

CAYMAN ISLANDS



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THE COMPANIES (AMENDMENT) LAW, 2013

(LAW 1 OF 2013)

THE COMPANIES (AMENDMENT) LAW, 2013

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CAYMAN ISLANDS

Law 1 of 2013.

I Assent

Duncan Taylor

Governor.

17th January, 2013

**A LAW TO AMEND THE COMPANIES LAW (2012 REVISION) TO
VARY PENALTY PROVISIONS; AND FOR INCIDENTAL AND
CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Companies (Amendment) Law, 2013. Short title and commencement

(2) This Law comes into force immediately after the Companies (Amendment) Law, 2012 comes into force.
2. The Companies Law (2012 Revision), in this Law referred to as the “principal Law”, is amended in section 17(1) by deleting the words “filing with him” and substituting the words “delivery to him”. Amendment of section 17 of the Companies Law (2012 Revision) - registration of order and minute of reduction
3. The principal Law is amended in section 26(1) by deleting the words “filed in duplicate with the Registrar who shall” and substituting the words “delivered in duplicate to the Registrar who shall file and”. Amendment of section 26 - registration
4. The principal Law is amended in section 29 by deleting the words “to a penalty of one hundred dollars” and substituting the words “to a penalty of two dollars”. Amendment of section 29 - copies of memorandum and articles to be given to members
5. The principal Law is amended in section 30(2)(c) as follows - Amendment of section 30 - restrictions on registration of certain names

- (a) by deleting the words “trust” or” and substituting the word “or”; and
- (b) by deleting the words “of such words” and substituting the words “of such four words”.

Amendment of section 31 - change of name

6. The principal Law is amended in section 31 as follows -

- (a) in subsection (1) by deleting the words “filed with the Registrar in accordance with subsection (2)”;
- (b) in subsection (2) by deleting the words “the company shall, within thirty days of the change being made, file with the Registrar a special resolution authorising the same and the Registrar on receiving the special resolution” and substituting the words “the Registrar, on receiving the special resolution authorising the same”;
- (c) in subsection (4) by deleting the words “under subsection (2) or (3)” and substituting the words “under subsection (3)”; and
- (d) by deleting subsection (5).

Amendment of section 40 - register of members

7. The principal Law is amended in section 40(2) by deleting the words “ten thousand dollars” and substituting the words “five thousand dollars”.

Amendment of section 40A - branch registers of members

8. The principal Law is amended in section 40A(5) by deleting the words “ten thousand dollars” and substituting the words “five thousand dollars”.

Repeal and substitution of section 44 - inspection of register

9. The principal Law is amended by repealing section 44 and substituting the following section -

“Inspection of register 44. (1) The register of members, commencing from the date of the registration of the company, shall be kept at the registered office of the company or, in the case of an exempted company, at any other place within or outside the Islands.

(2) Except in the case of an exempted company and when closed as hereinafter provided the register of members shall, during business hours, subject to such reasonable restrictions as the company in general meeting may impose, so that no less than two hours in each day be appointed for inspection, be open to the inspection of any member gratis and to the inspection of any other person on payment of ten dollars or such less sum as the company may specify for each inspection; and every such member or other person may receive a copy of such register or any part thereof, or of such list or summary of members, on payment of one dollar for

every page required to be copied.

(3) If such inspection or copy is refused, the company shall incur for each refusal a penalty of five hundred dollars; and every director and manager of the company who knowingly authorises or permits such refusal shall incur the like penalty; and in addition to the above penalty, a Judge sitting in chambers may, by order, compel an immediate inspection of the register.

(4) A company, including an exempted company, shall make available at the registered office, in electronic form or any other medium, such register, including any branch register in the case of an exempted company, as may be required of it upon service of an order or notice by the Tax Information Authority pursuant to the Tax Information Authority Law (2009 Revision); and if the company fails to comply with the order or notice without reasonable excuse, the company shall incur a penalty of five hundred dollars and a further penalty of one hundred dollars for every day during which such non-compliance continues.”.

10. The principal Law is amended in section 53 by deleting the words “one thousand dollars” and substituting the words “ten dollars for not so painting or affixing its name, and for every day during which such name is not so kept painted or affixed”.

