

TABLE OF CONTENTS

<i>Publisher's Note</i>	v
<i>Foreword from the First Edition</i>	vii
<i>Table of Cases</i>	xli
<i>Table of Legislation</i>	cixvii
<i>Index</i>	963

CHAPTER 1 COMPANY LAW AND REGULATION IN HONG KONG

1. Introduction	1.001
2. Companies and the Scope of Company Law	1.002
2.1 Companies in society	1.002
2.2 Companies and corporations	1.003
2.2.1 Anglo-Hong Kong law	1.004
2.2.2 Foreign jurisdictions	1.010
2.3 What company law covers	1.011
2.3.1 "Core" company law	1.012
2.4 Facilitative or mandatory rules?	1.016
2.5 Sources of law	1.020
3. Companies and Other Forms of Business Association	1.024
3.1 Introduction	1.024
3.2 Sole proprietorships	1.026
3.3 Partnerships	1.030
3.3.1 General	1.030
3.3.2 Formation and identification of partnerships	1.032
3.3.3 Registration	1.041
3.3.4 Nature of a partnership	1.042
3.3.5 Partnership property	1.043
3.3.6 Financing	1.049
3.3.7 Relationship between partners	1.051
3.3.8 Liability to third parties – contract	1.057
3.3.9 Liability to third parties—tort	1.061
3.3.10 Limited partnerships	1.062
3.3.11 Termination of partnerships	1.063

5.4.16 Pt.16 — Non-Hong Kong companies	1.157
5.4.17 Pt.17 — Companies not formed, but registrable, under this Ordinance	1.158
5.4.18 Pt.18 — Communications to and by companies	1.159
5.4.19 Pt.19 — Investigations and enquiries.....	1.160
5.4.20 Pt.20 — Miscellaneous	1.162
5.4.21 Pt.21 — Consequential amendments and transitional and savings provisions.....	1.163
5.4.22 Schedules 1 to 11	1.164
5.5 Subsidiary legislation.....	1.166
5.6 What happened to the predecessor Companies Ordinance (Cap.32)?	1.167
6. Regulatory Regime	1.169
6.1 Statutory and non-statutory regulation	1.169
6.1.1 Companies Ordinance (Cap.622).....	1.169
6.1.2 Securities and Futures Ordinance	1.174
6.1.3 Non-statutory regulation	1.175
6.2 Regulatory bodies	1.176
6.3 Registrar of Companies and the Companies Registry	1.177
6.4 Securities and Futures Commission.....	1.181
6.5 Hong Kong Exchanges and Clearing Ltd	1.185
6.6 Inspections under Companies Ordinance	1.189
6.6.1 General	1.189
6.6.2 Inspections	1.191
6.6.3 Financial Secretary's power to require production of documents	1.196
6.6.4 Main changes under Cap 622.....	1.200
6.7 Official Receiver's Office.....	1.202
6.8 Regulation of financial reporting and auditing.....	1.204
7. Theories and Perspectives on Company Law.....	1.208
7.1 General.....	1.208
7.2 Theories on particular areas of company law	1.211
7.3 Economic analysis of law	1.214
7.4 Critical legal theories.....	1.216

CHAPTER 2 ESTABLISHMENT OF COMPANIES

1. Incorporation by Registration	2.001
1.1 Introduction.....	2.001
1.2 Procedure	2.002
1.2.1 Articles of association	2.003
1.2.2 Incorporation form.....	2.010

TABLE OF CONTENTS

3.4 Companies: Comparison with partnerships.....	1.064
3.4.1 General.....	1.064
3.4.2 Formation.....	1.067
3.4.3 Legal status	1.069
3.4.4 Formalities	1.071
3.4.5 Transfer of ownership	1.073
3.4.6 Management.....	1.075
3.4.7 Agency	1.076
3.4.8 Liability	1.077
3.4.9 Borrowing powers/financing.....	1.079
3.4.10 Taxation.....	1.081
4. Historical Development of Company Law	1.083
4.1 English origins.....	1.083
4.1.1 Historical development of the corporation.....	1.084
4.1.2 Joint stock companies	1.089
4.1.3 Early English Companies Acts.....	1.096
4.2 The early Companies Ordinances in Hong Kong: 1865 and 1911	1.102
4.3 Companies Ordinance 1932.....	1.108
5. Company Law Reform: the Companies Ordinance Rewrite.....	1.114
5.1 Introduction and background to the Rewrite	1.114
5.2 Objectives of the Rewrite.....	1.119
5.3 The Rewrite process.....	1.123
5.4 Companies Ordinance (28 of 2012) (Cap.622).....	1.128
5.4.1 Pt.1 — Preliminary	1.131
5.4.2 Pt.2 — Registrar of Companies and Companies Register	1.132
5.4.3 Pt.3 — Company formation and related matters, and re-registration of company	1.134
5.4.4 Pt.4 — Share capital.....	1.136
5.4.5 Pt.5 — Transactions in relation to share capital.....	1.138
5.4.6 Pt.6 — Distribution of profits and assets	1.141
5.4.7 Pt.7 — Debentures	1.142
5.4.8 Pt.8 — Registration of charges	1.143
5.4.9 Pt.9 — Accounts and audit.....	1.144
5.4.10 Pt.10 — Directors and company secretaries	1.146
5.4.11 Pt.11 — Fair dealing by directors	1.148
5.4.12 Pt.12 — Company administration and procedure	1.150
5.4.13 Pt.13 — Arrangements, amalgamation and compulsory acquisition in takeover and share buy-back	1.152
5.4.14 Pt.14 — Remedies for protection of companies' or members' interests.....	1.154
5.4.15 Pt.15 — Dissolution by striking off or deregistration.....	1.156

