

CAYMAN ISLANDS



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A LAW TO AMEND THE COMPANIES LAW
(REVISED)

THE COMPANIES (AMENDMENT) (NO.3) LAW, 1993
(LAW 33 OF 1993)

CAYMAN ISLANDS

Law 33 of 1993

I Assent

MICHAEL J GORE
Governor

13th December, 1993

**A LAW TO AMEND THE COMPANIES LAW
(REVISED)**

Enacted by the Legislature of the Cayman Islands.

- Short title. 1. This Law may be cited as the Companies (Amendment) (No. 3) Law 1993.
- Interpretation. 2. In this Law the "principal Law" means the Companies Law (Revised).
- Section 7 amended. 3. Section 7 of the principal Law is amended by inserting –
- (a) at the beginning of subsection (1) –
"Subject to subsection (1A)", and
 - (b) after subsection (1) the following subsection –
"(1A) Where the capital of such a company is divided into shares of more than one class, the memorandum of association may contain a declaration that in a winding up

of the company the liability of members holding the shares of a particular class shall be unlimited."

- Section 8 amended. 4. Section 8 of the principal Law is amended by inserting –
- (a) at the beginning "(1) Subject to subsection (2)," and
 - (b) by adding at the end the following new subsections –
 - "(2) Where such a company has more than one class of member, the memorandum of association may contain a declaration that in a winding up of the company the amount of the undertaking of the members of a particular class shall be unlimited.
 - (3) A company limited by guarantee may have a share capital."
- Section 48 amended. 5. Section 48 of the principal Law is amended by inserting –
- (a) at the end of paragraph (d)," except where such member or past member holds or held shares of a class which are expressly stated in the memorandum of association to carry unlimited liability, as provided in section 7(1A);", and
 - (b) at the end of subsection (e) –
 - "except where the amount of the undertaking of such member is unlimited, as provided in section 8(2);".
- Section 111 amended. 6. Section 111 of the principal Law is amended by inserting –
- (a) at the beginning "(1) Subject to subsection (2)", and
 - (b) after subsection (1) the following subsection –
 - "(2) The collection in and application of the assets of the company referred to in subsection (1) is without prejudice to and after taking into account and giving effect to the rights of preferred and secured creditors to any agreement between the company and any creditors that the claims of such creditors shall be subordinated or otherwise deferred to the claims of any other creditors and to any rights of set-off or netting of claims between the company and any persons, whether conferred by agreement or law, and subject to any agreement between the company and any persons to waive or limit the same."
- Section 132(1). 7. Section 132 of the principal Law is amended –
- (a) by inserting after "voluntary winding up" in subsection (1) "and dissolution"; and
 - (b) by inserting after "wound up" in subsection (1) (b) (ii) "and

dissolved".

Section 132(2)
repealed and
replaced.

8. Subsection (2) of section 132 of the principal Law is repealed and the following subsections substituted and inserted: –

"(2) Where the winding up and dissolution has commenced by virtue of subsection (1)(b) the person, if any, designated by resolution of the members passed prior to such commencement, failing whom the person, if any, designated in the articles of association, shall upon such commencement and without further action, become the liquidator, failing which the directors at the time of such commencement shall upon such commencement and without further action become the liquidators, failing which the provisions of section 143 shall apply.

(3) Where a person has without further action become the liquidator pursuant to section 132 (2), sections 135 (b) and (c) have no application."

Section 134
amended.

9. Section 134 of the principal Law is amended –

(a) by inserting after "winding up" in paragraph (b) "and dissolution", and

(b) by adding at the end of paragraph (b):-

"or section 195D but failure so to publish the same shall not prejudice the validity of the commencement of the winding up and dissolution."

Section 135
amended.

10. Section 135 of the principal Law is amended by inserting –

(a) at the beginning of paragraph (a) "subject to paragraph (aa) below," and

(b) "(aa) the collection in and application of the property of the company referred to in paragraph (a) is without prejudice to and after taking into account and giving effect to the rights of preferred and secured creditors, to any agreement between the company and any creditors that the claims of such creditors shall be subordinated or otherwise deferred to the claims of any other creditors and to any rights of set-off or netting of claims between the company and any persons, whether conferred by agreement or law, and subject to any agreement between the company and any persons to waive or limit the same;"

Section
195D(1)(d)(ii)
amended.

11. Section 195D of the principal Law is amended by inserting after "wound up" in subsection (1)(d)(ii) "and dissolved".

Section 195D(2)
repealed and
replaced.

12. Subsection (2) of section 195D of the principal Law is repealed and the following is substituted: –

"(2) Where the winding up and dissolution has commenced by virtue of subsection (1)(a),(c) or (d) the person, if any, designated by resolution of the members passed prior to such commencement, failing whom the person, if any, designated by the articles of association, shall upon such commencement and without further action, become the liquidator, failing which the directors at the time of such commencement shall upon such commencement and without further action become the liquidators, failing which the provisions of section 143 shall apply."

Section 195(D)(3) amended.

13. Subsection (3) of section 195D is amended by inserting after "132": -

"and, where a person has without further action become the liquidator pursuant to section 195D(2), section 135(b) and (c)".

Passed by the Legislative Assembly the 29th day of November, 1993.

SYBIL McLAUGHLIN
Speaker.

GEORGETTE MYRIE
Clerk of the Legislative Assembly.