Amendment of section 53 - penalties on non-publication of name

11. The principal Law is amended in section 54 as follows -

Amendment of section 54 - register of mortgages

- (a) in subsection (2) by deleting the words “one thousand dollars” and substituting the words “one hundred dollars”; and
- (b) in subsection (3) by deleting the words “five thousand dollars” and substituting the words “four dollars for every day during which such refusal continues”.

12. The principal Law is amended by repealing section 56 and substituting the following section -

Repeal and substitution of section 56 - penalty on company not keeping a register of directors

“Penalty on company not keeping a register of directors

56. Any company who fails to comply with any of the provisions of section 55, shall incur a penalty of one thousand dollars and a further penalty of one hundred dollars for every day during which the default continues, and every director and manager of the company who shall knowingly and wilfully authorise or permit such default shall incur the

like penalty.”.

Amendment of section 59 - accounts and audits

13. The principal Law is amended in section 59 as follows -

(a) in subsection (1) by deleting the words “at its registered office”;
and

(b) by inserting after subsection (2) the following subsection -

“ (2A) A company which keeps its books of account at any place other than at its registered office or at any other place within the Islands shall, upon service of an order or notice by the Tax Information Authority pursuant to the Tax Information Authority Law (2009 Revision), make available, in electronic form or any other medium, at its registered office copies of its books of account, or any part or parts thereof, as are specified in such order or notice; and if the company fails to comply with the order or notice without reasonable excuse, the company shall incur a penalty of five hundred dollars and a further penalty of one hundred dollars for every day during which such non-compliance continues.”.

Repeal and substitution of section 62 - recording of special resolutions

14. The principal Law is amended by repealing section 62 and substituting the following section -

“Recording of special resolutions

62. A copy of any special resolution passed by any company under this Law shall be forwarded within fifteen days to the Registrar and shall be recorded by him.”.

Amendment of section 63 - copies of special resolutions

15. The principal Law is amended in section 63(3) by deleting the words “two hundred dollars” and substituting the words “two dollars”.

Amendment of section 65 - powers of inspectors

16. The principal Law is amended in section 65 by deleting the words “of five thousand dollars” and substituting the words “not exceeding forty dollars”.

Amendment of section 77 - general penalty; application of fines

17. The principal Law is amended in section 77 by deleting the words “ten thousand dollars” and substituting the words “five thousand dollars”.

Amendment of section 80 - circumstances in which the Governor may licence a company to be registered without “limited” in its name

18. The principal Law is amended in section 80(1) by deleting the words “, directors or managers”.

18. The principal Law is amended in section 86 as follows -
- (a) in subsection (3) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”; and
 - (b) in subsection (4) by deleting the words “two hundred dollars” and substituting the words “two dollars”.
- Amendment of section 86 - power to compromise with creditors and members
20. The principal Law is amended in section 87(3) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”.
- Amendment of section 87 - provisions for facilitating reconstruction and amalgamation of companies
21. The principal Law is amended in section 134(1) by deleting the words “on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of five years, or to both” and substituting the words “on conviction to a fine and to imprisonment for five years”.
- Amendment of section 134 - fraud, etc. in anticipation of winding up
22. The principal Law is amended in section 135 by deleting the words “on summary conviction to a fine of twenty thousand dollars or to imprisonment for a term of five years, or to both” and substituting the words “on conviction to a fine and to imprisonment for five years”.
- Amendment of section 135 - transactions in fraud of creditors
23. The principal Law is amended in section 176 by deleting the words “one thousand dollars” and substituting the words “one hundred dollars”.
- Amendment of section 176 - penalty for carrying on business contrary to this Part
24. The principal Law is amended in section 184 as follows -
- (a) in the marginal note by deleting the words “filed with Registrar” and substituting the words “delivered to Registrar”;
 - (b) in subsection (1) as follows -
 - (i) by deleting the words “file with the Registrar” and substituting the words “deliver to the Registrar”; and
 - (ii) in paragraph (b) by deleting the words “filing with the Registrar” and substituting the words “delivery to the Registrar”; and
 - (c) by repealing subsection (1A).
- Amendment of section 184 - documents etc., to be filed with Registrar by foreign companies
25. The principal Law is amended in section 185 as follows -
- (a) in subsection (1) by deleting the words “filed with the Registrar” and substituting words “delivered to the Registrar”; and
- Amendment of section 185 - power of certain foreign companies to hold land