TABLE OF CONTENTS

1.2.3 Electronic applications for registration.....	2.012
1.2.4 Shelf companies.....	2.013
1.3 Incorporation upon registration	2.015
1.4 Other requirements and formalities in connection with the establishment of the company.....	2.017
1.4.1 Members of the company	2.017
1.4.2 Directors of the company.....	2.021
1.4.3 Company secretary	2.023
1.4.4 Registered office	2.027
1.4.5 Registers to be maintained by company following incorporation	2.030
1.4.6 Common seal	2.035
1.4.7 Business registration	2.039
2. Types of Companies.....	2.040
2.1 Limited and unlimited companies	2.042
2.1.1 Companies limited by shares.....	2.044
2.1.2 Companies limited by guarantee.....	2.045
2.1.3 Unlimited companies	2.047
2.2 Private and public companies	2.049
2.3 Change of company type	2.054
2.4 Listed and unlisted companies	2.058
2.5 Local and foreign companies	2.060
2.5.1 Distinction between local and foreign companies	2.060
2.5.2 Ordinance applies to Hong Kong companies	2.061
2.5.3 Scope of application of Ordinance to Non-Hong Kong companies	2.062
2.5.4 Other provisions applicable to foreign companies.....	2.070
2.6 Companies not formed but registrable under Companies Ordinance	2.076
2.6.1 General.....	2.076
2.6.2 Companies eligible for registration	2.077
2.6.3 Registration as which type of company?	2.082
2.6.4 Effect of registration	2.083
3. Company Names	2.084
3.1 Requirements	2.084
3.2 Restrictions on the use of particular names or words	2.087
3.3 Publication of name	2.092
3.4 Change of name	2.095
4. Promoters	2.097
4.1 Introduction.....	2.097
4.2 Who is a "promoter"?	2.098
4.3 Duties of promoters	2.099
4.4 Remedies for breach of duty.....	2.100

CHAPTER 3 CORPORATE PERSONALITY

1. Doctrine of Separate Legal Entity	3.001
1.1 General	3.001
1.2 Company's rights and powers	3.004
1.3 Company's obligations and liabilities	3.008
2. Liability of Members	3.013
3. Liability of Officers and Employees	3.016
4. Rationales for the Separate Entity and Limited Liability Doctrines	3.022
5. Theories on the Nature of Corporate Personality	3.023
6. Piercing the Corporate Veil	3.023
6.1 General	3.025
6.2 Common law	3.026
6.2.1 Company as a " <i>mere façade</i> " — abuse of the corporate form	3.039
6.2.2 Revision of existing legal obligations	3.055
6.2.3 Fraud or other illegality	3.061
6.2.4 Agency	3.066
6.2.5 Corporate groups	3.071
6.3 Statute	

CHAPTER 4 PRE-INCORPORATION CONTRACTS

1. Introduction	4.001
2. The Common Law Position	4.004
2.1 Intention and knowledge	4.005
2.2 Liability where the contract is a nullity: breach of warranty of authority	4.010
2.3 Liability of the promoter's principal	4.015
2.4 Adoption of the pre-incorporation contract by the company	4.016
2.5 Trusts	4.017
3. Companies Ordinance (Cap.622) Section 122	4.019
4. Scope of Application of Section 122	4.026
4.1 Purports	4.027
4.1.1 Sufficient identification of the company	4.028
4.1.2 Shelf companies	4.029
4.1.3 Change of name situation	4.031
4.1.4 Mistakes as to the name of the company	4.032
4.2 "In the name or on behalf of a company"	4.034
5. Ratification	4.034
5.1 Who can ratify	4.034

TABLE OF CONTENTS

5.2 How to ratify	4.035
5.3 Whether ratification operates retrospectively	4.040
5.4 Communication	4.046
6. Liability of the Person who Purported to Act for the Company	4.047
6.1 Where the company does not ratify the contract	4.047
6.2 Where the company has ratified the contract	4.051

CHAPTER 5 CORPORATE CONSTITUTION AND SHAREHOLDER AGREEMENTS

1. Introduction	5.001
2. Provisions on Information Required by Company Outsiders	5.003
2.1 Introduction	5.003
2.2 Objects clause	5.006
2.2.1 The purpose of the objects clause and the <i>ultra vires</i> doctrine	5.006
2.2.2 Reform of the <i>ultra vires</i> doctrine in Hong Kong	5.010
2.3.1 The need for reform	5.010
2.3.2 The 1997 reforms in Hong Kong	5.014
2.3.3 The significance of the reform: full corporate capacity	5.017
3. Rules on Internal Governance: Articles of Association	5.025
3.1 The legal nature of articles of association	5.025
3.2 The enforcement of articles of association	5.028
3.2.1 Who can enforce the constitution?	5.028
3.3 Alteration of Articles	5.042
3.3.1 The mechanics	5.045
3.3.2 Statutory limitations	5.047
3.3.3 Common law limitation on the power to alter the company's constitution	5.052
3.4 Remedies	5.071
4. Shareholders' Agreements	5.075
4.1 The necessity and advantages of shareholders' agreements	5.076
4.2 Disadvantages	5.081
4.3 The relationship with articles	5.082
4.4 Circumstances in which provisions in the shareholders' agreement would be invalid	5.083

CHAPTER 6 CORPORATE ORGANS AND DIVISION OF POWERS

1. Introduction	6.001
2. Early Conceptions on the Location of Power of Control	6.005

TABLE OF CONTENTS

3. Modern Methods of Distributing Corporate Control Powers	6.007
3.1 The general power-allocation mechanism	6.008
3.2 Powers given to directors or the general meeting specifically	6.011
3.3 Concurrent powers	6.013
4. The General Power of Management	6.017
4.1 Confusion in interpretation: pre-2003 Table A Reg.82	6.020
4.2 The problems with the mainstream authorities	6.021
4.2.1 Questionable authorities	6.022
4.2.2 Alternative doctrinal bases	6.023
4.2.3 An assessment of the second line of authorities	6.029
5. The Effect of the Post-2003 Table A Reg.82 and the Model Articles	6.032
6. The General Meeting's Residual Power under Common Law	6.036
6.1 Where the directors cannot function effectively	6.037
6.2 Where it is necessary for the general meeting to exercise the company's inherent powers	6.042
6.2.1 The power to ratify directors' acts in excess of authority	6.043
6.2.2 The power to ratify an abuse of power	6.044
7. The Shareholders' Power to Make Decisions Through Unanimous Consent	6.045

CHAPTER 7 BOARD OF DIRECTORS

1. Introduction	7.001
2. Classification of Directors	7.002
2.1 <i>De jure</i> , <i>de facto</i> and shadow directors	7.003
2.1.1 <i>De facto</i> directors	7.005
2.1.2 Shadow directors	7.011
2.2 Types of directors according to functions	7.014
2.2.1 Managing director or chief executive officer	7.014
2.2.2 Executive directors and non-executive directors	7.016
2.2.3 Alternate directors	7.018
2.2.4 Nominee directors	7.021
2.2.5 Reserve directors	7.022
3. Qualifications	7.023
4. Appointment	7.028
4.1 Minimum number of directors	7.028
4.2 Initial directors	7.030
4.3 Subsequent directors	7.031
4.4 Appointment by outsiders	7.036
4.5 Liabilities of under-age directors	7.037

