公司施加的要求，即屬犯罪。
- (7) 任何人不得僅以遵從根據第 869 條對該人施加的要求可能會導致該人入罪為理由，而獲免遵從該項要求。
- (8) 任何人犯第 (1) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$200,000 及監禁一年；或
  - (b) 一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (9) 任何人犯第 (2)、(3)、(5) 或 (6) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 7 年；或

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- (4) A person commits an offence if the person—
  - (a) in purported compliance with a requirement imposed on the person under section 869—
    - (i) produces any record or document that is false or misleading in a material particular; or
    - (ii) provides any information or explanation that is false or misleading in a material particular; and
  - (b) knows that, or is reckless as to whether or not, the record or document, or the information or explanation, is false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud, in purported compliance with a requirement imposed on the person under section 869—
  - (a) produces any record or document that is false or misleading in a material particular; or
  - (b) provides any information or explanation that is false or misleading in a material particular.
- (6) An officer or employee of a company on which a requirement is imposed under section 869 commits an offence if the officer or employee, with intent to defraud, causes or allows the company to, in purported compliance with the requirement—
  - (a) produce any record or document that is false or misleading in a material particular; or
  - (b) provide any information or explanation that is false or misleading in a material particular.
- (7) A person is not excused from complying with a requirement imposed on the person under section 869 only on the ground that to do so might tend to incriminate the person.

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- (b) 一經循簡易程序定罪，可處第6級罰款及監禁6個月。
- (10) 任何人犯第(4)款所訂罪行——
- (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 2 年；或
- (b) 一經循簡易程序定罪，可處第6級罰款及監禁6個月。

## 872. 導致入罪的證據在法律程序中的使用

- (1) 財政司司長或其獲轉授人如要求某人 (**要求對象**) 根據第 869 條就任何被交出的紀錄或文件提供資料或解釋，須確保要求對象已事先獲告知或提示第(2)款對財政司司長或該獲轉授人的該項要求，以及由要求對象提供的該資料或解釋可獲接受為證據的限制。
- (2) 儘管本條例有任何規定，在第(3)款指明的條件獲符合的情況下，財政司司長或獲轉授人的有關要求，以及由要求對象提供的有關資料或解釋，不得在刑事法律程序中接納為針對要求對象的證據，但如要求對象就該資料或解釋而被控犯以下其中一項罪行——
- (a) 第 871(4)、(5) 或 (6) 條所訂罪行；

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- (8) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$200,000 and to imprisonment for one year; or
- (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (9) A person who commits an offence under subsection (2), (3), (5) or (6) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 7 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) A person who commits an offence under subsection (4) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

## 872. Use of incriminating evidence in proceedings

- (1) If the Financial Secretary or a delegate of the Financial Secretary requires a person, under section 869, to provide any information or explanation in respect of any record or document produced, the Financial Secretary or delegate must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the Financial Secretary's or delegate's requirement and of the information or explanation provided by the person.
- (2) Despite anything in this Ordinance, if the conditions specified in subsection (3) are satisfied, the Financial Secretary's

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- (b) 《刑事罪行條例》(第 200 章) 第 V 部所訂罪行；或
  - (c) 作假證供罪，
- 則就該項罪行而進行的法律程序屬例外。
- (3) 就第 (2) 款而言，指明的條件是 ——
- (a) 有關資料或解釋可能會導致要求對象入罪；及
  - (b) 要求對象在提供該資料或解釋前如此聲稱。

#### 第 4 分部 —— 處長的查訊

##### 873. 處長可要求交出紀錄、文件等

- (1) 為對任何指明作為是否已作出進行查訊的目的，在符合第 (2) 款指明的每項條件的情況下，處長可藉書面通知，要求某人 ——
- (a) 在該通知所指明的時間內，在該通知所指明的地點，交出該通知所指明的任何紀錄或文件；及
  - (b) (如該紀錄或文件被交出) 就該紀錄或文件提供任何資料或解釋。
- (2) 除第 (3) 款另有規定外，上述條件是 ——
- (a) 處長有理由相信 ——
    - (i) 某指明作為已作出；
    - (ii) 有關紀錄、文件、資料或解釋攸關有關查訊；及

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or delegate's requirement, as well as the information or explanation provided by the person, are not admissible in evidence against the person in criminal proceedings other than those in which the person is charged with an offence in respect of the information or explanation—

- (a) under section 871(4), (5) or (6);
  - (b) under Part V of the Crimes Ordinance (Cap. 200); or
  - (c) for perjury.
- (3) The conditions specified for the purposes of subsection (2) are—
- (a) that the information or explanation might tend to incriminate the person; and
  - (b) that the person so claims before providing the information or explanation.

#### Division 4—Enquiry by Registrar

##### 873. Registrar may require production of records and documents etc.

- (1) For the purpose of enquiring into whether any specified act has been done, if each of the conditions specified in subsection (2) is satisfied, the Registrar may, by notice in writing, require a person—
- (a) to produce, within the time and at the place specified in the notice, any record or document specified in the notice; and
  - (b) if the record or document is produced, to provide any information or explanation in respect of the record or document.
- (2) Subject to subsection (3), the conditions are—
- (a) that the Registrar has reason to believe that—

- (iii) 有關的人正管有該紀錄或文件；及
- (b) 處長以書面證明情況如此。
- (3) 如將被要求交出有關紀錄或文件的人屬 ——
  - (a) 有關作為所關乎的法人團體；或
  - (b) 該法人團體的一名高級人員，
 則第 (2)(a)(iii) 款不適用。
- (4) 處長不得根據第 (1) 款要求認可機構交出關乎其客戶的事務的任何紀錄或文件，或披露關乎其客戶的任何資料，但如處長 ——
  - (a) 有合理理由相信，該客戶可能能夠提供攸關該查訊的資料；及
  - (b) 信納為該查訊的目的，交出該紀錄或文件或披露該資料屬必需的，並以書面證明此事，
 則不在此限。
- (5) 如認可機構遵從根據第 (1) 款施加的要求，交出關乎其顧客的事務的紀錄或文件，處長亦可要求該顧客就該紀錄或文件提供任何資料或解釋。
- (6) 如任何人遵從根據第 (1) 款施加的要求而交出某紀錄或文件，處長可複製或複印該紀錄或文件，或以其他方式記錄其細節。
- (7) 財政司司長可藉憲報刊登的公告，修訂第 (8) 款。
- (8) 在本條中 ——

**指明作為** (specified act) 指會構成第 750(6) 或 895(1) 條所訂罪行的作為。

- (i) a specified act has been done;
- (ii) the record, document, information or explanation is relevant to the enquiry; and
- (iii) the person is in possession of the record or document; and
- (b) that it is so certified in writing by the Registrar.
- (3) Subsection (2)(a)(iii) does not apply if the person who is to be required to produce the record or document is—
  - (a) the body corporate to which the act relates; or
  - (b) an officer of that body corporate.
- (4) The Registrar must not require an authorized institution to produce any record or document, or disclose any information, relating to the affairs of a customer of the institution under subsection (1) unless—
  - (a) the Registrar has reasonable grounds to believe that the customer may be able to provide information relevant to the enquiry; and
  - (b) the Registrar is satisfied that the production or disclosure is necessary for the purposes of the enquiry and so certifies in writing.
- (5) If an authorized institution produces a record or document relating to the affairs of its customer in compliance with a requirement imposed under subsection (1), the Registrar may also require that customer to provide any information or explanation in respect of the record or document.
- (6) If a person produces a record or document in compliance with a requirement imposed under subsection (1), the Registrar may make copies, or otherwise record the details, of the record or document.