- (b) in subsection (4) by deleting the words “filed with the Registrar by the company” and substituting the words “delivered by the company to the Registrar”.
- Amendment of section 187 - return to be filed with Registrar where documents etc., altered
26. The principal Law is amended in section 187 as follows -
- (a) in the marginal note by deleting the words “filed with Registrar” and substituting words “delivered to Registrar”; and
- (b) by deleting the words “file with the Registrar” and substituting the words “deliver to the Registrar”.
- Amendment of section 189 - service on foreign company to which this Part applies
27. The principal Law is amended in section 189 as follows -
- (a) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”;
- (b) in paragraph (a) of the proviso by deleting the words “filing with the Registrar” and substituting the words “delivering to the Registrar”; and
- (c) by deleting the words “so filed” wherever they appear and substituting the words “so delivered”.
- Amendment of section 192 - removing company's name from register
28. The principal Law is amended in section 192 by deleting the words “file any document with the Registrar” wherever they appear and substituting the words “deliver any document to the Registrar”.
- Amendment of section 193 - penalties for failing to comply with this Part
29. The principal Law is amended in section 193 by deleting the words “one thousand dollars and if the offence is a continuing one to a fine of one hundred dollars for every day during which the offence has continued” and substituting the words “one hundred dollars or, in the case of a continuing offence, a further fine of ten dollars for every day during which the default continues”.
- Amendment of section 195 - power of Registrar to prohibit sale
30. The principal Law is amended in section 195 by deleting the words “two thousand dollars and, in default of payment by any director or officer, to imprisonment for six months” and substituting the words “one thousand dollars and, in default of payment by any director or officer, to imprisonment for three months”.
- Amendment of section 199 - fees in lieu of other provisions
31. The principal Law is amended in section 199(3) by deleting the words “one thousand dollars” wherever they appear and substituting the words “five hundred dollars”.
- Amendment of section 200A - certificate of good standing
32. The principal Law is amended in section 200A by repealing subsection (3) and substituting the following subsection -

“ (3) A company shall be deemed to be in good standing if all fees and penalties under this Law have been paid and the Registrar has no knowledge that the company is in default under this Law.”

33. The principal Law is amended in section 201 as follows - Amendment of section 201 - application for continuation
- (a) in subsection (2) as follows -
 - (i) by repealing paragraph (c) and substituting the following paragraph -

“(c) the registrant has delivered to the Registrar the documents listed in paragraphs (a) to (d) of section 184(1) (in this Part referred to as “the charter documents”);” and
 - (ii) in paragraph (l) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”; and
 - (b) in subsection (9) by deleting the words “file with the Registrar” and substituting the words “deliver, to the Registrar”.
34. The principal Law is amended in section 206(2) as follows - Amendment of section 206 - deregistration of exempted companies including companies registered under this Part
- (a) by deleting the words “the applicant is in good standing and”; and
 - (b) in paragraph (i) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”.
35. The principal Law is amended in section 210(1)(b) by deleting the words “filed with the Registrar” and substituting the words “delivered to the Registrar”. Amendment of section 210 - ordinary non-resident company may be registered as exempted company
36. The principal Law is amended in section 211(1)(a) by deleting the words “filed with him” and substituting the words “delivered to him”. Amendment of section 211 - effect of registration of ordinary non-resident company as an exempted company
37. The principal Law is amended in section 233 as follows - Amendment of section 233 - merger and consolidation
- (a) in subsection (9)(e) -
 - (i) by deleting the words “statement” and substituting the word “director’s declaration”; and
 - (ii) by deleting the word “statement” and substituting the word “declaration”; and
 - (b) in subsection (14) by deleting the words “fifty thousand dollars” and substituting the words “twenty thousand dollars”.

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Amendment of section 237 - merger or consolidation with overseas company

38. The principal Law is amended in section 237(4) deleting the words “fifty thousand dollars” and substituting the words “twenty thousand dollars”.

Amendment of Schedule 5 - fees

39. The principal Law is amended in Part 4 of Schedule 5 as follows -

- (a) by inserting after the words “by an exempted company” the words “except a special economic zone company”; and
- (b) in paragraph (a) by deleting the words “except a special economic zone company”.

Passed by the Legislative Assembly the 10th day of January, 2013.

Mary J. Lawrence

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.