4.6 Corporate directors	7.038
5. Vacation of Office	7.040
5.1 Retirement by rotation	7.040
5.2 Vacation of office	7.041
5.3 Removal	7.043
5.3.1 Removal by directors	7.043
5.3.2 Removal by members	7.044
5.4 Resignation	7.052
5.5 Notification to Registrar	7.053
6. Board Meetings	7.054
6.1 Calling board meetings	7.055
6.2 Notice	7.056
6.3 Quorum	7.067
6.4 Chairperson	7.068
6.5 Voting and minutes of meetings	7.069
6.6 Effect of irregularities	7.071
6.6.1 Meeting invalid	7.072
6.6.2 Articles waiving the irregularity	7.077
6.6.3 Irregularity principle	7.079
6.6.4 The Australian position	7.084
6.6.5 Effect of irregularity on third parties	7.088
6.7 Informal decision-making	7.089
6.7.1 Written resolutions	7.089
6.7.2 Informal meetings	7.091
6.7.3 Decision-making by unanimous consent	7.093
6.8 Technology	7.098
6.9 Sole director companies	7.100
7. Disqualification	7.102
7.1 Introduction	7.102
7.2 Conviction of certain indictable offences: s.168E of the retitled Cap.32	7.106
7.3 Persistent breaches of Ordinance: s.168F of the retitled Cap.32	7.109
7.4 Fraud or breach of duty in respect of company in winding-up: ss.168G, 168L of the retitled Cap.32	7.113
7.5 Unfit directors of insolvent companies: s.168H of the retitled Cap.32	7.117
7.6 Disqualification of directors after investigation of a company: s.168J of the retitled Cap.32	7.123
7.7 Miscellaneous matters	7.125
7.7.1 Scope of disqualification order	7.125
7.7.2 Leave to manage companies	7.127

7.7.3 Contravention of disqualification order	7.129
7.7.4 Foreign companies	7.131
7.7.5 Procedural matters	7.132
7.7.6 Public examinations	7.135
7.7.7 Listed corporations: Securities and Futures Ordinance (Cap.571)	7.136

CHAPTER 8 DIRECTORS' DUTIES

1. Introduction	8.001
1.1 Nature of and rationales for duties	8.001
1.1.1 Corporate governance	8.002
1.1.2 Directors as fiduciaries	8.007
1.2 Sources of law and categories of duties	8.008
1.3 Persons subject to directors' duties	8.015
1.3.1 <i>De jure</i> directors	8.015
1.3.2 <i>De facto</i> directors	8.017
1.3.3 Shadow directors	8.018
1.3.4 Corporate directors	8.020
1.3.5 Executive officers	8.021
1.4 To whom are the duties owed?	8.023
2. Acting in Good Faith in the Interests of the Company	8.026
2.1 General	8.026
2.2 Meaning of "interests of the company"	8.030
2.2.1 General	8.030
2.2.2 Corporate groups	8.035
2.2.3 Nominee directors	8.037
2.2.4 Companies in insolvency and interests of creditors	8.038
2.3 Subjective or objective test?	8.043
3. Exercise of Powers for Proper Purposes	8.046
3.1 General	8.046
3.2 The proper purposes of a power	8.047
3.2.1 Power to deal with company's assets	8.048
3.2.2 Power to allot shares	8.049
3.2.3 Other powers affecting control	8.053
3.3 The purpose for which a power was exercised	8.058
3.4 Good faith of directors	8.066
4. Conflict of Interests	8.067
4.1 General	8.067
4.2 No-conflict rule	8.068

4.2.1 Equitable duty.....	8.068
4.2.2 Examples of a conflict of interest.....	8.069
4.2.3 Disclosure and approval by the general meeting.....	8.075
4.2.4 Modification of duty under the articles.....	8.078
4.3 Disclosure of interests—Companies Ordinance.....	8.085
4.4 Remuneration.....	8.090
4.5 Loans to directors and similar transactions	8.094
4.5.1 Loans.....	8.094
4.5.2 Quasi-loans and credit transactions	8.097
4.5.3 Transactions with connected persons	8.101
4.5.4 Exceptions.....	8.103
4.5.5 Anti-avoidance.....	8.106
4.5.6 Consequences of contravention	8.108
4.5.7 Disclosure in financial statements	8.109
4.6 Connected transactions—listed companies	8.110
5. Misuse of Assets and Information, and Secret Profits	8.111
5.1 Profit rule.....	8.111
5.2 Misappropriation of company assets	8.116
6. Diversion of Corporate Opportunities	8.117
6.1 General.....	8.117
6.2 Former directors.....	8.123
6.3 Authorisation by company.....	8.126
7. Duty of Care, Skill and Diligence	8.129
7.1 General.....	8.129
7.2 Sources of duty	8.130
7.3 Standard of care	8.132
7.3.1 Standard under the general law.....	8.134
7.3.2 Statutory duty of care	8.140
7.4 Oversight or monitoring duty	8.145
7.5 Examples.....	8.149
7.6 Exercise of independent judgment.....	8.155
8. Remedies.....	8.158
8.1 General.....	8.158
8.2 Avoidance of acts or transactions	8.159
8.3 Restitution of company's property.....	8.162
8.4 Disgorgement of profits or benefits	8.163
8.5 Equitable compensation.....	8.167

8.6 Remedies against third parties.....	8.168
8.6.1 Avoidance of transaction.....	8.168
8.6.2 Knowing receipt.....	8.170
8.6.3 Dishonest assistance	8.172
8.7 Breach of duty of care.....	8.174
8.7.1 Compensation for losses	8.175
8.7.2 Causation	8.176
9. Relief from Liability	8.178
9.1 Ratification by company	8.178
9.2 Indemnities and provisions exempting liability	8.183
9.2.1 The basic restriction.....	8.183
9.2.2 Insurance.....	8.187
9.2.3 Permitted indemnity provisions	8.188
9.2.4 Effect of articles which modify duty to avoid conflicts of interests	8.189
9.3 Court's power to grant relief	8.190
9.3.1 Proceedings within ss.902–904	8.191
9.3.2 Honesty	8.192
9.3.3 Reasonableness	8.194
9.3.4 Ought fairly to be excused	8.198

CHAPTER 9 GENERAL MEETINGS

1. Introduction.....	9.001
2. The Nature and Types of Meetings	9.005
2.1 The nature of a meeting	9.005
2.2 Annual general meetings.....	9.008
2.3 Extraordinary general meetings	9.012
2.4 Class meetings	9.013
2.5 Court-ordered meetings	9.014
3. Calling General Meetings	9.015
3.1 By directors	9.016
3.2 By members	9.019
3.3 By the court	9.022
3.3.1 Impracticable to call or convene meetings	9.023
3.3.2 Court discretion	9.031
4. Notice	9.039
4.1 Amount of notice	9.040
4.2 Manner in which notice is to be given	9.043