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#### 874. 處長可轉授第 873 條所指的權力

處長可藉書面方式，將第 873 條所賦予的任何或所有權力轉授予任何公職人員。

#### 875. 沒有遵從處長根據第 873 條施加的要求等的罪行

- (1) 任何人無合理辯解而沒有遵從根據第 873 條對該人施加的要求，即屬犯罪。
- (2) 任何人出於詐騙意圖而沒有遵從根據第 873 條對該人施加的要求，即屬犯罪。
- (3) 任何法人團體的高級人員或僱員出於詐騙意圖而致使或容許該法人團體沒有遵從根據第 873 條對該法人團體施加的要求，即屬犯罪。
- (4) 任何人 ——
  - (a) 作出以下作為，充作遵從根據第 873 條對該人施加的要求 ——
    - (i) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
    - (ii) 提供任何在要項上屬虛假或具誤導性的資料或解釋；及
  - (b) 知道該紀錄、文件、資料或解釋在要項上屬虛假或具誤導性，或罔顧該紀錄、文件、資料或解釋是否在要項上屬虛假或具誤導性，即屬犯罪。
- (5) 任何人出於詐騙意圖 ——

(7) The Financial Secretary may, by notice published in the Gazette, amend subsection (8).

(8) In this section—

*specified act* (指明作為) means an act that would constitute an offence under section 750(6) or 895(1).

#### 874. Registrar may delegate powers under section 873

The Registrar may delegate in writing any or all of the powers conferred under section 873 to any public officer.

#### 875. Offences for failing to comply with requirements under section 873 etc.

- (1) A person commits an offence if the person, without reasonable excuse, fails to comply with any requirement imposed on the person under section 873.
- (2) A person commits an offence if the person, with intent to defraud, fails to comply with any requirement imposed on the person under section 873.
- (3) An officer or employee of a body corporate on which a requirement is imposed under section 873 commits an offence if the officer or employee, with intent to defraud, causes or allows the body corporate to fail to comply with the requirement.
- (4) A person commits an offence if the person—
  - (a) in purported compliance with a requirement imposed on the person under section 873—
    - (i) produces any record or document that is false or misleading in a material particular; or
    - (ii) provides any information or explanation that is false or misleading in a material particular; and



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- (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
- (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋，充作遵從根據第 873 條對該人施加的要求，即屬犯罪。
- (6) 任何法人團體的高級人員或僱員出於詐騙意圖而致使或容許該法人團體 ——
  - (a) 交出任何在要項上屬虛假或具誤導性的紀錄或文件；或
  - (b) 提供任何在要項上屬虛假或具誤導性的資料或解釋，充作遵從根據第 873 條對該法人團體施加的要求，即屬犯罪。
- (7) 任何人不得僅以遵從根據第 873 條對該人施加的要求可能會導致該人入罪為理由，而獲免遵從該項要求。
- (8) 任何人犯第 (1) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$150,000 及監禁一年；或
  - (b) 一經循簡易程序定罪，可處第 5 級罰款及監禁 6 個月。
- (9) 任何人犯第 (2)、(3)、(5) 或 (6) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 3 年；或
  - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (10) 任何人犯第 (4) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$300,000 及監禁 2 年；或
  - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。

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- (b) knows that, or is reckless as to whether or not, the record or document, or the information or explanation, is false or misleading in a material particular.
- (5) A person commits an offence if the person, with intent to defraud, in purported compliance with a requirement imposed on the person under section 873—
  - (a) produces any record or document that is false or misleading in a material particular; or
  - (b) provides any information or explanation that is false or misleading in a material particular.
- (6) An officer or employee of a body corporate on which a requirement is imposed under section 873 commits an offence if the officer or employee, with intent to defraud, causes or allows the body corporate to, in purported compliance with the requirement—
  - (a) produce any record or document that is false or misleading in a material particular; or
  - (b) provide any information or explanation that is false or misleading in a material particular.
- (7) A person is not excused from complying with a requirement imposed on the person under section 873 only on the ground that to do so might tend to incriminate the person.
- (8) A person who commits an offence under subsection (1) is liable—
  - (a) on conviction on indictment to a fine of \$150,000 and to imprisonment for one year; or
  - (b) on summary conviction to a fine at level 5 and to imprisonment for 6 months.
- (9) A person who commits an offence under subsection (2), (3), (5) or (6) is liable—

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#### 876. 導致入罪的證據在法律程序中的使用

- (1) 處長或其獲轉授人如要求某人 (**要求對象**) 根據第 873 條就任何被交出的紀錄或文件提供的資料或解釋，須確保要求對象已事先獲告知或提示第 (2) 款對處長或該獲轉授人的該項要求，以及由要求對象提供的該資料或解釋可獲接受為證據的限制。
- (2) 儘管本條例有任何規定，在第 (3) 款指明的條件獲符合的情況下，處長或獲轉授人的有關要求，以及要求對象提供的有關資料或解釋，不得在刑事法律程序中接納為針對要求對象的證據，但如要求對象就該資料或解釋而被控犯以下其中一項罪行——
  - (a) 第 875(4)、(5) 或 (6) 條所訂罪行；
  - (b) 《刑事罪行條例》(第 200 章) 第 V 部所訂罪行；或
  - (c) 作假證供罪，
 則就該項罪行而進行的法律程序屬例外。
- (3) 就第 (2) 款而言，指明的條件是——
  - (a) 有關資料或解釋可能會導致要求對象入罪；及
  - (b) 要求對象在提供該資料或解釋前如此聲稱。

- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 3 years; or
- (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (10) A person who commits an offence under subsection (4) is liable—
  - (a) on conviction on indictment to a fine of \$300,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

#### 876. Use of incriminating evidence in proceedings

- (1) If the Registrar or a delegate of the Registrar requires a person, under section 873, to provide any information or explanation in respect of any record or document produced, the Registrar or delegate must ensure that the person has first been informed or reminded of the limitations imposed by subsection (2) on the admissibility in evidence of the Registrar's or delegate's requirement and of the information or explanation provided by the person.
- (2) Despite anything in this Ordinance, if the conditions specified in subsection (3) are satisfied, the Registrar's or delegate's requirement, as well as the information or explanation provided by the person, are not admissible in evidence against the person in criminal proceedings other than those in which the person is charged with an offence in respect of the information or explanation—
  - (a) under section 875(4), (5) or (6);
  - (b) under Part V of the Crimes Ordinance (Cap. 200); or
  - (c) for perjury.

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## 第 5 分部 —— 第 2、3 及 4 分部的補充條文

### 第 1 次分部 —— 適用於第 2 及 3 分部的補充條文

#### 877. 裁判官的手令

- (1) 如裁判官根據經宣誓而作的告發，信納有合理理由懷疑在該項告發所指明的處所內，有或相當可能有任何紀錄或文件是根據第 2 或 3 分部可被要求交出的，該裁判官可就該處所發出手令。
- (2) 為第 (1) 款的施行，有關告發 ——
  - (a) 須列明 ——
    - (i) 在或相當可能在有關處所內的紀錄或文件的性質；及
    - (ii) 可據以要求交出該紀錄或文件的第 2 或 3 分部的條文；及
  - (b) 須 ——
    - (i) (就根據第 2 分部進行的調查而言) 由審查員作出；或
    - (ii) (就根據第 3 分部進行的查訊而言) 由財政司司長或其獲轉授人作出。

- (3) The conditions specified for the purposes of subsection (2) are—
  - (a) that the information or explanation might tend to incriminate the person; and
  - (b) that the person so claims before providing the information or explanation.

