

Supplement No. 7 published with Gazette No. 3 of 1st February, 1999. ✓

LOCAL COMPANIES (CONTROL) LAW

(1999 Revision)

Law 24 of 1971 consolidated with Law 16 of 1974, 26 of 1977, 4 of 1979, 7 of 1980, 13 of 1992 (part), 22 of 1992, 13 of 1993 (part) and 6 of 1997.

Revised under the authority of the Law Revision Law (19 of 1975)

Originally enacted-

Law 24 of 1971-13th December, 1971

Law 16 of 1974-15th October, 1974

Law 26 of 1977-5th December, 1977

Law 4 of 1979-9th April, 1979

Law 7 of 1980-17th March, 1980

Law 13 of 1992-13th July, 1992

Law 22 of 1992-11th September, 1992

Law 13 of 1993-28th June, 1993

Law 6 of 1997-17th April, 1997.

Consolidated and revised this 5th day of January, 1999 .

Note (not forming part of the Law): This revision replaces the 1995 Revision which now should be discarded.

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LOCAL COMPANIES (CONTROL) LAW

(1999 Revision)

Part I-Introductory

1. This Law may be cited as the Local Companies (Control) Law (1999 Revision). Short title
2. (1) In this Law - Definitions and interpretation
- “Board” means the board established by section 4 of the Trade and Business (Licensing) Law (1996 Revision); 1996 Revision
- “Caymanian” means a person who has Caymanian status within the meaning assigned to that expression by section 14 of the Immigration Law (1997 Revision); 1997 Revision
- “company” means a company incorporated in the Islands by virtue of the Companies Law (1998 Revision) and also a foreign company registered under that law; 1998 Revision
- “controlled strata title corporation” is a strata title corporation as defined in the Strata Titles Registration Law (1996 Revision), the control of which corporation is held by a person or persons not being residential holders of its strata lots; 1996 Revision
- “exempted company” has the meaning assigned to that expression by the Companies Law (1998 Revision);
- “licence” means a licence to carry on business in the Islands issued by the Board under section 11, and cognate expressions shall be construed accordingly;
- “local company” means a company as defined in section 2 of the Companies Law (1998 Revision) and includes a foreign company registered under that law and a controlled strata title corporation but does not include an exempted company or a non-resident company;
- “non-resident company” means a company in respect of which a currently valid certificate designating it as such has, or is deemed to have, been issued under subsection (3);

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"residential holder of a strata lot" is a proprietor of a strata lot whose sole interest therein is the right of personal residence therein or personal occupation thereof and matters collateral thereto; and

"shares" means shares of every description and includes stock.

(2) The expression "carry on business in the Islands" in relation to a company, includes carrying on business of any kind or type whatsoever by that company, either alone or in partnership or otherwise, except-

- (a) carrying on, from a principal place of business in the Islands, business exterior to the Islands;
- (b) doing business in the Islands with any person, firm or corporation in furtherance only of the business of that company carried on exterior to the Islands;
- (c) buying or selling or otherwise dealing in shares, bonds, debenture stock, obligations, mortgages or other securities, issued or created by any exempted company, a foreign partnership or a resident corporation incorporated abroad;
- (d) transacting banking business in the Islands with and through a licensed bank;
- (e) effecting or concluding contracts in the Islands and exercising in the Islands all other powers, so far as may be necessary for the carrying on of the business of that company exterior to the Islands;
- (f) the business of an exempted company with another exempted company, a foreign partnership or a resident corporation incorporated abroad;
- (g) the administration of mutual funds by a person licensed as a mutual fund administrator under the Mutual Funds Law (1998 Revision); or
- (h) business carried on by a mutual fund, as defined by the Mutual Funds Law (1998 Revision), in the course of the acquisition, holding, management or disposal of investments.

1998 Revision

(3) If the Financial Secretary is of the opinion that a company is not a company which does, or intends to, carry on business within the Islands he may, on application by or on behalf of such company, issue a certificate designating it to be a non-resident company. Such a certificate shall be *prima facie* proof of the fact that the company to which it relates is not a company which carries on business in the Islands. The Financial Secretary may, at any time, cancel a certificate issued under this subsection. Any person aggrieved by any decision given by the Financial Secretary under this subsection may, within seven days of

the communication of the decision to him, appeal therefrom to the Governor whose decision shall be final and binding upon the applicant and shall not be the subject to appeal to, or called in question by, any court.