4.3 Persons entitled to receive notice.....	9.046
4.4 Special notice.....	9.049
4.5 Content of notice.....	9.050
4.5.1 Date, time and place.....	9.051
4.5.2 The business to be transacted.....	9.053
4.6 Accidental failure to give notice of meeting or resolution.....	9.061
4.7 Circulation of member-proposed resolutions and members' statements	9.063
5. Proceedings.....	9.065
5.1 Quorum	9.065
5.1.1 The meaning of quorum.....	9.065
5.1.2 The requirement.....	9.066
5.1.3 Loss of quorum	9.068
5.1.4 Courts' power of calling meetings and deemed quorum.....	9.069
5.1.5 Joint shareholders.....	9.070
5.1.6 Persons attending in different capacities.....	9.072
5.1.7 Effect of inquorate meetings on validity of meeting.....	9.074
5.1.8 Effect of inquorate meetings on third parties.....	9.078
5.2 Chairperson.....	9.079
5.3 Voting.....	9.082
5.4 Proxies and corporate representatives.....	9.087
5.4.1 The meaning and significance of proxies.....	9.087
5.4.2 Appointment of proxies	9.089
5.4.3 Proxy's right to vote and to chair a meeting.....	9.093
5.4.4 Proxy's duty with regard to voting	9.095
5.4.5 Company-sponsored invitations to appoint proxies	9.097
5.4.6 Revocation of proxy	9.100
5.4.7 Corporate representative	9.103
5.5 Resolutions at meetings	9.108
6. Decision Making without Meeting	9.110
6.1 Written resolutions.....	9.110
6.2 Unanimous consent.....	9.116
6.2.1 Introduction.....	9.116
6.2.2 Whose consent is required?	9.121
6.2.3 Informed consent	9.122
6.3 The relationship between the doctrine and the statutory requirements on written resolutions.....	9.124
6.4 Statutory formalities that cannot be waived by members	9.128
7. Minutes and Record Keeping.....	9.129
8. Electronic Communications.....	9.134
9. Procedural Irregularities.....	9.138

CHAPTER 10 MEMBERS' REMEDIES AND MINORITY PROTECTION

1. Introduction.....	10.001
2. The Rule in <i>Foss v Harbottle</i>	10.009
2.1 Proper plaintiff principle	10.010
2.2 Irregularity principle	10.014
2.3 Rationales for the rule in <i>Foss v Harbottle</i>	10.015
3. Common Law Derivative Action.....	10.016
3.1 Introduction.....	10.016
3.2 <i>Ultra vires</i> or illegal conduct	10.018
3.3 Fraud on the company.....	10.019
3.3.1 Fraud	10.021
3.3.2 Control	10.024
3.4 Interests of justice.....	10.028
3.5 Effect of ratification	10.030
3.6 Double or multiple derivative actions	10.035
3.7 Procedural and other matters	10.038
3.7.1 Standing	10.038
3.7.2 Inequitable conduct of applicant	10.039
3.7.3 Companies in liquidation	10.040
3.7.4 Pleadings	10.042
3.7.5 <i>Prima facie</i> case	10.044
3.7.6 Costs	10.045
4. Statutory Derivative Action	10.047
4.1 Introduction.....	10.047
4.2 Proceedings to which statutory action apply	10.049
4.2.1 Companies within statutory provisions	10.050
4.2.2 Misconduct	10.051
4.3 Criteria for granting leave – commencing derivative actions	10.053
4.3.1 Interests of the company	10.055
4.3.2 Serious question to be tried	10.061
4.4 Criteria for granting leave – intervening on behalf of the company	10.065
4.5 Effect of ratification	10.068
4.6 Double or multiple derivative actions	10.071
4.7 Procedural and other matters	10.072
4.7.1 Standing	10.072
4.7.2 Good faith; conflict of interests of applicant	10.074
4.7.3 Companies in liquidation	10.076
4.7.4 Form of proceedings and standing to file submissions	10.077

4.7.5 Granting of leave <i>nunc pro tunc</i>	10.079
4.7.6 Evidence	10.080
4.7.7 General powers of the court	10.081
4.7.8 Independent investigator	10.082
4.7.9 Costs	10.085
4.7.10 Indemnification for member's costs – leave application	10.087
4.7.11 Indemnification for member's costs – proceedings on behalf of the company	10.089
4.7.12 Discontinuation or settlement	10.092
4.8 Relationship between the statutory and common law derivative actions	10.093
4.9 Relationship between statutory derivative action and other alternative remedies	10.096
5. Members' Personal Actions	10.098
5.1 Introduction	10.098
5.2 Conduct involving wrongs to both the company and the members	10.101
5.2.1 Introduction	10.101
5.2.2 Rule against reflective loss – where member has no cause of action	10.102
5.2.3 Rule against reflective loss – where member has separate cause of action	10.104
5.2.4 Where rule against reflective loss does not apply	10.109
5.3 Personal Rights under the Corporate Constitution	10.113
5.3.1 Constitution as a statutory contract	10.113
5.3.2 Restrictions under irregularity principle	10.116
5.3.3 Rights conferred on members otherwise than as members	10.123
5.4 Personal rights under the general law	10.123
5.4.1 General	10.125
5.4.2 Fraud on the minority	10.126
5.5 Personal rights under statute	10.129
6. Unfair Prejudice Remedy	10.132
6.1 Introduction	10.132
6.2 Companies to which Pt.14 Div.2 applies	10.136
6.3 Standing	10.137
6.3.1 General	10.137
6.3.2 Petitioners who are not minority members	10.139
6.3.3 Conduct of the petitioner	10.140
6.4 Affairs of the company	10.142
6.5 Conduct affecting interests of the members	10.145
6.5.1 Meaning of "interests"	10.146
6.5.2 Member qua member	10.147
6.5.3 Conduct affecting the petitioner's own interests	10.148
6.6 Unfairly prejudicial	10.151
6.6.1 Prejudice	10.152