## Division 5—Supplementary Provisions to Divisions 2, 3 and 4

### Subdivision 1—Supplementary Provisions Applicable to Divisions 2 and 3

#### 877. Magistrate's warrants

- (1) If a magistrate is satisfied on information on oath that there are reasonable grounds to suspect that there is, or is likely to be, on premises specified in the information any record or document that may be required to be produced under Division 2 or 3, the magistrate may issue a warrant in respect of the premises. (*Amended 17 of 2018 s. 141*)
- (2) For the purposes of subsection (1), the information—
  - (a) must set out—
    - (i) the nature of the record or document that is, or is likely to be, on the premises; and
    - (ii) the provision of Division 2 or 3 under which the record or document may be required to be produced; and
  - (b) must be laid by—
    - (i) in relation to an investigation under Division 2, an inspector; or

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- (3) 根據第 (1) 款發出的手令授權該手令所指明的人以及為協助執行該手令而需要的其他人 ——
- (a) 在自發出該手令日期起計的 7 日內，隨時進入該處所，及在有必要時強行進入該處所；及
  - (b) 搜尋、檢取和移走該手令所指明的人有合理理由相信是根據第 2 或 3 分部（視屬何情況而定）可被要求交出的任何紀錄或文件。
- (4) 獲授權人如有合理理由相信另一名身處有關處所內的人，是受僱或受聘在與正於或曾於該處所經營的業務有關連的情況下提供服務，可要求該另一人交出 ——
- (a) 該另一人所管有的；及
  - (b) 該獲授權人有合理理由相信是根據第 2 或 3 分部（視屬何情況而定）可被要求交出的，任何紀錄或文件，以供查驗。
- (5) 獲授權人可就任何根據第 (4) 款被要求交出的紀錄或文件 ——
- (a) 禁止在該處所內發現的人 ——
    - (i) 將該紀錄或文件移離該處所；
    - (ii) 刪除該紀錄或文件的任何內容，將任何內容加入該紀錄或文件，或以其他方式更改載於該紀錄或文件的任何事情；或
    - (iii) 以任何方式干擾該紀錄或文件，或致使或准許任何其他人干擾該紀錄或文件；及
  - (b) 採取該獲授權人覺得必需的任何其他步驟，以 ——
    - (i) 保存該紀錄或文件；或
    - (ii) 防止該紀錄或文件受干擾。
- (6) 獲授權人移走的任何紀錄或文件 ——
- (a) 可在不超過自移走當日起計的 6 個月的期間內，予以保留；或

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- (ii) in relation to an enquiry under Division 3, the Financial Secretary or a delegate of the Financial Secretary.
- (3) A warrant issued under subsection (1) authorizes a person specified in it, and such other persons as may be necessary to assist in its execution, to—
- (a) enter the premises, if necessary by force, at any time within the period of 7 days beginning with the date of the warrant; and
  - (b) search for, seize and remove, any record or document that the person so specified has reasonable grounds to believe may be required to be produced under Division 2 or 3 (as the case may be).
- (4) If an authorized person has reasonable grounds to believe that another person on the premises is employed or engaged to provide a service in connection with a business that is or has been conducted on the premises, the authorized person may require that other person to produce for examination any record or document that—
- (a) is in the possession of that other person; and
  - (b) the authorized person has reasonable grounds to believe may be required to be produced under Division 2 or 3 (as the case may be).
- (5) An authorized person may, in relation to any record or document required to be produced under subsection (4)—
- (a) prohibit any person found on the premises from—
    - (i) removing the record or document from the premises;
    - (ii) erasing anything from, adding anything to, or otherwise altering anything in, the record or document; or

- (b) 如屬或可能屬任何刑事法律程序或根據本條例或《公司(清盤及雜項條文)條例》(第 32 章)進行的任何法律程序所需要者，則可在為該等程序的目的所需的較長期間內，予以保留。
- (7) 如獲授權人根據本條移走任何紀錄或文件 ——
- (a) 該獲授權人須在移走該紀錄或文件後，在切實可行的範圍內，盡快就該紀錄或文件發出收據；及
- (b) 該獲授權人可准許如該紀錄或文件沒有被移走便會有權查閱該紀錄或文件的其他人 ——
- (i) 在任何合理時間查閱該紀錄或文件；及
- (ii) 在任何合理時間複製或複印該紀錄或文件，或以其他方式記錄其細節。
- (8) 《刑事訴訟程序條例》(第 221 章)第 102 條適用於已憑藉本條歸審查員、財政司司長或其獲轉授人管有的任何財產，一如該條適用於已歸警方管有的財產一樣。
- (9) 任何人 ——
- (a) 無合理辯解而沒有遵從第 (4) 或 (5) 款所指的要求或禁止；或
- (b) 妨礙獲授權人行使第 (3)、(4) 或 (5) 款授予的權力，即屬犯罪。
- (10) 任何人犯第 (9) 款所訂罪行 ——
- (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 2 年；或
- (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。
- (11) 在本條中 ——

**獲授權人** (authorized person) 指獲根據第 (1) 款發出的手令授權採取第 (3) 款 (a) 及 (b) 段列明的行動的人。

- (iii) otherwise interfering in any manner with, or causing or permitting any other person to interfere with, the record or document; and
- (b) take any other steps that appear to the authorized person to be necessary for—
- (i) preserving the record or document; or
- (ii) preventing interference with the record or document.
- (6) Any record or document removed by an authorized person may be retained for—
- (a) a period not exceeding 6 months beginning with the day of its removal; or
- (b) if the record or document is or may be required for the purposes of any criminal proceedings, or any proceedings under this Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), such longer period as may be necessary for the purposes of those proceedings.
- (7) If an authorized person removes any record or document under this section, the person—
- (a) must as soon as practicable after the removal give a receipt for the record or document; and
- (b) may permit any other person who, but for the removal, would be entitled to inspect the record or document, at all reasonable times—
- (i) to inspect it; and
- (ii) to make copies or otherwise record details of it.
- (8) Section 102 of the Criminal Procedure Ordinance (Cap. 221) applies to any property that has, by virtue of this section, come into the possession of an inspector, the Financial



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Secretary or a delegate of the Financial Secretary, as it applies to property that has come into the possession of the police.

- (9) A person commits an offence if the person—
- (a) without reasonable excuse, fails to comply with a requirement or prohibition under subsection (4) or (5); or
  - (b) obstructs an authorized person in the exercise of a power conferred by subsection (3), (4) or (5).
- (10) A person who commits an offence under subsection (9) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.
- (11) In this section—

**authorized person** (獲授權人) means a person authorized by a warrant issued under subsection (1) to carry out the acts set out in paragraphs (a) and (b) of subsection (3).

