mentioned in paragraph 3 of Part III of that Schedule, shall have endorsed in the report or attached a written statement signed by those persons setting out the adjustments and giving the reasons for the adjustments.

(2) The Registrar shall not accept any statement in lieu of prospectus for registration unless the statement appears to him complies with this Act.

(3) If there is any untrue statement or wilful non-disclosure in any statement in lieu of prospectus, any director who signed the statement commits an offence and shall, on conviction, be liable to imprisonment for a term not exceeding five years or to a fine not exceeding one million ringgit or to both, unless the director proves either the untrue statement or wilful non-disclosure was immaterial or the director had reasonable ground to believe that the untrue statement was true or the wilful non-disclosure was immaterial at the time of the delivery of the statement in lieu of prospectus for registration.

Restrictions on commencement of business in certain circumstances

190. (1) Where a public company having a share capital has issued a prospectus inviting the public to subscribe for its shares or has issued a prospectus under the Capital Markets and Services Act 2007 in relation to its shares, the public company shall be entitled to commence any business or exercise any borrowing powers—

(a) if no money is or may become liable to be repaid to applicants for any shares or debentures offered for public subscription by reason of any failure to apply for or obtain permission for listing for quotation on any stock exchange;

(b) if—

(i) the shares held subject to the payment of the whole amount in cash have been allotted to an amount not less in the whole than the minimum subscription; and

(ii) every director has paid to the company on each of the shares taken or contracted to be taken by the director, and for which the director is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares offered for public subscription.

(2) Where a public company having a share capital has not issued a prospectus inviting the public to subscribe for its shares or has not issued a prospectus under the Capital Markets and Services Act 2007, the public company shall be entitled to commence any business or exercise any borrowing power if—

(a) a statement in lieu of prospectus which complies with this Act has been lodged with the Registrar; and

(b) every director of the company has paid to the company on each of the shares taken or contracted to be taken by the director and for which the director is liable to pay in cash, a proportion equal to the proportion payable on application and allotment on the shares payable in cash.

(3) A company referred to in subsection (1) or (2) shall lodge with the Registrar a statutory declaration by the secretary or one of the directors of the company verifying that paragraphs (1)*(a)* and *(b)* or 2*(a)* and *(b)*, as the case may be, have been complied with, and the company shall become entitled to commence business or exercise any borrowing powers from and after the lodgement of the statutory declaration.

(4) The statutory declaration referred to in subsection (3) shall be supported with a statement containing the following particulars:

(a) an abstract of receipts and payments relating to the shares and debentures issued under the prospectus or statement in lieu of prospectus and particulars concerning the balance remaining in hand, and an account or estimate of the preliminary expenses;

(b) the particulars of any contract which is entered into by the company before the commencement of business; and

(c) such other information as the Registrar may require.

(5) Any contract made by a company before the date on which it is entitled to commence business shall be provisional only and shall only be binding on the company to commence business.

(6) Nothing in this section shall prevent the receipt by the company of any money payable on application for the debentures if shares and debentures are offered simultaneously by a company for subscription.

(7) If any company commences business or exercises borrowing powers in contravention of this section, every person who is responsible for the contravention commits an offence and shall, on conviction, be liable to a fine not exceeding twenty thousand ringgit and, in the case of a continuing offence, to a further fine not exceeding five hundred ringgit for each day during which the offence continues after conviction.

(8) The company and every officer who contravene subsection (3) commit an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit and, in the case of a continuing offence, to a further fine not exceeding of five hundred ringgit for each day during which the offence continues after conviction.

Restriction on varying contracts referred to in prospectus, etc.

191. A company shall not vary the terms of a contract referred to in the prospectus or statement in lieu of prospectus before the lodgement of statutory declaration under subsection 190(3) unless the variation is made subject to the approval of the general meeting.