

CAYMAN ISLANDS



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THE COMPANIES (AMENDMENT) LAW, 1990 (Law 10 of 1990)

CAYMAN ISLANDS

Law 10 of 1990

I Assent

ALAN SCOTT
Governor

6th September, 1990

A LAW TO AMEND THE COMPANIES LAW

ENACTED by the Legislature of the Cayman Islands.

Short Title.

Amendment of S.34 of
No.3 of 1961.

1. This Law may be cited as the Companies (Amendment) Law, 1990.

2. Section 34 of the Companies Law (hereinafter called "the principal Law") is amended by deleting subsection (9) and replacing it by the following -

"(9). The provisions of this section shall apply to shares without nominal or par value, and shall, in relation to such shares, be read and construed as if -

(a) in subsection (3) -

(i) for the words "the nominal value of" appearing in paragraph (g), there were substituted the words "an amount equal to the consideration received for";

- (ii) for the words "nominal value" appearing in paragraph (h), there was substituted the word "number";
- (b) in subsection (4) for the words "aggregate nominal value of" appearing in paragraph (b), there were substituted the words "aggregate consideration for";
- (c) in subsection (5) -
 - (i) for the words "their nominal amount" appearing in paragraph (d), there were substituted the words "the consideration received for such shares";
 - (ii) for the words "nominal amount of" appearing in paragraph (e), there were substituted the words "consideration received for".

Insertion of new section as S.54 in the principal Law.

3. The principal Law is amended by adding the following as section 54 -

"Meetings.

54. Subject to the memorandum and articles of association of the company a meeting of -

- (a) members;
- (b) a class of members;
- (c) the board of directors; or
- (d) any committee of the directors,

may be validly convened and business conducted, as provided by the articles of association, with only one such member or director being present in person or otherwise as may be provided by the articles of association."

Amendment of S.78 of the principal Law.

4. Section 78 of the principal Law is amended as follows -

- (a) re-number the existing subsections (2) and (3) as subsections (4) and (5) respectively;
- (b) insert the following new subsections as subsections (2) and (3) -

"(2) Where a contract or other transaction purports to be made by a company or by a person on its behalf at a time when the company has not been registered, then subject to any agreement to the contrary the contract or other transaction has effect as one entered into by the person purporting to act on behalf of the company and, subject to subsection (3) of this section, that

person is personally liable on the contract or other transaction.

- (3) A contract or other transaction purported to be entered into by a company prior to its registration or by a person on behalf of the company prior to its registration may be ratified by the company after its registration and thereupon the company shall become bound by and entitled to the benefit thereof from the date of registration, and the person so entering into such contract or other transaction shall be deemed to have been duly authorised to act on behalf of the company and shall cease to be personally liable on the contract or other transaction."

Amendment of S.162
of the principal Law.

5. Section 162(1) of the principal Law is amended by inserting next after the words "another company" appearing in the fourth and fifth lines of the subsection, the words "whether a company or body corporate established in the Islands or in any other jurisdiction."

Amendment of S.210
of the principal Law.

6. Section 210 of the principal Law is amended by adding thereto the following new subsections as subsections (5), (6), (7), (8), (9) and (10) -

"(5) Without prejudice to the provisions of Part VIII a registrant may apply to be provisionally registered by way of continuation as an exempted company limited by shares under this Law.

(6) The Registrar shall provisionally register a registrant if -

(a) the registrant complies with the requirements of paragraphs (a), (c), (e), (f), (g), (h), (i), (j) and (p) of subsection (2); and

(b) the registrant has paid to the Registrar a fee of \$1500.00.

(7) The provisions of paragraphs (g), (h), (i), (j) and (p) of subsection (2) shall be satisfied by filing with the Registrar a voluntary declaration or affidavit of a director of the registrant to the effect that, having made due enquiry, he is of the opinion that the requirements of those paragraphs have been met and the provisions of subsection (4) shall *mutatis mutandis*, apply with respect to such declaration or affidavit.

(8) The Registrar shall register a registrant which is provisionally registered under this Part upon the requirements of paragraphs (b), (d), (k), (l), (m), (n), (o), (q) (r) and (s) of subsection (2) being met as to which the provisions of subsection (3) shall, *mutatis mutandis*, apply where relevant.