#### 878. 高級人員須在因調查等而提起的檢控中提供協助

- (1) 如 ——
- (a) 已根據第 2 分部，對某法人團體的事務進行調查，或已根據第 3 分部，對某法人團體的事務進行查訊；及
  - (b) 因該調查或查訊而提起檢控某項罪行，
- 則該法人團體的每名高級人員、前高級人員、僱員或前僱員、代理人或前代理人，均有責任向律政司司長給予其按理能夠給予的一切與該檢控有關的協助。
- (2) 如某人是檢控的法律程序中的被告人，則第 (1) 款並不要求該人給予與該檢控有關的任何協助。

#### 878. Officers must give assistance in prosecution instituted as a result of investigation etc.

- (1) If—
- (a) an investigation under Division 2 or an enquiry under Division 3 has been carried out; and
  - (b) a prosecution for an offence is instituted as a result of the investigation or enquiry,
- every officer or former officer, employee or former employee, or agent or former agent of any body corporate the affairs of which have been investigated or enquired into in that investigation or enquiry must give the Secretary for Justice all

**879. 關乎指明材料的法律程序**

- (1) 如財政司司長按任何指明材料而覺得為公眾利益，某可根據《公司(清盤及雜項條文)條例》(第 32 章)清盤的法人團體應予清盤，則財政司司長可提出請求將它清盤的呈請。
- (2) 如財政司司長根據第 (1) 款提出呈請，而原訟法庭認為將有關法人團體清盤屬公正公平，法庭可作出清盤的命令。
- (3) 如財政司司長按任何指明材料而覺得 ——
  - (a) 某公司或某非香港公司的事務，正以或曾以不公平地損害眾成員、某名成員或某些成員的利益的方式處理；或
  - (b) 某公司或某非香港公司某項實際作出或沒有作出的作為(包括任何代表它作出或沒有代表它作出的作為)，或該公司某項擬作出或擬不作出的作為(包括任何代表它而作出或沒有代表它作出的作為)，造成或會造成上述損害，
 財政司司長可向原訟法庭提出要求根據第 725(1)(b) 或 (2) 條作出命令的呈請，不論是否已有呈請根據第 (1) 款提出。
- (4) 如財政司司長按任何指明材料，覺得就某公司或非香港公司而言，某人 ——
  - (a) 曾從事、正從事或正擬從事第 728(1)(a) 條指明的任何行為；或
  - (b) 在第 728 條的生效日期<sup>#</sup>前曾從事、正從事或正擬從事第 728(2)(a) 條指明的任何行為，而該人曾從事或擬從事上述行為一事，仍在繼續，

assistance in connection with the prosecution that the officer, employee or agent is reasonably able to give.

- (2) Subsection (1) does not require a person to give any assistance in connection with the prosecution if the person is a defendant in the proceedings.

**879. Proceedings on specified materials**

- (1) If it appears to the Financial Secretary from any specified materials that it is expedient in the public interest that a body corporate which may be wound up under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) should be wound up, the Financial Secretary may present a petition for it to be wound up.
- (2) On a petition by the Financial Secretary under subsection (1), the Court may make a winding up order if the Court thinks it just and equitable for the body corporate to be wound up.
- (3) If it appears to the Financial Secretary from any specified materials that—
  - (a) a company's or non-Hong Kong company's affairs are being or have been conducted in a manner unfairly prejudicial to the interests of the members generally or of one or more members; or
  - (b) an actual or proposed act or omission of a company or non-Hong Kong company (including one done or made on its behalf) is or would be so prejudicial,
 the Financial Secretary may, whether or not a petition has been presented under subsection (1), present to the Court a petition for an order to be made under section 725(1)(b) or (2).
- (4) If it appears to the Financial Secretary from any specified materials that, in relation to a company or non-Hong Kong company, a person—

財政司司長可根據第 729(2) 條，向原訟法庭申請有關補救。

- (5) 如財政司司長按任何指明材料，覺得就某公司或非香港公司而言，某人——
- (a) 曾拒絕或沒有作出、正拒絕或沒有作出，或正擬拒絕或不作出第 728(1)(b) 條指明的作為或事情；或
  - (b) 在第 728 條的生效日期<sup>#</sup>前曾拒絕或沒有作出、正拒絕或沒有作出，或正擬拒絕或不作出《前身條例》及本條例均規定該人作出的作為或事情，而該人曾拒絕或沒有作出、正拒絕或沒有作出，或正擬拒絕或不作出上述作為或事情一事，仍在繼續，

財政司司長可根據第 729(2) 條，向原訟法庭申請有關補救。

- (6) 如財政司司長按任何指明材料，覺得根據《公司 (清盤及雜項條文) 條例》(第 32 章) 第 168J(1) 條針對以下的人作出取消資格令屬符合公眾利益，財政司司長可向原訟法庭申請針對該人作出該命令——
- (a) 屬第 2(1) 條所界定的公司的董事或幕後董事，或曾屬該公司的董事或幕後董事的人；
  - (b) 屬符合以下說明的公司的董事或幕後董事，或曾屬該公司的董事或幕後董事的人：《公司 (清盤及雜項條文) 條例》(第 32 章) 第 326(1) 條所界定的非註冊公司 (有限責任合夥、非有限責任合夥及社團除外)，不論該公司在何處成立，而該公司——
    - (i) 正在或曾在香港經營業務；及
    - (ii) 可根據《公司 (清盤及雜項條文) 條例》(第 32 章) 進行清盤；或
  - (c) 屬註冊非香港公司的董事或幕後董事，或曾屬該公司的董事或幕後董事的人。
- (7) 在本條中——

- (a) has engaged, is engaging or is proposing to engage in any conduct specified in section 728(1)(a); or
- (b) before the commencement date<sup>#</sup> of section 728, had engaged, was engaging or was proposing to engage in any conduct specified in section 728(2)(a), and the engagement or proposal still subsists,

the Financial Secretary may apply to the Court for the remedies under section 729(2).

- (5) If it appears to the Financial Secretary from any specified materials that, in relation to a company or non-Hong Kong company, a person—

- (a) has refused or failed, is refusing or failing, or is proposing to refuse or fail, to do an act or thing specified in section 728(1)(b); or
- (b) before the commencement date<sup>#</sup> of section 728, had refused or failed, was refusing or failing, or was proposing to refuse or fail, to do an act or thing that the person was required by the predecessor Ordinance and is required by this Ordinance to do, and the refusal, failure or proposal still subsists,

the Financial Secretary may apply to the Court for the remedies under section 729(2).

- (6) If it appears to the Financial Secretary from any specified materials that it is expedient in the public interest that a disqualification order be made under section 168J(1) of the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) against any person who is or has been a director or shadow director of—

- (a) a company as defined by section 2(1);
- (b) an unregistered company as defined by section 326(1) of the Companies (Winding Up and Miscellaneous

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**指明材料** (specified materials) 指 ——

- (a) 在第 2 分部所指的調查中，由某審查員或其獲轉授人作出的報告，或由某審查員或其獲轉授人取得的紀錄、文件或資料；或
- (b) 在第 3 分部所指的查訊中，由財政司司長或其獲轉授人取得的任何紀錄、文件或資料。

編輯附註：

\* 生效日期：2014 年 3 月 3 日。

## 880. 保密

- (1) 除非是在執行本條例或《公司(清盤及雜項條文)條例》(第 32 章)所指的任何職能的過程中，或是為施行本條例或該條例的條文，否則第 (3) 款指明的人 ——
  - (a) 不得准許任何人接觸關乎該人在第 2 分部所指的調查中或第 3 分部所指的查訊中(或在與該調查或查訊有其他關連的情況下)獲悉的任何人的事務的事宜；及

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Provisions) Ordinance (Cap. 32) (other than a partnership, whether limited or not, or an association), wherever incorporated, that—

- (i) is carrying on business in Hong Kong, or has carried on business in Hong Kong; and
  - (ii) may be wound up under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or
  - (c) a registered non-Hong Kong company, the Financial Secretary may apply to the Court for such an order to be made against that person.
- (7) In this section—
- specified materials** (指明材料) means—
- (a) any report made on, or any record, document or information obtained in, an investigation under Division 2 by an inspector or a delegate of an inspector; or
  - (b) any record, document or information obtained in an enquiry under Division 3 by the Financial Secretary or a delegate of the Financial Secretary.

