

Commercial and Civil Code of Thailand in English

BOOK III

SPECIFIC CONTRACTS

TITLE I

SALE

CHAPTER I

NATURE AND ESSENTIALS OF THE CONTRACT OF SALE

PART

General Provisions

Section 453. Sale is a contract whereby a person, called the seller, transfers to another person, called the buyer, the ownership of property, and the buyer agrees to pay to the seller a price for it.

Section 454. A previous promise of sale made by one party has the effect of a sale only when the other party has given notice of his intention to complete the sale and such notice has reached the person who made the promise.^[1] If no time has been fixed in the promise for such notification, the person who made the promise may fix a reasonable time and notify the other party to give a definite answer within that time whether he will complete the sale or not. If within that time he does not give a definite answer, the previous promise loses its effect.

Section 455. The time of the completion of the contract of sale is referred to hereafter as the time of sale.

Section 456. A sale of immovable property is void unless it is made in writing and registered by the competent official. The same rule applies to ships or vessels of six tons and over, to steam launches or motor boats of five tons and over, to floating houses and to beasts of burden.

An agreement to sell or to buy any of the aforesaid property, or a promise of sale of such property is not enforceable by action unless there is some written evidence signed by the party liable or unless earnest is given, or there is part performance.

The provisions of the foregoing paragraph shall apply to a contract of sale of movable property where the agreed price is five hundred baht or upwards.

Section 457. The costs of a contract of sale are borne by both parties equally.

PART II

Transfer of Ownership

Section 458. The ownership of the property sold is transferred to the buyer from the moment when the contract of sale is entered into.

Section 459. If a contract of sale is subject to a condition or to a time clause', the ownership of the property is not transferred until the condition is fulfilled, or the time has arrived.

Section 460. In case of sale of unascertained property, the ownership is not transferred until the property has been numbered, counted, weighed, measured or selected, or its identity has been otherwise rendered certain.

In case of sale of specific property, if the seller is bound to count, weigh, measure or do some other act or thing with reference to the property for the purpose of ascertaining the price, the ownership is not transferred to the buyer until such act or thing be done.

CHAPTER II

DUTIES AND LIABILITIES OF THE SELLER

PART I

Delivery

Section 461. The seller is bound to deliver to the buyer the property sold.

Section 462. Delivery may be made by doing anything which has the effect of putting the property at the disposal of the buyer.

Section 463. If the contract provides that the property sold shall be sent from one place to another, delivery takes place at the moment when the property is delivered to the carrier.

Section 464. The costs of transportation of the property sold to a place other than the place of performance are to be borne by the buyer.

Section 465. In a sale of movable property:

(1) Where the seller delivers the property less than he contracted for, the buyer may reject it; but if the buyer accepts it, he must pay the proportionate price.

(2) Where the seller delivers the property more than he contracted for, the buyer may accept the property according to the contract and reject the rest, or he may reject the whole. If the buyer accepts the whole of the property so delivered, he must pay the proportionate price.

(3) Where the seller delivers the property he contracted for mixed with the property of a different description not included in the contract, the buyer may accept the property according to the contract and reject the rest, or he may reject the whole.

Section 466. In a sale of immovable property where the total area is specified and the seller delivers the property less or more than he contracted for, the buyer has the option either to reject or accept it and pay the proportionate price.

If the deficiency or excess does not exceed five per cent of the total area so specified the buyer is bound to accept it and pay the proportionate price, provided that the buyer can rescind the contract if the deficiency or excess is such that had he known of it he would not have entered into the contract.

Section 467. No action for liability on account of deficiency or excess can be entered later than one year after delivery.

Section 468. When there is no time clause for payment of the price, the seller is entitled to retain the property sold until the price is paid.

Section 469. Even though there is a time clause for payment, if the buyer becomes bankrupt before delivery, or was bankrupt at the time of sale without the knowledge of the seller, or impairs or reduces security given for payment, the seller is entitled to retain the property sold, unless the buyer gives proper security.

Section 470. When the buyer is in default, the seller who retains the property under the foregoing sections can, instead of using the ordinary remedies for non-performance, notify the buyer in writing to pay the price and incidental charges, within a reasonable time to be fixed in the notice.

If the buyer fails to comply with the notice, the seller can sell the property by public auction.

Section 471. The seller shall deduct from the net proceeds of the public auction what is due to him for the price and incidental charges and deliver forthwith any surplus to the buyer.

PART II

Liability for Defect

Section 472. In case of any defect in the property sold which impairs either its value or its fitness for ordinary purposes, or for the purposes of the contract, the seller is liable.

The foregoing provision applies whether the seller knew or did not know of the existence of the defect.

Section 473. The seller is not liable in the following cases:

- (1) If the buyer knew of the defect at the time of sale, or would have known of it if he had exercised such care as might be expected from a person of ordinary prudence.
- (2) If the defect was apparent at the time of the delivery, and the buyer accepts the property without reservation.

(3) If the property was sold by public auction.

Section 474. No action for liability for defect can be entered later than one year after the discovery of the defect.

PART III

Liability for Eviction

Section 475. The seller is liable for the consequences of any disturbance caused to the peaceful possession of the buyer by any person having over the property sold a right existing at the time of sale or by the fault of the seller.

Section 476. The seller is not liable for a disturbance caused by a person whose rights were known to the buyer at the time of sale.

Section 477. In any case of disturbance where an action arises between the buyer and a third person, the buyer is entitled to summon the seller to appear in the action to be joint defendant or joint plaintiff with the buyer, in order to enable the Court to settle disputes between all the parties to them in one action.

Section 478. The seller is also entitled, if he thinks proper, to intervene in the action in order to deny the claim of the third person.

Section 479. The seller is liable if, by reason of eviction, the buyer is deprived of the whole or part of the property sold or if the property is subject to a right, the existence of which impairs its value, fitness, use or benefit and of which the buyer had no knowledge at the time of sale.

Section 480. If an immovable property is declared to be subject to a servitude established by law, the seller is not liable unless he has expressly guaranteed that the property was free from servitudes, or from that particular servitude.

Section 481. If the seller was not a party to the original action, or if the buyer has made a compromise with the third person, or has yielded to his claim, no action for liability on account of eviction can be entered later than three months after final judgment in the original action, or after the date of the compromise, or of the yielding to the third person.

Section 482. The seller is not liable for eviction in the following cases:

- (1) If no action was entered, and the seller proves that the rights of the buyer were lost on account of the fault of the buyer, or
- (2) If the buyer did not summon the seller to appear in the action, and the seller proves that he would have succeeded in the action if summoned to appear, or
- (3) If the seller appeared in the action, but the claim of the buyer was dismissed on account of the fault of the buyer.

In any case the seller is liable whenever he is summoned to appear in the action and refuses^[17] to take the part of the buyer as joint defendant or joint plaintiff.

PART IV

Clause for Non-Liability

Section 483. The parties to a contract of sale may agree that the seller shall not incur any liability for defects or eviction.

Section 484. Unless the non-liability clause specifies otherwise, such clause does not exempt the seller from the repayment of the price.

Section 485. A non-liability clause cannot exempt the seller from the consequences of his own acts or of facts which he knew and concealed.

CHAPTER III

Duties of the Buyer

Section 486. The buyer is bound to take delivery of the property sold and to pay the price in accordance with the terms of the contract of sale.

Section 487. The price of the property sold may be fixed by the contract, or may be left to be fixed in manner thereby agreed, or may be determined by the course of dealing between the parties.

When the price is not determined as aforesaid, the buyer must pay a reasonable price.

Section 488. If the buyer has discovered defects in the property sold, he is entitled to withhold the price or part of it still unpaid, unless the seller gives proper security.

Section 489. The buyer is also entitled to withhold the price wholly or partly, if he is threatened, or has good reason to believe that he is about to be threatened, with an action by a mortgagee or by a person claiming the property sold, until the seller has caused the danger with which he is threatened to cease, or until the seller has given proper security.

Section 490. If a time is fixed for the delivery of the property sold, it is presumed that the same time is fixed for the payment of the price.

CHAPTER IV

Some particular kinds of sales

PART I

Sale with Right of Redemption

^[17]**Section 491.** Sale with right of redemption is a contract of sale whereby the ownership of the property sold passes to the buyer subject to an agreement that the seller can redeem that property.

Section 492. Where the property sold is redeemed within the period fixed by the contract or by law, or where the person who redeems deposits the price of redemption to a deposit office within the period by waiving the right to withdraw the price, the ownership of the property shall be vested in the person who redeems from the time of payment or deposit of the price, as the case may be.

In the case of deposit under paragraph one, an official of the deposit office shall immediately give notice of it to the redeemed person, whereby the person who redeems does not have to comply with Section 333 paragraph three.

Section 493. The parties may agree that the buyer shall not dispose of the property sold. If he disposes of it contrary to his agreement, he shall be liable to the seller for any injury resulting thereby.

Section 494. The right of redemption cannot be exercised later than:

- (1) Ten years after the time of the sale in case of immovable property.
- (2) Three years after the time of sale in case of movable property.

Section 495. If a longer period is provided in the contract, it shall be reduced to ten years and three years respectively.

Section 496. The period of redemption may be afterward extended by a contract, but if the total period is in excess of the period under Section 494, it shall be reduced to the period under Section 494.

The extension of the period under paragraph one must, at least, have some written evidence signed by the redeemed person. In case of the property whose sale must be made in writing and registered by the competent official, the extension can not be set up against a third person who has, for value and in good faith, acquired and registered his right unless such writing or written evidence is registered or recorded by the competent official.

Section 497. The right of redemption may be exercised only by:

- (1) The original seller or his heirs, or
- (2) The transferee of the right, or
- (3) Any person expressly allowed to redeem by a contract.

Section 498. The right of redemption may be exercised only against:

- (1) The original buyer
- (2) The transferee of the property or of a right on the property, provided that, in case of movable property, he knew at the time of the transfer that such property was subject to a right of redemption.

Section 499. If no price of redemption is fixed, the property may be redeemed by reimbursing the price of the sale.

If the price of redemption or the price of the sale, at the time of redemption, is higher than the real price of the sale more than fifteen percent per year, it shall be redeemed at a real price including fifteen percent per year of profit.

Section 500. Costs of the sale borne by the buyer must be reimbursed together with the price.

Costs of redemption are borne by the person who redeems.

Section 501. The property must be returned in the condition in which it is at the time of redemption, provided that if the property has been destroyed or deteriorated through the fault of the buyer he must pay compensation therefore.

Section 502. The person who redeems the property recovers it free from any rights created by the original buyer or his heirs or transferee before redemption.

If a hire of property held subject to a right of redemption is registered by the competent official, it shall be valid for not more than one year of its remaining duration, provided that it is not made for the purpose of injuring the seller.

PART II

Sale by Sample; Sale by Description; Sale on Approval

Section 503. In a sale by sample, the seller is bound to deliver property or properties corresponding to the sample.

In a sale by description, the seller is bound to deliver property corresponding to the description.

Section 504. No action for liability on account of non-correspondence to the sample or description can be entered later than one year after delivery.

Section 505. A sale on approval is the selling contract that the buyer having an option to buy when verifying the buying property.

Section 506. To verify the property, if there is no buying deadline, the seller may specify the reasonable deadline period and give a notice to the buyer to accept or reject the buying or not.

Section 507. The property that the buyer having option to verify before delivery, if the buyer does not accept it within the deadline stated in the contract or commercial practice or deadline setting by the seller, the selling contract is unbound.

Section 508. When the property is delivered to the buyer for verifying, the selling and the buying shall be absolutely completed in the following cases:

- (1) If the buyer does not reject the purchasing within deadline specified in the contract or by commercial practice or setting by the seller; or
- (2) If the buyer does not return the property to the seller within the said deadline; or
- (3) If the buyer fully uses all the property or in some parts; or
- (4) If the buyer sells the property or makes any buying signals.

Section 509. The auction shall be completed when the auctioneer accepts the final price by knocking the wood hammer or any practical acts in auction; otherwise the bidder can withdraw his bid in anytime.

Section 510. During bidding process, the bidder must comply with the bidding procedure that the auctioneer has announced in each bidding.

Section 511. The auctioneer cannot make a bid or let any person to make a bid for his own benefit that he is control the bidding process.

Section 512. The seller cannot make a bid or let any person to make a bid, except specified in the bidding terms and conditions that the seller has the right to bid.

Section 513. If the auctioneer thinks that the bidding price is not high enough, he may withdraw the said property auction.

Section 514. The bidder shall be unbound from his bid when other person offers a higher bidding price, even though the said bidding is complete or not, or when the auctioneer withdraws the said property auction.

Section 515. Bidder who offers the highest bidding price must pay in cash when the auction is complete or the deadline specified in the bidding advertising.

Section 516. If the bidder who offers the highest bidding price does not pay the money, the auctioneer may renew the auction. If the renew bidding price is lower than the previous one, such default bidder must liable for the short.

Section 517. If some or all of the proceed from auction is unpaid that the cause comes from the ignorance of the auctioneer under Section 515 or Section 516, the auctioneer has to liable for the unpaid amount.

TITLE II

EXCHANGE

Section 518. Exchange is the contract that both parties transfer the right of ownership to each other.

Section 519. In any provisions of the laws relating to the selling and buying, the exchange is also included in such provision by implying that both parties are seller and buyer for such transfer of such properties.

Section 520. If any exchanging party accepts to add money with the exchange of property to another, the selling price shall include such additional cash payment too.

TITLE III

GIFT

Section 521. A gift is a contract whereby a person. Called the donor, transfers gratuitously a property of his own to another person, called the donee, and the donee accepts such property.

Section 522. A gift may be made by granting to the donee the release of an obligation or by performing an obligation due from the donee.

Section 523. A gift is valid only on delivery of the property given.

Section 524. If a right represented by a written instrument is given, the gift is not valid unless such instrument is delivered to the donee and the gift is notified in writing to the debtor of the right.

Section 525. The gift of a property the sale of which must be made in writing and registered by such competent official is valid only when so made and registered by the competent official. In such case it is valid without delivery.

Section 526. If a gift or a promise for a gift has been made in writing and registered by the competent official and the donor does not deliver to the donee the property given, the donee is entitled to claim the delivery of it or its value, but he is not entitled to any additional compensation.

Section 527. If a donor binds himself to make periodical performance the obligation is extinguished on the death either of the donor or the donee unless a contrary intention appears from the obligation.

