

CAYMAN ISLANDS



Supplement No. \_\_\_\_\_  
dated \_\_\_\_\_

published with Gazette No. \_\_\_\_\_  
, 2013.

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

**THE COMPANIES (AMENDMENT) BILL, 2013**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill seeks to amend the Companies Law (2012 Revision) to vary miscellaneous penalty provisions.

Clause 1 of the Bill makes provision for the short title and commencement of the legislation.

Clauses 2 and 3 respectively amend sections 17 and 26 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 4 amends section 29 of the principal Law, which provides for copies of memorandum and articles to be given to members, by decreasing the penalty for default from one hundred dollars to two dollars.

Clause 5 amends section 30 of the principal Law, which imposes a restriction on the registration of certain names, by deleting trust, lottery and gaming from the list of names for which restrictions are imposed.

Clause 6 of the Bill amends section 31 of the principal Law, which provides for changing of the name of a company, by removing the provision in respect of a special resolution authorising the change of name to be filed with the Registrar within thirty days of the change being made.

Clause 7 amends section 40 of the principal Law, which provides for a company to keep a register of its members, by decreasing the penalty for default from ten thousand dollars to five thousand dollars.

Clause 8 amends section 40A of the principal Law, which imposes a duty on an exempted company to keep a branch register of members, by decreasing the penalty for default to a penalty of five thousand dollars.

Clause 9 amends section 44 of the principal Law, which allows for inspection of the register of members of a company, by decreasing the penalty for refusal of inspection from five thousand dollars to five hundred dollars.

Clause 10 of the Bill amends section 53 of the principal Law, which provides for penalties for non-publication of the name of a company, by decreasing the penalty from one thousand dollars to ten dollars.

Clause 11 amends section 54 of the principal Law, which provides for a register of mortgages and charges affecting the property of a company to be kept at its registered office, by decreasing the penalty for default from one thousand dollars to one hundred dollars. The clause also decreases the penalty for authorising the refusal of an inspection from five thousand dollars to four dollars for every day during which such refusal continues.

Clause 12 of the Bill provides for the repeal and substitution of section 56 of the principal Law to vary the penalty for not keeping a register of directors from ten thousand dollars and a further penalty of ten dollars for every day during which the default continues to one thousand dollars and a further penalty of one hundred dollars for every day during which the default continues.

Clause 13 provides for the amendment of section 59 of the principal Law to require 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, to make copies of its books of account available at its registered office, upon service of an order or notice pursuant to the Tax Information Authority Law (2009 Revision).

Clause 14 repeals and substitutes section 62 of the principal Law to require a copy of a special resolution passed by a company to be forwarded within fifteen days to the Registrar and to be recorded.

Clause 15 of the Bill amends section 63 of the principal Law, which provides for copies of special resolutions to be annexed to or embodied in articles of association which have been registered, by decreasing the penalty for failure to comply from two hundred dollars to two dollars.

Clause 16 amends section 65 of the principal Law by decreasing the penalty for refusal or neglect to produce a book or document directed to be produced from five thousand dollars to forty dollars.

Clause 17 amends section 77 of the principal Law by decreasing the general penalty for breach of a duty imposed on a company, director or officer from ten thousand dollars to five thousand dollars.

Clause 18 of the Bill amends section 80 of the principal Law to exempt a not for profit company from having to send a list of its directors or managers to the Registrar.

Clause 19 amends section 86 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar and by

increasing the penalty for failure to file a copy of the order for compromise or arrangement from two hundred dollars to two dollars.

Clause 20 amends section 87 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 21 of the Bill amends section 134 of the principal Law by decreasing the penalty for fraud in anticipation of winding up from a fine of twenty thousand dollars or to imprisonment for a term of five years or to both, to a fine and imprisonment for five years.

Clause 22 amends section 135 of the principal Law by decreasing the penalty for transactions in fraud of creditors from a fine of twenty thousand dollars or to imprisonment for a term of five years or to both, to a fine and imprisonment for five years.

Clause 23 of the Bill amends section 176 of the principal Law by decreasing the penalty for carrying on business contrary to Part VII from one thousand dollars to one hundred dollars.

Clause 24 amends section 184 of the principal Law to remove the requirement imposed on foreign companies to file (rather than to deliver) documents with the Registrar and the requirement that, in cases where a document required to be filed by a foreign company is in a language other than the English language, the document is to be filed together with a certified translation of the document in the English language prepared by a certified translator.

Clause 25 amends section 185 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 26 of the Bill amends section 187 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 27 amends section 189 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 28 amends section 192 of the principal Law in keeping with the amendment made to section 184 which requires delivery to the Registrar rather than filing with the Registrar.

Clause 29 of the Bill amends section 193 of the principal Law by decreasing the penalty for failure to comply with Part VIII to 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.

