

No. (ii)



BERMUDA

2008 : No. (ii)

The Mandarin Oriental International Limited
Amendment Act 2008

[4th April, 2008]

WHEREAS a petition has been presented to the Legislature by Mandarin Oriental International Limited, a company incorporated pursuant to the Companies Act 1981 on 9 December 1986, requesting the enactment of certain provisions in relation to the Company and exemption for the Company from, and variation in relation to the Company of, certain requirements of the Companies Act 1981, as the same may from time to time be amended or re-enacted, as herein appears:

AND WHEREAS it is deemed expedient to pass an Act to give effect

to the prayer of the petition:

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

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| 1. This Act may be cited as The Mandarin Oriental International Limited Amendment Act 2008. | Short Title |
| 2. In this Act, "the Principal Act" means The Mandarin Oriental International Limited Consolidation and Amendment Act 1988, as amended by The Mandarin Oriental International Limited Amendment Act 1993, The Mandarin Oriental International Limited Amendment Act 1996 and The Mandarin Oriental International Limited Amendment Act 1998. | Interpretation |
| 3. This Act shall come into force on 30 May 2008. | Commencement |
| 4. Section 7 (1) of the Principal Act is amended – | Section 7 (1)
amended |
| (i) by deleting paragraph (ii) in its entirety and substituting the following therefor: | |
| “(ii) connected advisers and persons controlling, controlled by or under the same control as such connected advisers;” | |
| (ii) by deleting paragraph (vi) in its entirety and substituting the following therefor: | |

“(vi) an employee benefit trust of an offeror, the Company or any company referred to in paragraph (i); and”

(iii) by inserting after the definition of “Company” the following definition:

“ “connected advisers” includes the following:-

(i) in relation to the offeror or the Company:-

- (a) an organisation which is advising that party in relation to the offer; and
- (b) a corporate broker to that party;

(ii) in relation to a person who is acting in concert with the offeror or the Company, an organisation which is advising that person either:-

(c) in relation to the offer; or

(d) in relation to the matter which is the reason for that person being a member of the relevant concert party; and

(iii) in relation to a person who is an associate of the offeror or of the Company by

virtue of paragraph (i) of the definition of associate, an organisation which is advising that person in relation to the offer;”

- (iv) by inserting in the definition of “rights over shares” after the words “offer to be made by him”:

“ . A futures contract or covered warrant for which exercise includes the possibility of delivery of the underlying securities is treated as an option”

- (v) by inserting in the definition of “tender offer”:

- (a) after “offers by way of tender”:
“: (i)”; and

- (b) after “voting rights of the Company;”:

“or (ii) which is made by a person controlling the majority of the voting rights of the Company and is for less than all of the shares carrying the voting rights held by the minority;”

- 5. Section 7 (2) of the Principal Act is amended by:

**Section 7(2)
amended**

- (i) (a) deleting “ actively” after “to be “acting in concert” if they”;

- (b) deleting “, through the acquisition by any of them of shares of a company,” after

- “understanding (whether formal or informal)”;
- (c) deleting “that” after “consolidate control of” and substituting “a” therefor; and
 - (d) inserting “or to frustrate the successful outcome of an offer for a company, ” before “and the following persons”.
- (ii) inserting in paragraph (iv) “ and the pension funds of any company covered in paragraph (i)” after “any of its pension funds”;
 - (iii) deleting in paragraph (vi):
 - (a) “financial or other professional adviser (including a stockbroker) with his client” and substituting therefor “connected adviser with its client and, if its client is acting in concert with an offeror or with the Company, with that offeror or with the Company, respectively, in each case”;
 - (b) “the” after “shares owned by” and substituting “that” therefor; and
 - (c) “and” after “the same control as the adviser; ”.
 - (iv) deleting the comma and inserting “; and” after “may be imminent” at the end of paragraph (vii); and
 - (v) inserting a new paragraph (viii) immediately after paragraph (vii):

“(viii) a person and each of its affiliated persons all with each other,”

6. The following new section 7(6) is inserted immediately after section 7(5):

**Insertion of new
Section 7(6)**

“(6) References in sub-section (2) to an “affiliated person” mean any undertaking in respect of which any person:

- (i) has a majority of the shareholders’ or members’ voting rights;
- (ii) is a shareholder or member and at the same time has the right to appoint or remove a majority of the members of its board of directors;
- (iii) is a shareholder or member and alone controls a majority of the shareholders’ or members’ voting rights pursuant to an agreement entered into with other shareholders or members; or
- (iv) has the power to exercise, or actually exercises, dominant influence or control.

For these purposes, a person’s rights as regards voting, appointment or removal shall include the rights of any other affiliated person and those of any person or entity acting in his own name but on behalf of that person or of any other affiliated person.”

7. Section 14 of the Principal Act is amended:-

**Section 14
amended**

- (a) by deleting sub-section (1) in its entirety; and
- (b) by deleting “(2)” before “Save as may be provided” in sub-section (2).

8. Section 15 of the Principal Act is amended by deleting “, of which the offeror and any person acting in concert with him then owns shares” after “whether voting or non-voting” at the end of the section.

**Section 15
amended**