Section 528. If the gift is encumbered with a charge and the donee fails to perform the charge, the donor may, under the conditions specified for the right of rescission in the case of reciprocal contracts, demand the return of the gift under the provisions relating to the return of undue enrichment in so far as the gift ought to have been applied to the performance of the charge.

This claim is barred if a third party is entitled to require the performance of the charge.

Section 529. If the property given is not sufficient to satisfy the charge, the donee has to perform only to the extent of the value of the property.

Section 530. If the gift encumbered with a charge, the donor is liable for defect or eviction in the same manner as the seller but only to the extent of the charge.

Section 531. The donor can claim revocation of a gift for an act of ingratitude only in the following cases.

- (1) If the donee committed a serious criminal offence punishable under the [Penal Code](#) against the donor, or
- (2) If the donee seriously defamed or insulted the donor, or
- (3) If the donee refused the donor who is in need of the necessaries of life while he was able to supply them

Section. 532. The heir of the donor can claim revocation only if the donee has intentionally and unlawfully killed the donor or prevented him from revoking the gift. However, the heir may continue an action which has been duly entered by the donor.

Section 533. A gift cannot be revoked if the donor has forgiven the donee, or if six months have elapsed since the time when the act of ingratitude came to knowledge of the person entitled to claim revocation.

No action can be claimed later than ten years after such act.

Section 534. If the gift is revoked, the property shall be returned under the provisions of this Code concerning Undue Enrichment.

Section 535. The following gifts are not revocable for ingratitude:

- (1) Gifts purely remuneratory
- (2) Gifts encumbered with a charge
- (3) Gifts made in compliance with a moral duty
- (4) Gifts made in consideration of marriage

Section 536. A gift to take effect at the death of the donor is governed by the provisions of Law concerning Inheritance and Wills.

Hire of property

Chapter I

General provisions

Section 537. A hire of property is a contract whereby a person, called the letter, agrees to let another person, called the hirer, have the use or benefit of a property for a limited period of time and the hirer agrees to pay rent therefore.

Section 538. A hire of immovable property is not enforceable by action unless there be some written evidence signed by the party liable. If the hire is for more than three years or for the life of the letter or hirer, it is enforceable only for three years unless it is made in writing and registered by the competent official.

Section 539. Costs of a contract of hire are borne by both parties equally.

Section 540. The duration of a hire of immovable property cannot exceed thirty years. If it is made for a longer period, such period shall be reduced to thirty years. The aforesaid period may be renewed, but it must not exceed thirty years from the time of renewal.

Section 541. Contract of hire may be made for the duration of the life of the letter or of the hirer

Section 542. When several persons claim the same movable property under different contracts of hire, the hirer who has first taken possession of the property by virtue of his contract shall be preferred.

Section 543. When several persons claim the same immovable property under different contracts of hire:

- (1) If none of the contracts is required by law to be registered, the hirer who has first taken possession of the property by virtue of his contract shall be preferred.
- (2) If all the contracts are required by law to be registered, the hirer whose contract was first registered shall be preferred.
- (3) If there is a conflict between a contract which is required by law, and a contract which is not required by law, to be registered, the hirer whose contract has been

registered shall be preferred, unless the other hirer has taken possession of the property by virtue of his contract before the date of registration.

Section 544. Unless otherwise provided by the contract of hire, a hirer cannot sublet or transfer his rights in the whole or part of the property hired to a third person.

Section 545. If the hirer rightfully sublets the property hired, the subhirer is directly liable to the letter. In such case a payment of rent made in advance by the subhirer to the hirer who sublets cannot be set up against the letter.

The provisions does not prevent the letter from exercising his rights against the hirer.

Chapter II

Duties and liabilities of the letter

Section 546. The letter is bound to deliver the property hired in a good state of repair.

Section 547. The letter is bound to reimburse to the hirer any necessary and reasonable expenses incurred by him for the preservation of the property hired, except expenses for ordinary maintenance and petty repairs

Section 548. In case of delivery of the property hired in a condition not suitable for the purpose for which it is let, the hirer may terminate the contract.

Section 549. The delivery of the property hired, the liability of the letter in case of defects and eviction and the effects of a non-liability clause are governed by the provisions of this Code concerning sale, mutatis mutandis.

Section 550. The letter is liable for any defects which arise during the continuance of the contract and he must make all the repairs which may become necessary, except those which are by law or custom to be done by the hirer.

Section 551. If the defect is not such as would deprive the hirer of the use and benefit of the property hired, and can be remedied by the letter, the hirer must first notify the letter to make it good. If the defect is not made good within a reasonable time, the hirer may terminate the contract provided the defect is serious enough to justify this course.

Chapter III

Duties and liabilities of the hirer

Section 552. The hirer cannot use the property hired for the purpose other than those which are ordinary and usual, or which have been provided in the contract.

Section 553. The hirer is bound to take as much care of the property hired as a person of ordinary prudence would take of his own property, and to do ordinary maintenance and petty repairs.

Section 554. If the hirer act contrary to the provision of Sections 552, 553 or contrary to the terms of the contract, the letter may notify the hirer to comply with such provisions or terms, and if the hirer fails to comply, the letter may terminate the contract.

Section 555. The hirer is bound to allow the letter or his agents to inspect the property hired at reasonable times.

Section 556. If the property hired requires urgent repairs during the continuance of the contract, and if the letter desires to do an act necessary for such repairs, the hirer cannot refuse permission to have such act done, though it may cause him inconvenience. However, if the repairs are of such nature as would take unreasonable length of time and thereby cause the property unsuitable for the purpose for which it is let, the hirer may terminate the contract.

Section 557. In any of the following cases:

- ï If the property hired is in need of repairs by the letter, or
- ï If a preventive measure is required for avoiding a danger, or
- ï If a third person encroaches on the property hired or claims a right over it, the hirer shall forthwith inform the letter of occurrence, unless the letter already has knowledge of it

If the hirer fails to comply with this provision, he is liable to the letter for any injury resulting from the delay occasioned by such failure.

Section 558. The hirer may not make alterations in, or addition to, the property hired without the permission of the letter. If he does so without such permission, he must, on request of the letter, restore the property to its former condition, and he is liable to the letter for any loss or damage that may result from such alteration or addition

Section 559. If no time for payment of rent is fixed by the contract or by custom, the rent must be paid at the end of each period for which it is stipulated, that is to say: if a property is hired at so much per year, the rent is payable at the end of each year, if a property is hired at so much per month, the rent is payable at the end of each month.

Section 560. In case of non-payment of rent, the letter may terminate the contract. But, if the rent is payable at monthly or longer intervals, the letter must first notify the hirer that payment is required within a period not less than fifteen days.

Section 561. If no written description of the condition of the property hired has been made and signed by both parties, the hirer is presumed to have received the property in good state of repair and he must return the property in such condition at the termination or extinction of the contract, unless he can prove that it was out of repair at the time of delivery.

Section 562. The hirer is liable for any loss or damage caused to the property hired by his own fault or by the fault of persons living with him or being his subhirer. But he is not liable for loss or damage resulting from proper use.

Section 563. No action by the letter against the hirer in connection with the contract of hire can be entered later than six months after the return of the property hired.

Chapter IV

Extinction of Contract of Hire

Section 564. A contract of hire is extinguished at the end of the agreed period without notice.

Section 565. A hire of garden land is presumed to be made for one year.

A hire of paddy land is presumed to be made for the agricultural year.

Section 566. If no period is agreed upon or presumed, either party may terminate the contract of hire at the end of each period for the payment of rent, provided that notice of at least one rent period is given, but no more than two months notice need be given.

Section 567. If the whole of the property hired is lost, the contract is extinguished.

Section 568. If part only of the property hired is lost without the fault of the hirer, he may claim that the rent be reduced in portion to the part lost.

If in such case the hirer cannot with the remaining part accomplish the purpose for which he entered the contract of hire, he may terminate.

Section 569. A contract of hire of immovable property is not extinguished by the transfer of ownership of the property hired.

The transferee is entitled to the rights and is subjected to the duties of the transferor towards the hirer.

Section 570. If, at the end of the agreed period, the hirer remains in possession of the property and the lessor knowing thereof does not object, the parties are deemed to have renewed the contract for an indefinite period.

Section 571. If a contract of hire of paddy land is terminated or extinguished after the hirer has planted the paddy, the hirer is entitled to remain in the possession till the harvest is finished, but he must pay rent.

TITLE V

HIRE-PURCHASE

Section 572. A hire-purchase is a contract whereby an owner of a property lets it out on hire and promises to sell it to, or that it shall become the property of, the hirer, conditionally on his making a certain number of payments.

The contract of hire-purchase is void unless made in writing.

Section 573. The hirer may at any time terminate the contract by redelivering the property at his own expense to the owner.

Section 574. The owner may also terminate the contract in case of default of two successive payments, or breach of any material part of the contract; in which case all previous payments are forfeited to the owner who is entitled to resume possession of the property.

In case of breach of contract by default of the last payment, the owner is entitled to forfeit previous payment and resume possession of the property only after the expiration of one installment period.

TITLE VI

HIRE OF SERVICES

Section 575. A hire of services is a contract whereby a person, called the employee, agrees to render services to another person, called the employer, who agrees to pay remuneration for the duration of the services.

Section 576. The promise to pay a remuneration is implied, if, under the circumstances it cannot be expected that the services are to be rendered gratuitously.

Section 577. The employer may transfer his right to a third person with the consent of the employee.

The employee may have a third person render the services in his place with the consent of the employer.

If either party acts contrary to this provision, the other party may terminate the contract.

Section 578. If the employee either expressly or impliedly warrants special skill on his part, the absence of such skill entitles the employer to terminate the contract.

Section 579. Absence of the employee from service for a reasonable cause and during a reasonably short period does not entitle the employer to terminate the contract.

Section 580. If no time for payment of remuneration is fixed by the contract or by custom, the remuneration is payable after the services have been rendered; if fixed by periods, the remuneration is payable at the end of each period.

Section 581. If after the end of the agreed period the employee continues to render services and the employer knowing thereof does not object, the parties are presumed to have made a new contract of hire on the same terms, but either party can terminate the contract by giving notice in accordance with the following section.

Section 582. If the parties have not fixed the duration of the contract, either party can terminate it by giving notice at or before any time of payment to take effect at the following time of payment. But no more than three-month notice need be given.

The employer can, on giving such notice, immediately dispense with the services of the employee by paying him his remuneration up to the expiration of the notice.

Section 583. If the employee willfully disobeys or habitually neglects the lawful commands of his employer, absents himself for services, is guilty of gross misconduct, or otherwise acts in a manner incompatible with the due and faithful discharge of his duty, he may be dismissed by the employer without notice or compensation.

Section 584. If a hire of services is one in which the personality of the employer forms an essential part such contract is extinguished by the death of the employer.

Section 585. If a hire of services comes to an end, the employee is entitled to a certificate as to the length and nature of his services .

Section 586. If the employee has been brought from elsewhere at the expense of the employer, the employer is bound, when the hire of service comes to an end, unless otherwise provided in the contract, to pay the cost of the return journey, provided that:

- (1) The contract has not been terminated or extinguished by reason of the act or fault of the employee, and
- (2) The employee returns within a reasonable time to the place from which he has been brought.

TITLE VII

Hire of work

Section 587 A hire of work is a contract whereby a person, called the contractor, agrees to accomplish a definite work for another person, called the employer, who agrees to pay him a remuneration of the result of the work.

Section 588 Tools or instruments which are necessary for the execution of the work are to be supplied by the contractor.

Section 589 If the materials for the work are to be supplied by the contractor, the contractor shall supply materials of good quality.

Section 590 If the materials are to be supplied by the employer, the contractor shall use them carefully and without waste. He shall return the surplus after the work is completed.

Section 591 If the defect or the delay in the work originates from the nature of the materials supplied by the employer, or from instruction given by him, the contractor is

not liable, unless the contractor knew of the unfitness of the materials or the impropriety of instructions, and did not give notice of it.

Section 592 The contractor is bound to allow the employer or his agents to inspect the work during its execution.

Section 593 If the contractor does not begin to work in a proper time or delays in proceeding with it contrary to the terms of the contract, or if, without the fault of the employer, he delays to proceed with it in a such a manner that it can be foreseen that the work will not be finished within the agreed period, the employer is entitled to rescind the contract without waiting for the time agreed upon for delivery.

Section 594 When it is possible to foresee with certainty, whilst the work is proceeding, that by the fault of the contractor, the work will be executed in a defective manner or contrary to the terms of the contract, the employer may notify the contractor to make good the defect or to comply with the terms of the contract within a reasonable time to be fixed in the notice, failing which the employer is entitled to have the work repaired or continued by a third person at the risks and expenses of the contractor.

Section 595 If the materials have been supplied by the contractor, his liability for defects is governed by the provisions of this code concerning sale.

Section 596 If the work is delivered after the time fixed in the contract, or, if no time was fixed, after reasonable time has elapsed, the employer is entitled to a reduction of remuneration or when time is of the essence of the contract to rescission.

Section 597 If the employer has accepted the work without reservation, the contractor is not liable for the delay in delivery.

Section 598 If the employer has accepted a defective work either expressly or impliedly, the contractor is not liable unless the defect was such as could not be discovered when the work was accepted, or it had been concealed by the contractor.

Section 599 In case of delay in delivery or of delivery of a defective work, the employer is entitled to withhold the remuneration unless the contractor gives proper security.

Section 600 Unless otherwise provided in the contract the contractor is only liable for defect appearing within one year after delivery of the work, or within five years if the work is for a structure on land other than a wooden building.

This limitation shall not apply if the contractor has concealed the defect.

Section 601 No action against the contractor can be entered later than one year after the defect appeared.

Section 602 The remuneration is payable on taking delivery of the work.

If the work is to be accepted in parts and the remuneration has been specified for the several parts, the remuneration for each part is payable at the time of its acceptance.

Section 603 If the materials have been supplied by the contractor, and the work is destroyed or damaged before due delivery, the contractor bears the loss provided that such loss is not caused by any act of the employer.

In such case no remuneration is payable.

Section 604 If the materials have been supplied by the employer, and the work is destroyed or damaged before due delivery, the employer bears the loss provided that such loss is not caused by any act of the contractor.

In such case no remuneration is payable unless the loss is caused by any act of the employer.

Section 605 As long as the work is not finished, the employer can terminate the contract on making compensation to the contractor for any injury resulting from the termination of the contract.