6.6.2 Unfairness	10.153
6.6.3 Legitimate expectations	10.158
6.6.4 Universal and personal expectations	10.159
6.6.5 Objective test; lack of probity not necessary	10.162
6.6.6 Isolated acts	10.164
6.6.7 Conduct occurring in the past	10.165
6.6.8 Threatened or proposed conduct	10.166
6.6.9 Series of minor acts	10.167
6.6.10 Conduct that applies to all members	10.168
6.6.11 Petitioner's ability to end the impugned conduct	10.169
6.6.12 Where no parties are at fault	10.170
6.6.13 Relevance of the character of the company	10.171
6.6.14 Public companies	10.172
6.6.15 Family companies	10.174
6.7 Examples of unfairly prejudicial conduct	10.175
6.7.1 Breaches of ordinance or non-statutory regulations	10.175
6.7.2 Breaches of the constitution or shareholder agreements	10.179
6.7.3 Breaches of fiduciary duties of directors	10.181
6.7.4 Excessive remuneration	10.184
6.7.5 Negligence or mismanagement of company's business	10.186
6.7.6 Breaches of understandings or promises that equity would uphold	10.188
6.7.7 Exclusion from management	10.194
6.7.8 Inadequate dividends and non-participation in company's profits	10.195
6.7.9 Alterations to the articles	10.197
6.8 Remedies that court may order	10.199
6.8.1 Orders regulating the affairs of the company	10.204
6.8.2 Board composition and appointment of a receiver or manager	10.205
6.8.3 Purchase of shares: buy-out orders	10.208
6.8.4 Damages	10.213
6.9 Alternative relief	10.215
6.9.1 Offer of buy-out of petitioner's shares by respondent	10.216
6.9.2 Relationship with the derivative action	10.218
6.9.3 Relationship with the winding-up remedy	10.221
6.10 Procedural matters	10.222
6.10.1 General	10.222
6.10.2 Respondents	10.226
6.10.3 Costs	10.227
7. Winding-Up on the "Just and Equitable" Grounds	10.228
7.1 Meaning of "just and equitable"	10.229
7.2 Examples	10.231

TABLE OF CONTENTS

7.2.1 Quasi-partnerships and breakdown of trust and confidence.....	10.231
7.2.2 Failure of substratum or frustration of company's objects	10.232
7.2.3 Other examples.....	10.234
7.2.4 Conduct of the petitioner.....	10.235
7.3 Relationship with other remedies	10.236
8. Statutory Injunction	10.241
8.1 General.....	10.244
8.2 Persons who may apply.....	10.245
8.3 Scope of orders and the court's powers.....	10.246
CHAPTER 11 ACCOUNTS AND AUDIT	
1. Introduction.....	11.001
2. Accounting Records.....	11.003
2.1 Records to be kept.....	11.003
2.2 Liability for failure to keep records	11.010
3. Annual Financial Statements	11.017
3.1 Terminology	11.017
3.2 Obligation to prepare financial statements.....	11.018
3.3 Financial year	11.019
3.4 Contents of financial statements	11.021
3.4.1 General	11.021
3.4.2 Statement of comprehensive income (profit and loss account).....	11.023
3.4.3 Statement of financial position (balance sheet)	11.025
3.4.4 True and fair view	11.029
3.4.5 Other requirements.....	11.031
3.4.6 Financial reporting and accounting standards.....	11.033
3.4.7 Revision of financial statements	11.037
3.5 Corporate groups: consolidated financial statements	11.040
3.6 Directors' report.....	11.043
3.7 Disclosure to members.....	11.049
3.7.1 Right to receive reporting documents	11.049
3.7.2 Summary financial reports.....	11.052
3.8 Disclosure to the public.....	11.056
3.9 Simplified reporting	11.058
3.10 Dormant companies	11.066
3.11 Transitional provisions under Cap.622	11.071
4. Directors' Rights of Inspection	11.074

TABLE OF CONTENTS

4.1 General.....	11.074
4.2 Scope of right.....	11.075
5. Members' Rights of Inspection	11.081
5.1 General	11.081
5.2 Criteria for grant of order authorising inspection	11.083
5.3 Documents that can be inspected	11.090
5.4 Ancillary matters.....	11.092
6. Auditors.....	11.094
6.1 General	11.094
6.2 Qualifications and appointment	11.096
6.2.1 Qualifications	11.096
6.2.2 Appointment	11.098
6.3 Auditors' functions, rights and duties	11.102
6.3.1 The auditors' report	11.102
6.3.2 Auditors' rights	11.114
6.3.3 Common law duty of care	11.120
6.3.4 Duty to report impropriety or fraud	11.131
6.3.5 Duties owed to shareholders or third parties.....	11.133
6.3.6 Indemnities by the company	11.139
6.4 Ceasing to hold office	11.140
6.4.1 Resignation	11.140
6.4.2 Retirement	11.145
6.4.3 Removal	11.147
6.4.4 Disqualification	11.150
CHAPTER 12 CORPORATE CONTRACTING AND LIABILITIES OF COMPANIES	
1. Corporate Contracting	12.001
1.1 Introduction.....	12.001
1.2 Company contracting through agent	12.007
1.2.1 General	12.007
1.2.2 Actual authority	12.010
1.2.3 Apparent authority (or ostensible authority)	12.024
1.3 Company contracting directly	12.041
1.3.1 Common seal	12.041
1.3.2 Execution of documents as if under seal	12.045
1.3.3 Execution of deeds	12.046
1.3.4 Official seals and company chops	12.050
1.4 Protection of persons dealing with a company	12.055

1.4.1 Common law indoor management rule.....	12.056
1.4.2 Exceptions to the indoor management rule	12.068
1.4.3 Statutory indoor management rule	12.081
1.4.4 Validity of acts of directors	12.089
1.4.5 Conveyancing and Property Ordinance	12.091
1.4.6 Validity of documents executed as if under seal.....	12.094
1.5 Ratification.....	12.098
2. Liabilities for Civil and Criminal Wrongs	12.099
2.1 Tort and other civil liabilities.....	12.099
2.1.1 Corporate liability.....	12.099
2.1.2 Liabilities of individuals.....	12.112
2.2 Criminal liabilities	12.114
2.2.1 Corporate liability.....	12.114
2.2.2 Liabilities of individuals.....	12.126

CHAPTER 13 EQUITY AND DEBT FINANCING

1. Introduction.....	13.001
2. Methods of Corporate Financing	13.003
2.1 Obtaining finance for start-up companies.....	13.003
2.1.1 Bank loans and overdrafts.....	13.004
2.1.2 Trade credit	13.005
2.1.3 Business angels	13.006
2.1.4 Venture capital	13.007
2.2 Continuing finance for established firms	13.008
2.2.1 Retained profits	13.008
2.2.2 Short-term finance.....	13.009
2.2.3 Long-term finance.....	13.015
3. The Distinction between Equity Finance and Debt Finance	13.027
4. Nature and Types of Equity.....	13.036
4.1 General.....	13.036
4.2 Nature of a share	13.038
4.3 Types of shares.....	13.041
4.3.1 Introduction.....	13.041
4.3.2 Ordinary shares	13.043
4.3.3 Preference shares	13.044
4.3.4 Redeemable shares	13.051
4.3.5 Bearer shares	13.054
4.4 Stock	13.060
5. Nature and Types of Debt.....	13.062
5.1 Unsecured and secured loans.....	13.063
5.2 Debt subordination.....	13.065
5.3 Debentures and debenture trusts.....	13.066