(4) A declaration under section 3(3) of the repealed Exchange Control Law (Revised), designating a company a non-resident company and in force immediately prior to the twentieth day of May, 1980 shall have effect as if it were a certificate under subsection (3). 1978 Revision

(5) For the purposes of this Law, a company shall be deemed to be a wholly owned subsidiary of another company if the latter company enjoys the beneficial interest in all the shares of the former company through beneficial ownership or as beneficiary under a trust, express or implied, or through a nominee shareholder, to the exclusion of any other person, and control in the former company cannot, by means of any arrangement, artifice or device, be exercised either directly or indirectly by persons who are not Caymanians.

3. (1) No share shall be deemed to be beneficially owned by a Caymanian if- Construction of other expressions
- (a) that Caymanian is in any way under any obligation to exercise any right attaching to that share at the instance of, or for the benefit of, any person who is not Caymanian;
 - (b) that share is held jointly or severally with any person who is not Caymanian; or
 - (c) that share is owned by a subsidiary company of the company concerned.

(2) For the purposes of this Law, a company shall be deemed to be Caymanian controlled if the Board is satisfied that effective control is not, either directly or indirectly, or by reason of any arrangement, artifice or device vested in, or permitted to pass to, persons who are not Caymanians.

(3) Notwithstanding subsection (1), a share shall be deemed to be beneficially owned by a Caymanian if-

- (a) it is owned by a Caymanian as trustee and every person having a beneficial interest in the trust is a Caymanian;
- (b) it is owned by a Caymanian as nominee for another who is also a Caymanian and no one is in any way under any obligation to exercise any right attaching to that share at the instance of, or for the benefit of, any person who is not a Caymanian:

Provided that this subsection shall not apply to any ownership of shares to which paragraph (c) of subsection (1) applies.

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(4) For the purposes of subsection (1), a company shall be deemed to be a subsidiary of another company (in this subsection referred to as "the parent company" if-

- (a) the parent company owns more than fifty per cent of the shares in that company;
- (b) the parent company is in a position to exercise more than fifty per cent of the voting rights in that company; or
- (c) by means of any agreement, artifice or device, effective control in that company can be exercised either directly or indirectly by the parent company.

Circumstances in which local business may be carried on

4. (1) Subject to subsection (3), no company shall carry on business in the Islands unless it is so empowered by its Memorandum of Association and-

- (a) it is a local company which, at the relevant time, is complying with section 3 or is a wholly owned subsidiary of such a company;
- (b) it is licensed under this Law and under the *Trade and Business Licensing Law (1999 Revision) and, at the relevant time, is carrying on such business in accordance with the terms and conditions imposed in such licence and not otherwise;
- (c) it is licensed under the Banks and Trust Companies Law (1995 Revision); or
- (d) it is a company operating under a franchise granted by the Government.

1999 Revision

*See note 1 on page 21

1995 Revision

(2) Any company which contravenes subsection (1) is guilty of an offence and liable on summary conviction to a fine of two hundred dollars for each day the offence continues and on conviction on indictment to a fine of one thousand dollars for each day the offence continues.

(3) The Governor in Council may, in exceptional circumstances, having regard to the public interest, exempt any company from all or any of the provisions of this Law subject to such terms and conditions as the Governor in Council may deem fit.

Provisions to be complied with by local companies

5. (1) For the purpose of section 4(1)(a) a local company is complying with this section if-

- (a) it is Caymanian controlled;
- (b) at least sixty per cent of its shares are beneficially owned by Caymanians; and
- (c) at least sixty per cent of its directors are Caymanians.

(2) If, for reasons beyond its control, more than sixty per cent of the shares in a local company cease to be beneficially owned by Caymanians, the company shall be taken to be complying with this section until-

- (a) a director becomes aware of the cessation; or
- (b) a director should, with reasonable diligence, have become aware of the cessation,

whichever is the sooner, and shall then continue to be taken to be complying with this section if-

- (i) the directors immediately act in accordance with subsection (3); and
- (ii) the period mentioned in subsection (4) has not expired.