Section 606 If the personal qualification of the contractor is of the essence of the contract and the contractor dies, or without his fault becomes incapable to carry on the work, the contract comes to an end.

If a part of the work already done is useful to the employer, he is bound to accept it and pay a reasonable remuneration

TITLE IX

LOAN

CHAPTER I

LOAN FOR USE

Section 640. A loan for use is a contract whereby a person, called the lender, lets another person, called the borrower, have gratuitously the use of a property, and the borrower agrees to return it after having made use thereof.

Section 641. A loan for use is complete only on delivery of the property lent.

Section 642. Costs of the contract, costs of delivery of the property lent and costs of return are born by the borrower.

Section 643. If the borrower uses the property lent for purposes other than ordinary purposes or purposes appearing from the contract, or lets a third person have the use of it, or keeps it longer than ought to, he is liable for any loss or damage to the property caused by force majeure unless he proves that the loss or damage would have happened in any case.

Section 644. The borrower is bound to take as much care of the property lent as a person of ordinary prudence would take of his own property.

Section 645. In any cases provided in Section 643, or if the borrower acts according to Section 644, the lender may terminate the contract.

Section 646. If no time is fixed, the property shall be returned after the borrower has made the use of it for the purpose appearing from the contract. The lender may claim the return of the property earlier, if so much time has elapsed that the borrower might have made the use of it.

If no time is fixed and no purpose appears from the contract, the lender may claim the return at any time.

Section 647. Expenses for ordinary maintenance of the property lent must be borne by the borrower.

Section 648. A loan for use is extinguished by the death of the borrower.

Section 649. No action for compensation in connection with a loan for use can be entered later than six months after the extinction of the contract.

CHAPTER II

LOAN FOR CONSUMPTION

Section 650. A loan for consumption is a contract whereby the lender transfers to the borrower the ownership of a certain quantity of property which is consumed in the user, and the borrower agrees to return a property of the same kind, quality and quantity.

The contract is complete only on delivery of the property.

Section 651. Costs of the contract, costs of delivery of the property lent and costs of return are borne by the borrower.

Section 652. If no time for return of the property lent has been fixed, the lender may give notice to the borrower to return the property within a reasonable time to be fixed in the notice.

Section 653. A loan of money for a sum exceeding two thousand baht in capital is not enforceable by action unless there be some written evidence of the loan signed by the borrower.

No repayment of a loan of money evidenced by writing may be proved unless there be some written evidence signed by the lender, or the document evidencing the loan has been surrendered to the borrower or cancelled.

Section 654. Interest shall not exceed 15% per year; when a higher rate of interest is fixed by the contract, it shall be reduced to 15% per year.

Section 655. Interest shall not bear interest. The parties to a loan of money may, however, agree that the interest due for not less than one year shall be added to the

capital, and that the whole shall bear interest, but such agreement must be made in writing.

Commercial usage for the calculation of compound interest in current accounts, as well as in similar commercial transactions, are not governed by the forgoing paragraph.

Section 656. If a loan is made for a sum of money, and the borrower accepts goods or other property instead of such sum, the amount of the debt due shall be considered as equal to the market value of the goods or property at the time and place of delivery.

If a loan is made for a sum of money, and the lender accepts goods or other property for the repayment of the loan, the amount of the debt extinguished thereby shall be considered as equal to the market value of the goods or property at the time and place of delivery.

Any agreement to the contrary is void.

TITLE XII

MORTGAGE

CHAPTER I

GENERAL PROVISIONS

Section 702. A mortgage is a contract whereby a person, called the mortgagor, assigns a property to another person, called the mortgagee, as security for the performance of an obligation, without delivering the property to the mortgagee.

The mortgagee is entitled to be paid out of the mortgaged property in preference to ordinary creditors regardless as to whether or not the ownership of the property has been transferred to a third person.

Section 703. Immovables of any kind can be mortgaged.

The following movables can also be mortgaged provided they are registered according to law:

- (1) Ships of five tons and over
- (2) Floating houses.
- (3) Beast of burden
- (4) Any other movables with regard to which the law may provide registration for that purpose.

Section 704. A contract of mortgage must specify the property mortgaged.

Section 705. No property can be mortgaged except by the owner for the time being.

Section 706. A person whose right of ownership over a property is subject to a condition may mortgage such property only subject to such condition.

Section 707. The provisions of Section 681 concerning Suretyship apply mutatis mutandis.

Section 708. A contract of mortgage must contain, in Thai currency, either the sum certain or a maximum amount for which the mortgaged property is assigned as security.

Section 709. A person may mortgage his property as security for the performance of an obligation by another person.

Section 710. The performance of one and the same obligation may be secured by the mortgage of several properties belonging either to one or to several owners.

The parties may agree:

- (1) That the mortgagee shall enforce his right against the mortgaged properties on a specific order.
- (2) That each property is security only for a specified part of the obligation.

Section 711. Before the obligation is due, any agreement that the mortgagee shall, in case of non-performance, become the owner of the mortgaged property or dispose of it otherwise than in accordance with the provisions concerning Enforcement of Mortgage, shall be invalid.

Section 712. Notwithstanding any clause in the contract to the contrary, a property mortgaged to one person may be mortgaged to another person during the continuance of the previous contract.

Section. 713. Unless otherwise agreed in the contract of mortgage, the mortgagor may pay off the mortgage by installments.

Section 714. A contract of mortgage must be made in writing and registered by the competent official.

CHAPTER II

EXTENT OF MORTGAGE

Section 715. A mortgaged property is security for the performance of the obligation and for the following accessories:

- (1) Interest.
- (2) Compensation in case of non-performance of the obligation

(3) Costs of enforcement of the mortgage.

Section 716. A mortgage, even part performance, extend to all the properties mortgaged and the whole of each of them.

Section 717. If a mortgaged property is divided into parcels, the mortgage continues notwithstanding to extend to each and all of such parcels.

Section 718. A mortgage extends to all things which are connected with the mortgaged property, subject, however to the restrictions contained in the following sections.

Section 719. A mortgage over land does not extend to the buildings erected by the mortgagor upon such land after the date of the mortgage, unless there is in the contract a special clause to that effect.

However, in any case, the mortgagee can have such buildings sold with the land, but he can exercise his preferential right only against the price obtained for the land.

Section 720. A mortgage over buildings erected or constructed made upon or under the land of another person does not extend to such land, and vice versa.

Section 721. A mortgage does not extend to the fruits of the mortgaged property except after the mortgagee has notified the mortgagor or the transferee of his intention to enforce the mortgage.

CHAPTER III

RIGHTS AND DUTIES OF THE MORTGAGEE AND MORTGAGOR

Section 722. When a property has been mortgaged and a servitude or other real right is registered after the registration of the mortgage without the consent of the mortgagee, the mortgage has priority over the servitude or other real right and the latter will be erased from the register where its existence prejudice the right of the mortgagee on the enforcement of the mortgage.

Section 723. If the mortgaged property is damaged, or if one of the mortgaged properties is lost or damaged, so that the security becomes insufficient, the mortgagee may enforce the mortgage at once, unless the mortgagor has not been at fault and offers either to mortgage another property of sufficient value or to repair the damage within a reasonable time.

Section 724. A mortgagor, who has mortgaged his property as security for the performance of an obligation by another person and performs the obligation on behalf of the debtor to prevent the enforcement of the mortgage, is entitled to recover from the debtor the amount of the performance.

If the mortgage is enforced, the mortgagor is entitled to recover from the debtor the amount by which the mortgagee has been satisfied by such performance

Section 725. When two or more persons have separately mortgaged their properties as security for the performance of one and the same obligation by another person and no order has been specified, the mortgagor who has performed the obligation, or on whose property the mortgage has been enforced, has no right of recourse against the other mortgagors.

Section 726. When several persons have separately mortgaged their properties as security for the performance of one and the same obligation by another person and an order has been specified, the release granted by the mortgagee to one of the mortgagors discharges the subsequent mortgagors to the extent of the injury suffered by them thereby.

Section 727. If a person has mortgaged his property as security for the performance of an obligation by another person, the provisions of Sections 697, 700 and 701 concerning Suretyship shall apply mutatis mutandis.

CHAPTER IV

ENFORCEMENT OF MORTGAGE

Section 728. For enforcement of mortgage the mortgagee must notify the debtor on writing to perform his obligation within a reasonable time to be fixed in the notice. If the debtor fails to comply with such notice, the mortgagee may enter an action in Court for a judgment ordering the mortgaged property to be seized and sold by public auction.

Section 729.

In addition to the remedy provided in the foregoing section, the mortgagee is entitled to claim foreclosure of the mortgage, subject to the following conditions:

- (1) The debtor has failed to pay interest for five years;
- (2) The mortgagor has not satisfied the Court that the value of the property is greater than the amount due; and
- (3) There are no other registered mortgages or preferential rights on the same property.

Section 730. When one and the same property is mortgaged to several mortgagees, they rank according to the respective dates and hours of registration, and the earlier mortgagee shall be satisfied before the later one.

Section 731. A later mortgage cannot enforce his right to the injury of an earlier one.

Section 732. The net proceeds of the auction shall be distributed to the mortgagees according to their ranks, and the surplus, if any, shall be delivered to the mortgagor.

Section 733. If the estimated value of the property, in case of foreclosure, is or the net proceeds, in case of auction, are less than the amount due, the debtor of the obligation is not liable for the difference.

Section 734. When several properties have been mortgaged to secure one and the same obligation and no order has been specified, the mortgagee may enforce his right against all or any of the properties; provided that he does not do so upon more properties than is necessary for the satisfaction of his right.

If the mortgagee enforces his right against all properties at the same time, the burden of the obligation is divided according to the respective value of the properties, except where the amounts of the mortgages have been specified for each property, in which case the division is made according to the respective amounts of the mortgages on such properties.

If, however, the mortgagee enforces his right against one of the properties, the mortgagee may receive performance of his entire obligation from such property. In that case the mortgagee who is next in rank shall be considered as being subrogated to the prior mortgagee and may enforce the mortgage in his stead to the amount which the prior mortgagee would have received from the other properties according to the provisions of the foregoing paragraph.

Section 735. When the mortgagee intends to enforce the mortgage against the transferee of a mortgaged property, the latter must be served with a written notice one month before the enforcement of the mortgage.

CHAPTER V

RIGHTS AND DUTIES OF THE TRANSFEEE OF A MORTGAGED PROPERTY

Section 736. The transferee of a mortgaged property may remove the mortgage, provided that he is not the principal debtor, a surety or an heir of either of them.

Section 737. The transferee may remove

the mortgage at any time, but if he has been notified by the mortgagee of the mortgagee's intention to enforce the mortgage, he must do so within one month thereafter.

Section 738. The transferee who wishes to remove the mortgage must notify the principal debtor and make an offer to every registered creditor whether by way of mortgage or otherwise pay a reasonable amount corresponding to the value of the property.

The offer shall contain the following particulars:

- (1) The place and the description of the mortgaged property.
- (2) The date of transfer of ownership.
- (3) The name of the former owner.
- (4) The name and domicile of the transferee.
- (5) The sum offered.

(6) A calculation of the total amount due to each of the creditors including accessories, and the sum which would be distributed to them according to their respective ranks.

A certified copy of the entries in the official register to the mortgaged property shall be enclosed.

Section 739. If any creditor refuses the offer, he must enter an action in Court within one month from the date of the offer for a judgment ordering the mortgaged property to be sold by public auction, provided that:

- (1) He advances the cost of sale;
- (2) He binds himself to make a bid or have a bid made above the sum offered by the transferee, and
- (3) He notifies his refusal to the transferee, other registered creditors, the former owner and the principal debtor.

Section 740. If the net proceeds of the auction are more than the sum offered by the transferee, the costs of the auction shall be borne by him; otherwise, the creditor demanding the sale shall bear the costs of the auction.

Section 741. When all the creditors have accepted the offer, either expressly or implied, the mortgage and preferential rights are removed by the transferee paying or depositing in lieu of performance the sum offered.

Section 742. When, by the enforcement or the removal of the mortgage, a person who has previously acquired the mortgaged property is deprived of the property, such deprivation has no retrospective effect, and the preferential rights registered by his own creditors of the mortgagor or other former owner.

In such case, if any rights over the mortgaged property existing in favour of or against the person who has so previously acquired the mortgaged property have been extinguished by merger at the time of his acquisition, they shall revive in his favour or against him after he has been deprived of the mortgaged property.

Section 743. The transferee is liable to damages if the property has been made less valuable by his act or negligence, and loss has thereby been suffered by the creditors having mortgages or preferential rights over the same. The transferee cannot, however, claim any sum spent by him, or reimbursement of his expenses for improvements, except so far as he has increased the value of the property, and only up to the amount of the increase of value at the time of auction.

CHAPTER VI

EXTINCTION OF MORTGAGE

Section 744. A mortgage is extinguished:

- (1) By extinction of the obligation secured, otherwise than by prescription.
- (2) By release of the mortgage granted in writing to the mortgagor

- (3) By the mortgagor being discharged.
- (4) By the mortgage being removed.
- (5) By action sale of the mortgaged property by order of the Court as a result of enforcement or removal of mortgage.
- (6) By foreclosure of the mortgage.

Section 745. The mortgagee may enforce the mortgage even after the obligation secured has been barred by prescription, but arrears of interest on the mortgage cannot be enforced for more than five years.

Section 746. Any performance, either wholly or partly, or any extinction, or any agreement modifying the mortgage or the obligation secured, must be registered by the competent official on the request of the interested party, failing which it cannot be set up against a third person.

TITLE XIII

PLEDGE

CHAPTER I

GENERAL PROVISIONS

Section 747. A pledge is a contract whereby a person, called the pledgor, delivers to another person, called the pledgee, a movable property as a security for the performance of an obligation.

Section 748. The pledge is a security for the performance of the obligation and for the following accessories:

- (1) Interest.
- (2) Compensation in case of non-performance of the obligation.
- (3) Costs of enforcement of the pledge.
- (4) Expenses for the preservation of the pledged property.
- (5) Compensation for injury caused by non-apparent defects of the pledged property.

Section 749. The parties to a pledge may agree that the pledged property shall be kept by a third person.

Section 750. If the pledged property is a right represented by a written instrument, the pledge is void unless such instrument is delivered to the pledgee and the pledgee is notified in writing to the debtor of the right.