Editorial Note:

\* Commencement date: 3 March 2014.

## 880. Preservation of secrecy

- (1) Except in the performance of any function under this Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32), or for carrying into effect the provisions of this Ordinance or that Ordinance, a person specified in subsection (3)—
  - (a) must not permit any person to have access to any matter relating to the affairs of any person that comes to the

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- (b) 不得將任何該等事宜，傳達予該事宜所關乎的人以外的任何人。
- (2) 第 (1) 款的效力，須受第 881(1) 及 (2) 條規限。
- (3) 為施行第 (1) 款而指明的人為 ——
- (a) 公職人員；
  - (b) 審查員、其獲轉授人、財政司司長的獲轉授人、或該審查員、該獲轉授人的僱員、代理人、專家顧問或專業顧問；
  - (c) 為根據第 2 分部進行調查或為根據第 3 分部進行查訊而僱用或委任的僱員、代理人、專家顧問、專業顧問；
  - (d) 在或曾在根據第 2 分部進行的調查中執行任何職能的人，或在或曾在根據第 3 分部進行的查訊中執行任何職能的人；
  - (e) 曾在根據第 2 分部進行的調查中協助任何其他執行任何職能的人，或在或曾在根據第 3 分部進行的查訊中協助任何其他執行任何職能的人；及
  - (f) 根據第 858 或 860 條 ——
    - (i) 獲送交關於該調查的報告草稿或其部分或報告的人；及
    - (ii) 被要求將該報告草稿或其部分或該報告保密的人。

#### 881. 獲准許的披露及限制

- (1) 第 880(3) 條所指明的人可 ——
- (a) 披露公眾已可得到的資料；

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- specified person's knowledge in an investigation under Division 2 or an enquiry under Division 3, or otherwise in connection with the investigation or enquiry; and
- (b) must not communicate any such matter to any person other than the person to whom the matter relates.
- (2) Subsection (1) has effect subject to section 881(1) and (2).
- (3) The persons specified for the purposes of subsection (1) are—
- (a) a public officer;
  - (b) an inspector or a delegate of an inspector or of the Financial Secretary, or an employee, agent, consultant or adviser of the inspector or delegate;
  - (c) an employee, agent, consultant or adviser who is employed or appointed for the purposes of an investigation under Division 2 or an enquiry under Division 3;
  - (d) a person who performs or has performed any function in an investigation under Division 2 or an enquiry under Division 3;
  - (e) a person who has assisted any other person in the performance of any function in an investigation under Division 2 or an enquiry under Division 3; and
  - (f) a person who, under section 858 or 860—
    - (i) has been sent a draft report or a part of the draft report, or a report, on an investigation; and
    - (ii) has been required to keep the draft report or that part of the draft report, or the report, confidential.

#### 881. Permitted disclosure and restrictions

- (1) A person specified in section 880(3) may—



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- (b) 為在香港進行的任何刑事法律程序的目的，或為執法機關以提出該等程序為出發點而進行的調查的目的，披露資料；
  - (c) 為在與根據本條例或《公司（清盤及雜項條文）條例》（第 32 章）引起的任何事宜有關連的情況下徵詢以專業身分行事或擬以專業身分行事的大律師、律師或其他專業顧問的意見而披露資料，或由以專業身分行事或擬以專業身分行事的大律師、律師或其他專業顧問在與根據本條例或《公司（清盤及雜項條文）條例》（第 32 章）引起的任何事宜有關連的情況下給予意見而披露資料；
  - (d) 在與該指明的人屬其中一方的司法或其他程序有關連的情況下披露資料；及
  - (e) 按照法院或審裁處的命令，或按照法律或根據法律作出的要求，披露資料。
- (2) 財政司司長可 ——
- (a) 在不抵觸第 (3) 款的情況下，向以下人士或機構披露資料 ——
    - (i) 行政長官；
    - (ii) 律政司司長；
    - (iii) 財經事務及庫務局局長；
    - (iv) 香港警務處處長；
    - (v) 廉政專員；
    - (vi) 稅務局局長；
    - (vii) 公司註冊處處長；
    - (viii) 並非以根據《公司（清盤及雜項條文）條例》（第 32 章）獲委任或憑藉該條例出任的清盤人或臨時清盤人的身分行事的破產管理署署長；
    - (ix) 金融管理專員；

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- (a) disclose information that has already been made available to the public;
  - (b) disclose information for the purpose of any criminal proceedings in Hong Kong or any investigation conducted by a law enforcement agency with a view to bringing any such proceedings;
  - (c) disclose information for the purpose of seeking advice from or giving advice by counsel, a solicitor or other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
  - (d) disclose information in connection with any judicial or other proceedings to which the specified person is a party; and
  - (e) disclose information in accordance with an order of a court or tribunal, or in accordance with a law or a requirement made under a law.
- (2) The Financial Secretary may—
- (a) subject to subsection (3), disclose information to—
    - (i) the Chief Executive;
    - (ii) the Secretary for Justice;
    - (iii) the Secretary for Financial Services and the Treasury;
    - (iv) the Commissioner of Police of Hong Kong;
    - (v) the Commissioner of the Independent Commission Against Corruption;
    - (vi) the Commissioner of Inland Revenue;
    - (vii) the Registrar;

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- (x) 證監會；
- (xi) 財務匯報局；
- (xii) 市場失當行為審裁處；
- (xiii) 保險業監管局；(由 2015 年第 12 號第 168 條修訂)
- (xiv) 強積金管理局；
- (xv) 審查員；
- (xvi) 獲財政司司長轉授權力的人；
- (xvii) 根據《證券及期貨條例》(第 571 章) 第 19(2) 條獲認可為交易所公司的公司；
- (xviii) 個人資料私隱專員；
- (xix) 申訴專員；或
- (xx) 財政司司長根據第 (7) 款授權的公職人員；
- (b) 在不抵觸第 (3) 款的情況下，向以下人士披露關於事務正在或曾經根據第 840 或 841 條被調查或根據第 869 條被查訊的公司的資料 ——
  - (i) 以根據《公司(清盤及雜項條文)條例》(第 32 章) 獲委任或憑藉該條例出任該公司的清盤人或臨時清盤人的身分行事的破產管理署署長；或
  - (ii) 符合以下說明的任何其他人士 ——
    - (A) 根據《公司(清盤及雜項條文)條例》(第 32 章) 獲委任為該公司的清盤人或臨時清盤人；或
    - (B) 根據香港以外地方的任何法律，以類似身分就該公司行事；
- (c) 在以下人士同意下披露資料 ——
  - (i) (如該資料是從某人處取得或接獲) 該人；及

- (viii) the Official Receiver in a capacity other than that of a liquidator or provisional liquidator appointed under, or holding such office by virtue of, the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
- (ix) the Monetary Authority;
- (x) the Securities and Futures Commission;
- (xi) the Financial Reporting Council;
- (xii) the Market Misconduct Tribunal;
- (xiii) the Insurance Authority;
- (xiv) the Mandatory Provident Fund Schemes Authority;
- (xv) an inspector;
- (xvi) a delegate of the Financial Secretary;
- (xvii) a company recognized as an exchange company under section 19(2) of the Securities and Futures Ordinance (Cap. 571);
- (xviii) the Privacy Commissioner for Personal Data;
- (xix) the Ombudsman; or
- (xx) a public officer authorized by the Financial Secretary under subsection (7);
- (b) subject to subsection (3), disclose information in respect of a company whose affairs are or have been investigated under section 840 or 841, or enquired into under section 869, to—
  - (i) the Official Receiver in the capacity of a liquidator or provisional liquidator of the company appointed under, or holding such office by virtue of, the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32); or