5.4 Syndicated loans	13.069
5.5 Club loans	13.070
5.6 Junk (high-yield) bonds	13.071
5.7 Redeemable bonds	13.072
5.8 Foreign bonds.....	13.073
5.9 Eurobonds	13.074
6. Factors Affecting the Choice between Equity and Debt	13.075
6.1 The size of the company	13.075
6.2 Nature of the company's business	13.076
6.3 Tax deduction	13.077
6.4 Costs of financial distress and insolvency	13.078
6.5 Restrictions in debentures	13.079
6.6 Cost of disclosure	13.080
6.7 Fluctuation of interest rates in the financial market	13.081
6.8 Gearing ratio	13.082

CHAPTER 14 SHARE CAPITAL

1. Introduction	14.001
2.1 Abolition of authorised capital, par value and share premium	14.003
1.2 Categorisation of share capital	14.011
1.2.1 Issued or subscribed capital	14.012
1.2.2 Paid-up capital and unpaid capital	14.013
1.2.3 Called up and uncalled capital	14.016
1.3 Issue of shares	14.019
1.4 Issue of shares upon incorporation: first shareholders	14.020
1.5 Issue of shares after incorporation: subsequent shareholders	14.021
1.5.1 General	14.021
1.5.2 Pro rata offers (rights issues) and non-pro rata offers	14.025
1.5.3 Directors' fiduciary duties	14.029
1.6 Procedure for issue	14.030
1.7 Consideration for Issue	14.036
1.7.1 Issue price	14.036
1.7.2 Fully paid and partly paid shares	14.038
1.7.3 Non-cash consideration	14.042
1.8 Validation of shares improperly issued	14.043
2. Transfer of Shares	14.045
2.1 Nature of a transfer	14.045
2.1.1 Transfer of legal title	14.046
2.1.2 Novation or assignment?	14.048
2.2 Procedure for transfer and rights of parties	14.049
2.2.1 Unlisted companies: sale of shares	14.050

2.2.2 Rights of parties after contracting	14.057
2.2.3 Listed companies	14.059
2.2.4 Gifts of shares	14.065
2.3 Restrictions on transfer	14.067
2.3.1 Private companies	14.067
2.3.2 Public companies	14.075
2.4 Fraudulent transfers	14.076
3. Transmission of Shares	14.079
3.1 General	14.079
3.2 Transmission upon death of a shareholder	14.081
3.2.1 Registration as a member	14.082
3.2.2 Restrictions on registration	14.084
3.2.3 Rights and liabilities in the absence of registration	14.087
3.2.4 Joint shareholders	14.089
3.3 Transmission upon bankruptcy	14.090
4. Register of Members and Share Certificates	14.093
4.1 Register of members	14.093
4.1.1 Requirement for a register	14.093
4.1.2 Status of the register	14.099
4.1.3 Rectification of the register	14.102
4.1.4 Inspection of the register	14.103
4.1.5 Branch registers	14.105
4.2 Share certificates	14.109
4.2.1 Requirement for share certificates	14.109
4.2.2 Status of a share certificate	14.114
4.2.3 Replacement of lost certificates	14.118
5. Alterations to Share Capital	14.126
5.1 Increase of capital	14.127
5.2 Reduction of capital	14.131
5.3 Consolidation of shares	14.133
5.4 Subdivision of shares	14.137
5.5 Members' schemes of arrangement	14.140
5.5.1 General	14.140
5.5.2 Procedure	14.145
5.5.3 Class meetings	14.147
5.5.4 Requisite approval at meetings	14.151
5.5.5 Court sanction	14.156
5.5.6 Intra-group amalgamations	14.161

6. Variation of Class Rights	14.168
6.1 Introduction	14.168
6.2 Concept of class rights	14.170
6.2.1 Classes of shares	14.171
6.2.2 Class rights	14.173
6.3 Variation of rights	14.178
6.4 Procedure for variation	14.181
6.5 Minority protection	14.185

CHAPTER 15 MAINTENANCE OF CAPITAL

1. Capital Maintenance Doctrine	15.001
1.1 Introduction	15.001
1.2 Transactions amounting to a return of capital	15.004
1.2.1 General	15.004
1.2.2 Disguised returns of capital	15.007
1.2.3 Overseas developments	15.011
2. Reduction of Capital	15.012
2.1 General	15.012
2.1.1 The basic prohibition	15.012
2.1.2 Consequences of contravention	15.016
2.2 Permitted reductions of capital	15.018
2.3 Court confirmation procedure	15.020
2.3.1 Court confirmation of reduction	15.022
2.3.2 Other matters following court confirmation	15.038
2.4 Solvency statement procedure	15.043
2.4.1 Introduction	15.043
2.4.2 Procedure and requirements	15.044
3. Self-Acquisition of Shares, Redemption of Shares and Share Buy-backs	15.055
3.1 General	15.055
3.2 Redemption of shares	15.060
3.2.1 Power to issue redeemable shares	15.060
3.2.2 Redemption of redeemable shares	15.063
3.3 Share buy-backs	15.075
3.3.1 General	15.075
3.3.2 Power to buy back shares	15.077
3.3.3 Procedure for buy-back: listed companies	15.080
3.3.4 Procedure for buy-back: unlisted companies	15.088

3.3.5 Financing of buy-back.....	15.090
3.3.6 Disclosure of buy-back.....	15.091
4. Financial Assistance for Acquisition of Shares.....	15.093
4.1 Prohibition on financial assistance.....	15.093
4.1.1 General	15.093
4.1.2 Meaning of “financial assistance”	15.099
4.1.3 Consequences of contravention	15.108
4.2 Exceptions	15.109
4.2.1 Exceptions pursuant to solvency test.....	15.110
4.2.2 Principal or larger purpose exception.....	15.125
4.2.3 Miscellaneous exceptions.....	15.130
5. Dividends and Distributions.....	15.132
5.1 Dividends	15.132
5.1.1 General	15.132
5.1.2 Types of dividends.....	15.137
5.2 Dividends and distributions out of profits only.....	15.143
5.2.1 General	15.143
5.2.2 Basic prohibition	15.145
5.2.3 Profits available for distribution	15.148
5.2.4 Company’s financial statements for determining amount of distributions	15.154
5.2.5 Relevance of company’s solvency	15.158
5.2.6 Consequences of unlawful distributions.....	15.160