Section 751. If an instrument to order is pledged, such pledge cannot be set up against third persons unless its creation is endorsed upon the instrument.

No notification to the debtor under such instrument is necessary.

Section 752. If an instrument issued to a named person and not transferable by indorsement is pledged, the pledge must be stated on such instrument, and cannot be set up against the debtor under such instrument or third persons, unless it is notified to such debtor.

Section 753. If a named certificate for share or debenture is pledged, such pledge cannot be set up against the company or other third person, unless the creation of the pledge is entered in the company's book in accordance with the provisions of Title XXII relating to the transfer of shares or debentures.

Section 754. If the pledged right becomes due before the obligation for which it is security is due, the debtor of such right must deliver to the pledgee the property which is the subject of the right and it becomes pledged in lieu of the pledged right.

If the pledged right is an obligation to pay a sum of money and becomes due before the obligation secured, the payment must be made jointly to the pledgee and pledgor; if they cannot come to an agreement, each of them is entitled to demand that such sum be deposited in Deposited Office for their common benefit.

Section 755. If a right is pledged, it cannot be extinguished or modified to the injury of the pledgee without the consent of the pledgee.

Section 756. Before the obligation is due, any agreement that the pledgee shall, in case of non-performance, become the owner of the pledged property or disposed of it otherwise than in accordance with the provisions concerning Enforcement of Pledge, shall be invalid.

Section 757. The provisions of this Title XIII apply to contracts of pledge entered into with licensed pawnbrokers only in so far as they are not contrary to the Laws or Regulations concerning Pawnbrokers.

CHAPTER II

RIGHTS AND DUTIES OF PLEDGOR AND PLEDGEE

Section 758. The pledgee is entitled to retain all the pledged property until he has received full performance of the obligation and accessories.

Section 759. The pledgee is bound to keep the pledged property in safe custody and take as much care of it as a person of ordinary prudence would take of his own property.

Section 760. If, without the consent of the pledgor, the pledgee uses the pledged property or lets a third person have custody over it, he is liable for any loss or damage

to the pledged property, even caused by force majeure, unless he proves that the loss or damage would have happened in any case.

Section 761. Unless otherwise provided by the contract, if the pledged property produces legal fruits, the pledgee shall appropriate them in payment of any interest that may be due to him, and, if no interest is due, in payment of the principal of the obligation secured.

Section 762. The pledgor is bound to reimburse the pledgee for any expenses which were necessary for the preservation or maintenance of the pledged property unless otherwise provided in the contract.

Section 763. The following actions cannot be entered later than six months after the return or sale by auction of the pledged property:

- (1) An action for compensation for damage caused to the pledged property by the pledge.
- (2) An action for reimbursement of expenses incurred for the preservation or maintenance of the pledged property.
- (3) An action for compensation for injury caused to the pledge by non-apparent defects in the pledged property.

CHAPTER III

ENFORCEMENT OF PLEDGE

Section 764. On enforcement of the pledge the pledgee must first notify the debtor in writing to perform the obligation and accessories within a reasonable time to be fixed in the notice.

The pledgee must notify the pledgor in writing of the time and place of the auction.

Section 765. If notification is impracticable, the pledgee may sell the pledged property by public auction after one month from the time the obligation became due.

Section 766. The pledgee of a bill shall, without previous notification being necessary, collect it on the day of its maturity.

Section 767. On enforcement of the pledge the pledgee must appropriate the net proceeds to extinction of the obligation and accessories and must return the surplus to the pledgor or any person entitled to it.

If the proceeds are less than amount due, the debtor of the obligation remains liable for the difference.

Section 768. If several properties are pledged as security for one obligation, the pledgee may sell such of them as he may select, but he may not sell more than is necessary for the satisfaction of his right.

CHAPTER
EXTINCTION

Section 769. A pledge is extinguished:

- (1) When the obligation secured is extinguished otherwise than by prescription, or
- (2) When the pledgee allows the pledged property to return into the possession of the pledgor.

TITLE XIV WAREHOUSING

CHAPTER I

GENERAL PROVISIONS

Section 770. A warehouseman is a person who, in the usual course of his business, undertakes the storage and custody of goods for remuneration.

TITLE XV

AGENCY

CHAPTER I

GENERAL PROVISIONS

Section 797. Agency is a contract whereby a person, called the agent, has authority to act for another person, called the principal, and agrees so to act.

Agency may be express or implied.

Section 798. If a transaction is by law required to be made in writing, the appointment of an agent for such transaction must also be made in writing.

If the transaction is required to be evidenced by writing, the appointment of an agent for such transaction must also be evidenced by writing.

Section 799. The principal who employs an incapable person as an agent is bound by the act of that agent.

Section 800. The agent who has a special authority may do on behalf of his principal whatever is necessary for the due execution of the matters entrusted to him.

Section 801. The agent who has a general authority may do all acts of management on behalf of his principal.

He cannot do such acts as:

- (1) Selling or mortgaging immovable property.
- (2) Letting immovable property for more than three years.
- (3) Making a gift.
- (4) Making a compromise.
- (5) Entering an action in Court.
- (6) Submitting a dispute to arbitration.

Section 802. In case of an emergency, the agent is presumed to have an authority to do, in order to protect his principal from loss, all such acts as would be done by a person of ordinary prudence.

Section 803. The agent is not entitled to receive remuneration unless it is provided by the contract, or may be implied from the course of dealing between the parties or by usage.

Section 804. If several agents have been appointed in one contract by the same principal for the same matters, it is presumed that they cannot act separately.

Section 805. An agent may not without his principal's consent enter into a juristic act in the name of his principal with himself in his own name, or as agent of a third party, unless the juristic act consists exclusively in the performance of an obligation.

Section 806. An undisclosed principal may declare himself and assume any contract entered into on his behalf. But the principal who allows his agent to act as a principal cannot prejudice the rights of the third person against the agent acquired before notice of agency.

CHAPTER II

DUTIES AND LIABILITIES OF THE AGENT TO THE PRINCIPAL

Section 807. The agent must act according to the express or implied directions of the principal. In the absence of such directions, he must pursue the accustomed course of business in which he is employed.

The provisions of Section 659 concerning Deposit apply *mutatis mutandis* .

Section 808. The agent must act personally, unless he has authority to act by subagent.

Section 809. If required by principal, the agent must at all reasonable times give information as to the conditions of the matter entrusted to him. He must render an account after the agency has come to an end.

Section 810. The agent must hand over to the principal all the moneys and other properties which he receives in connection with the agency.

Section 811. If the agent has used for his own benefit money which ought to have handed over to the principal or to have used for the principal, he must pay interest thereon from the day when he used it for his own benefit.

Section 812. The agent is liable for any injury resulting from his negligence or non-execution of agency, or from an act done without or in excess of authority.

Section 813. The agent who appoints a subagent designated by the principal is liable only in case he knew his unfitness or untrustworthiness and omitted to inform the principal thereof or to revoke the subagency.

Section 814. The subagent is directly liable to the principal and vice versa.

CHAPTER III

DUTIES AND LIABILITIES OF THE PRINCIPAL TO THE AGENT

Section 815. The principal must, if so required, advance to the agent such sums as are necessary for the execution of the matters entrusted to him.

Section 816. If the agent in executing the matters entrusted to him has made advances or expenses which could reasonably be regarded as necessary, he may claim from the principal reimbursement with interest from the day when they were made.

If the agent in executing the matters entrusted to him has assumed an obligation which could reasonably be regarded as necessary, he may require the principal to perform in his place or if the time of its maturity has not yet arrived, to give proper security.

If the agent by reason of the execution of the matters entrusted to him has suffered damage without fault on his part he may claim compensation from the principal.

Section 817. In case remuneration is to be paid, it is payable, unless otherwise agreed, only after the agency has come to an end.

Section 818. The agent is not entitled to remuneration in respect of that part of his agency which he has misconducted.

Section 819. The agent is entitled to retain any property of the principal in his possession by reason of agency until he has been paid all that is due to him on account of agency.

CHAPTER IV

LIABILITY OF PRINCIPAL AND AGENT TO THIRD PERSONS

Section 820. The principal is bound to third persons by the acts which the agent or the subagent has done within the scope of his authority by virtue of his agency.

Section 821. A person who holds out another person as his agent or knowingly allows another person to hold himself out as his agent, is liable to third persons in good faith in the same way as such person was his agent.

Section 822. If an agent does an act in excess of his authority, but the third person has reasonable grounds, arising from the act of the principal, to believe that it was within his authority, the provisions of the foregoing section apply correspondingly.

Section 823. If an agent does an act without authority or beyond the scope of his authority, such act does not bind the principal unless he ratifies it.

If the principal does not ratify, the agent is personally liable to third persons, unless he proves that such third persons knew he was acting without authority or beyond the scope of the authority.

Section 824. An agent who makes a contract on behalf of a principal who is, and has his domicile, in a foreign country is personally liable on the contract although the name of the principal has been disclosed, unless the terms of the contract are inconsistent with his liability.

Section 825. A principal is not bound by a contract entered into by his agent with a third person, if the contract was entered into by the agent in consideration of any property or other advantage privately given or promised to him by such third person, unless the principal has given his consent.

CHAPTER V

EXTINCTION OF AGENCY

Section 826. Agency is extinguished by the principal revoking or by the agent renouncing the agency.

It is also extinguished when either party dies or becomes incapacitated or bankrupt, unless the contrary appears from the terms of the agreement or the nature of the business.

Section 827. The principal may revoke the authority and the agent may renounce the agency at any time.

Except in case of unavoidable necessity, the party who revokes or renounces the agency at a time which is inconvenient to the other party is liable to such party for any injury resulting therefrom.

Section 828. When agency is extinguished by the death of the principal or by the principal becoming incapacitated or bankrupt, the agent must take all reasonable steps to protect the interest entrusted to him until the heirs or representatives of the principal can protect such interest.

Section 829. When agency is extinguished by the death of the agent or the agent becoming incapacitated or bankrupt, the heir or the person having lawful charge of the agent's estate must notify the principal and take steps to protect the interest of the principal as may be reasonable under the circumstances until the principal can protect such interest.

Section 830. The causes for extinction of agency, whether arising from the principal or agent, cannot be set up against the other party, until they have been notified to the other party or the latter has knowledge of them.

Section 831. The extinction of agency cannot be set up against a third person acting in good faith, unless the third person is ignorant of the fact through his own negligence.

Section 832. On extinction of agency, the principal is entitled to demand the surrender of any written authority given to the agent.

CHAPTER VI

COMMISSION AGENCY

Section 833. A commission agent is a person who, in the course of his business undertakes to buy sell property or undertakes any other commercial transaction in his own name on account of the principal.

Section 834. Unless otherwise agreed, a commission agent is entitled to a usual rate of remuneration on every transaction concluded by him.

Section 835. The provisions of this Code concerning Agency apply to Commission Agency in so far as they are not contrary to the provisions of this Chapter.

Section 836. An incapacitated person cannot act as commission agent unless duly authorized to that effect.

Section 837. The commission agent, by a sale or purchase or any other transaction made on account of the principal, acquires rights against the other party to such transaction and becomes bound to him.

Section 838. If the other party to the transaction does not perform his obligation, the commission agent is not himself liable to the principal for the performance unless it is provided by the contract, or may be implied from the course of dealing between the principal an agent, or by local usage.

The commission agent who undertakes to guarantee the execution of a contract upon the terms mentioned in the foregoing paragraph is a del credere agent and is entitled to a special remuneration.

Section 839. When a commission agent has made a sale for a lower price or a purchase for a higher price than that designated by the principal, if the agent takes upon himself the difference, such sale or purchase takes effect against the principal.

Section 840. When a commission agent has made a sale for a higher price or purchase for a lower price than that designated by the principal, he cannot take the benefit on such transaction and must account it to the principal.

Section 841. The commission agent shall report his activities to the principal, and upon execution of the commission, shall inform the principal without delay.

Section 842. Where a property has been entrusted to a commission agent the provisions of this Code concerning Deposit apply mutatis mutandis.

In case of unavoidable necessity the commission agent may dispose of the property in a manner provided in Section 631 concerning Carriage.

Section 843. A commission agent who has been ordered to sell or buy a property which has an exchange quotation may himself be the buyer or seller, unless he is expressly forbidden by the contract. In such a case the price to be paid is determined by the quotation of such property on the exchange at the time when the commission agent gives notice of his being the buyer or seller.

On receiving such notice the principal is deemed to have accepted the transaction, unless he refuses it at once.

A commission agent may even in such case charge remuneration.

Section 844. Between the principal and the commission agent, a transaction concluded by the latter shall have the same effect as if it had been concluded directly in the name of the principal.

TITLE XVI

BROKERAGE

Section 845. A person who agrees to pay remuneration to a broker for indicating the opportunity for the conclusion of a contract, or for procuring a contract, is liable to pay the remuneration only if the contract is concluded in consequence of the indication or of the procurement by the broker. If the contract is concluded subject to a condition precedent, the broker's remuneration may not be claimed until the condition is fulfilled.

The broker is entitled to be reimbursed for expenses incurred only if it has been agreed upon. This applies even if a contract is not concluded.

Section 846. A broker's remuneration is deemed to have been impliedly agreed upon, if the business entrusted to the broker is, under the circumstances, only to be expected for remuneration.

If the amount of the remuneration is not fixed, the usual remuneration is deemed to have been agreed upon.

Section 847. A broker is not entitled to remuneration or to reimbursement of his expenses if, contrary to his engagement, he has acted also for the third party or has been promised by such third party a remuneration which is not consistent with the broker acting in good faith.

Section 848. A broker is not personally liable for the performance of the contracts entered into through his mediation, unless he has not communicated the name of a party to the other party.

Section 849. A broker is presumed to have no authority to receive on behalf of the parties payments or other performances due under the contract.

TITLE XVII

COMPROMISE

Section 850. A compromise is a contract whereby the parties settle a dispute, whether actual or contemplated by mutual concessions.

Section 851. A contract of compromise is not enforceable by action unless there be some written evidence signed by the party liable or his agent.

Section 852. The effect of the compromise is to extinguish the claims abandoned by each party and to secure to each party the rights which are declared to belong to him.

TITLE XVIII

GAMBLING AND BETTING

Section 853. No obligation is created by gambling or betting. What has been given by reason of the gambling or betting may not be demanded back on the ground that no obligation existed.

These provisions apply also to an agreement whereby the losing party, for the purpose of satisfying a gambling debt or a bet, incurs an obligation towards the other party.