- (ii) (如該資料並非關乎上述的人)該資料所關乎的人；及
- (d) 披露採用撮要形式的資料，而該撮要的撰寫方式，足以不讓人從該撮要中確定關乎任何人的詳情。
- (3) 財政司司長除非認為以下條件獲符合，否則不得根據第(2)(a)或(b)款披露資料——
  - (a) 作出該項披露，會使該資料的接收者能夠執行其職能，或會協助該接收者執行其職能；而
  - (b) 如此披露該資料，不違反公眾利益。
- (4) 除第(5)款另有規定外，如某資料已根據第(1)或(2)款(第(1)(a)或(2)(d)款除外)或第880(1)條向某人披露，則——
  - (a) 該人；及
  - (b) 從該人處取得或接獲該資料的任何其他人，不得向任何其他人披露該資料。
- (5) 在以下情況下，第(4)款不禁止該款(a)或(b)段所述的人向任何其他人披露資料——
  - (a) 財政司司長同意該項披露；
  - (b) 公眾已可得到該資料；
  - (c) 該項披露是為在與根據本條例或《公司(清盤及雜項條文)條例》(第32章)引起的任何事宜有關連的情況下徵詢以專業身分行事或擬以專業身分行事的大律師、律師或其他專業顧問的意見而作出的，或由以專業身分行事或擬以專業身分行事的大律師、律師或其他專業顧問在與根據本條例或《公司(清盤及雜項條文)條例》(第32章)引起的任何事宜有關連的情況下給予意見而作出的；
  - (d) 該項披露是在與上述的人屬其中一方的司法或其他程序有關連的情況下作出的；或

- (ii) any other person who—
  - (A) is a liquidator or provisional liquidator of the company appointed under that Ordinance; or
  - (B) acts in a similar capacity in relation to the company under any law of a place outside Hong Kong;
- (c) disclose information with the consent of—
  - (i) the person from whom the information was obtained or received; and
  - (ii) if the information does not relate to such person, the person to whom it relates; and
- (d) disclose information in summary form that is so framed as to prevent particulars relating to any person from being ascertained from it.
- (3) The Financial Secretary must not disclose information under subsection (2)(a) or (b) unless the Financial Secretary is of the opinion that—
  - (a) the disclosure will enable or assist the recipient of the information to perform the recipient's functions; and
  - (b) it is not contrary to the public interest that the information be so disclosed.
- (4) Subject to subsection (5), if information is disclosed under subsection (1) or (2) (other than subsection (1)(a) or (2)(d)) or section 880(1)—
  - (a) the person to whom the information is so disclosed; and
  - (b) any other person who obtains or receives the information from that person,
 must not disclose the information to any other person.

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- (e) 該項披露是按照法院或審裁處的命令而作出的，或是按照法律或根據法律作出的要求而作出的。
- (6) 財政司司長可對 ——
- (a) 根據第 (2) 款披露資料；或
- (b) 根據第 (5)(a) 款授予的同意，附加財政司司長認為適當的條件。
- (7) 財政司司長可授權任何公職人員為可根據第 (2)(a)(xx) 款披露資料的披露對象。

## 882. 關於保密規定的罪行

- (1) 任何人違反第 880(1) 條，即屬犯罪。
- (2) 任何人 ——

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- (5) Subsection (4) does not prohibit a person mentioned in paragraph (a) or (b) of that subsection from disclosing the information to any other person if—
- (a) the Financial Secretary consents to the disclosure;
- (b) the information has already been made available to the public;
- (c) the disclosure is for the purpose of seeking advice from or giving advice by counsel, a solicitor or other professional adviser, acting or proposing to act in a professional capacity in connection with any matter arising under this Ordinance or the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32);
- (d) the disclosure is in connection with any judicial or other proceedings to which the person so referred to is a party; or
- (e) the disclosure is in accordance with an order of a court or tribunal, or in accordance with a law or a requirement made under a law.
- (6) The Financial Secretary may attach such conditions as the Financial Secretary considers appropriate to—
- (a) a disclosure of information made under subsection (2); or
- (b) a consent granted under subsection (5)(a).
- (7) The Financial Secretary may authorize any public officer as a person to whom information may be disclosed under subsection (2)(a)(xx).

## 882. Offences on breach of secrecy

- (1) A person who contravenes section 880(1) commits an offence.
- (2) A person commits an offence if—

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- (a) 在違反第 881(4) 條的情況下披露任何資料；而
- (b) 在作出該項披露時，本身 ——
  - (i) 知道或應該知道該資料是之前如第 881(4)(a) 或 (b) 條描述般向該人披露或由該人取得或接獲；及
  - (ii) 無合理理由相信憑藉第 881(5) 條，自己不被禁止披露該資料，
 即屬犯罪。
- (3) 任何人犯第 (1) 或 (2) 款所訂罪行 ——
  - (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 2 年；或
  - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。

## 第 2 次分部 —— 適用於第 2、3 及 4 分部的補充條文

### 883. 釋義

在本次分部中 ——

**指明人員** (specified officer) ——

- (a) 就根據第 2 分部進行的調查而言，指審查員或其獲轉授人；
- (b) 就根據第 3 分部進行的查訊而言，指財政司司長或其獲轉授人；及
- (c) 就根據第 4 分部進行的查訊而言，指處長或其獲轉授人。

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- (a) the person discloses any information in contravention of section 881(4); and
- (b) at the time of the disclosure—
  - (i) the person knew, or ought to have known, that the information was previously disclosed to, or obtained or received by, the person as described in section 881(4)(a) or (b); and
  - (ii) the person had no reasonable grounds to believe that the person was not prohibited from disclosing the information by virtue of section 881(5).
- (3) A person who commits an offence under subsection (1) or (2) is liable—
  - (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

## Subdivision 2—Supplementary Provisions Applicable to Divisions 2, 3 and 4

### 883. Interpretation

In this Subdivision—

**specified officer** (指明人員) —

- (a) in relation to an investigation under Division 2, means an inspector or a delegate of an inspector;
- (b) in relation to an enquiry under Division 3, means the Financial Secretary or a delegate of the Financial Secretary; and
- (c) in relation to an enquiry under Division 4, means the Registrar or a delegate of the Registrar.