(3) For the purpose of subsection (2)(i), the directors must serve written notice on the person who is not a Caymanian and whose beneficial ownership of shares in the company results in the percentage of shares in the company owned by Caymanians falling below sixty percent requiring him to divest himself of at least so many of those shares as will result in at least sixty percent of the shares in the company being beneficially owned by Caymanians.

(4) The period referred to in subsection (2)(ii) is-

- (a) the period of three years starting on the date of the service of the notice under subsection (3); or
- (b) such longer period as the Board allows.

(5) A local company which immediately before the fifteenth day of October, 1992 was deemed not to be in breach of clause 2(1) of the Schedule (since repealed), by virtue of the proviso thereto is deemed to comply with subsection 1(b) until the end of the period that would have applied had said Schedule not been repealed.

6. (1) If a person, after being served with a notice under section 5(3)-

- (a) exercises any voting rights; or
- (b) fails to divest himself of his shares in accordance with the notice within the period referred to in section 5(4),

Penalty for improper
exercise of voting rights,
etc.

he shall be liable to forfeit those shares to the Government if a court of summary jurisdiction is satisfied that he-

- (i) exercised those voting rights; or
- (ii) failed to divest himself of his shares in accordance with the notice within the period referred to in section 5(4).

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(2) The liability to forfeiture under subsection (1) shall not arise in any case where the owner can prove to the satisfaction of the court of summary jurisdiction that, by reason of the company concerned having ceased to carry on business in the Islands at the relevant time, it would be inequitable for forfeiture to ensue.

(3) Any shares forfeited under subsection (1) shall be vested in the Governor for the benefit of the Islands and may be disposed of in such manner as the Governor in Council may deem fit.

Return of shareholdings
to be made before
commencing business
and annually

7. (1) Before any local company first commences business the company shall forward to the Board a return of shareholdings in the company as at the date of making the return signed by the directors of the company.

(2) Every local company shall, in the month of January in each year after the year in which the company first commenced business, forward to the Board a return of shareholdings in the company as at the thirty-first day of December of the immediately preceding year signed by two or more directors or one director and the secretary.

Provided that the Board may, in any particular case, grant an extension of time for compliance with this subsection if it is satisfied that non-compliance is not wilful or is due to circumstances beyond the control of the directors of the company.

(3) A return of shareholdings under this section shall contain the following particulars-

- (a) the number and par value of each class of shares issued by the company;
- (b) the voting and other rights attached to each class of shares;
- (c) a statement of the number and par value of each class of shares beneficially owned by Caymanians;
- (d) a statement of the number and par value of each class of shares held by other persons; and
- (e) a statement that the effective control of the company is not, either directly or indirectly or by reason of any artifice or device vested in or permitted to pass to persons other than as specifically shown in the return of shareholdings.

(4) Whenever an allotment or a transfer of shares in a local company is made or registered, as the case may be, the company shall within twenty-one days thereof forward to the Board a return in the prescribed form signed by two

or more directors or one director and the secretary giving particulars of such allotment or transfer.

(5) Any local company which fails to comply with this section is guilty of an offence and liable on summary conviction to a fine of twenty dollars for each day the offence continues.

(6) Any person who knowingly and wilfully signs a return made for the purposes of this section which is false in a material particular is guilty of an offence and liable on summary conviction to a fine of two thousand dollars and on conviction on indictment to a fine of five thousand dollars and on any such conviction on indictment the court may, in addition to, or in lieu of, any other penalty which may be imposed, order the forfeiture to the Crown of any shares in connection with which the offence was committed and any shares so forfeited shall be dealt with in such manner as the Governor may direct.

8. (1) No allotment of shares in a local company shall be made by the directors or officers of the company if such allotment will, to the knowledge or belief of them, or any of them, result in the number of shares beneficially owned by persons who are not Caymanians exceeding forty per cent of the total number of the shares issued by the company unless consent is given by the Board in writing.