Section 854. A lottery contract or a raffle contract is binding if the lottery or the raffle is specially authorized or ratified by the Government. In all other cases the provisions of Section shall apply.

Section 855. Subject to the provisions of Sections 312 and 916, every bill or other given in whole or in part for any money won by gambling or betting, or for repaying money lent for such gambling or betting shall be invalid.

For the purpose of this provision, any money lent to a person while gambling or betting the time or place of such play shall be presumed to have been lent for such gambling or betting.

Section 917. Every bill of exchange, even if not expressly drawn to order, may be transferred by means of an indorsement and delivery.

When the drawer has written on the face of a bill of exchange the words 'not negotiable' or any equivalent expression, the bill can be transferred only according to the form, and with the effects of an ordinary transfer.

The bill may be endorsed to the drawee, whether he has accepted or not, or the drawer, or to any other party to the bill. These persons may indorse the bill afresh

TITLE XXII

PARTNERSHIPS AND COMPANIES

CHAPTER I

GENERAL PROVISIONS

Section 1012. A contract for the organization of a partnership or company is a contract whereby two or more persons agree to unite for a common undertaking, with a view of sharing profit the profits which may be derived therefrom.

Section 1013. There are three kinds of partnerships or companies, that is to say:

- (1) Ordinary partnerships
- (2) Limited partnerships
- (3) Limited companies

Section 1014. Offices for the registration of partnerships and companies shall be established by regulations issued by the Minister responsible for the registration of partnerships and companies.

Section 1015. A partnership or company, upon registration being made according to the provisions of this Title, continues a juristic person distinct from the partners or shareholders of whom it is composed.

Section 1016. The registration must be made at the Registration Office of that part of the kingdom where the principal business office of the partnership or company is situated.

Any alterations subsequently made in the registered particulars, as well as any other matters ordered or allowed to be registered by this Title must be registered at the same place.

Section 1017. If a fact to be registered or published happens in a foreign country, the period for its registration or publication shall be computed from the time when notice thereof arrives at the place of registration or publication.

Section 1018. There shall be paid in respect of registration such fees as may be provided by the regulations issued by the competent Minister.

Section 1019. If an applicant for registration or a document subject to registration does not contain all the particulars required by this Title to be mentioned in it, or if any of the particulars mentioned in such application or document are contrary to law, or if any of the documents prescribed to be deposited with it are not produced, or if any other condition imposed by law is not complied with, the Registrar may decline to make any entry in his register till the application or documents has been completed or modified or till the prescribed documents are produced, or till the condition is fulfilled.

Section 1020. Every person is entitled to inspect the documents kept by the Registrar, or to require a certificate of the registration of any partnership or company, or a certified copy or extract of any other document, to be delivered to him by the Registrar, on payment of such fee as may be prescribed by the regulations issued by the competent Minister.

Section 1021. Every Registrar shall cause to be published periodically in the Government Gazette, in the form provided by the competent Minister, a summary of the entries made in his register.

Section 1022. On such publication being made, the registered documents or matters referred to in the summary shall be deemed to be known to all persons whether connected with the partnership or company or not

Section 1023. Until such publication has been made, no advantage may be taken by the partners, the partnership or the company against third persons of the existence of the agreements, documents or particulars required by this Title to be registered, but third persons may take advantage of such existence.

However, the partners or shareholders who, and the partnership or company which has, before such publication, received performance of an obligation is ,

Section 1024. As between the partners of shareholders , the partners and the partnership, the shareholders and the company, all books, accounts and documents of any partnership or company or of the liquidators of any partnership or company are presumed to be correct evidence of all matters therein recorded.

CHAPTER II

ORDINARY PARTNERSHIPS

PART I

Definition

Section 1025. The ordinary partnership is that kind of partnership in which all the partners are jointly and unlimitedly liable for all the obligations of the partnership.

PART II

Relation of Partners between Themselves

Section 1026. Each partner must bring a contribution to the partnership.

Such contribution may consist of money or other properties or of service.

Section 1027. In case of doubt, contributions are presumed to be of equal value.

Section 1028. If the contribution of the partner consist merely of his personal service and the contract of partnership does not fix the value of such services, the share of such partner in the profits is equivalent to the average of the shares of the partners whose contributions are in money or other properties.

Section 1029. If a partner brings as contribution the use of a property, relations between such partners and the partnership with regard to:

delivery and repair,
liability for defects ,
liability for eviction,
clause of non-liability,

are governed by the provisions of this Code concerning the Hire of Property.

Section 1030. If the contribution of a partner consist of the ownership of a property, the relations between such partners and partnership with regard to:

delivery and repair,
liability for defects,
liability for eviction ,
clause for non-liability,

are governed by the provisions of this Code concerning Sale .

Section 1031. If a partner wholly fails to deliver his contribution, a written notice must be given him by a registered letter to deliver it within a reasonable time, failing which he may be excluded from the partnership by a decision of all the other partners, or of such majority as provided in the contract.

Section 1032. No change in the original partnership or in the nature of the business may be made except by the consent of all the partners, unless the be an agreement providing otherwise.

Section 1033. If nothing has been agreed between the partners as to the management of the business of the partnership, such business may be managed by each of the

partners, provided that no partner may enter into a contract to which another partner objects.

In such case, each partner is the managing partner.

Section 1034. If it is agreed that matters relating to the business of the partnership shall be decided by a majority of partners, each partner shall have one vote, irrespective the amount of his contribution.

Section 1035. If it is agreed that the business of the partnership shall be managed by several managing partners, such business may be managed by each of the managing partners, provided that no managing partner may do anything to which another managing partner objects.

Section 1036. Managing partners may be removed from their position only by the consent of all the other partners, unless there be an agreement providing otherwise.

Section 1037. Even if partners have agreed that the business of the partnership shall be managed by one or more managing partners, each non-managing partner has the right to enquire at any time into the management of the business and to inspect and copy any of the partnerships books and documents.

Section 1038. No partner may either on his own account or on account of another person carry on, without the consent of the other partners, any business of the same nature as and competing with that of the partnership.

If a partner acts contrary to the provisions of this section, the other partners are entitled to claim from him all the profits which he has made or compensation for the injury which the partnership has suffered thereby, but such claim cannot be entered later than one year after the date of contravention.

Section 1039. A partner is bound to manage the business of the partnership with as much care as he would take of his own business.

Section 1040. No person may be introduced as partner in the partnership without the consent of all partners, unless there be an agreement providing otherwise.

Section 1041. If a partner, without the consent of the other partners, transfers to a third person the whole or part of his share in the profits of the partnership, such third person does not become partner.

Section 1042. The relations of the managing partners with the other partners are governed by the provisions of this Code concerning Agency.

Section 1043. If a non-managing partner manages the business of the partnership or a managing partner acts beyond the scope of his authority, the provisions of this Code concerning Management of Affairs without Mandate shall apply.

Section 1044. The share of each partner in the profits or losses is in proportion to his contribution.

Section 1045. If the share of a partner is fixed only as to profits or only as to losses, the proportion is presumed to be the same for profits and losses.

Section 1046. No partner is entitled to remuneration for having managed the business of the partnership, unless there be an agreement providing otherwise.

Section 1047. If the name of a partner whose membership has ceased is used in the firm name, he is entitled to demand that such use shall cease.

Section 1048. A partner may claim from the other partners a share even in a transaction where his own name did not appear.

PART III

Relation of Partners with Third Persons

Section 1049. No partner can acquire any right against third persons by a transaction where his own name did not appear.

Section 1150. All the partners are bound by the acts done by any of them in the ordinary course of the business of the partnership and are jointly and unlimitedly liable for the performance of the obligations incurred in such management.

Section 1151. A partner whose membership has ceased continues to be liable in respect of obligations incurred by the partnership before he became a partner.

Section 1152. A person who becomes member of a partnership is liable for any obligations incurred by the partnership before he became a partner.

Section 1153. No restrictions of the power of a member of a non-registered partnership to bind the other partners can have effect with respect to third persons.

Section 1054. A person who by words spoken or written, or by conduct, or by consenting to the use of his name in the firm name of the partnership, represents himself, or who knowingly suffers himself to be represented as a member of a partnership becomes liable to third persons as a partner for all the obligations of the partnership.

If after the death of a partner the partnership business is continued in the old firm name, the continued use of that name or of the deceased partner, as part thereof, does not in itself make his estate liable for any obligations incurred by the partnership after his death.

PART IV

Dissolution and Liquidation of Ordinary Partnerships

Section 1055. An ordinary partnership is dissolved:

- (1) In the cases, if any, provided by the contract of partnership .
- (2) If made for a definite period of time, by the expiration of such period.
- (3) If made for a single undertaking, by the termination of such undertaking.
- (4) By any of the partners giving to the other partners due notice as provided by section 1056.
- (5) By the death of any partner or by any partner becoming bankrupt or incapacitated.

Section 1056. If a partnership is entered upon for any indefinite period, it can only be terminated by a partner at the end of a financial year of the partnership; and such partner must give at least six month's notice of his intention to terminate.

Section 1057. An ordinary partnership may also be dissolved by the Court on application by a partner in any of the following cases:

- (1) When a partner, other than the partner suing willfully or by gross negligence violates any essential obligation imposed upon him by the partnership contract.
- (2) When the business of the partnership can only be carried on at a loss and there is no prospect of its fortunes being retrieved.
- (3) When there is any other cause making the continuance of the partnership an impossibility.

Section 1058. Upon the occurrence of any event connected with one partner which according to Section 1057 or Section 1067 entitles the remaining partners to demand the dissolution of the partnership, the Court may upon the application of the remaining partners instead of such dissolution order the expulsion of the partner in question.

For the purpose of the division of property between the partnership and the expelled partner, the partnership property must be assessed and valued at which it stood at the time when the application for the expulsion was first made.

Section 1059. If at the expiration of the period agreed upon, the business of the partnership is continued by the partners or by such of them as habitually managed it during the said period, without any settlement or liquidation accounts, the partners are deemed to have agreed to continue the partnership for an indefinite period of time.

Section 1060. In any case under Section 1055, sub-section (4) or (5), if the subsisting partners buy the share of the partner whose membership has ceased, the contract of partnership continues between the subsisting partners.

Section 1061. After the dissolution of a partnership the liquidation shall take place, unless some other method of adjustment of property between the partners has been agreed upon or unless the partnership is adjudicated bankrupt.

If the dissolution is brought about by notice given by a creditor of one of the partners or by the bankruptcy of one of the partners, the liquidation can only be dispensed with the consent of the creditor or of the official receiver.

Liquidation shall be carried on by all the partners or by persons appointed by them.

The appointment of liquidators is decided by a majority of votes of the partners.

Section 1062. The liquidation must be made in the following order:

- (1) Performance of the obligation incurred towards third persons .
- (2) Reimbursement of advances made and expenses incurred by the partners in managing the business of the partnership.
- (3) Return of the contributions made by each partners.

The balance, if any, must be distributed as profit between the partners.

Section 1063. If, after the performance of the obligations incurred towards third persons and reimbursement of advances and expenses, the assets are insufficient to return the whole amount of contributions to the partners, the deficiency constitutes a loss and must be divided as such.

PART V

Registration of Ordinary Partnership

Section 1064. An ordinary partnership may be registered.

The entry in the register must contain the following particulars:

- (1) The firm name of the partnership .
- (2) Its object.
- (3) The address of the principal business office and of all branch offices.
- (4) The full names, addresses and occupations of every partner: if a partner has a trade name the entry in the register must contain his name and his trade name.
- (5) The names of the managing partners, in case fewer than all of the partners have been appointed as such.
- (6) The restrictions, if any, imposed upon the powers of the managing partners.
- (7) The seal or seals which are binding on the partnership.

The entry may contain any other particulars which the parties may deem expedient to make known to the public.

The entry must be signed by every member of the partnership, and must also be sealed with the common seal of the partnership.

A certificate of registration shall be delivered to the partnership.

Section 1064/1. A managing partner of a registered partnership who wishes to resign from his post shall tender his resignation letter to any other managing partner. The resignation in writing shall take effect from the date the registration letter reaches the said other managing partner.

In the case where a registered partnership has only one managing partner, the managing partner who wishes to resign from his post shall notify any other partner of his intention in writing, together with the letter of resignation, so that a meeting could

be held with a view to appoint a new managing partner. The resignation shall take effect from the date the resignation reaches the said partner.

The managing partner who resigns under paragraph one or paragraph two hereof may notify the Registrar of his resignation.

Section 1064/2. When there is a change of managing partner, the registered partnership shall effect the registration thereof within fourteen days from the date of such a change.

Section 1065. A partner can take advantage against third persons of any right acquired by the registered partnership, even though his name did not appear in the transaction.

Section 1066. No partner of a registered partnership may, either on his own account or on account of another person, carry on without the consent of all the other partners any business of the same nature as and competing with that of the partnership or without such consent be member with unlimited liability in another partnership carrying on a business of the same nature as and competing with that of the registered partnership.

Such prohibition does not apply if it was already known to the partners at the time of registration of the partnership that one of them was engaged in a business or in other partnership having the same object, and if his withdrawal was not stipulated in the contract of partnership.

Section 1067. If a partner acts contrary to the provisions of the foregoing section, the registered partnership is entitled to claim from him all the profits which he had made or compensation for the injury which the registered partnership has suffered thereby.

Such claim cannot be entered later than one year after the date of contravention.

The provisions of this section are without prejudice to the rights of the remaining partners to demand the dissolution of the partnership.

Section 1068. The liability of a partner in a partnership in respect to obligations incurred by the partnership before he ceased to be a member of such partnership, is limited to a period of two years after the ceased to be a member.

Section 1069. In addition to the cases provided by Section 1055, a registered partnership is dissolved if it becomes bankrupt.

Section 1070. The creditor of an obligation due by a registered partnership is entitled, as soon as the partnership is in default, to demand performance of the obligation from any of the partners.

Section 1071. In the case provide by Section 1070, if the partner proves:

- (1) That the assets of the partnership are sufficient to perform the whole or part of the obligation, and
- (2) That enforcement against the partnership would not be difficult.

The Court may, in its discretion, order that the obligation be enforced first against the assets of the partnership.

Section 1072. As long as a registered partnership is not dissolved the creditors of a partner may exercise their rights only on the profits or other sums due by the partnership to such partner. After dissolution they may exercise their rights on the share of such partner in the assets of the partnership.