CHAPTER 16 FUND-RAISING BY PUBLIC ISSUE

1. Introduction.....	16.001
1.1 Historical development of regulation of prospectuses.....	16.004
1.2 Recent developments	16.005
1.3 Disclosure philosophy.....	16.006
2. Prospectuses.....	16.010
2.1 Requirement for prospectus.....	16.010
2.1.1 General	16.010
2.1.2 Offer to the public.....	16.013
2.2 Exemptions	16.015
2.2.1 General exemptions	16.015
2.2.2 Exemptions granted by SFC	16.020
2.3 Contents of prospectuses	16.022
2.3.1 General contents requirements	16.022

2.3.2 Reports.....	16.025
2.3.3 Experts’ statements	16.026
2.3.4 Amendments to prospectuses	16.027
2.3.5 Programme offers	16.028
2.4 Authorisation and registration of prospectuses.....	16.030
2.5 Electronic prospectuses	16.033
2.6 Applications and allotments	16.035
2.6.1 Minimum subscription.....	16.036
2.6.2 Time period for allotments	16.039
2.6.3 Allotments of shares or debentures to be listed.....	16.040
2.7 Misstatements in prospectuses	16.041
2.7.1 Civil liabilities.....	16.041
2.7.2 Criminal liabilities	16.077
2.8 Sales of shares.....	16.085
2.9 Territorial scope of regulation.....	16.090
2.9.1 Offers outside Hong Kong	16.090
2.9.2 Offers in Hong Kong by foreign companies	16.092
3. Advertising Restrictions.....	16.096
3.1 Introduction.....	16.096
3.2 Advertisements concerning prospectuses: Cap.32 s.38B	16.098
3.3 Advertisements constituting an offer or invitation: Cap.32 definition of “prospectus”	16.100
3.4 Restrictions under Securities and Futures Ordinance (Cap.571) s.103	16.103
4. Listing on the Stock Exchange	16.106
4.1 Introduction.....	16.106
4.2 The stock exchange	16.109
4.3 Listing rules of the stock exchange	16.110
4.3.1 Function and purpose of the listing rules	16.110
4.3.2 Status of the listing rules	16.113
4.3.3 Enforcement of the listing rules	16.114
4.4 Methods of listing	16.116
4.5 Qualifications for listing	16.117
4.6 Application procedures and listing documents	16.119
4.7 Continuing disclosure obligations	16.123
4.7.1 Introduction	16.123
4.7.2 Mandatory disclosure of inside information	16.124
4.7.3 Listing rules	16.141
5. Reform	16.143

CHAPTER 17 DEBENTURES AND CHARGES

1. Introduction.....	17.001
2. Debentures	17.002
2.1 Introduction.....	17.002
2.2 Meaning and nature of debentures.....	17.004
2.3 Types of debentures	17.008
2.3.1 Redeemable and irredeemable debentures	17.009
2.3.2 Convertible debentures.....	17.012
2.3.3 Unsecured notes	17.014
2.3.4 Debenture series	17.015
2.3.5 Debenture stock	17.016
2.3.6 Bearer debentures.....	17.017
2.4 Issue of debentures	17.018
2.4.1 Investor protection.....	17.018
2.4.2 Registration of allotments with the Registrar of Companies.....	17.022
2.4.3 The company's register of debenture holders.....	17.023
2.4.4 Issue of debentures or certificates following allotment.....	17.028
2.4.5 Trustee for debenture holders.....	17.029
2.4.6 Specific performance of contracts for debentures	17.035
2.5 Transfer of debentures	17.036
2.5.1 Instrument of transfer.....	17.036
2.5.2 Registration of transfer.....	17.038
2.5.3 Issue of debentures or certificates following transfer.....	17.039
2.5.4 Legal title.....	17.040
2.5.5 Bearer debentures.....	17.041
2.6 Transmission of debentures	17.042
2.7 Meetings of debenture holders.....	17.044
3. Charges.....	17.047
3.1 Introduction and types of security	17.047
3.1.1 General	17.047
3.1.2 Mortgages.....	17.051
3.1.3 Charges	17.056
3.1.4 Creation of security and type of security created	17.062
3.2 Fixed and floating charges	17.064
3.2.1 Distinction between fixed and floating charges	17.064
3.2.2 Charges over book debts.....	17.076
3.2.3 Disposition of assets subject to a floating charge.....	17.085
3.2.4 Crystallisation of a floating charge.....	17.089
3.2.5 Nature of floating charges	17.102

3.3 Registration of charges	17.105
3.3.1 Introduction	17.105
3.3.2 Charges which need to be registered	17.112
3.3.3 Procedure for registration.....	17.133
3.3.4 Registration and issue of certificate	17.138
3.3.5 Consequences of failure to register	17.146
3.3.6 Debentures in a series.....	17.153
3.3.7 Extension of time for registration.....	17.156
3.3.8 Existing charges on property acquired by the company.....	17.164
3.3.9 Rectification of registered particulars	17.166
3.3.10 Release of property from charge	17.170
3.3.11 Company's own register of charges	17.172
3.3.12 Non-Hong Kong companies	17.177
3.4 Priority between holders of competing charges.....	17.183
3.4.1 General	17.183
3.4.2 Priorities in relation to charges over real property	17.186
3.4.3 Priority in relation to charges over personal property	17.189
3.4.4 Priority in relation to charges over debts and choses in action	17.197
3.4.5 Negative pledge and automatic crystallisation clauses	17.203
3.4.6 Subordination agreements	17.213

CHAPTER 18 RECEIVERSHIP

1. Introduction	18.001
2. The Functions of Receivership	18.006
3. Privately Appointed Receivers or Receiver and Managers	18.012
3.1 The legal nature of privately created receivership	18.012
3.2 Qualifications for appointment	18.015
3.3 Effect of appointment on different stakeholders	18.016
3.3.1 Effect on the company	18.016
3.3.2 On company directors	18.019
3.3.3 On employees	18.022
3.3.4 Effect on the company's assets	18.023
3.3.5 Effect on creditors	18.024
3.4 The rights and powers of receivers appointed out of court	18.025
3.5 The duties of receivers	18.039
3.6 Liabilities of receivers	18.067
3.7 Termination of receivership	18.070
4. Court-Appointed Receivers or Managers	18.076
4.1 Court's jurisdiction	18.076

4.2 Circumstances where appointment is sought.....	18.079
4.3 Principles for exercise of court's discretion.....	18.082
4.4 Who may apply?.....	18.096
4.5 Qualifications for appointment	18.097
4.6 Effect of appointment	18.098
4.7 Rights, powers, duties and liabilities	18.101
4.8 Discharge	18.110

