

January 11, 2016

## Executive summary

Since 2011, the Steering Committee for the Review of the Companies Act has been reviewing the key provisions in the Companies Act relating to, among others, directors and directors' duties, with a view to identifying areas which would benefit from reform and refinement. The resultant Companies (Amendment) Bill 2014 was passed by Parliament in October 2014. The changes to the Companies Act will be effected in two phases, with the first phase implemented on 1 July 2015. The second phase will come into effect on 3 January 2016. One of the amendments taking effect will be the second phase is the repeal of Section 153 of the Companies Act relating to the age limit of directors.

## Repeal of Section 153 of the Companies Act – Age limit of directors

Section 153 of the Companies Act prohibits the appointment of a person of or above 70 years of age as a director of a public company or a subsidiary of a public company unless his appointment or re-appointment is by ordinary resolution passed at an annual general meeting, until the next annual general meeting of such company.

Under Section 153(2), the office of a director of a public company or of a subsidiary of a public company shall become vacant at the conclusion of the next annual general meeting commencing after he attains the age of 70 years. As the appointment or reappointment can only be by way of an ordinary resolution passed at an annual general meeting, and not just an extraordinary general meeting, this presented a limited window of opportunity for any new appointment or reappointment of a director of or above 70 years of age. This is unsurprising, as the original motivation behind Section 153 was to enable companies to appoint younger directors who are able to serve while inducing the boards of public companies and their subsidiaries to plan for succession and renewal.

While this motivation may remain relevant to a certain extent, Section 153 will be abolished on 3 January 2016, with the view that a person's ability to act as a director of a company is not principally determined by his age, and recognising that persons of or above 70 years of age can be capable of doing the job of a director, and are often re-appointed in practice. This also brings it in line with other jurisdictions such as the United Kingdom, Australia, New Zealand, Hong Kong, British Columbia and Delaware where there are no age limitations to directorships.

## Practical implications

Practically, this also represents a passing of the onus of the decision in determining whether a director who is of or above 70 years of age would be considered capable of doing the job of, and to be appointed, a director. This can

either be by way of a shareholder exercising its vote at an annual or extraordinary general meeting of the company, or through the imposition of an age limit specific to a company through the constitution of the Company.

## Your Key Contacts



**Kenneth Oh**

Senior Partner, Singapore

D +65 6885 3603

[kenneth.oh@dentons.com](mailto:kenneth.oh@dentons.com)



**Li Chuan Hsu**

Senior Partner, Singapore

D +65 6885 3660

[lichuan.hsu@dentons.com](mailto:lichuan.hsu@dentons.com)