PART VI

Amalgamation of Registered Partnerships

Section 1073. A registered partnership may amalgamate with another registered partnership with the consent of all the partners, unless there be an agreement providing otherwise.

Section 1074. When a registered partnership has decided to amalgamate, the partnership must publish twice at least in a local paper and send to all creditors known to the partnership a notice of the proposed amalgamation requiring the creditors to present within three months from the date of notice any objection they may have to it.

If no objection is raised during such period, none is deemed to exist.

If an objection is raised, the partnership may not proceed with the amalgamation unless it has satisfied the claim given a security for it.

Section 1075. When the amalgamation has been made it shall be the duty of each of the partnership to cause the amalgamation to be registered as a new partnership.

Section 1076. The new partnership is entitled to the rights and subject to the liabilities of the amalgamated partnership.

CHAPTER III

LIMITED PARTNERSHIPS

Section 1077. A limited partnership is that kind of partnership in which there are:

- (1) One or more partners whose liability is limited to such amount as they may respectively undertake to contribute to the partnership.
- (2) One or more partners who are jointly and unlimitedly liable for all the obligations of the partnership.

Section 1078. A limited partnership must be registered.

The entry in the register must contain the following particulars:

- (1) The firm name of the partnership
- (2) A statement that the partnership is a limited partnership, and the object of such partnership.
- (3) The address of the principal business office and of all branch offices.
- (4) The full names, trade names, addresses and occupations of the partners with limited liability, and the amount of their respective contributions of the partnership.
- (5) The full names, trade names, addresses and occupations of the partners with unlimited liability.
- (6) The names of the managing partners.
- (7) The restrictions, if any, imposed upon the posers of the managing partners to bind the partnership.

The entry may contain any other particulars which the parties may deem expedient to made known to the public.

The entry must be signed by every member of the partnership, and must also be sealed with the common seal of the partnership.

A certificate of registration shall be delivered to the partnership.

Section 1078/1. A managing partner who wishes to resign from his post shall tender his resignation letter to any managing partner. The resignation shall take effect from the date the resignation letter reaches the said partner.

In the case where the limited partnership has only one managing partner, who wishes to resign from his post shall notify any other partner of his intention in writing, together with the letter of resignation, so that a meeting could be held with a view to appointing a new managing partner. The resignation shall take effect from the date the resignation letter reaches the said partner.

The managing partner who has resigned under paragraph one or paragraph two hereof may notify the Registrar of his resignation.

Section 1078/2. When there is a change of the managing partner, the limited partnership shall effect the registration thereof within fourteen days from the date of such a change.

Section 1079. Until registration a limited partnership is deemed an ordinary partnership in which all the partners are jointly and unlimitedly liable for all the obligations of the partnership.

Section 1080. The provisions concerning Ordinary Partnerships apply to Limited Partnerships in so far as they are not excluded or modified by the provisions of this Chapter III.

If there are several partnerships with unlimited liability, the rules of the ordinary partnership apply to their relations to one another and to the partnership.

Section 1081. The firm name shall not contain any of the names of the partners with limited liability.

Section 1082. A partner with limited liability who expressly or impliedly consents to the use of his name in the firm name is liable to third persons in the same manner as if he was a partner with unlimited liability.

As between the partners themselves, the liability of such partner remains governed by the contract of partnership.

Section 1083. The contributions of the partners with limited liability must be in money or other properties.

Section 1084. No dividend or interest may be distributed to partners with limited liability except out of the profits made by the partnerships.

If the capital of the partnership has been reduced by losses, no dividend or interest may be distributed to partners with limited liability until the said losses have been made good.

Provided that a partner with limited liability cannot be obliged to return the dividend or interest which he has received in good faith.

Section 1085. If a partner with limited liability has, by letter, circular or otherwise, informed third persons that his contribution is greater than the registered amount, he becomes liable for such greater amount.

Section 1086. Agreements entered into between the partners for altering the nature or reducing the amount of the contribution of a partner with limited liability have no effect as regards to third persons until registered.

When registered, they have effect only as to obligations incurred by the partnership after their registration.

Section 1087. A limited partnership must be managed only by the partners with unlimited liability.

Section 1088. If a partner with limited liability interferes with the management of the partnership, he becomes jointly and unlimited liable for all the obligations of the partnership.

Options and advice, votes given for the appointment or dismissal of managers in cases provided by the contract of partnership, are not considered as interference with the management of the partnership.

Section 1089. A partner with limited liability may be appointed a liquidator of the partnership.

Section 1090. Partners with limited liability may carry on any business, either on their own account or on the account of third persons, even if such business is of the same nature as that of the partnership.

Section 1091. Partners with limited liability may transfer their shares without the consent of the other partners.

Section 1092. Unless otherwise provided by the contract, a limited partnership is not dissolved by the death of one of the partners with limited liability or by his becoming bankrupt or incapacitated.

Section 1093. If a partner with limited liability dies, his heirs become partners in place, unless otherwise provided by the contract.

Section 1094. If a partner with limited liability becomes bankrupt, his share in the partnership must be sold as an asset of the bankruptcy.

Section 1095. The creditors of a limited partnership have no action against the partners with limited liability as long as the partnership is not dissolved.

After the dissolution of the partnership, the can enter actions against every partner with limited liability up to the following amounts:

- (1) The part of contributions of such partner which has not been delivered to the partnership.
- (2) Such part of the contribution as the partner may have withdraw from the asset of the partnership.
- (3) Dividends and interest with the partner may have received in bad faith and contrary to the provisions of Section 1084.

CHAPTER IV

LIMITED COMPANIES

PART I

Nature and Formation of Limited Companies

Section 1096. A limited company is that kind of which is formed with the Capital divided into shares, and the liability of the shareholders is limited to the amount, if any, unpaid on the shares respectively held by them.

Section 1096 bis. (Repealed)

Section 1097. Any seven or more persons may, by subscribing their names to a memorandum and otherwise complying with the provisions of this Code, promote and form a limited company.

Section 1098. The memorandum must contain the following particulars:

- (1) The name of the proposed company, which must always end with the word "limited".
- (2) The part of the Kingdom in which the registered office of the company shall be situated.
- (3) The objects of the company.
- (4) A declaration that the liability of the shareholders shall be limited
- (5) The amount of share capital with which the company proposes to be registered, and the divisions thereof into shares of a fixed amount.
- (6) The names, addresses, occupations and signatures of the promoters, and the number of shares subscribed by each of them.

Section 1099. The memorandum must be made in two original copies at least and signed by the promoters, and the signatures shall be certified by two witnesses.

One of the copies of the memorandum must be deposited and registered at the Registration Office of that part of the Kingdom in which the registered office of the company is declared to be situated.

Section 1100. Every promoter must subscribe at least one share.

The liability of the directors of a limited company may be unlimited.

In such case, a statement to that effect must be inserted in the memorandum.

The unlimited liability of a director terminates at the expiration of two years after the date at which he ceased to hold office.

Section 1102. No invitation to subscribe for shares shall be made to the public.

Section 1103. (Repealed)

Section 1104. The whole number of shares with which the company proposes to be registered must be subscribed or allotted before registration of the company.

Section 1105. Shares may not be issued at a lower price than their nominal amount.

The issue of shares at a higher price than their nominal amount is permissible, if sanctioned by the memorandum. In such case the excess amount must be paid together with the first payment.

The first payment on the shares must not be less than twenty-five per cent of their nominal amount.

Section 1106. A person by subscribing for shares bind himself, on condition that the company be formed, to pay to the company the amount of such shares in conformity with the prospectus and regulations.

Section 1107. When all the shares to be paid in money have been subscribed, the promoters must without delay hold a general meeting of subscribers which shall be called the statutory meeting.

The promoters shall, at least seven days before the day on which the meeting is to be held, forward to every subscriber a statutory report, duly certified by them, containing the particulars of the business to be transacted at the statutory meeting under the following section.

The promoters shall cause a copy of the statutory report, certified as by this section required, to be filed with the Registrar of companies forthwith after sending thereof to the subscribers.

The promoters shall also cause a list showing the names, descriptions and addresses of the subscribers, and the number of shares subscribed by them respectively, to be produced at the meeting.

The provisions of Section 1176, 1187, 1188, 1189, 1191, 1192 and 1195 shall apply mutatis mutandis to statutory meeting.

Section 1108. The business to be transacted at the statutory meeting:

- (1) The adoption of the regulations of the company, if any.
- (2) The ratification of any contracts entered into and any expenses incurred by the promoters in promoting the company.
- (3) The fixing of the amount, if any, to be paid to the promoters.
- (4) The fixing of the number of preference shares, if any, to be issued, and the nature and extent of the preferential rights accruing to them.
- (5) The fixing of the number of ordinary shares or preference shares to be allotted as fully or partly paid-up otherwise than in money, if any, and the amount up to which they shall be considered as paid-up.

The description of the service or property in return for which such ordinary shares or preference shares shall be allotted as paid-up shall be expressly laid down before the meeting.

- (6) The appointment of the first directors and auditors and the fixing of their respective powers.

Section 1109. A promoter or a subscriber who has a special interest in a resolution cannot exercise the right of voting.

No resolution of the statutory meeting are valid unless passed by a majority including at least one half of the total number of subscribers entitled to vote, and representing at least one half of the total number of shares of such subscribers.

Section 1110. After the statutory meeting is held, the promoters shall hand over the business to the directors.

The directors shall thereupon cause the promoters and subscribers to pay forthwith upon each share payable in money such amount, not less than twenty-five per cent, as provided by the prospectus, notice, advertisement or invitation.

Section 1111. When the amount mentioned in Section 1110 has been paid, the directors must apply for the registration of the company.

The application and entry in the register must contain, in conformity with the decisions of the statutory meeting, the following particulars:

- (1) The total number of shares subscribed or allotted, distinguishing ordinary shares and preference shares.
- (2) The number of ordinary shares or preference shares allotted as fully or partly paid-up otherwise than in money, and in the latter case, the extent to which they are so paid up.
- (3) The amount already paid in money on each share.
- (4) The total amount of money received in respect of shares.
- (5) The names, occupations and addresses of the directors.
- (6) If the directors have power to act separately, their respective powers and the number or names of the directors whose signature is binding on the company.
- (7) The period, if any has been fixed, for which the company is formed.
- (8) The address of the principal of business office and of all branch offices.

The entry may contain any other particulars which the directors may deem expedient to make to the public.

The application must be accompanied by the copy of the regulations, if any, and of the proceedings of the statutory meeting, both certified by the signature of at least one director.

The directors must at the same time deposit with the Registration Office ten printed copies of the memorandum and of the regulations, if any, of the company.

A certificate of registration shall be delivered to the company.

Section 1112. If registration does not take place within three months after the statutory meeting, the company is not formed, and all the money received from the applicants must be repaid without deduction.

If any such money has not been so repaid within three months after the statutory meeting, the directors of the company are jointly liable to repay that money with interest from the expiration of the three months.

Provided that a director shall not be liable for repayment of interest if he proves that the loss of money or delay was not due to his fault.

Section 1113. The promoters of the company are jointly and unlimitedly liable for all obligations and disbursement not approved by the statutory meeting; even if approved they remain so liable until the registration of the company.

Section 1114. After a company is registered, a subscriber of shares cannot enter a claim for cancellation by the Court of his subscription on the ground of, mistake, duress or fraud.

Section 1115. If the name inserted in a memorandum is identical with the name of an existing registered company or with the name inserted in a registered memorandum, or so nearly resembling the same as to be likely to deceive the public, any interested person can enter a claim for compensation against the promoters of the company and can ask for an order from the Court that the name be changed.

Upon such order being made, the new name must be registered in the place of the former name and the certificate of registration must be altered accordingly.

Section 1116. Any interested person is entitled to obtain from any company a copy of its memorandum and registration, for which a sum not exceeding one baht per copy may be charged by the company.

PART II

Shares and Shareholders

Section 1117. The amount of a share may not be less than five baht.

Section 1118. Shares are indivisible.

If a share is held by two or more persons in common, they must appoint one of them to exercise their rights as shareholders.

Persons holding a share in common are jointly liable to the company for payment of the amount of the share.

Section 1119. The whole amount of every share must be paid in money, except shares allotted under Section 1108 sub-section 5, or under Section 1221.

A shareholder cannot avail himself of a set-off against the company as to payments on shares.

Section 1120. Unless otherwise decided by a general meeting, the directors may make calls upon the shareholders in respect of all money being due on their shares.

Section 1121. Twenty-one days notice at least must be given by registered letter of each call and each shareholder must pay the amount of such call to the person and at the time and place fixed by the directors.

Section 1122. If the call payable in respect of any share has not been paid on the day fixed for payment thereof, the holder of such share is bound to pay interest from the day fixed for payment to the time of the actual payment.

Section 1123. If a shareholder fails to pay a call on the day fixed for payment thereof, the directors may give him notice by registered letter to pay such call with interest.

The notice must fix a reasonable time within which such call and interest must be paid.

It must also fix the place where payment must be made. The notice may also state that in the case of non-payment the share in respect of which such call was made may be forfeited.

Section 1124. If a statement as to forfeiture has been made in the notice the directors may, as long as the call and interest remain unpaid, declare the shares to be forfeited.

Section 1125. Shares forfeited must be sold without delay by public auction. The proceeds must be applied to the payment of the call and interest due. The surplus, if any must be returned to the shareholder.

Section 1126. The title of the purchaser of the forfeited share is not affected by any irregularity in the proceedings of such forfeiture and sale.

Section 1127. A certificate or certificates shall be delivered to each shareholder for the shares held by him.

The delivery of a certificate may be subject to the payment of such fee, not exceeding fifty satang, as the directors may decide.

Section 1128. Every certificate of shares shall be signed by one of the directors at least, and shall bear the seal of the company.

It must contain the following particulars:

- (1) The name of the company.
- (2) The numbers of the shares to which it applies.

- (3) The amount of each share.
- (4) In the case the shares are not fully paid up, the amount paid on each share.
- (5) The name of the shareholder or a statement that the certificate is to bearer.

Section 1129. Shares are transferable without the assets of the company unless, in case of shares entered in a name certificate, it is otherwise provided in the regulations of the company

The transfer of shares entered in a name certificate is void unless made in writing and signed by the transferor and the transferee whose signatures shall be certified by one witness at least.

