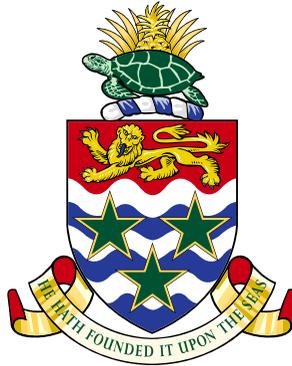


CAYMAN ISLANDS



**COMPANIES (AMENDMENT) (NO.2) LAW,
2020**

(Law 19 of 2020)

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CAYMAN ISLANDS

(Law 19 of 2020)

I Assent,

**Martyn Roper**
Governor

Date: 22nd day of May, 2020

COMPANIES (AMENDMENT) (NO.2) LAW, 2020

(Law 19 of 2020)

A LAW TO AMEND THE COMPANIES LAW (2020 REVISION) TO PROVIDE FOR AN ADMINISTRATIVE PENALTY REGIME; TO PERMIT THE REGISTRAR TO MAKE AVAILABLE FOR INSPECTION THE INFORMATION REQUIRED UNDER SECTION 26(3); AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the Companies (Amendment) (No. 2) Law, 2020.
- (2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

Amendment of section 2 of the Companies Law (2020 Revision) – definitions and interpretation

2. The *Companies Law (2020 Revision)*, in this Law referred to as the “principal Law”, is amended in section 2 in the definition of “regulatory Laws” as follows —
 - (a) in paragraph (g), by deleting the word “and” where it appears at the end of the paragraph;
 - (b) in paragraph (h), by deleting the comma and substituting a semicolon; and
 - (c) by inserting after paragraph (h), the following paragraphs —

- “(i) *Development Bank Law (2018 Revision)*;
(j) *Directors Registration and Licensing Law, 2014*; and
(k) *Private Funds Law, 2020*.”.

Amendment of section 26 - registration

3. The principal Law is amended in section 26 by repealing subsection (3) and substituting the following subsections —

“(3) A register of companies shall be kept by the Registrar in which shall be entered the particulars set out in Schedule 1A and, save for the particulars set out in paragraph (i) of Schedule 1A, such particulars shall be annexed to the memorandum of association and articles of association, if any, insofar as they are not included therein.

(3A) The Registrar shall make the register under subsection (3) available for inspection by any person on payment of the fee specified in Part 1A of Schedule 5 and the inspection shall be subject to such conditions as the Registrar may impose.

(3B) The Cabinet may amend Schedule 1A by Order.”.

Insertion of section 156A – striking off for failure to pay fine

4. The principal Law is amended by inserting after section 156 the following section —

“Striking off for failure to pay fine

156A. Where an administrative fine imposed in accordance with Part XVII remains unpaid for ninety days after imposition of the fine, the Registrar may strike the company off the register and the company shall thereupon be dissolved.”.

Amendment of section 168 - annual return

5. The principal Law is amended in section 168 by inserting after paragraph (a) the following paragraph —

“(aa) states the nature of the business;”.

Amendment of section 174 - prohibited enterprises

6. The principal Law is amended in section 174(3) by deleting the words “26(3)(a)” and substituting the words “26(3)”.

Amendment of section 202 - registration under this Part

7. The principal Law is amended in section 202(2) by deleting the words “paragraphs (a) to (h) of”.



Amendment of section 245 - application

8. The principal Law is amended in section 245 by deleting the words “(other than a company registered as an excluded person under section 5(4) of the *Securities Investment Business Law (2020 Revision)*” wherever they appear.

Amendment of section 256 - consequences of failure to declare beneficial ownership

9. The principal Law is amended in section 256(3) by deleting the words “the company shall” and substituting the words “the corporate services provider shall”.

Amendment of section 265 - right to issue enforcement notices

10. The principal Law is amended in section 265 as follows —
- (a) in subsection (1), by deleting the words “A company to which this Part applies” and substituting the words “The corporate services provider of a company to which this Part applies”; and
 - (b) in subsection (2), by deleting the words “the company” and substituting the words “the corporate services provider”.