**884. 關於某些披露的保障**

- (1) 如 ——
- (a) 某人向指明人員作出一項披露，而作出該項披露並非是為遵從該人員根據第 2、3 或 4 分部（視屬何情況而定）作出的要求；及
  - (b) 該項披露符合第 (2) 款指明的每項條件，則該人無需僅因該項披露，而在關乎違反保密責任的法律程序中，負上任何法律責任。
- (2) 上述條件是 ——
- (a) 有關披露所屬的類別，是可根據第 2、3 或 4 分部（視屬何情況而定）要求有關的人作出的披露的類別；
  - (b) 該人真誠地作出該項披露，並有合理理由相信該項披露在根據第 2 分部進行的調查中或根據第 3 或 4 分部進行的查訊中，能協助該指明人員；
  - (c) 所披露的資料，並不超出為在根據第 2 分部進行的調查中或根據第 3 或 4 分部進行的查訊中，協助該指明人員而合理所需的資料；
  - (d) 該項披露並非憑藉任何成文法則而被禁止。
- (3) 凡某人以銀行職員或律師身分，對某資料負有保密責任，如該人以該身分就該資料作出披露，第 (1) 款不適用於該項披露。

**885. 對舉報人的保障等****884. Protection in relation to certain disclosures**

- (1) If—
- (a) a person makes a disclosure to a specified officer otherwise than in compliance with a requirement made by the officer under Division 2, 3 or 4 (as the case may be); and
  - (b) the disclosure satisfies each of the conditions specified in subsection (2),  
the person is not liable in any proceedings relating to a breach of duty of confidentiality by reason only of the disclosure.
- (2) The conditions are—
- (a) that the disclosure is of a kind that the person could be required to make under Division 2, 3 or 4 (as the case may be);
  - (b) that the person makes the disclosure in good faith and in the reasonable belief that the disclosure is capable of assisting the specified officer in the investigation under Division 2 or enquiry under Division 3 or 4;
  - (c) that the information disclosed is not more than is reasonably necessary for the purpose of assisting the specified officer in the investigation under Division 2 or enquiry under Division 3 or 4;
  - (d) that the disclosure is not prohibited by virtue of any enactment.
- (3) Subsection (1) does not apply to a disclosure made by a person in the capacity as a banker or lawyer in respect of information to which the person owes a duty of confidentiality in that capacity.

**885. Protection of informers etc.**

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- (1) 任何關於受保障人士的身分的資料，均不得在法院席前或審裁處進行的任何法律程序中，獲接納為證據。
- (2) 在上述程序中，證人沒有責任 ——
  - (a) 披露並非該等程序中的證人的受保障人士的姓名或名稱或地址；或
  - (b) 述明會致使或傾向致使並非該等程序中的證人的受保障人士的姓名或名稱或地址被透露的任何事宜。
- (3) 如屬上述程序中的證據的某簿冊、文件或字據（或在上述程序中可予查閱的某簿冊、文件或字據）載有 ——
  - (a) 指出受保障人士的姓名或名稱的記項，或描述受保障人士的記項；或
  - (b) 可能致使受保障人士的身分被透露的記項，  
則法院或審裁處（視屬何情況而定）須安排將所有該等記項掩蓋或塗去，但範圍限於為保障該人士的身分免被披露而需要的範圍。
- (4) 儘管有第 (1)、(2) 或 (3) 款的規定，在上述程序中，法院或審裁處如 ——
  - (a) 認為若不披露受保障人士的姓名或名稱，便不能在該等程序的各方之間全面秉行公義；或
  - (b) 信納受保障人士作出 ——
    - (i) 本身明知屬或相信屬虛假的具關鍵性的陳述；或
    - (ii) 本身不相信屬真實的具關鍵性的陳述，  
可准許進行關於該人士的研訊，及要求作出關於該人士的全面披露。
- (5) 儘管有根據第 2 分部擬備或發表任何調查的中期報告或最終報告，本條仍具有效力。
- (6) 在本條中 ——  
**受保障人士** (protected person) 指 ——

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- (1) Any information concerning the identity of a protected person is not admissible in evidence in any proceedings before a court or tribunal.
- (2) In such proceedings, a witness is not obliged—
  - (a) to disclose the name or address of a protected person who is not a witness in those proceedings; or
  - (b) to state any matter that would lead, or would tend to lead, to discovery of the name or address of a protected person who is not a witness in those proceedings.
- (3) If a book, document or paper that is in evidence, or liable to inspection, in such proceedings contains an entry—
  - (a) in which a protected person is named or described; or
  - (b) that might lead to discovery of a protected person,  
the court or tribunal (as the case may be) must cause all such entries to be concealed from view, or to be obliterated, so far as may be necessary to protect the identity of the protected person from discovery.
- (4) In such proceedings, the court or tribunal may, despite subsection (1), (2) or (3), permit inquiry, and require full disclosure, concerning a protected person if—
  - (a) it is of the opinion that justice cannot be fully done between the parties to the proceedings without disclosure of the name of the protected person; or
  - (b) it is satisfied that the protected person made a material statement that the person—
    - (i) knew or believed to be false; or
    - (ii) did not believe to be true.
- (5) This section has effect despite the preparation or publication of any interim report or final report of an investigation under Division 2.

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第 19 部 —— 第 5 分部  
第 886 條

- (a) 曾就第 2 分部所指的調查或就第 3 或 4 分部所指的查訊，向指明人員提供資料的告發人；或
- (b) 曾就上述調查或查訊協助指明人員的人。

#### 886. 法律專業保密權

- (1) 除第 (2) 款另有規定外，本部不影響除按本部外可基於法律專業保密權的理由而產生的任何申索、聲稱、權利或享有權。
- (2) 第 (1) 款不影響任何第 2、3 或 4 分部所指的要求披露法律執業者 (不論該執業者是否在香港具有以大律師身分執業或以律師身分行事的資格) 的客戶的姓名或名稱及地址的要求或規定。

#### 887. 豁免承擔法律責任

- (1) 任何人如遵從指明人員根據第 2 分部第 4 次分部或第 869 或 873 條施加的要求，則不會僅因遵從該項要求而招致任何民事法律責任。
- (2) 任何人並不就執行或其本意是執行本部所指的職能時真誠地作出的作為或不作為，而招致任何民事法律責任。

#### 888. 交出資訊系統內的資料等

- (1) 如 ——

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- (6) In this section—  
*protected person* (受保障人士) means—

- (a) an informer who has given information to a specified officer with respect to an investigation under Division 2 or an enquiry under Division 3 or 4; or
- (b) a person who has assisted a specified officer with respect to such an investigation or enquiry.

#### 886. Legal professional privilege

- (1) Subject to subsection (2), this Part does not affect any claims, rights or entitlements that would, apart from this Part, arise on the ground of legal professional privilege.
- (2) Subsection (1) does not affect any requirement under Division 2, 3 or 4 to disclose the name and address of a client of a legal practitioner (whether or not the legal practitioner is qualified in Hong Kong to practise as counsel or to act as a solicitor).

#### 887. Immunity

- (1) A person who complies with a requirement imposed by a specified officer under Subdivision 4 of Division 2 or section 869 or 873 does not incur any civil liability by reason only of that compliance.
- (2) A person does not incur any civil liability in respect of anything done, or omitted to be done, by the person in good faith in the performance, or purported performance, of any function under this Part.

#### 888. Production of information in information systems etc.

- (1) If—

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第 889 條

- (a) 某指明人員根據第 2 分部第 4 次分部或第 869 或 873 條，要求交出任何紀錄或文件；及
- (b) 載於該紀錄或文件內的任何資料或事項並非以可閱讀形式記錄，但能夠以該形式重現，
- 則該人員可要求交出將該資料或事項或其有關部分重現而製成的採用可閱讀形式的版本。
- (2) 如 ——
- (a) 某指明人員根據第 2 分部第 4 次分部或第 869 或 873 條要求交出任何紀錄或文件；及
- (b) 載於該紀錄或文件內的任何資料或事項，被記錄於資訊系統內，
- 則該人員可要求交出該資料或事項的紀錄 ( 或該紀錄的有關部分 ) 的複製版本，而該版本須以令該資料或事項能夠以可閱讀形式重現的形式交出。

**889. 聲稱對紀錄或文件擁有的留置權**

如任何人管有根據第 2 分部第 4 次分部或第 869 或 873 條被要求交出的任何紀錄或文件，而該人聲稱對該紀錄或文件有留置權，則 ——

- (a) 該留置權並不影響交出該紀錄或文件的要求；
- (b) 無需為交出該紀錄或文件或就交出該紀錄或文件而支付任何費用；及
- (c) 交出該紀錄或文件並不影響該留置權。

**890. 文件的銷毀**

- (1) 任何人 ——

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- (a) a specified officer requires any record or document to be produced under Subdivision 4 of Division 2 or section 869 or 873; and
- (b) any information or matter contained in the record or document is recorded otherwise than in a legible form but is capable of being reproduced in a legible form,
- the officer may require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a legible form.
- (2) If—
- (a) a specified officer requires any record or document to be produced under Subdivision 4 of Division 2 or section 869 or 873; and
- (b) any information or matter contained in the record or document is recorded in an information system,
- the officer may require the production of a reproduction of the recording of the information or matter, or the relevant part of the recording, in a form that enables the information or matter to be reproduced in a legible form.