Such transfer is invalid as against the company and third person until the fact of the transfer and the name and address of the transferee are entered in the register of shareholders.

Section 1130. The company may decline to register a transfer of shares on which a call is due.

Section 1131. The transfer book may be closed during fourteen days immediately preceding the ordinary general meeting.

Section 1132. If by some event such as the death or bankruptcy of any shareholder, another person becomes entitled to a share, the company shall, on surrender of the share certificate when possible, and on proper evidence being produced, register such other person as a shareholder.

Section 1133. The transferor of a share not fully paid up continues to be liable for the full amount unpaid thereon, provided that:

- (1) No transferor shall be liable in respect to any obligation of the company incurred after the transfer.
- (2) No transferor shall be liable to continue unless it appears to the Court that the existing shareholders are unable to satisfy the contributions required to be made by them.

No action against the transferor for such liability can be entered later than two years after the transfer has been entered in the register of shareholders.

Section 1134. Certificates to bearer may be issued only if authorized by the regulations of the company and for shares which are fully paid up. In such case the holder of a name certificate is entitled to receive certificate to bearer on surrendering the name certificate for cancellation.

Section 1135. Shares entered in a certificate to bearer are transferred by the mere delivery of certificate.

Section 1136. The holder of a certificate to bearer is entitled to receive a name certificate on surrendering the certificate to bearer for cancellation.

Section 1137. If it is prescribed by the regulations of the company that a director must hold a certain number of shares of the company as a qualification for such office, such shares must be shares entered in a name certificate.

Section 1138. Every limited company must keep a register of shareholders containing the following particulars:

- (1) The names and addresses, and occupations, if any, of the shareholders, a statement of the shares held by each shareholder, distinguishing each share by its number, and of the amount paid or agreed to be considered as paid on the shares of each shareholder .
- (2) The date at which each person was entered in the register as a shareholder .
- (3) The date at which each shareholder ceased to be a shareholder.
- (4) The numbers and date of certificates issued to bearer, and the respective numbers of shares entered in each such certificate.
- (5) The date of cancellation of any name certificate or certificate bearer.

Section 1139. The register of shareholders commencing from the date of the registration of the company shall be kept at the registered office of the company. It shall be gratuitously open to inspection by the shareholders, during business hours, subjected to such reasonable restrictions as the directors may impose, but not less than 2 hours a day.

It shall be the duty of the directors to send once at least in every year to the Registrar, and not later than on the fourteenth day after the ordinary meeting, a copy of the list of all shareholders at the time such meeting and those who have ceased to be shareholders since the date of the last ordinary meeting. Such list shall include all particulars specified in the foregoing section.

Section 1140. Any shareholder is entitled to require a copy of such register or of any part thereof to be delivered to him on payment of fifty satang for every hundred words required to be copied.

Section 1141. The register of shareholders is presumed to be correct evidence of any matters directed or authorized by law to be inserted therein.

Section 1142. If preference shares have been issued, the preferential rights attributed to such shares cannot be altered.

Section 1143. A limited company may not own its own shares or take them in pledge.

PART III

Management of Limited Companies

1. GENERAL PROVISIONS

Section 1144. Every limited company shall be managed by a director or directors under the control of the general meeting of shareholder and according to the regulations of the company.

Section 1145. After registration of the company, no regulations may be made and no additions to or alterations of the regulations or of the contents of the memorandum may be adopted except by passing a special resolution.

Section 1146. It shall be the duty of the company to cause to be registered every new regulation, addition or alteration within fourteen days after the date of the special resolution.

Section 1147. Ten printed copies of every new regulation or of the altered memorandum or regulation shall be deposited at the same time at the Registration Office.

Section 1148. Every limited company may have a registered office to which all communications and notices may be addressed.

Notice of the situation of the registered office and of any change therein, shall be given to the Registrar of companies, who shall record the same.

Section 1149. As long as the shares have not been fully paid up, the company may not print or mention the capital of the company in any notice, advertisement, bills, invoices, letters or other documents, without clearly mentioning at the same time what proportion of such capital has been paid up.

2. DIRECTORS

Section 1150. The number and remuneration of the directors shall be fixed by a general meeting.

Section 1151. A director can be appointed or removed only by a general meeting.

Section 1152. At the first ordinary meeting after the registration of the company and at the first ordinary meeting in every subsequent year one-third of the directors, or, if their number is not a multiple of three, then the number nearest to one-third must retire from office.

Section 1153. Any director who wishes to resign from his post shall tender his resignation letter to the company. The resignation shall take effect from the date of resignation letter reaches the company.

The director who resigns under paragraph one here of may notify the Registrar of his resignation.

Section 1154. If a director becomes bankrupt or incapacitated, his office is vacated.

Section 1155. Any vacancy occurring in the board of directors otherwise than by rotation may be filled up by the directors, but any person so appointed shall retain his office during such time only as the vacating director was entitled to retain the same.

Section 1156. If a general meeting removes a director before the expiration of his period of office, and appoints another person in his stead, the person so appointed shall retain his office during such time only as the removed director was entitled to retain the same.

Section 1157. When there is a change of a director or directors, the company shall effect the registration thereof within fourteen days from the date of such change.

Section 1158. Unless otherwise provided by the regulations of the company, the directors have the powers described in the six following sections.

Section 1159. The subsisting directors may act notwithstanding any vacancy among them but, if and so long as their number is reduced below the number necessary to form a quorum, the subsisting directors may act for the purpose of increasing the number of directors to that number, or of summoning a general meeting of the company but for no other purpose.

Section 1160. The directors may fix the quorum necessary for the transaction of business at their meetings and unless so fixed the quorum shall (when the number of directors exceeds three) be three.

Section 1161. Questions arising at any meeting of directors are decided by a majority of votes, in case of an equality of votes the chairman has a casting vote.

Section 1162. A director may at any time summon a meeting of directors.

Section 1163. The directors may elect a chairman of their meetings, and fix the period for which he is to hold office, but if no such chairman is elected, or if at any meeting the chairman is not present at the time appointed for holding the same, the directors present may choose one of their members to be chairman of such meeting.

Section 1164. The directors may delegate any of their powers to managers or to committees consisting of members of their body. Every manager or committee shall, in the exercise of the power so delegated, conform to any order or regulation that may be imposed on them by the directors.

Section 1165. Unless otherwise provided by the delegation, questions arising at any meeting of a committee shall be decided by a majority of votes of the members; in case of an equality of votes the chairman has a casting vote.

Section 1166. All acts done by a director shall, notwithstanding that it be afterwards discovered that there was some defect in his appointment, or that he was disqualified, be as valid as if such person had been duly appointed and was qualified to be a director.

Section 1167. The relations between the directors, the company and third persons are governed by the provisions of this Code concerning Agency.

Section 1168. The directors must in their conduct of the business apply the diligence of a careful business man.

In particular they are jointly responsible:

- (1) For the payment of shares by the shareholders being actually made;
- (2) For the existence and regular keeping of the books and documents prescribed by law;
- (3) For the proper distribution of the dividend or interest as prescribed by law;
- (4) For the proper enforcement of resolutions of the general meetings.

A director must not without the consent of the general meeting of shareholders, undertake commercial transactions of the same nature as and competing with that of the company, either on his own account or that of a third person, nor may he be a partner with unlimited liability in another concern carrying on business of the same nature as and competing with that of the company.

Section 1169. Claims against the directors for compensation for injury caused by them to the company may be entered by the company or, in case the company refuses to act, by any of the shareholders.

Such claims may also be enforced by the creditors of the company in so far as their claims against the company remain unsatisfied.

Section 1170. When the acts of a director have been approved by a general meeting, such director is no longer liable for the said acts to the shareholders who have approved them, or to the company.

Shareholders who did not approve of such acts cannot enter their action later than six months after the date of the general meeting on which such acts were approved.

3. GENERAL MEETINGS

Section 1171. A general meeting of shareholders shall be held within six months after the registration, and shall subsequently be held at least every 12 months. Such meeting is called an ordinary meeting.

All other general meetings are called extraordinary meetings.

Section 1172. The directors may summon extraordinary meeting whenever they think fit.

They must without delay summon such meeting when the company has lost half the amount of its capital, in order to inform the shareholders of such loss.

Section 1173. Extraordinary meetings must be summoned if a requisition to that effect is made in writing by shareholders holding not less than one-fifth of the shares of the company. The requisition must specify the object for which the meeting is required to be summoned.

Section 1174. Whenever a requisition for the summoning of an extraordinary meeting is made by the shareholders according to the last preceding section, the directors shall forthwith summon such meeting.

If the meeting is not summoned within thirty days after the date of the requisition, the requisitioner, or any other shareholder amounting to the required number, may themselves summon it.

Section 1175. Notice of the summoning of every general meeting shall either be published at least twice in a local newspaper, not later than seven days before the date fixed for the meeting, or shall be sent by post not later than seven days before the date fixed for the meeting to every shareholder whose name appears in the register of shareholders.

The notice shall specify the place, the day and the hour of meeting and the nature of the business to be transacted.

Section 1176. Every shareholder has the right to be present at any general meeting.

Section 1177. Unless there are provisions to the contrary in the regulations of the company, the rules provided by the following sections shall apply to general meetings.

Section 1178. A general meeting may not transact any business unless shareholders representing at least one-fourth of the capital of the company are present.

Section 1179. If within an hour from the time appointment for the general meeting the quorum prescribed by Section 1178 is not present, the meeting, if summoned upon the requisition of shareholders, shall be dissolved.

If the general meeting had not been summoned upon the requisition of shareholders, another general meeting shall be summoned within fourteen days and at such meeting no quorum shall be necessary.

Section 1180. The chairman of the board of directors shall preside at every general meeting of shareholders.

If there is no such chairman, or if at any general meeting he is not present within fifteen minutes after the time appointed for the holding the meeting, the shareholders present may elect one of their members to be chairman.

Section 1181. The chairman may, with the consent of meeting, adjourn any general meeting, but no business may be transacted at any adjourned meeting other than the business left unfinished at the original meeting.

Section 1182. On a show of hands every shareholder present in person or represented by proxy shall have one vote. On a poll every shareholder shall have one vote for each share of which he is the holder.

Section 1183. If the regulations of the company provide that no shareholder is entitled to vote unless he is in possession of a certain number of shares, the shareholder who do not possess such number of shares have the right to join in order to form the said number and appoint one of them as proxy to represent them and vote at any general meeting.

Section 1184. No shareholder is entitled to vote unless all calls due by him have been paid.

Section 1185. A shareholder who has in a resolution, a special interest cannot vote on such resolution.

Section 1186. Holders of certificates to bearer may not vote unless they have deposited their certificate with the company before the meeting.

Section 1187. Any shareholder may vote by proxy, provided the power given to such proxy is in writing.

Section 1188. The instrument appointing a proxy shall be dated and signed by the shareholder and shall contain the following particulars:

- (1) The number of shares held by the shareholder
- (2) The name of the proxy
- (3) The meeting or meetings or the period for which the proxy is appointed.

Section 1189. The instrument appointing a proxy must be deposited with the chairman at or before the beginning of the meeting at which the proxy named in such instrument proposed to vote.

Section 1190. At any general meeting, a resolution put to the vote shall be decided on a show of hands, unless a poll is, before or on the declaration of the result of the show of hands, demanded by at least two shareholders.

Section 1191. At any general meeting, a declaration by the chairman that a resolution has on a show of hands, been passed or lost, and an entry to that effect in the books of the proceedings of the company shall be sufficient evidence of the fact.

If a poll is demanded, the result of the poll shall be deemed to be the resolution of the meeting.

Section 1192. If a poll is duly demanded, it shall be taken in such manner as the chairman directs.

Section 1193. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting shall be entitled to a second or casting vote.

Section 1194. A resolution is deemed to be a special resolution if passed by two successive general meetings in the following way.

The substance of the proposed resolution has been included in the notice for summoning the first general meeting.

The resolution has been passed in the first meeting by a majority of not less than three-fourths of the votes.

The subsequent general meeting has been summoned and has been held not less than fourteen days and not more than six weeks after the former meeting.

The full text of the resolution passed in the first meeting has been included in the notice summoning the special meeting.

The resolution passed in the former meeting has been confirmed in the subsequent meeting by a majority of not less than two-thirds of the votes.

Section 1195. If a general meeting has been summoned or held or a resolution passed contrary to the provisions of this Title or contrary to the regulations of the company, the Court shall on application of any director or shareholder, cancel any such resolution or any resolutions passed at such irregular general meeting, provided that the application is entered within one month after the date of resolution.

4. BALANCE SHEET

5.

Section 1196. A balance-sheet must be made at least once every twelve months, at the end of such twelve months as constitute the financial year of the company.

It must contain a summary of the assets and liabilities of the company and a profit and loss account.

Section 1197. The balance-sheet must be examined by one or more auditors and submitted for adoption to a general meeting within four months after its date.

A copy of it must be sent to every person entered in the register of shareholders at least three days before the general meeting.

Copies must also be kept open at the offices of the company during the same period for inspection by the holders of certificates to bearer.

Section 1198. On submitting the balance-sheet, the directors must lay before the general meeting a report showing how the business of the company was conducted during the year under review.

Section 1199. Any person is entitled to obtain from any company a copy of its latest balance-sheet on payment of a sum not exceeding twenty baht.

It shall be the duty of the directors to send to the Registrar a copy of every balance sheet not later than one month after it has been adopted by the general meeting.

6. DIVIDEND AND RESERVE

Section 1200. The distribution of dividend must be made in proportion to the amount paid upon each share, unless otherwise decided with regards to preference shares.

Section 1201. No dividend may be declared except by a resolution passed in a general meeting.

The directors may from time to time pay to the shareholders such interim dividends as appeared to the directors to be justified by the profits of the company.

No dividend shall be paid otherwise than out of profits. If the company has incurred losses, no dividend may be paid unless such losses have been made good.

Section 1202. The company must appropriate to a reserve fund, at each distribution of dividend, at least one-twentieth of the profits arising from the business of the company, until the reserve fund reaches one-tenth part of the capital of the company or such higher proportion thereof as may be stipulated in the regulations of the company.

If shares have been issued at a value higher than the face value, the excess must be added to the reserve fund until the latter has reached the amount mentioned in the foregoing paragraph.

Section 1203. If dividend has been paid contrary to the provisions of the last two proceeding sections, the creditors of the company are entitled to have the amount so distributed returned to the company, provided that a shareholder cannot be obliged to return dividend which he has received in good faith.

