

**CONSULTATION DRAFT**

**[NOT FOR SUBMISSION TO CABINET OR CAUCUS]**

**CAYMAN ISLANDS**



**COMPANIES (AMENDMENT) (NO.3) BILL,  
2020**

**A BILL FOR A LAW TO AMEND THE COMPANIES LAW (2020 REVISION) TO  
ENHANCE THE OVERSIGHT OF THE KEEPING OF ACCOUNTING RECORDS; AND  
FOR INCIDENTAL AND CONNECTED PURPOSES**

## PUBLISHING DETAILS

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**CAYMAN ISLANDS****COMPANIES (AMENDMENT) (NO.3) BILL, 2020****Arrangement of Clauses**

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**A BILL FOR A LAW TO AMEND THE COMPANIES LAW (2020 REVISION) TO ENHANCE THE OVERSIGHT OF THE KEEPING OF ACCOUNTING RECORDS; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

**Short title**

1. This Law may be cited as the Companies (Amendment) (No.3) Law, 2020.

**Amendment of section 41 of the Companies Law (2020 Revision) - annual list of members and return of capital, shares, calls, etc.**

2. The *Companies Law (2020 Revision)*, in this Law referred to as the “principal Law”, is amended in section 41 as follows —
  - (a) by repealing subsections (2) and (3) and substituting the following subsections —
    - “(2) Every company, other than an exempted company, shall, when it submits the list and summary required under subsection (1) and the return under subsection (3) in January of each year after the year of its registration, pay to the Registrar the annual fee specified in Part 2 of Schedule 5.

- (3) Every company, other than an exempted company, shall in January of each year after the year of its registration, furnish to the Registrar a return which shall be in the form of a declaration that —
- (a) the company is maintaining proper books of account;
  - (b) states whether the company is required to file with the Authority information regarding its accounts under any regulatory law;
  - (c) states the physical address of the place at which the company keeps its books of account; and
  - (d) where applicable, confirms the company has provided to its registered office, semi-annually, information regarding its books of account that will enable directors to ascertain the financial position of the company with reasonable accuracy.
- (4) A company which has failed to forward to the Registrar any copy required to be forwarded in any January shall be deemed not to have made any default in complying with this section relating to the time within which such copy is required to be forwarded if the company forwards the copy either —
- (a) within such further period, if any, as the Registrar, acting in the Registrar’s discretion may, by notice, addressed to the company specify; or
  - (b) within the period of twelve months next following the respective month of January,
- whichever is the shorter, together with the fee payable under subsection (2) and the penalty specified in section 42.”.

### **Amendment of section 42 - penalty on company not making return**

3. The principal Law is amended in section 42 by deleting the words “or summary” and substituting the words “, summary, the return in the form of a declaration”.

### **Amendment of section 59 - accounts and audits**

4. The principal Law is amended in section 59 as follows —
- (a) by repealing subsection (2B) and substituting the following subsections —
    - “(2B) A company which keeps its books of account outside of the Islands shall provide to its registered office, semi-annually, information regarding its books of account that will enable directors to ascertain the financial position of the company with reasonable accuracy.
    - (2BA) A company which fails to comply with subsection (2B), without reasonable excuse, commits an offence and is liable on summary conviction to a fine of five thousand dollars and every director or other officer concerned in the management of the company who



knowingly and wilfully authorizes or permits the contravention shall incur the same penalty.”; and

- (b) in subsection (2C), by deleting the words “Subsection (2B) shall” and substituting the words “Subsections (2B) and (2BA) shall”.

#### **Amendment of section 156A - striking off for failure to pay fine**

5. The principal Law is amended in section 156A by deleting the words “with Part XVII” and substituting the words “with Part XVIII”.

#### **Amendment of section 168 - annual return**

6. The principal Law is amended in section 168 as follows —
- (a) in paragraph (b), by deleting the words “Islands; and” and substituting the words “Islands;”;
- (b) in paragraph (c), by deleting the words “complied with” and substituting the words “complied with; and”;
- (c) by inserting after paragraph (c) the following paragraphs —
- “(d) the company is maintaining proper books of account;
- (e) states whether the company is required to file with the Authority, information regarding its accounts under any regulatory law;
- (f) states the physical address of the place at which the company is keeping its books of account; and
- (g) where applicable, confirms the company has provided the information regarding its books of account to its registered office semi-annually in accordance with section 59(2B).”.

#### **Amendment of Schedule 7 - administrative fines**

7. The principal Law is amended in Schedule 7 by inserting after the Schedule subheading “Administrative fines”, the following Schedule subsubheadings and sections —

#### **“Distribution of Capital and Liability of Members of Companies and Associations**

No.	Section	Description of breach
1.	41(2)	Failure of a company, other than an exempted company, to pay to the Registrar the annual fee specified in Part 2 of Schedule 5 when it submits the list and summary required under subsection (1) and the return under subsection (2A) in January of each year after the year of its registration.

2.	41(2A)	<p>Failure of a company, other than an exempted company, to furnish to the Registrar before the expiry of the periods for late filing under the Law, a return in the form of a declaration that —</p> <ul style="list-style-type: none"> <li>(a) the company is maintaining proper books of account;</li> <li>(b) states whether the company is required to file with the Authority, information regarding its accounts under any regulatory law;</li> <li>(c) states the physical address of the place at which the company keeps its books of account; or</li> <li>(d) where applicable, confirms the company has provided to its registered office, semi-annually, information regarding its books of account that will enable directors to ascertain the financial position of the company with reasonable accuracy.</li> </ul>

### Management and Administration of Companies and Associations - Provisions for Protection of Creditors

No.	Section	Description of breach
1.	59(2B)	Failure of a company that does not comply with a requirement under any regulatory law to file information regarding its accounts to the Authority, which keeps its books of account outside of the Islands to provide to its registered office, semi-annually, information regarding its books of account.

### Exempted Companies

No.	Section	Description of breach
1.	168	<p>Failure of an exempted company that does not hold a licence to carry on business in the Islands to which section 174 refers, to furnish to the Registrar before the expiry of the periods for late filing under the Law, a return in the form of a declaration that —</p> <ul style="list-style-type: none"> <li>(a) since the previous return or since registration, as the case may be, there</li> </ul>





		<p>has been no alteration in the memorandum of association, other than an alteration in the name of the company effected in accordance with section 31 or an alteration already reported in accordance with section 10;</p> <p>(b) states the nature of the business;</p> <p>(c) the operations of the exempted company since the last return or since registration of the exempted company, as the case may be, have been mainly outside the Islands;</p> <p>(d) section 174 has been and is being complied with;</p> <p>(e) the company is maintaining proper books of account;</p> <p>(f) states whether the company is required to file with the Authority, information regarding its accounts under any regulatory law;</p> <p>(g) states the physical address of the place at which the company is keeping its books of account; or</p> <p>(h) where applicable, confirms the company has provided the information regarding its books of account to its registered office semi-annually in accordance with section 59(2B).</p>
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**Beneficial Ownership”.**

**Passed by the Legislative Assembly the            day of            , 2020.**

*Speaker*

*Clerk of the Legislative Assembly*