Clause 30 amends section 195 of the principal Law by decreasing the penalty for violation by a foreign company of a prohibition on the sale of shares or debentures from two thousand dollars and, in default of payment by any director or officer, imprisonment for six months to one thousand dollars and, in default of payment by any director or officer, imprisonment for three months.

Clause 31 amends section 199 of the principal Law which deals with fees in lieu of other provisions by decreasing the penalty from one thousand dollars to five hundred dollars.

Clause 32 of the Bill amends section 200A of the principal Law to provide that a company shall be deemed to be in good standing if all fees and penalties have been paid and the Registrar has no knowledge that the company is in default.

Clause 33 amends section 201 of the principal Law to change the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 34 amends section 206 of the principal Law by removing the requirement for an exempted company to be in good standing in order to deregister and by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 35 of the Bill amends section 210 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 36 amends section 211 of the principal Law by changing the requirement for filing with the Registrar to a requirement for delivery to the Registrar.

Clause 37 amends section 233 of the principal Law, which deals with merger and consolidation, by imposing a requirement that a director's declaration of the constituent company be filed with the Registrar on filing of a plan of merger or consolidation rather than a statement of the assets and liabilities. The clause also decreases the penalty for a false declaration from fifty thousand dollars to twenty thousand dollars.

Clause 38 amends section 237 of the principal Law, which deals with merger and consolidation with an overseas company, by decreasing the penalty for default from fifty thousand dollars to twenty thousand dollars.

Clause 39 amends Schedule 5 of the principal Law for the purpose of correcting a clerical error in respect of the words “except a special economic zone company”.

**THE COMPANIES (AMENDMENT) (NO. 4) BILL, 2013**

**ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 17 of the Companies Law (2012 Revision) - registration of order and minute of reduction
3. Amendment of section 26 - registration
4. Amendment of section 29 - copies of memorandum and articles to be given to members
5. Amendment of section 30 - restrictions on registration of certain names
6. Amendment of section 31 - change of name
7. Amendment of section 40 - register of members
8. Amendment of section 40A - branch registers of members
9. Amendment of section 44 - inspection of register
10. Amendment of section 53 - penalties on non-publication of name
11. Amendment of section 54 - register of mortgages
12. Repeal and substitution of section 56 - penalty on company not keeping a register of directors
13. Amendment of section 59 - accounts and audits
14. Repeal and substitution of section 62 - recording of special resolutions
15. Amendment of section 63 - copies of special resolutions
16. Amendment of section 65 - powers of inspectors
17. Amendment of section 77 - general penalty; application of fines
18. Amendment of section 80 - circumstances in which the Governor may licence a company to be registered without "limited" in its name
19. Amendment of section 86 - power to compromise with creditors and members
20. Amendment of section 87 - provisions for facilitating reconstruction and amalgamation of companies
21. Amendment of section 134 - fraud, etc. in anticipation of winding up
22. Amendment of section 135 - transactions in fraud of creditors
23. Amendment of section 176 - penalty for carrying on business contrary to this Part
24. Amendment of section 184 - documents etc., to be filed with Registrar by foreign companies
25. Amendment of section 185 - power of certain foreign companies to hold land
26. Amendment of section 187 - return to be filed with Registrar where documents etc., altered
27. Amendment of section 189 - service on foreign company to which this Part applies
28. Amendment of section 192 - removing company's name from register
29. Amendment of section 193 - penalties for failing to comply with this Part

30. Amendment of section 195 - power of Registrar to prohibit sale
31. Amendment of section 199 - fees in lieu of other provisions
32. Amendment of section 200A - certificate of good standing
33. Amendment of section 201 - application for continuation
34. Amendment of section 206 - deregistration of exempted companies including companies registered under this Part
35. Amendment of section 210 - ordinary non-resident company may be reregistered as exempted company
36. Amendment of section 211 - effect of reregistration of ordinary non-resident company as an exempted company
37. Amendment of section 233 - merger and consolidation
38. Amendment of section 237 - merger or consolidation with overseas company
39. Amendment of Schedule 5 - fees



CAYMAN ISLANDS

**A BILL FOR 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) as follows - Amendment of section 30 - restrictions on registration of certain names
  - (a) in paragraph (b) by inserting the word “or” after the semi-colon;

- (b) in paragraph (c) as follows -
    - (i) by deleting the words “, “trust” or” and substituting the word “or”;
    - (ii) by deleting the words “of such words” and substituting the words “of such four words”; and
    - (iii) by deleting the words “activities; or” and substituting the words “such activities.”; and
  - (c) by deleting paragraph (d).
- 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)”;
  - (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”.

18. The principal Law is amended in section 80(1) by deleting the words “, directors or managers”.
- 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 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 -
- Amendment of section 185 - power of certain foreign companies to hold land

- (a) in subsection (1) by deleting the words “filed with the Registrar” and substituting words “delivered to the Registrar”; and
- (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”.

