

Topics November 2022

The amendment of the Civil and Commercial Code (No. 23) B.E. 2565 (2022) for Partnerships and Companies

The Government Gazette has published the Act of amendment of the Civil and Commercial Code (No. 23) B.E. 2565 (2022) dated 8 November B.E. 2565 (2022). The act shall come into force since 7 February B.E. 2566 (2023) onwards. Significant amendments to the laws relating to companies and partnerships are as follows: -

1. Minimum number of promoters (section 1097)

Any two or more persons can establish a limited company.

2. Share certificates (section 1128)

Every share certificate must be signed by at least one director and affixed with the company's seal (if any).

3. Electronic meeting of the board of directors (section 1162/1)

A meeting of directors may be carried out electronically using any technology, the directors are not required to appear in person at the meeting unless prohibited by the company's articles of association.

4. Notice of a general meeting (section 1175)

Notice of a general meeting shall be sent by mail with return receipt requested to every shareholder whose name appears in the register of the company, with return receipt requested, by no less than 7 days prior to the date set the meeting. If there is a shareholder of the company holding a certificate issued to the bearer, such notice shall be publicized in the local newspaper at least once or via electronic media in accordance with the rules prescribed in the ministerial regulations by no less than 7 days prior to the meeting date. However, notice of a general meeting for adopting a special resolution shall proceed as mentioned above by no less than 14 days prior to the date appointed for the meeting.

5. Minimum number of shareholders for a general meeting of the shareholders (section 1178)

The general meeting must have at least 2 shareholders or proxies attending the meeting and holding shares in aggregate of not less than one-quarter of the company's capital in order to vote on any matter.

6. The period of dividend distribution (Section 1201, paragraph 4)

Payment of dividends shall be completed within one month from the date of the resolution of the general meeting or of the directors, as the case may be.

7. A court may order that the company be dissolve (Section 1237)

(4) If the number of shareholders is reduced to one

(5) When there is any other reason preventing the company's continuance.

8. Merge of Limited Companies (Section 1238 – section 1243)

A limited company can be merged by using a special resolution. Two or more companies may be merged in one of the following ways:

1. Amalgamated into a new company, whereupon both amalgamated companies cease to be a juristic person.

2. One company still has the status of a juristic person, while the other merged company ceases to be a juristic person.

- Special resolution to the merger of limited companies shall be registered within 14 days from the date of the resolution.

- When there is a special resolution to merge companies but a shareholder object to such merger, the company shall arrange to purchase the shares of such shareholder at the agreed price or in the case that cannot be agreed, the price shall be used as determined by the appraiser.

- When there is a special resolution to merge companies, the companies shall deliver a written notice of such resolution within 14 days to the companies' creditors and the objection must be submitted within 1 month from the date of receipt of the notice letter. The companies shall publicize such resolution in a widely distributed daily newspaper within 14 days. If an objection is raised by the creditor, the companies cannot proceed with the merger unless the objection is satisfied or appropriate security is placed for it.

- The directors of the companies to be merged shall convene a meeting of all shareholders to consider the details of the company to be merged and completed within 6 months from the date upon which one of the companies has voted to merge as the latest, unless the meeting resolves to extend the period but it shall not exceed 1 year.

- The board of directors of the merged company shall apply for registration of the merger within 14 days from the date of completion of the meeting.

- When the registrar has accepted the registration of the merger of companies, the registrar shall note in the register as follows:

- (1) In the case of amalgamation into a new company, it shall be noted that the amalgamated companies have ceased to be juristic persons.

- (2) In the case of a merger where one of the companies remains a juristic person, it shall be noted that the other company has ceased to be a juristic person.

- The merged company acquires all the assets, debts, rights, duties and responsibilities inherent to the companies being amalgamation.