*Allotment and transfer
of shares*

(2) The directors and officers of a local company shall decline to register any transfer of shares in the company if such transfer will, to the knowledge or belief of the directors, or any of them, result in the number of shares beneficially owned by persons who are not Caymanians exceeding forty per cent of the total number of the shares issued by the company unless prior consent is given by the Board in writing.

(3) No allotment of shares in a local company shall be made to any person unless the application for those shares sets out whether or not the applicant is Caymanian.

(4) No transfer of shares in a local company shall be registered unless the instrument of transfer of those shares sets out with respect to both the transferor and transferee whether or not they are Caymanians.

(5) Any director or officer of a local company who is knowingly a party to any allotment of shares contrary to subsection (1) or (3) or who is knowingly a party to authorising or permitting any transfer, or registration of a transfer, of shares contrary to subsection (2) or (4), is guilty of an offence and liable on

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summary conviction to a fine of two hundred dollars and on conviction on indictment to a fine of two thousand dollars.

Directors may make enquiries

9. (1) In any case where it is stated in an application for allotment, or in an instrument of transfer, of shares in a local company that an applicant, transferor or transferee is a Caymanian, the directors of the company may require that person to furnish such proof of the correctness of such statement as the directors consider necessary; and, in the absence of such proof, the directors may decline to allot any shares or register the transfer.

(2) The directors of a local company may, at any time, enquire in writing of any person who owns a share in the company-

- (a) whether or not he is Caymanian;
- (b) whether or not he is the beneficial owner of the shares;
- (c) whether or not he is in any way under any obligation to exercise any right attaching to that share at the instance of, or for the benefit of, another person, and, if so, the name of that other person and whether or not that other person is Caymanian; and
- (d) whether he owns that share jointly or severally with another person and, if so, the name of the other person who has such an interest and whether or not that other person is Caymanian,

and, if it is stated in any reply made to an enquiry under this subsection that any person is Caymanian, the directors may further require the person making that statement to furnish such proof of the correctness of that statement as the directors consider necessary.

(3) Any person of whom an enquiry is made, or to whom a requirement is addressed, under this section shall reply in writing, within fourteen days after the receipt of the enquiry or the requirement and shall give the information required; and no person shall be liable for breach of any contract, trust or other obligation which is binding on him in law for supplying such information.

(4) Any person who fails to reply in accordance with subsection (2) or (3) or who makes a reply or furnishes information or purported proof which is false in a material particular is guilty of an offence and liable on summary conviction to a fine of two hundred dollars and on conviction on indictment to a fine of two thousand dollars.

Part II-Licensing of companies to carry on business in the Islands

10. (1) Any company, other than a company to which paragraph (a) of section 4(1) applies may apply to the Board for a licence to carry on business in the Islands.

Application for licence

(2) An application for a licence shall be made to the Board in such form and in such manner as may be specified by the Board, and shall be accompanied by a copy of the Memorandum and Articles of Association of the company, or the bye-laws thereof, as the case may be, a statement setting out the nature of the business the company is carrying on and proposes to carry on and such other information as the Board may require.

11. (1) Subject to this Law, the Board may, in its discretion, grant a licence in respect of which application has been made under section 10, but, if the Board is of the opinion that it would not be in the public interest to grant a licence, it may refuse to grant one without giving any reason for so refusing.

Granting and revocation of licence

*(2) Sections 17, 18 and 19 of the Trade and Business Licensing Law (1999 Revision) shall, with any necessary adjustments, apply to appeals from decisions of the Board under this Law.

*See note 2 on page 21
1999 Revision

(3) A licence may not be issued for a duration longer than twelve years without the consent of the Governor, and may be subject to such terms and conditions as the Board may see fit to specify therein; and the Board, upon the written application of the licensee may, from time to time, extend the scope of such licence.