CHAPTER 19 CORPORATE RESCUE

1. Introduction.....	19.001
2. Corporate Rescue: The Landscape in Hong Kong.....	19.007
2.1 Debt rescheduling (or "workout").....	19.008
2.2 The "Hong Kong Approach".....	19.013
2.3 Receivership.....	19.014
2.4 Provisional liquidation	19.018
2.5 Scheme of arrangement	19.020
2.6 Cap.32 s.199(1)(e) power of compromise.....	19.022
2.7 Provisional supervision	19.024
3. The Functions of a Restructuring System in Facilitating Corporate Rescue.....	19.035
4. The Stay Device.....	19.039
4.1 Adjournment of winding-up petitions.....	19.041
4.1.1 Initial adjournment	19.043
4.1.2 The possibility of further adjournments	19.044
4.1.3 Prerequisites for further adjournments	19.045
4.1.4 Duration of further adjournments	19.052
4.2 Provisional liquidator	19.053
4.3 Courts' stay powers under the Rules of the High Court.....	19.060
5. The Decision-Making Device	19.061
5.1 The SOA regime.....	19.062
5.1.1 The provisions.....	19.062
5.1.2 Principles governing courts' discretion.....	19.064
5.1.3 Classification of scheme creditors	19.070
5.1.4 The duty of disclosure	19.079
5.1.5 Procedure	19.091
6. Debtor Overreaching Control Devices.....	19.101
6.1 Screening out ineligible firms	19.106
6.2 Displacing management of eligible firms	19.109
6.3 Constraining the power of incumbent directors	19.110

CHAPTER 20 LIQUIDATION

1. Introduction.....	20.001
1.1 General.....	20.001
1.2 Companies (Winding-Up and Miscellaneous Provisions) Ordinance	20.006
2. Liquidators	20.007
2.1 Who is a liquidator and what his or her role is	20.007
2.2 The appointment of liquidators.....	20.010
2.2.1 Compulsory winding-up	20.010
2.2.2 Voluntary winding-up.....	20.013
2.3 The powers of liquidators	20.015
2.4 The duties of liquidators	20.023
2.4.1 Specific statutory duties – compulsory winding-up	20.024
2.4.2 Specific statutory duties – voluntary winding-up	20.029
2.4.3 Fiduciary duties	20.031
2.4.4 Duty of care	20.036
2.5 Removal	20.038
2.5.1 Removal by the court	20.039
2.5.2 Removal by the members – members' voluntary winding-up	20.046
3. Compulsory Winding-Up.....	20.047
3.1 Grounds for compulsory winding-up	20.047
3.1.1 Winding-up of company by special resolution: Cap.32 s.177(1)(a).....	20.049
3.1.2 Failure to commence business or suspending business for a whole year: Cap.32 s.177(1)(b).....	20.050
3.1.3 The company has no members: Cap.32 s.177(1)(c).....	20.051
3.1.4 Occurrence of events prescribed in the company's constitutional documents: Cap.32 s.177(1)(e).....	20.052
3.1.5 Company unable to pay its debts: Cap.32 s.177(1)(d).....	20.053
3.1.6 Just and equitable: Cap.32 s.177(1)(f).....	20.060
3.2 Application and court order	20.061
3.2.1 Application by petition	20.061
3.2.2 Persons entitled to petition	20.062
3.2.3 Company as petitioner	20.064
3.2.4 Creditor as petitioner	20.065
3.2.5 Contributory as petitioner	20.066
3.2.6 Court's powers on hearing of petition	20.068
3.2.7 Publication of winding-up	20.071
3.2.8 Commencement of winding-up	20.072
3.3 Effect of winding-up order	20.073
3.3.1 Appointment of liquidator	20.074

3.3.2 Company's property, and control and management of the company.....	20.075
3.3.3 Stay of proceedings against the company.....	20.078
3.4 Company's assets in the liquidation.....	20.081
3.4.1 Assets available for distribution	20.082
3.4.2 Assets not available to liquidator for distribution.....	20.085
3.4.3 Contracts of the company.....	20.086
3.4.4 Disclaimer of onerous property.....	20.087
3.4.5 Acquiring information about the company's assets.....	20.093
3.5 Void dispositions of company property	20.103
3.6 Unfair preferences	20.113
3.6.1 Concept of "unfair preference"	20.116
3.6.2 Time at which preference was given	20.119
3.6.3 Influenced by desire to give preference	20.121
3.6.4 Company was insolvent.....	20.125
3.6.5 Court orders.....	20.126
3.7 Invalid floating charges.....	20.127
3.8 Fraudulent trading.....	20.132
3.8.1 Carrying on of any business of the company	20.136
3.8.2 Fraud.....	20.137
3.8.3 Persons liable	20.140
3.8.4 Court orders.....	20.141
3.9 Extortionate credit transactions	20.142
3.10 Misfeasance	20.145
3.11 Liability of contributories.....	20.149
3.12 Creditors entitled to claim in the winding-up.....	20.151
3.12.1 Provable debts.....	20.151
3.12.2 Procedure for proving.....	20.154
3.12.3 Set-off.....	20.155
3.13 Realisation and distribution of assets	20.157
3.13.1 Assets subject to fixed charges (or mortgages)	20.158
3.13.2 Assets available to unsecured (general) creditors (free assets).....	20.160
3.13.3 Assets subject to a floating charge.....	20.162
3.14 Winding-up with a regulating order.....	20.166
3.15 Small liquidations: winding-up by summary procedure.....	20.169
4. Voluntary Winding-Up.....	20.170
4.1 Introduction.....	20.170
4.1.1 Members' voluntary winding-up	20.174
4.1.2 Creditors' voluntary winding-up	20.180
4.2 Special procedure for members' winding-up: s.228A	20.184
4.2.1 General	20.184

4.3 Stay of a s.228A winding-up	20.191
4.4 Provisions applicable to voluntary winding-up	20.194
4.5 Voluntary winding-up after commencement of compulsory winding-up.....	20.199
4.6 Compulsory winding-up after commencement of voluntary winding-up	20.204
5. Offences Antecedent to or in the Course of Winding-Up	20.206
5.1 Concealing or removing property, or other fraud	20.207
5.2 Concealing information from the liquidator, and falsification of books	20.210
5.3 Failure to keep proper accounts	20.212
5.4 Other offences.....	20.213
6. Dissolution of the Company	20.214
6.1 Dissolution after company wound up	20.214
6.2 Restoration of a dissolved company	20.219
7. Reform	20.221