

CAYMAN ISLANDS



Supplement No. 6 published with Extraordinary Gazette  
No.7 dated 26 April, 2001

**THE COMPANIES MANAGEMENT (AMENDMENT) LAW, 2001**

**(LAW 6 OF 2001)**

THE COMPANIES MANAGEMENT (AMENDMENT) LAW, 2001

ARRANGEMENT OF SECTIONS

1. Short title.
2. Amendment of section 2 of the Companies Management Law (2000 Revision)- definition.
3. Amendment of section 3- "definition of company management".
4. Amendment of section 4- "definition of group companies".
5. Amendment of section 5- application to be made to Governor.
6. Insertion of new sections- display of licence, etc.
7. Amendment of section 7- shares not to be transferred without approval of the Governor.
8. Repeal of section 8 and substitution- net worth requirements.
9. Amendment of section 11- accounts and audit.
10. Amendment of section 13- number and approval of directors.
11. Amendment of section 21- regulations.
12. Repeal and transitional provisions.

CAYMAN ISLANDS

Law 6 of 2001.

I Assent

P.J. SMITH

Governor.

Date: 24 April, 2001

**A LAW TO AMEND THE COMPANIES MANAGEMENT LAW (2000 REVISION) TO PROVIDE FOR THE LICENSING AND REGISTRATION OF ALL PERSONS INVOLVED IN THE BUSINESS OF COMPANY MANAGEMENT IN THE ISLANDS; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Companies Management (Amendment) Law, 2001. Short title

2. The Companies Management Law (2000 Revision), in this Law referred to as "the principal Law", is amended in section 2 by inserting the following definitions in their appropriate alphabetical order- Amendment of section 2 of the Companies Management Law (2000 Revision)- definition

"address" in respect of a service provided by a person carrying on the business of company management, means an address for the receipt of correspondence or electronic communications (including telephone calls and facsimile communications) or both provided by that person in the course of that business to a third party;"

"bearer share" means a share in the capital of any company incorporated in the Islands which-

- (a) is represented by a certificate that does not record the owner's name; and
- (b) is transferable by delivery of the certificate; and

"custodian" means-

- (a) "an authorised custodian" who is a person licensed under this Law to act as a custodian of bearer shares or a bank or trust company licensed under the Banks and Trust Companies Law (2000 Second Revision); or
- (b) "a recognised custodian" which is an investment exchange or clearing organisation operating a securities clearance or settlement system and carrying on business in a country specified in Schedule 3 of the Money Laundering Regulations, 2000 and which has been approved by the Authority for the purposes of this Law to act as a custodian of bearer shares;"

Amendment of section 3- "definition of company management"

3. The principal Law is amended in section 3-

- (a) by repealing subsections (1) and (2) and substituting the following-

"(1) "business of company management" means the provision of the following corporate services for profit or reward in or from within the Islands-

- (a) acting as a company formation agent;
- (b) providing a registered office or business address for a company;
- (c) providing an accommodation, correspondence or administrative address for a company or for any other person;
- (d) filing statutory forms, resolutions, returns and notices;
- (e) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of a person authorised to accept service of process on behalf of a foreign company carrying on business in the Islands or to accept any notices required to be served on it;
- (f) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of an officer of a company;
- (g) acting as a nominee shareholder for a company;
- (h) acting as or fulfilling the function of or arranging for

another person to act as or fulfil the function of director or alternate director of a company;

- (i) acting as or arranging for another person to act as secretary, alternate, assistant or deputy secretary of a company;
- (j) acting as or fulfilling the function of or arranging for another person to act as or fulfil the function of an authorised custodian for the purposes of the Companies Law (2000 Revision);
- (k) providing other corporate services involving the control of the whole or a substantial part of the assets of a company; and
- (l) providing any additional corporate services as may be specified in regulations.

(2) (a) In this section reference to a company is a reference-

- (i) to a company wherever incorporated or otherwise established; and
- (ii) to any similar or equivalent structure or arrangement, howsoever named; and

(b) For the purpose of this Law a person acts as a company formation agent if he arranges for the registration or formation, or the sale, transfer or disposal of companies or he provides for the subscribers to the memorandum of association."; and

(b) in subsection (4) by-

- (i) repealing the words "the specified" and substituting the words "corporate"; and
- (ii) repealing paragraph (a).

4. The principal Law is amended in section 4 by inserting after subsection (3) the following subsection-

Amendment of section 4- "definition of group companies"

"(4) Notwithstanding section 3(4)(b), the Authority may, from time to time, require a company which provides the services specified under that subsection to provide any or both of the certificates specified under section 11 (2) (b) and (c)."

5. The principal Law is amended in section 5 -

- (a) by repealing subsection (1) and substituting the following-

Amendment of section 5- application to be made to Governor

“(1) An application for a licence under this Law shall be made to the Governor in writing.

(1a) The Governor may grant either-

- (a) a corporate services licence to an applicant who wishes to provide only the corporate services specified under section 3 (1) (a), (b), (c), (d) or (e) or such other corporate services as may be prescribed under paragraph (1); or
- (b) a companies management licence to an applicant who wishes to provide the corporate services specified under paragraph (a) in addition to any other corporate services specified under section 3 (1).

(1b) The Governor may grant a licence to an applicant under this section either unconditionally or subject to conditions.