(4) Subject to any general directions which the Governor may from time to time give in respect of the consideration of such applications the Board shall, in deciding whether or not to grant a licence, have regard *inter alia* to the following matters-

- (a) the economic situation of the Islands and the due protection of persons already engaged in business in the Islands;
- (b) the nature and previous conduct of the company and the persons having an interest in that company whether as directors, shareholders or otherwise;
- (c) the advantage or disadvantage which may result from that company carrying on business in the Islands;
- (d) the desirability of retaining in the control of Caymanians the economic resources of the Islands;

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- (e) the efforts made by the company to obtain Caymanian participation;
 - (f) the number of additional people from outside the Islands who would be required to reside in the Islands were the application to be granted;
 - (g) whether the company, its directors and employees have and are likely to continue to have the necessary professional, technical and other knowledge to carry on the business proposed by the company;
 - (h) the finances of the company and the economic feasibility of its plans;
 - (i) whether the true ownership and control of the company have been satisfactorily established; and
 - (j) the environmental and social consequences that could result from the carrying on of the business proposed to be carried on by the company.
- (5) Notwithstanding subsection (3), the Board may, at any time, revoke a licence-
- (a) for a contravention of any condition subject to which the licence is granted;
 - (b) if in the opinion of the Board the company concerned is carrying on business in a manner detrimental to the public interest;
 - (c) if the company concerned ceases to carry on business in the Islands;
 - (d) if the company concerned goes into liquidation or is wound up or otherwise dissolved;
 - (e) if the company concerned fails to comply with any directive or requirement issued by the Board; or
 - (f) if the company concerned fails to pay the fee prescribed in section 13.
- (6) Before revoking a licence under subsection (5) the Board shall give the company concerned notice in writing of its intention to do so, specifying therein the grounds on which it proposes to revoke the licence, and shall afford the company concerned an opportunity of submitting to it a written statement of objections to the revocation of the licence; and thereafter the Board shall advise the company concerned of its decision in the matter and of the company's right of appeal to the Grand Court under section 15 against a decision adverse to it.
- (7) The Board shall publish notice of the granting or revocation of a licence in the Gazette.

12. (1) Where a reconstruction of any licensed company has occurred or where any licensed company makes an arrangement or enters into an agreement for- Reconstruction, etc., of
licensed company

- (a) the sale or other disposal of its business by amalgamation or otherwise; or
- (b) the purchase or other acquisition of the business of any other company carrying on business in the Islands,

such company shall, within three months after the occurrence of such reconstruction or after the implementation of such arrangement or agreement, inform the Board in writing thereof.

(2) Where any particulars or information are received under this section, the Board, having regard to the nature of such particulars or information and notwithstanding the fact that the company concerned is a licensed company, may direct that company in writing to apply for another licence within such time and in such form as the Board may determine.

(3) The issue of a directive under subsection (2) shall not affect the validity of any licence subsisting at the date of such directive and which was granted to the company to which such directive is issued.

(4) Every licence to which subsection (3) refers shall be of full force and effect until-

- (a) it is revoked by the Board under section 11(5); or
- (b) another licence is granted to the company concerned upon an application made pursuant to a directive under subsection (2),

and thereafter the licence referred to in subsection (3) shall cease to have effect.

PART III-Supplementary provisions

13. (1) Every company to which a licence is granted shall, upon the issue of such licence, pay to the Government a fee of two hundred dollars. Fee payable by licensed
company

(2) On or before the thirty-first day of January of every year after the year in which a licence has been granted to a company, that company shall, during the subsistence of such licence, pay to the Government a fee of two hundred dollars.

(3) Any licensed company which fails to pay the fee provided by this section is guilty of an offence and liable on summary conviction to a fine of forty dollars for each month during which such fee remains unpaid.

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(4) The Board shall publish annually by Government Notice the name of every licensed company that has paid the fee provided by this section.

Company to supply
information relating to
control

14. (1) The Board may, at any time by notice in writing, require the directors of a local company to forward to it such information as to the directors of and shareholdings (including the classes of shares and the voting and other rights attached to each class) in the local company as the Board may specify.

(2) A notice under subsection (1) may require that the directors set out in writing within such period as may be specified in the notice the facts in relation to the directors, shareholdings and other matters relating to the operation, financing and control of the company which the directors contend establish that the local company is complying with section 5 or is a wholly owned subsidiary of such a company.