Section 1204. Notice of any dividend that may have been declared shall be either published twice at least in a local paper or given by letter to each shareholder whose name appears on the register of shareholders.

Section 1205. No dividend can bear interest against the company.

7. BOOKS AND ACCOUNTS

Section 1206. The directors must cause true accounts to be kept:

(1) Of the sums received and expended by the company and of the matters in respect of which each receipt or expenditure takes place.

(2) Of the assets and liabilities of the company.

Section 1207. The directors may cause minutes of all proceedings and resolutions of meetings of shareholders and directors to be duly entered in the books which shall be kept at the registered office of the company. Any such minutes signed by the

chairman of the meeting at which such resolution were passed or proceedings had, or by the chairman of the next succeeding meeting, are presumed correct evidence of the matters therein contained, and all resolutions and proceedings of which minutes have been made are presumed to have been duly passed.

Any shareholder may at any time during business hours demand inspection of the above documents.

PART IV

Audit

Section. 1208. The auditors may be shareholders of the company; but no person is eligible as an auditor who is interested otherwise than as a shareholder in any transaction of the company, and no director or other agent or employee of the company is eligible as an auditor during his continuance in office.

Section 1209. The auditors shall be elected every year at an ordinary meeting.

A retiring auditor is eligible for re-election.

Section 1210. The remuneration of the auditors shall be fixed in any general meeting.

Section 1211. If any casual vacancy occurs among the auditors, the directors shall forthwith summon an extraordinary meeting for the purpose of filling the vacancy.

Section 1212. If no election of auditors is made in a manner aforesaid, the Court shall, on the application of not less than five shareholders, appoint an auditor for the current year and fix his remuneration.

Section 1213. Every auditor shall at all reasonable time have access to the books and accounts of the company, and with regard to such books and accounts he may examine the directors or any other agents or employees of the company.

Section 1214. The auditors must make a report to the ordinary meeting on the balance-sheet and accounts.

They must state in such report whether in their opinion the balance-sheet is properly drawn up so as to exhibit and correct view of the state of the affairs of the company.

PART V

Inspection

Section 1215. Upon the application of shareholders holding not less than one-fifth part of the shares of the company, the competent Minister shall appoint one or more competent inspectors to examine into the affairs of any limited company and to report thereon.

The Minister, before appointing any such inspector, may require the applicants to give security for payment of expenses of the inspection.

Section 1216. The directors, employees and agents of the company are bound to produce to the inspectors all books and documents in their custody or power.

Any inspector may examine upon oath the directors, employees and agents of the company in relation to its business

Section 1217. The inspectors must make a report to be written or printed as the competent Minister directs. Copies must be forwarded by the Minister to the registered office of the company and to the shareholders upon whose application the inspection was made.

Section 1218. All expenses of such inspection must be repaid by the applicants, unless the company, in the first general meeting after such inspection is finished, consents that the same shall be paid out of the assets of the company.

Section 1220. The competent Minister may also, of his own motion, appoint inspectors to report to the Government on the affairs of the company. Such appointment lies entirely within the discretion of the Minister.

PART VI

Increase and Reductions of Capital

Section 1220. A limited company can by special resolution increase its capital by issuing new shares.

Section 1221. No new shares of a limited company may be allotted as fully or partly paid-up otherwise than in money, except in execution of a special resolution.

Section 1222. All new shares must be offered to the shareholders in proportion to the shares held by them.

Such offer must be made by notice specifying the number of shares to which the shareholder is entitled, and fixing a date after which the offer, if not accepted, shall be deemed to be declined.

After such date or on the receipt of an intimation from the shareholder that he declined to accept the shares offered, the director may offer such shares for subscription to other shareholders or may subscribe the shares to himself.

Section 1223. A notice to any shareholder to subscribe for New Shares must be dated and Signed to the directors.

Section 1224. A limited company may, by special resolution, reduce its capital either by lowering the amount of each share or by reducing the number of shares.

Section 1225. The capital of the company may not be reduced to less than one-fourth of its total amounts.

Section 1226. When a company proposes to reduce its capital, it must be published seven times at least in a local paper and send to all creditors known to the company a notice of the particulars of the proposed reduction, requiring the creditors to present within three months from the date of such notice any objection they may have to such reduction.

If no objection is raised within the period of three months, none is deemed to exist.

If no objection is raised, the company cannot proceed with the reduction of its capital unless it has satisfied the claim or given security for it.

Section 1227. If a creditor has, in consequence of his ignorance of the proposed reduction of capital, failed to give notice of his objection thereto, and such ignorance was in no way due to his fault, those shareholders of the company to whom has been refunded or remitted a portion of their shares remain, for a period of two years from the date of registration of such reduction, personally liable to such creditor to the extent of the amount refunded or remitted.

Section 1228. The special resolution by which any increase or reduction of capital has been authorized must be registered by the company within fourteen days after its date.

PART VII

Debentures

Section 1229. Debentures may not be issued.

Section 1230 to 1235 (Repealed)

PART VIII

Dissolution

Section 1236. A limited company is dissolved:

- (1) In the case, if any, provided by its regulations.
- (2) If formed for a period of time, by the expiration of such period.
- (3) If formed for a single undertaking, by the termination of such undertaking.
- (4) By a special resolution to dissolve.
- (5) By the company becoming bankrupt

Section 1237. A limited company may also be dissolved by the Court on the following grounds:

- (1) If default is made in filing the statutory report or in holding the statutory meeting.
- (2) If the company does not commence business within a year from the date of registration or suspends its business for a whole year.

- (3) If the business of the company can only be carried on at a loss and there is no prospect of its fortunes, being retrieved.
- (4) If the number of the shareholders is reduced to less than seven.

However, in the case of default in filing the statutory report or in holding the statutory meeting, the Court may, instead of dissolving the company, direct that the statutory report be filed or the statutory meeting be held as it may think fit.

PART IX

Amalgamation of Limited Companies

Section 1238. A limited company may not amalgamate with another limited company Except by special resolution.

Section 1239. The special resolution by which an amalgamation is decided must be registered by the company within fourteen days from its date.

Section 1240. The company must publish seven times at least in a local paper and send to all creditors known to the company by registered letter a notice of the particulars of the proposed amalgamation requiring the creditors to present within six months after the date of the notice any objections they may have to it.

If no objection is raised during such period, none is deemed to exist.

If an objection is raised, the company cannot proceed with the amalgamation unless it has satisfied the claim or given security for it.

Section 1241. When the amalgamation has been made, it must be registered within fourteen days by each amalgamated company and the limited company formed by the amalgamation must be registered as a new company.

Section 1242. The share capital of the new company must be equivalent to the total share capital of the amalgamated companies.

Section 1243. The new company is entitled to the rights and subject to the liabilities of the amalgamated companies.

PART X

Notices

Section 1244. A notice is deemed to be duly served by the company to a shareholder if it is delivered personally or sent by post to such shareholder at the address appearing in the register of shareholders.

Section 1245. Any notice sent by post in a letter properly addressed is deemed to have been served at the time when such letter would have been delivered in the ordinary course of post.

PART XI

Removal of Defunct Companies from Register

Section 1246 (1) Where the Registrar of companies has reasonable cause to believe that a company is not carrying on business or in operation, he shall send to the company by post a letter inquiring whether the company is carrying on business or in operation.

(2) If the Registrar does not within one month of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of the month send to the company by post a registered letter, and stating that no answer thereto has been received, and that if an answer is not received within one month from the date thereof, a notice will be published with a view to striking the name of the company off the register.

(3) If the Registrar either receives an answer from the company to the effect that it is not carrying on business or in operation, or does within one month after sending the second letter receive an answer, he may publish in one of the local newspapers, and send to the company by registered post, a notice that at the expiration of three months from the date of that notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.

(4) If, in any case where a company is being wound up, the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, and the returns required have been made by the liquidator have not been made for a period of six consecutive months after notice by the Registrar demanding the returns has been sent by post to the company, or to the liquidator at his last known place of business, the Registrar may publish in one of the local newspapers and send to the company alike notice as is provided in the foregoing subsection.

(5) At the expiration of the time mentioned in the notice the Registrar may, unless cause to the contrary is previously shown by the company, strike its name off the register, and shall publish notice thereof in the Government Gazette, and on the publication in the Government Gazette of this notice the company shall be dissolved: provided that the liability, if any, of every director, managing officer and member of the company shall continue and may be enforced as if the company had not been dissolved.

(6) If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register, the Court on application of the company or member or creditor may, if satisfied that the company was at the time of striking off carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Court may by the order give such directions and make such provisions as seen just for placing the company and all other persons in the

same position as nearly as may be as if the name of the company had not been struck off.

CHAPTER V

LIQUIDATION OF REGISTERED PARTNERSHIP, LIMITED PARTNERSHIPS AND LIMITED COMPANIES

Section 1247. The liquidation of a bankrupt registered partnership, limited partnership or limited company shall be made, as far as practicable, in accordance with the provisions of the Law of Bankruptcy for the time being in force.

The competent Minister shall issue Ministerial Regulations governing the liquidation of partnership and companies and determining the rate of fees for this purpose.

Section 1248. When a general meeting is prescribed in this Chapter, it means:

- (1) As to registered partnerships and limited partnerships, a meeting of all the partners, in which a majority of votes decides.
- (2) As to limited companies, the general meeting provided by Section 1171.

Section 1249. A partnership or company is deemed to continue after its dissolution as far as it is necessary for the purpose of liquidation.

Section 1250. The duties of the liquidators are to settle the affairs of the partnership or company, to pay its debts and to distribute its assets.

Section 1251. Upon dissolution of a partnership or company for any other cause than bankruptcy, the managing partners or directors become liquidators unless otherwise provided by the contract of partnership or by the regulations of the company.

If there are no persons to be liquidators under the foregoing provision, a liquidator or liquidators shall be appointed by the Court upon the application of the Public Prosecutor or any other interested person.

Section 1252. The managing partners or directors retain as liquidators the same respective powers which they had as managing partners or directors.

Section 1253. when fourteen days after the date of dissolution or in case of liquidators appointed by the Court, after the date of appointment, the liquidators must:

- (1) Notify the public by two successive advertisement at least in a local paper that the partnership or company is dissolved and that its creditors must apply for payment to the liquidators, and
- (2) Send a similar notice by registered letter to each creditors whose name appears in the books or documents of the partnership or company.

Section 1254. The dissolution of the partnership or company and the names of the liquidators must be registered within fourteen days after the date of dissolution by the liquidators.

Section 1255. The liquidators must, as soon as possible, make a balance-sheet and have it examined and certified by the auditors, and must summon a general meeting.

Section 1256. The business of the general meeting is:

- (1) To confirm the directors or managing partners as liquidators, or appoint other liquidators in their stead, and
- (2) To adopt the balance-sheet.

The general meeting may direct the liquidators to make an inventory or to do whatever the meeting may deem advisable for the settlement of the affairs of the partnership or company.

Section 1257. Liquidators not appointed by the Court may be removed and superseded by a unanimous vote of the partners or by a general meeting of the shareholders. Liquidators, whether appointed by the Court or not, may be removed and superseded by the Court on the request of one of the partners or of the shareholders representing one-twentieth part of the paid-up capital of the company.

Section 1258. Any change amongst the liquidators must be registered, within fourteen days after the date of change, by the liquidators.

Section 1259. The liquidators have power:

- (1) To bring or defend any legal proceeding, civil or criminal, and to make compromise, in the name of the partnership or company.
- (2) To carry on the business of the partnership or company, as far as may be necessary for a beneficial settlement of the affairs.
- (3) To sell the property of the partnership or company.
- (4) To do all other acts as may be necessary for a beneficial settlement of the liquidation.

Section 1260. No limitation of the power of the liquidators is valid as against third persons.

Section 1261. Unless otherwise fixed by the general meeting or by the Court at the time of the appointment of the liquidators, no act of the liquidators is valid unless done by them jointly.

Section 1262. A resolution of a general meeting or a decision of the Court authorizing a liquidator or liquidators to act separately must be registered within fourteen days from its date.

Section 1263. All costs, charges and expenses properly incurred in the liquidation must be paid by the liquidators in preference to other debts.

Section 1264. If a creditor does not apply for payment, the liquidators must deposit the amount due to him as described by the provisions of the Code concerning Deposit in lieu of performance.

Section 1265. The liquidators may require the partners or shareholders to pay such part of their contributions or shares as may be still unpaid and such part must be paid at once, even if it was previously agreed by the contracts of partnership or the regulations of the company that it would be called for at a later period.

Section 1266. If the liquidators find that after the whole of the contributions or shares has been paid up, the assets insufficient to meet the liabilities, they must apply at once to the Court to have the partnership or company declared bankrupt.

Section 1267. The liquidators must deposit every three months at the Registration Office a report of their activities, showing the situation of the accounts of the liquidation. Such report shall be upon gratuitously for inspection to the partners, shareholders or creditors.

Section 1268. If the liquidators continues for more that one year, the liquidators must summon a general meeting at the end of each year from the beginning of the liquidation and must lay before this meeting a report of their activities and detailed account of the situation.

Section 1269. Only so much of the property of the partnership or company may be divided amongst the partners or shareholders as is not required for performing all the obligations of the partnership or company.

Section 1270. As soon as the affairs of the partnership or company are fully liquidated, the liquidators shall make up an account of the liquidation showing how the liquidation has been conducted and the property of the partnership or company has been disposed of; and thereupon shall call a general meeting for the purpose of laying before it the account and giving any explanation thereof.

After the account is approved, the proceedings of the meeting must be registered within fourteen days from its date by the liquidators. Such registration is taken as being the end of the liquidation.

Section 1271. After the liquidation, the books, accounts and documents of the liquidated partnership or company shall be deposited within fourteen days provided by the foregoing section at the Registrar's Office where they shall be kept for ten years after the end of the liquidation.

All such books, accounts and documents shall be gratuitously open for inspection by any interested person.

Section 1272. No action for payment of debts due from the partnership or company or from the partners, shareholders or liquidators as such can be entered later than two years after the end of the liquidation.

Section 1273. The provisions of Sections 1172 to 1193 and 1207 apply to general meetings held during liquidation mutatis mutandis.

TITLE XXIII

ASSOCIATIONS

Section 1274 - 1297 (Repealed) Provisions of Associations are inserted in Book I (Part II) of the Civil and Commercial Code (Sections 78 - 109).

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