(1c) Subject to subsection (2), whoever carries on the business of company management without being the holder of a current licence under this Law is guilty of an offence and liable -

- (a) on summary conviction to a fine of ten thousand dollars and to imprisonment for six months, or
- (b) on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for five years,

and if the offence of which he is convicted is continued after conviction he is guilty of a further offence and liable to a fine of ten thousand dollars for every day on which the offence is so continued.”;

(b) by repealing subsections (3) and (5) and substituting the following-

“(5) The Governor may not grant a licence unless he is satisfied by the applicant-

- (a) that he has sufficient expertise to carry on the business of company management; and
- (b) that his business of company management will be carried on by persons who are fit and proper to be directors or, as the case may be, managers or officers.

(5a) In determining for the purposes of this Law whether a person is a fit and proper person, regard shall be had to all circumstances, including that person’s-

- (a) honesty, integrity and reputation;
- (b) competence and capability; and
- (c) financial soundness.

(5b) A recognised custodian is not required to be licensed under this Law.”; and

(c) in subsection (7), by inserting after the words “Trade and Business Licensing Law (1999 Revision)” the words “or the Local Companies (Control) Law (1999 Revision)”.

6. The principal Law is amended by inserting the following new sections after section 6-

Insertion of new sections- display of licence etc.

“Display of licence

6A. A licence issued under this Law shall be prominently displayed on the premises where the business of company management is carried on.

Register of management companies

6B. (1) The Authority shall maintain a register in which shall be entered the following particulars-

- (a) the name of the licensee;
- (b) the address of the licensee;
- (c) the type of licence granted;
- (d) the location of the registered office of the licensee; and
- (e) the date the licence was issued.

(2) Any person during ordinary office hours may request and, upon payment to the Authority of the prescribed fee, may obtain a copy of particulars of any entry in the register.”.

7. The principal Law is amended in section 7-

(a) by repealing subsection (1) and substituting the following-

“(1) Where a licensee is a company, the company shall not issue shares or a person owning or having an interest in shares in the company shall not transfer or otherwise dispose of or deal in those shares or that interest, unless the Governor has given his

Amendment of section 7- shares not to be issued or transferred without approval of the Authority

- approval to the issue, transfer, disposal or dealing, as the case may be, and any conditions of the approval are complied with.”;
- (b) by renumbering subsections (2), (3) and (4) as (3), (4) and (5) respectively and inserting the following as subsection (2)-

“(2) The Governor may, in respect of a licensee whose shares are publicly traded on a stock exchange recognised by the Authority, waive the obligation to obtain approval under subsection (1), and any such waiver -

- (a) shall be subject to a condition that the licensee shall, as soon as reasonably practicable notify the Authority of -
- (i) any change in control of the licensee;
  - (ii) the acquisition by any person or group of persons of shares representing more than ten percent of the issued share capital or total voting rights of the licensees issued share capital or total voting rights; or
  - (iii) the acquisition by any person or group of persons of shares representing more than ten percent of the issued share capital or total voting rights of the parent company of the licensee;
- (b) shall be subject to a condition that the licensee shall, as soon as reasonably practicable, provide such information to the Authority, and within such period of time, as the Authority may require for the purpose of enabling an assessment as to whether persons acquiring control or ownership of the licensee in the circumstances set out in paragraph (a) are fit and proper persons to have such control or ownership; and
- (c) shall be subject to such terms and other conditions as the Governor may deem necessary.”;
- (c) in subsection (4) (renumbered as subsection (5)) by repealing the words “ten thousand” and substituting “twenty thousand”.

Repeal of section 8 and substitution- net worth requirements

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

“8. (1) Where a limited liability company applies for a companies management licence, no licence shall be issued in respect of such company unless the net worth of that company is not less than twenty-five thousand dollars or such other sum as may be prescribed.

(2) The holder of a companies management licence which is a limited liability company shall, during the period of its licence, maintain its net worth at not less than twenty five thousand dollars or such other sum as may be prescribed.

(3) Where a limited liability company applies for a corporate services licence the minimum net worth of the company and the minimum net worth that the company shall be required to maintain during the period of such licence shall be such sum as may be determined by the Authority from time to time.”.

9. The principal Law is amended in section 11-

Amendment of section 11- accounts and audit

- (a) in subsection (1), by repealing the word “licensee” and substituting the words “the holder of a companies management licence”;
- (b) in subsection (2), by repealing the words “end of as licensee’s financial year” and substituting the words “end of the financial year of the holder of a companies management licence”; and
- (c) by inserting the following subsection after subsection (2)-  
“(2a) The holder of a corporate services licence shall, once every two years (or such shorter or longer period as the Authority may require in any individual case), forward to the Authority the certificates specified under subsection (2) (b) and (c).”.

10. The principal Law is amended in section 13-

Amendment of section 13- number and approval of directors

- (a) by repealing the word “licensee” in subsection (1) and substituting the words “the holder of a companies management licence”; and
- (b) by inserting in subsection (2) after the word “Authority” the words “, or in the case of the holder of a corporate services licence, without giving one month’s prior notice to the Authority.”

11. The principal Law is amended in section 21 by inserting the following paragraph after paragraph (a)-

Amendment of section 21- Regulations

“(aa)regulating any aspect of the business of company management carried on by licensees or any class or description of licensees;”.

12. (1) The principal Law is amended in section 22 by repealing subsection (2).

Repeal and transitional provisions

(2) The Companies Management (Exemption) Regulations (1998 Revision) are repealed.

(3) A person who immediately before the date of the commencement of this Law was lawfully carrying on the business of company management without a licence may continue to carry on such business without a licence under this Law-

- (a) during the period of three months beginning with that date; or
- (b) if within that period application is made for a licence, until that application is finally disposed of or withdrawn.

Passed by the Legislative Assembly this 20<sup>th</sup> day of April, 2001.

Mabry S. Kirkconnell

Speaker.

Georgette Myrie

Clerk of the Legislative Assembly.

(Price \$2.40)