

CAYMAN ISLANDS



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THE TRADE AND BUSINESS LICENSING (AMENDMENT) LAW, 2018

(LAW 2 OF 2018)

THE TRADE AND BUSINESS LICENSING (AMENDMENT) LAW, 2018

ARRANGEMENT OF SECTIONS

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CAYMAN ISLANDS

Law 2 of 2018

I Assent

Anwar Choudhury

Governor.

18 April, 2018

**A LAW TO AMEND THE TRADE AND BUSINESS LICENSING LAW
TO SIMPLIFY THE APPLICATION PROCEDURE; TO EXEMPT
CAYMANIANS FROM ASPECTS OF THE APPLICATION
PROCEDURE; TO EMPOWER THE BOARD TO ENTER INTO
ARRANGEMENTS WITH RELEVANT PUBLIC AUTHORITIES TO
FACILITATE THE DIRECT RECEIPT OF INFORMATION; AND FOR
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Trade and Business Licensing (Amendment) Law, 2018.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet.

2. The Trade and Business Licensing Law, 2014 (Law 21 of 2014) in this Law referred to as the “principal Law”, is amended in section 18 as follows -

Amendment of section 18 of the Trade and Business Licensing Law, 2014 (Law 21 of 2014) - application for grant or renewal of a licence

(a) by repealing subsection (2) and substituting as follows -

“(2) Subject to subsections (2A), (2B) and (2C), an application pursuant to subsection (1) shall be submitted to the Board through the Department in the prescribed form and shall be accompanied by -

- (a) evidence of status as a Caymanian, if any, of -
 - (i) the applicant, where the applicant is an individual;
 - (ii) any individual who has a legal or beneficial interest in the company, where the applicant is a company; or
 - (iii) each individual who is a partner in the firm, where the applicant is a firm;
- (b) in the case of an application for the grant of a licence by an applicant who is not a Caymanian, a reference for the applicant from a financial institution or a current bill in the applicant’s name for the provision of utility services within the meaning of that term under section 2 of the Utility Regulation and Competition Law, 2016 (Law 49 of 2016);
- (c) where the applicant will be carrying on business in a public place, evidence of the approval of the relevant authority to carry on business in such a place;
- (d) if applicable, evidence of compliance with the Law relating to employee pensions or employee health insurance in force in the Islands where application is for renewal;
- (e) the non-refundable application fee specified in Schedule 1 to be paid to the general revenue of the Islands;
- (f) the licence fee specified in Schedule 1 or, subject to section 23(2), the renewal fee specified in Schedule 1 to be paid to the general revenue of the Islands or a waiver of the licence fee in writing from the Cabinet; and
- (g) such other information relating to the application as may be deemed necessary by the Board for the consideration of the application or as may be prescribed.

(2A) Where the applicant is a company the following additional particulars shall be provided in the prescribed manner -

- (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 persons who are not Caymanian; and
- (e) a statement that the effective control, benefit and 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.

(2B) Where the applicant is a company that was registered twelve or more months prior to the application for a licence, a copy of the company's annual return and a return of shareholdings containing the particulars listed in subsection (2A) shall be provided in the prescribed manner.

(2C) Subject to subsection (2D), the Board may request a police clearance certificate as part of its due diligence procedures in respect of an application for the grant of a licence for -

- (a) any applicant where the applicant is an individual;
- (b) any individual who has a significant interest in, or who is a director of, the applicant where the applicant is a company other than a listed entity;
- (c) any individual who is a partner in the firm where the applicant is a firm,

and the certificate shall be provided in such manner as the Board may determine.

(2D) An applicant who is -

- (a) Caymanian;
- (b) a permanent resident; or
- (c) the holder of a Permanent Residency and Employment Rights Certificate,

and who has been legally and ordinarily resident in the Islands for five or more years shall be exempt from the requirement under subsection (2C) except where the application is for a licence for a trade or business in a sector where the Board determines that it is mandatory for every applicant to provide a police clearance certificate.

(2E) To the extent that the information required under sections 18 or 19 to support an application for the grant or renewal of a licence is held by a relevant public authority or government agency, an applicant may permit the Board to receive that information directly from the public authority or government agency where -

- (a) the Board has entered into an arrangement, understanding or agreement with the public authority or government agency; and
- (b) the information is material, adequate, current, relevant or as may otherwise be prescribed by Regulations.

(2F) The Board may enter into an arrangement, understanding or agreement with any government department or public authority to facilitate the electronic or other receipt of information under subsection (2E).

(2G) Where an applicant does not utilize the option under subsection (2E), the applicant still has an obligation to provide the information to the Board.

(2H) The Cabinet may make Regulations exempting certain applicants or categories of applicants from any or all of the provisions under section 18.

(2I) For the purposes of this section -

- (a) “permanent resident” has the meaning assigned under section 2 of the Immigration Law (2015 Revision); and
- (b) the expression “holder of a Permanent Residency and Employment Rights Certificate” has the same meaning as the expression has under section 31 of the Immigration Law (2015 Revision).”.

Amendment of section 19 - restriction on grant or renewal of a licence

3. Section 19 of the principal Law is amended as follows -

- (a) in subsection (1) by deleting the words “shall not be granted or renewed” and substituting the words “shall not be granted”;
- (b) by inserting at the end of subsection (1)(a)(iii) the word “or”;
- (c) by repealing subsection (1)(a)(iv);
- (d) in subsection (1)(c), by deleting the words “or renewal”; and
- (e) by inserting after subsection (1) the following subsection -

“(1A) A licence shall not be renewed by the Board where -

- (a) it is satisfied that any of the provisions under subsection (1)(a) apply to the applicant for renewal; or
- (b) the applicant is not compliant with this Law or any other applicable Law regulating the applicant, including Laws relating to employee pensions, employee health insurance and labour relations in the Islands and the applicant has not taken the necessary steps to resolve the non-compliance.”.

Amendment of section 21 - grant of licence and expedited licence

4. Section 21 of the principal Law is amended -

- (a) in subsection (3) by deleting the words “section 18(2)(b)(x)” and substituting the words “section 18(2)(f)”;
- (b) by repealing subsection (4) and substituting the following subsection -

“(4) The Board may attach such conditions or restrictions on licences generally or to licences granted to a sector or an industry as it considers fit in the interest of public safety, public order, public health or otherwise in the public interest.”.

Passed by the Legislative Assembly the 16th day of March, 2018.

Dr. Hon. W. McKeeva Bush

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.