(9) A registrant which is provisionally registered shall -

(a) within sixty days after registration, deliver to the Registrar

details of any changes in the information required by paragraphs (c) and (e) of subsection (2);

(b) file with the Registrar in January of each year following provisional registration, a voluntary declaration or affidavit in the form described in subsection (7);

(c) pay to the Registrar in January of each year following provisional registration, a fee of \$1,000.

(10) A registrant which is provisionally registered and which fails to comply with the provisions of paragraphs (b) and (c) of subsection (9) by 30th June in such year shall cease to be provisionally registered but without prejudice to being provisionally registered anew hereunder upon complying with the requirements of this Part."

Amendment of S.211
of the principal Law.

7. Section 211 of the principal Law is amended by adding thereto the following new subsections as subsections (4), (5), (6) and (7) -

"(4) Upon provisional registration of a registrant under this Part the Registrar shall issue a certificate under his hand and seal of office that the registrant is provisionally registered by way of continuation as an exempted company and specifying the date of such provisional registration.

(5) The Registrar shall enter in a register maintained for the purpose the date of provisional registration and name of the registrant.

(6) If a registrant which is provisionally registered under this Part is registered pursuant to subsection (2) of section 210 it shall automatically cease to be provisionally registered and the Registrar shall cancel such provisional registration.

(7) The provisions of subsection (3) shall not apply to a registrant which is provisionally registered unless and until it is registered under subsection (2) of section 210 and nothing in this section shall be construed as enabling a registrant which is provisionally registered to carry on business within the Islands unless it complies with the requirements of Part VIII of this Law."

Insertion of new Part in
the principal Law.

8. The principal Law is amended by inserting therein the following Part
as Part XII-

**"PART XII - RE-REGISTRATION AS A MEANS OF AN ORDINARY
NON-RESIDENT COMPANY BECOMING EXEMPTED.**

Ordinary non-resident
company may be re-
registered as exempted
company.

219. (1) Subject to the provisions of this section and of section 220, an
ordinary non-resident company may be re-registered as an exempted
company if -

(a) the company passes a special resolution that it should be so
re-registered; and

(b) an application for re-registration is delivered to the
Registrar together with the necessary documents.

(2) The special resolution must -

(a) make such alterations in the company's memorandum of
association as are necessary to bring it in substance and in
form into conformity with the requirements of this Law
with respect to the memorandum of association of an
exempted company; and

(b) make such alterations in the company's articles of
association as are requisite in the circumstances.

(3) The application must be signed by a director of the company,
and the following documents are to be delivered with it -

(a) a copy of the memorandum and articles as altered by the
special resolution;

(b) a declaration by a director of the company that the
operation of the company will be conducted mainly outside
the Islands.

Effect of re-
registration of ordinary
non-resident company,
as an exempted
company.

(4) A special resolution that an ordinary non-resident company be
re-registered as an exempted company may change the company's name to
any name by which an exempted company could be registered.

(5) The application shall be accompanied by a re-registration fee
equal to the fee payable on the registration of an exempted company
under section 25.

220. (1) If on an application under section 219 the Registrar is satisfied
that an ordinary non-resident company may be re-registered under that
section as an exempted company, he shall -

- (a) retain the application and other documents delivered to him under the section; and
- (b) issue to the company a certificate of re-registration stating that the company has been re-registered as an exempted company.

(2) Upon the issue to a company of a certificate of re-registration under this section -

- (a) the company, by virtue of the issue of that certificate, becomes an exempted company; and
- (b) any alterations in the memorandum and articles set out in the special resolution take effect accordingly:

PROVIDED that the foregoing shall not operate -

- (i) to create a new legal entity;
- (ii) to prejudice or affect the identity or continuity of the company;
- (iii) to affect the property of the company;
- (iv) to affect any appointment made, resolution passed or any other act or thing done in relation to the company pursuant to a power conferred by the memorandum and the articles of association of the company or by the laws of the Islands;
- (v) to affect the rights, powers, authorities, functions and liabilities or obligations of the company or any other person;
- (vi) to render defective any legal proceedings by or against the company, and any legal proceedings that could have been continued or commenced by or against the company before its re-registration hereunder may, notwithstanding the re-registration, be continued or commenced by or against the company after re-registration.

(3) The certificate of re-registration is conclusive evidence -

- (a) that the requirements of this Law in respect of registration and of matters precedent and incidental thereto have been complied with; and
- (b) that the company is an exempted company."

Passed by the Legislative Assembly this 18th day of July, 1990.

ALAN SCOTT
President.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.