**889. Lien claimed on records or documents**

If a person claims a lien on any record or document in the person's possession that is required to be produced under Subdivision 4 of Division 2 or section 869 or 873—

- (a) the lien does not affect the requirement to produce the record or document;
- (b) no fee is payable for or in respect of the production; and
- (c) the production does not affect the lien.

**890. Destruction of documents**

- (1) A person commits an offence if—

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第 19 部 —— 第 6 分部  
第 892 條

- (a) 銷毀、捏改、隱匿或以其他方式處置根據第 2 分部第 4 次分部或第 869 或 873 條被要求交出的紀錄或文件，或致使或准許他人作出該等作為；而
  - (b) 作出上述作為的意圖，是向施加該項要求的指明人員隱瞞可藉該紀錄或文件而披露的事實或事宜，即屬犯罪。
- (2) 任何人犯第 (1) 款所訂罪行 ——
- (a) 一經循公訴程序定罪，可處罰款 \$1,000,000 及監禁 2 年；或
  - (b) 一經循簡易程序定罪，可處第 6 級罰款及監禁 6 個月。

#### 891. 查閱被檢取的紀錄或文件等

- (1) 如某指明人員根據本部，取得任何紀錄或文件的管有權，則本條適用。
- (2) 有關指明人員可施加關於保安或其他方面的合理條件，並在該等條件的規限下，准許假使紀錄或文件沒有被該人員管有便會有權查閱該紀錄或文件的人 ——
  - (a) 在任何合理時間查閱該紀錄或文件；及
  - (b) 在任何合理時間複製或複印該紀錄或文件，或以其他方式記錄其細節。

### 第 6 分部 —— 公司委任某人調查公司的事務

#### 892. 公司委任某人調查公司的事務

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Section 892

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- (a) the person destroys, falsifies, conceals or otherwise disposes of, or causes or permits the destruction, falsification, concealment or disposal of, any record or document that is required to be produced under Subdivision 4 of Division 2 or section 869 or 873; and
  - (b) the person does so with intent to conceal, from the specified officer by whom the requirement was imposed, facts or matters capable of being disclosed by the record or document.
- (2) A person who commits an offence under subsection (1) is liable—
- (a) on conviction on indictment to a fine of \$1,000,000 and to imprisonment for 2 years; or
  - (b) on summary conviction to a fine at level 6 and to imprisonment for 6 months.

#### 891. Inspection of records or documents seized etc.

- (1) This section applies if a specified officer has taken possession of any record or document under this Part.
- (2) The specified officer must, subject to any reasonable conditions the officer may impose as to security or otherwise, permit any person who would be entitled to inspect the record or document had the officer not taken possession of it, at all reasonable times—
  - (a) to inspect it; and
  - (b) to make copies or otherwise record details of it.

### Division 6—Investigation of Company's Affairs by Persons Appointed by Company

#### 892. Appointment of person by company to investigate its affairs



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第 622 章

第 19 部 —— 第 6 分部  
第 893 條

- (1) 公司可藉特別決議，委任某人調查該公司的事務。
- (2) 為調查有關公司的事務，獲委任的人可藉書面通知，要求該公司的任何高級人員或代理人作出以下任何或所有作為——
  - (a) 向該獲委任的人交出任何關乎受調查的事宜並由該人員或代理人保管或控制的任何紀錄或文件；
  - (b) 在該通知所指明的時間及地點，面見該獲委任的人，並在經宣誓或不經宣誓的情況下，回答該人向該人員或代理人提出的關乎受調查的事宜的任何問題；
  - (c) 回答該通知所指明並關乎受調查的事宜的任何問題。
- (3) 為施行第 (2)(b) 款，獲委任的人可為任何人監誓。

**893. 原訟法庭可研訊高級人員或代理人沒有面見獲委任的人一事等**

- (1) 如某公司的高級人員或代理人沒有遵從根據第 892(2) 條對其施加的要求，獲委任的人可向原訟法庭申請就沒有遵從該項要求一事進行研訊。
- (2) 原訟法庭如信納有關高級人員或代理人是在無合理辯解的情況下沒有遵從有關要求，可懲罰該人員或該代理人（視屬何情況而定），而懲罰的方式猶如該人員或該代理人犯藐視法庭罪一樣。

**894. 獲委任的人提交的報告**

Part 19—Division 6  
Section 893

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Cap. 622

- (1) A company may, by special resolution, appoint a person to investigate its affairs.
- (2) For the purpose of investigating the company's affairs, the appointed person may, by notice in writing, require any officer or agent of the company to do any or all of the following—
  - (a) produce to the appointed person any record or document relating to any matter under investigation that is in the officer's or agent's custody or power;
  - (b) attend before the appointed person at the time and place specified in the notice, and answer any question, whether on oath or otherwise, relating to any matter under investigation that the appointed person may raise with the officer or agent;
  - (c) answer any question relating to any matter under investigation that is specified in the notice.
- (3) The appointed person may administer an oath to any person for the purposes of subsection (2)(b).

**893. Court may inquire into failure of officer or agent to attend before appointed person etc.**

- (1) If an officer or agent of a company fails to comply with a requirement imposed on the officer or agent under section 892(2), the appointed person may apply to the Court for an inquiry into the failure.
- (2) The Court may, if it is satisfied that the officer or agent has without any reasonable excuse failed to comply with the requirement, punish the officer or agent (as the case may be) in the same manner as if the officer or agent had been guilty of contempt of court.

**894. Report by appointed person**

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第 622 章

第 19 部 —— 第 6 分部  
第 894 條

- (1) 根據第 892(1) 條獲委任調查某公司的事務的人須在該調查完成後，按該公司在大會上所指示的方式，就該調查提交報告。
  - (2) 於在法院進行的任何法律程序中 ——
    - (a) 如某文件看來是上述報告的文本，並看來是經獲委任的人及該公司簽署，則該文件一經交出，即可接納為證據而無需再加證明；及
    - (b) 該文件一經根據 (a) 段接納為證據，即為該獲委任的人在該報告內述明的意見的證據。
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Section 894

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- (1) A person appointed to investigate a company's affairs under section 892(1) must, on the conclusion of the investigation, report on the investigation in any manner as that company in general meeting may direct.
  - (2) In any proceedings before a court—
    - (a) a document purporting to be a copy of the report, and purporting to be signed by the appointed person and the company, is admissible in evidence on its production without further proof; and
    - (b) on being admitted in evidence under paragraph (a), the document is proof of any opinion of the appointed person expressed in the report.
-