Amendment of sections 270 and 271 - relaxation of restrictions; and orders for sale

11. The principal Law is amended in sections 270(1) and 271 by deleting the word “company” wherever it appears and substituting the words “corporate services provider” in each instance.

Amendment of section 273 - company may withdraw restrictions notice

12. The principal Law is amended in section 273 as follows —
- (a) in the section heading, by deleting the word “company” and substituting the words “corporate services provider”; and
 - (b) by deleting the word “company” wherever it appears and substituting the words “corporate services provider” in each instance.

Amendment of section 280 - regulations

13. The principal Law is amended in section 280(1)(h) by deleting the word “companies” and substituting the words “corporate services providers”.

Insertion of Part XVIIIB – administrative fines

14. The principal Law is amended by inserting after Part XVIIIA the following Part —

“Part XVIIIB – Administrative fines

Registrar’s power to fine

281A. The Registrar has the power to impose an administrative fine on a person who breaches a provision of this Law that is specified in Schedule 7.

Fine amounts

281B. The fine shall be five thousand dollars for a breach and the Registrar may, in addition to the fine for the initial breach, impose a further fine of one thousand dollars for every month that the breach continues, until one of the following occurs —

- (a) the breach stops or is remedied;
- (b) payment of the initial fine and all fines imposed for the continuing breach; or
- (c) the total of the initial fine and all fines for the continuing breach amounts to twenty-five thousand dollars.

The power to fine

281C. For the avoidance of doubt —

- (a) a fine may be imposed for a breach that is not an offence;
- (b) where a breach set out in Schedule 7 is also an offence, a fine for the breach is not limited by the penalty under the provision or by sections 6(2)(ii) and 8 of the *Criminal Procedure Code (2019 Revision)*; and
- (c) the Registrar shall not impose a fine where criminal proceedings have commenced or have been concluded in relation to the acts that constitute the breach.

Limitation period

281D.(1) The Registrar shall not impose a fine after the expiration of six months after the date on which the Registrar became aware of the occurrence of the breach.

- (2) For the purpose of subsection (1), the Registrar becomes aware of the breach when information is first received from which the breach could reasonably have been inferred.

Relationship with penalties

281E. If a breach set out in Schedule 7 is an offence, a fine for the breach shall not preclude a prosecution for the breach or liability for any relevant fees.



Registrar may issue guidance

281F. The Registrar may issue guidance on the enforcement of administrative fines.

Registrar’s rule-making power for this Part

281G. The Registrar may, by rules published in the Gazette, provide for —

- (a) aggravating and mitigating factors for fines; and
- (b) the publishing of fines imposed in accordance with this Part.

Regulation-making powers for this Part

281H. Regulations made by Cabinet may provide for —

- (a) forms and procedures for imposing fines;
- (b) appeals against decisions under this Part;
- (c) how fines shall be paid and may be enforced;
- (d) interest on outstanding fines;
- (e) evidentiary provisions for proceedings relating to this Part; and
- (f) such other matters that are necessary or convenient to give effect to the purposes or provisions of this Part.”.

Amendment of section 282 - amendment of Schedules

15. The principal Law is amended in section 282 by deleting the words “Schedule 4 or Schedule 5” and substituting the words “Schedule 4, Schedule 5 or Schedule 7”.

Insertion of Schedule 1A - required particulars

16. The principal Law is amended by inserting after Schedule 1 the following Schedule —

“SCHEDULE 1A

(section 26(3))

Required Particulars

The required particulars are —

- (a) the name of the company and, in the case of an exempted company, the exempted company’s dual foreign name (if any) together with its translated name;
- (b) the part of the Islands in which the registered office of the company is proposed to be situate;

- (c) the amount of capital of the company and, in the case of a company having its share capital divided into shares of a nominal or par value, the number of shares into which it is divided and the fixed amounts thereof;
- (d) the names and addresses of the subscribers to the memorandum and the number of shares taken by each subscriber;
- (e) the date of execution of the memorandum of association;
- (f) the date of filing of the memorandum of association;
- (g) the number assigned to the company;
- (h) in the case of a company limited by guarantee or a company that has no limit placed on the liability of its members —
 - (i) a statement that the company is limited by guarantee or is unlimited, as the case may be; and
 - (ii) the omission of any of the particulars specified in this Schedule which are irrelevant or inappropriate;
- (i) the nature of the business; and
- (j) the date of the end of the company's financial year.”.