(3) The Board may-

- (a) by written notice, summons a director of a local company to appear before the Board at the time specified in the notice, being a time during normal working hours; and
- (b) on the appearance of the director in accordance with the notice, put to him questions in respect of the directors, shareholders and other matters relating to the operation, financing and control of the company.

(4) The Board may, at any time by notice in writing, require a Caymanian who claims to be the beneficial owner of shares in a local company to forward to it such information as to his ownership of the shares as the Board may specify.

(5) The Board may-

- (a) by written notice, summons a Caymanian who claims to be the beneficial owner of shares in a local company to appear before the Board at the time specified in the notice, being a time during normal working hours; and
- (b) on the appearance of the shareholder in accordance with the notice, put to him questions in respect of his ownership of the shares.

(6) If-

- (a) the directors or a shareholder of a local company fails to comply with all or any of the requirements specified in a notice issued under subsection (1) or (4); or

- (b) a director or a shareholder in a local company-
 - (i) fails to appear before the Board when summoned to do so in accordance with subsection (3)(a) or (5)(a); or
 - (ii) fails to answer any question put to him in accordance with subsection (3)(b) or (5)(b) fully and truthfully,

and by reason of such failure the Board is unable to establish that the local company is continuing to comply with section 5 or is a wholly owned subsidiary of a company that is continuing to comply with that section, the Board shall, by notice in the Gazette, declare that, for the purposes of section 5(1)(a), the company is not to be taken to be a local company complying with section 5 or a company that is a wholly owned subsidiary of such a company.

(7) Where a declaration has been published under subsection (6), the company shall not, for the purposes of section 4(1)(a), be taken to be a company that is complying with section 5 or the wholly owned subsidiary of such a company until such time as the Board publishes a further notice in the Gazette stating that it is satisfied that the company is so complying or is such a subsidiary.

15. (1) An appeal shall lie to the Grand Court against an order revoking a licence under section 11(5). Appeal to the Grand Court

(2) An appeal under this section shall lie at the instance of the company affected thereby and shall be commenced by notice in writing served upon the Attorney-General within twenty-one days after the day on which revocation made under section 11(5) takes effect.

(3) Subject to subsection (2), the Rules Committee of the Grand Court may make rules in the like manner and subject to the like formalities as it may make rules of procedure for the Grand Court for the procedure on an appeal brought under subsection (1).

(4) The proceedings on an appeal brought under this section shall be held in camera unless any party thereto applies for the proceedings to be in open court.

(5) On an appeal brought under this section, the Grand Court may confirm, reverse, vary or modify the decision of the Board or remit the matter with the opinion of the Grand Court thereon to the Board.

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(6) Unless the Grand Court otherwise orders, an appeal under this section shall not have the effect of suspending the execution of the decision against which the appeal is brought pending the determination of the appeal.

Onus of proof

16. In any proceedings under this Law in which the right of any company to carry on business in the Islands is in issue, the onus of proving that the company had, at the relevant time, the right to carry on such business in the Islands, shall be on that company unless, at the relevant time, that company was licensed under this Law.

Proof by certificate

17. A certificate purporting to be under the hand of the chairman of the Board specifying that any particular company was or was not licensed under this Law during any period specified in the certificate shall be receivable in evidence in any proceedings under this Law without further proof and shall be *prima facie* evidence of the facts specified therein.

Attorney-General's Bar

18. No prosecution in respect of any offence committed under this Law shall be instituted except by or with the consent of the Attorney-General.

Imprisonment in default of payment of fine

19. Notwithstanding any other law, a person upon whom a fine is imposed under this Law may be sentenced in default of payment thereof to imprisonment, in the case of a fine—

- (a) not exceeding one thousand dollars, for a period not exceeding three months;
- (b) exceeding one thousand dollars but not exceeding two thousand dollars for a period not exceeding six months; and
- (c) exceeding two thousand dollars, for a period not exceeding twelve months.

Offences by officers, etc., of corporate bodies

20. Where an offence under this Law which has been committed by a company is proved to have been committed with the consent or connivance of, or to be attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such person as well as that company shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Publication of orders

21. Every revocation made under section 11(5) shall be published in the Gazette and shall take effect from the date of such publication or such later date as may be specified therein.

