

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE COMPANIES LAW (2018
REVISION) TO MAKE MISCELLANEOUS CHANGES TO THE
PROVISIONS RELATING TO ACCOUNTING RECORDS AND
EXEMPTED COMPANIES; AND TO PROVIDE FOR INCIDENTAL AND
CONNECTED PURPOSES**

COMPANIES (AMENDMENT) (NO. 2) BILL, 2018

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Companies Law (2018 Revision) (the “principal Law”) to make miscellaneous changes to the provisions relating to accounting records and exempted companies.

Clause 1 of the Bill contains the short title and commencement provision.

Clause 2 of the Bill amends section 2 of the principal Law to provide for the term “carry on business in the Islands” to be construed in accordance with the Local Companies Control Law (2015 Revision).

Clause 3 of the Bill amends section 44 of the principal Law to allow for the inspection of the register of members of an exempted company that holds a licence to carry on business in the Islands under any applicable law.

Clause 4 of the Bill amends section 59 of the principal Law to -

- (a) require a company that keeps its books of account outside of the Islands, in the form and manner prescribed, to provide its registered office, annually or with such other frequency and within such time as may be prescribed, information regarding its books of account; and
- (b) provide that the requirement to file information regarding the accounts of a company under paragraph (a) does not apply to a company that complies with a requirement under any regulatory law to file information regarding its accounts to the Cayman Islands Monetary Authority.

Clauses 5, 6 and 7 of the Bill amend sections 163, 165 and 168 of the principal Law, respectively, as a consequence of the amendments to section 174 of the principal Law made by clause 7. The amendments add a reference to a licence to carry on business in the Islands to which section 174 refers in each of those sections of the principal Law.

Clause 8 of the Bill repeals and substitutes section 174 of the principal Law to permit an exempted limited company to have a trade or business in the Islands.

Clause 9 of the Bill amends section 239 of the principal Law to delete subsection (2) of that section which is now considered to be an obsolete provision.

THE COMPANIES (AMENDMENT) (NO. 2) BILL, 2018

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 2 of the Companies Law (2018 Revision) - definitions and interpretation
3. Amendment of section 44 - inspection of the register
4. Amendment of section 59 - accounts and audits
5. Amendment of section 163 - what companies may apply to be registered as exempted companies
6. Amendment of section 165 - declaration by proposed company
7. Amendment of section 168 - annual return
8. Repeal and substitution of section 174 - prohibited enterprises
9. Amendment of section 239 - limitation on rights of dissenters

CAYMAN ISLANDS

A BILL FOR A LAW TO AMEND THE COMPANIES LAW (2018 REVISION) TO MAKE MISCELLANEOUS CHANGES TO THE PROVISIONS RELATING TO ACCOUNTING RECORDS ANDEXEMPTED COMPANIES; AND TO PROVIDE FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Companies (Amendment) (No. 2) Law, 2018. Short title and commencement
- (2) This Law shall come into force on 1st January, 2019.
2. The Companies Law (2018 Revision), in this Law referred to as the “principal Law,” is amended in section 2 by inserting after subsection (4) the following subsection - Amendment of section 2 of the Companies Law (2018 Revision) – definitions and interpretation

“(5) For the purposes of this Law “carry on business in the Islands” shall be construed in accordance with the Local Companies Control Law (2015 Revision).”.
3. The principal Law is amended in section 44 - Amendment of section 44 - inspection of the register
 - (a) in subsection (1), by inserting after the words “outside the Islands” the words “except that, in the case of an exempted company that holds a licence to carry on business in the Islands under any applicable law, the register of members shall be kept at its registered office within the Islands”; and

(b) in subsection (2), by inserting after the words “exempted company” the words “that does not hold a licence to carry on business in the Islands under any applicable law”.

Amendment of section 59 - accounts and audits

4. The principal Law is amended in section 59 by inserting after subsection (2A) and the following subsections -

“ (2B) A company which keeps its books of account outside of the Islands shall, in the form and manner prescribed, provide to its registered office, annually or with such other frequency and within such time as may be prescribed, information regarding its books of account; and, if a company fails to comply with this subsection 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.

(2C) Subsection (2B) shall not apply to a company that complies with a requirement under any regulatory law to file information regarding its accounts to the Authority.”.

Amendment of section 163 - what companies may apply to be registered as exempted companies

5. The principal Law is amended in section 163 by inserting after the word “Islands” the words “or pursuant to a licence to carry on business in the Islands to which section 174 refers”.

Amendment of section 165 - declaration by proposed company

6. The principal Law is amended in section 165 by inserting after the word “Islands” the words “or pursuant to a licence to carry on business in the Islands to which section 174 refers”.

Amendment of section 168 - annual return

7. The principal Law is amended in section 168(b) by inserting after the word “Islands” the words “or pursuant to a licence to carry on business in the Islands to which section 174 refers”.

Repeal and substitution of section 174 - prohibited enterprises

8. The principal Law is amended by repealing section 174 and substituting the following section -

“Restricted enterprises

“174.(1) An exempted company shall not carry on a trade or business in the Islands with any person, except in furtherance of the business of the exempted company carried on outside of the Islands, unless that exempted company holds a licence to carry on business in the Islands under any applicable law.

(2) Nothing in this section shall be construed so as to prevent an exempted company effecting and concluding contracts in the Islands and exercising in the Islands all its powers necessary for the carrying on of its business outside the Islands.

(3) An exempted company that holds a licence to carry on business in the Islands under any applicable law, shall from the date of issue of such licence continue for all purposes as if incorporated and registered as an ordinary resident company under and subject to this Law the provisions of which shall apply to the company and to persons and matters associated therewith as if such company were so incorporated and registered except as provided in section 169.”.

9. The principal Law is amended in section 239 by repealing subsection (2).

Amendment of section
239 - limitation on rights
of dissenters

Passed by the Legislative Assembly the day of , 2018.

Speaker.

Clerk of the Legislative Assembly.