Amendment of Schedule 5 - fees

17. The principal Law is amended in Schedule 5 as follows —

- (a) in the Schedule cross-heading by deleting the words “(sections 26(4), 41(2), 45(2), 169(1), 184(2), 199(1) and 213(4) and (5))” and substituting the following Schedule cross-heading —

“(sections 26(3), 26(4), 41(2), 45(2), 169(1), 184(2), 199(1), 213(4) and 213(5))”; and
- (b) by inserting after Part 1 the following Part —

“PART 1A

The fees payable for the inspection of the register under section 26(3A) is \$50.”.

Insertion of Schedule 7 – administrative fines

18. The principal Law is amended by inserting after Schedule 6 the following Schedule —



“SCHEDULE 7*(section 281A)***Administrative fines**

No.	Section	Description of breach
1.	247(1)	Failure of a company to take reasonable steps to identify any beneficial owner of the company
2.	248(1)	Failure of a company to take reasonable steps to identify any relevant legal entities that exist in relation to the company
3.	249(1)	Failure of a company to give notice in writing to beneficial owners and relevant legal entities identified under section 249(1).
4.	250(2)	Failure of a beneficial owner or relevant legal entity to supply information under section 250(2) within the timeframe specified at 250(3).
5.	252(1)	Failure of a company to keep its beneficial ownership register at the company’s registered office.
6.	252(2)	Failure of a corporate services provider engaged for the provision of registered office services to establish and maintain the company’s beneficial ownership register in accordance with section 252(2).
7.	252(3) and 252(3A)	Failure of an ordinary resident company to either engage a corporate service provider or the Registrar to assist the ordinary resident company to establish and maintain the beneficial ownership register.
8.	253(1)	Failure of a company to provide in writing to a corporate services provider or to the Registrar the required particulars of registrable persons in respect of the company once the particulars have been confirmed.
9.	253(1A)	Failure of a company to provide- (a) written confirmation of the exemption to the corporate services provider; or

No.	Section	Description of breach
		(b) instructions to file the written confirmation with the competent authority under section 253(1A).
10.	253(1A)(a)(i)	Incorrect reporting by a person that the person is a legal entity or a subsidiary to whom Part XVIII A does not apply by virtue of section 245(1).
11.	255(1)	Failure of a company to give notice requesting confirmation of a change under section 255(1) to a registrable person as soon as reasonably practicable after the company becomes aware of a relevant change with respect to a registrable person.
12.	255(2)	Failure of a company that receives confirmation of a relevant change to instruct the corporate services provider or the Registrar to enter the change in the company's beneficial ownership register in accordance with section 255(2).
13.	256(1)	Failure of the corporate services provider to give notice of its opinion to a company if it is of the opinion that the company has failed to comply with section 253 or 255 without reasonable excuse, or has made a statement that is false, deceptive or misleading in accordance with section 256(1).
14.	256(2)	Failure of a company to provide the corporate services provider or the Registrar with a response to a notice under section 256(2).
15.	256(3)	Failure of a corporate services provider to — (a) issue a restrictions notice; and (b) send a copy of the notice to the competent authority within two weeks, where the registrable person does not comply with the obligations under section 256(3).
16.	257(2)	Failure of a person to whom the section applies — (a) to notify the company of the relevant changes; (b) to state the date the change occurred; and (c) to give the company the information needed to update the beneficial ownership register under section 257(2), within the timeframe specified under section 257(3).



No.	Section	Description of breach
17.	261(2)	Failure of the corporate services provider to regularly deposit beneficial ownership information in such place, such manner and at such intervals as may be prescribed in accordance with section 261(2).
18.	266(1)	Failure of an entity to act in a manner consistent with the terms of a restrictions notice under section 266(1).
19.	279A	Failure of a company or a corporate services provider to respond to a request for additional information under section 279A within the time specified.

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Passed by the Legislative Assembly the 20th day of May, 2020.

Hon. Barbara Conolly
Deputy Speaker

Zena Merren-Chin
Clerk of the Legislative Assembly