

## **Selected Non-compliance Cases of Hong Kong Companies**

The Hong Kong Companies Ordinance (Cap. 622) requires a Hong Kong limited company and its officers (including directors, company secretaries and managers) to comply with certain requirements. The Registrar of Companies of Hong Kong may take prosecution action against companies and each responsible person for offences under the Companies Ordinance. Under the Companies Ordinance, a responsible person includes a company's officers or shadow directors who authorizes, permits or participates in the failure or contravention committed by the company (in the case that the company's officers or shadow directors are body corporate, such body corporate's officers or shadow directors are included).

Specifically, if a company commits minor regulatory offences under the Companies Ordinance, it may be liable to a certain amount of fine upon conviction (generally including a fine for the breach of the relevant section(s) of the Companies Ordinance and a late fine for each day of delay in delivery); if the company commits more serious regulatory offences under the Companies Ordinance, not only may a fine be imposed, but the responsible person may also face imprisonment. The Companies Registry said that in general, penalties imposed on public companies and listed companies would be more severe than on private companies. Therefore, public companies and listed companies should be more cautious about this.

According to statistics released by the Hong Kong Companies Registry, the total number of summonses issued by the Companies Registry as at November 2019 was 4,397, with a total fine of HK \$14,187,520. It can be seen that the number of enforcement cases is by no means insignificant in Hong Kong, to which the companies are advised to pay close attention. We have extracted some of the typical cases during 2015-2019 from the prosecution cases published by the Hong Kong Companies Registry for the companies' reference with a view to avoiding contraventions.

<b>Defendant(s)</b>	<b>Nature of Offence</b>	<b>Contrary to</b>	<b>Judgment</b>
<b>NICE CHEER INTERNATIONAL ENTERPRISES LIMITED</b>	Failure to either register a person as a member of the company in respect of the shares transmitted to her by operation of law or send her notice of refusal of registration within the prescribed time of 2 months after receiving notification of her wish to be so registered.	Section 158(2) of the Companies Ordinance, Cap. 622	Fined \$25,000
<b>NG YUK MING (as a director of IMPERIAL CHARITY HALL MEDICINES LIMITED)</b>	Knowingly or recklessly giving information to the Registrar of Companies that is false or misleading in a material particular.	Section 750(6) of the Companies Ordinance, Cap. 622	Fined \$10,000
<b>YIP KAM LEE</b>	Knowingly or recklessly providing information to the Registrar of Companies that is false or misleading in a material particular.	Section 53ZN(1) of the Anti-Money Laundering and Counter-Terrorist Financing Ordinance, Cap. 615	Fined \$5,000
<b>LAM WAI KEUNG (as a director of MY FAIR BEAUTY LIMITED)</b>	Failure to hold annual general meetings of the company for the financial years 2016 and 2017.	Section 610(1) of the Companies Ordinance, Cap. 622	Fined a total of \$20,000

	Failure to take all reasonable steps to lay before the company in its annual general meetings a copy of the financial statements, directors' report and auditor's report on those financial statements for the relevant financial years 2016 and 2017 within the specified periods.	Section 429(1) of the Companies Ordinance, Cap. 622	
<b>HAIHUA SHIPPING SERVICE CO., LIMITED HONG KONG DECHENG INTERNATIONAL TRADE CO., LIMITED HONGFAKONG CO., LIMITED HONGKONG ZHONGJIAN INTERNATIONAL REAL ESTATE DEVELOPMENT GROUP CO., LIMITED IPOLY TRADING CO., LIMITED KASEN INDUSTRY TECHNOLOGY (HK) LIMITED</b>	Failure to keep the register of members, the register of directors, the register of company secretaries and the significant controllers register at the registered office.	Sections 628(1), 641(3), 648(3) and 653M(1) of the Companies Ordinance, Cap. 622	Each of the defendants was fined \$10,000.
	Failure to display continuously the company name in legible characters at the registered office.	Section 3(1) of the Companies (Disclosure of Company Name and Liability Status) Regulation, Cap. 622B	
<b>HONG KONG MORNING NEWS MEDIA GROUP LIMITED</b>	Failure to comply with a Direction given by the Registrar of Companies requiring the Company to appoint at least one	Sections 454(1), 457(2) and 458(5) of the Companies Ordinance, Cap. 622	Fined a total of \$60,000

	director and a Direction requiring it to appoint at least one director who is a natural person.		
	Failure to notify the Registrar of Companies of the resignation of its sole director in specified form within 15 days.	Section 645(4) of the Companies Ordinance, Cap. 622	
<b>LEI WAI HO (as a director of STAR UNION CAPITAL RESOURCES LIMITED)</b>	Failure to file the annual returns of the company for the years 2015 and 2016.	Section 662(1) of the Companies Ordinance, Cap. 622	Fined a total of \$24,000
	Failure of the company to have a registered office in Hong Kong.	Section 658(1) of the Companies Ordinance, Cap. 622	

As can be seen from the above cases, the common irregularities in Hong Kong companies include failure to keep the relevant registers in the registered offices of the company, failure to comply with the requirements for the preparation and filing of annual returns, failure to hold annual general meetings, failure to have a registered office in Hong Kong, and knowingly or recklessly making misleading, false or deceptive statements, etc. The Hong Kong Companies Registry has always maintained a strict and impartial attitude towards contravening companies and their responsible persons. In this regard, companies are urged to raise their awareness and carefully examine their internal compliance so as to ensure full and strict compliance with the regulatory requirements.

We are committed to providing customers with quality company services and endeavor to assist you at each and every stage in the development of your business. If you have any questions in respect of the above or any other enquiry, please do not hesitate in getting in contact with us.

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