22. The Governor in Council may make such regulations as may be necessary for the purpose of carrying into effect this Law and, without prejudice to the generality of the foregoing, such regulations may-

Regulations

- (a) prescribe the method of giving notice under this Law and the date on which such notice shall be deemed to have effect;
- (b) make provision for all matters consequential on the making of an order for the revocation of a licence under section 11(5);
- (c) make provision for the notification of any change in relation to a shareholder in a local company becoming or ceasing to be Caymanian and the determination of any question of whether or not a shareholder is Caymanian;
- (d) prescribe the forms, notices, licences, books, registers and other documents to be used and the information and particulars to be given for the purposes of, and in connection with, this Law; and
- (e) provide for the giving of public notice of an application or other matter or under, or pursuant to, this Law.

23. For the avoidance of doubt it is hereby declared that no business transaction shall be void or voidable by reason only that, at the relevant time, any party thereto is in breach of this Law.

Effect of infringement
on business transactions

24. Nothing in this Law or any licence shall confer on any company any power to do anything which it is not authorised to do by virtue of its Memorandum and Articles of Association or any other provision of law.

Powers limited to those
set out in incorporating
documents

25. This Law shall apply to companies incorporated before, on or after the date of the coming into operation of this Law:

Application

Provided however, that notwithstanding section 11(4), any company which was carrying on business in the Islands at the time of the coming into operation of this Law shall, on making application for a licence under section 10, be entitled, subject to section 11(3), to the grant of a licence.

26. (1) A person is required to make a declaration or to supply information for the purpose of this Law who-

Offences

- (a) fails to make the declaration;
- (b) fails to supply the information; or
- (c) wilfully makes a declaration or supplies information that is-
 - (i) false;
 - (ii) misleading; or
 - (iii) insufficient for the purpose required,

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is guilty of an offence and liable on conviction to a fine of thirty thousand dollars or to imprisonment for three years.

(2) A person summoned to appear before the Board who, without lawful excuse, fails to appear before the Board in accordance with the summons is guilty of an offence and liable on conviction to a fine of thirty thousand dollars or to imprisonment for three years.

(3) A Caymanian who, with intent to deceive, in any way represents himself to be the beneficial owner of a share in a local company if, whether at law or in honour only-

- (a) he holds the share in trust for, or on behalf of a person who is not a Caymanian; or
- (b) he holds the share subject to a power of disposition exercisable by a person who is not a Caymanian,

is guilty of an offence and liable on conviction to a fine of thirty thousand dollars or to imprisonment for three years.

(4) A Caymanian, being a director of a local company, who enters into any agreement or arrangement, whether binding in law or in honour only, with a person who is not a Caymanian where the purpose, or one of the purposes, of the agreement or arrangement is to satisfy the Board in accordance with section 3(2) that the company is Caymanian controlled when in fact it is not so controlled, is guilty of an offence and liable on conviction to a fine of thirty thousand dollars or to imprisonment for three years.

Policy directions

27. The Governor in Council may, from time to time, issue policy directions to the Board for its guidance in the exercise of its powers, duties and functions under this Law, and it is the duty of the Board to carry out such directions.

Duty of confidentiality
1997 Revision

28. (1) The provisions of section 8 of the Immigration Law (1997 Revision) apply in respect of this Law.

(2) References in section 8(1) of the Immigration Law (1997 Revision) to the proper performance by a member of the Board of his duties under that law include the proper performance of his duties under this Law.

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Publication in consolidated and revised form authorised by the Governor in Council this 5th day of January, 1999.

Carmena H. Parsons
Clerk of Executive Council

Notes (not forming part of the Law):

1. *The 1999 revision of the Trade and Business Licensing Law has not yet been published. Until such publication takes place the correct cross-reference is to the 1996 Revision.*
2. *The Trade and Business Licensing Law (1999 Revision) has not yet been published. Consequently, until such publication takes place, the correct cross-reference is to sections 8A, 8B and 8C of the Trade and Business Licensing Law (1996 Revision) as amended by the Trade and Business Licensing (Amendment) Law, 1997 (5 of 1997).*