

CAYMAN ISLANDS



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THE TRADE AND BUSINESS LICENSING (AMENDMENT) LAW, 2017

(LAW 8 OF 2017)

THE TRADE AND BUSINESS LICENSING (AMENDMENT) LAW, 2017

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The Trade and Business Licensing (Amendment) Law, 2017

CAYMAN ISLANDS

Law 8 of 2017.

I Assent

Helen Kilpatrick

Governor.

Date: 18th May, 2017

A LAW TO AMEND THE TRADE AND BUSINESS LICENSING LAW, 2014 TO CLARIFY AND TO EXTEND THE APPLICATION OF, AND EXEMPTIONS TO, THAT LAW; TO EXTEND THE TRADE AND LICENSING BOARD'S FUNCTIONS; TO EXTEND THE BOARD'S FUNCTIONS THAT ARE OR MAY BE DELEGATED TO THE DEPARTMENT; TO CLARIFY THAT TRADE OFFICERS MAY BE GRANTED EQUIPMENT; TO AMEND THE REQUIREMENTS FOR LICENCE AND RENEWAL APPLICATIONS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Trade and Business Licensing (Amendment) Law, 2017. Short title

2. The Trade and Business Licensing Law, 2014, in this Law referred to as the "principal Law", is amended in section 2 by - Amendment of section 2 of the Trade and Business Licensing Law, 2014 - interpretation

- (a) deleting the definitions of the words "retailer" and "trade and business"; and
- (b) inserting, in the appropriate alphabetical sequence, the following definitions -

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- “(company)” means -
- (a) a company registered under the Companies Law (2016 Revision), including an exempted company;
 - (b) a limited liability company;
 - (c) a non-resident company; and
 - (d) a company, body corporate or corporate entity incorporated under the laws of a jurisdiction outside the Islands;
- “(exempted company)” means an exempted company registered under section 164 of the Companies Law (2016 Revision);
- “(function)” includes duty, power and role;
- “(limited liability company)” means a limited liability company registered under the Limited Liability Companies Law, 2016 (Law 2 of 2016);
- “(listed entity)” means an entity that, under the Securities Investment Business Law (2015 Revision), has securities listed on a recognised securities exchange;
- “(non-LCC Law company)” means a company exempted by the Cabinet under section 4(3) of the Local Companies (Control) Law (2015 Revision);
- “(non-resident company)” has the meaning given in section 2(1) of the Local Companies (Control) Law (2015 Revision);
- “(property development)” means carrying out work for any or all of the following activities in relation to land (whether by its owner or by someone else with the owner’s consent) with a view to obtaining a reward from selling or leasing the land -
- (a) constructing or renovating a building or other structure;
 - (b) making a material change (within the meaning of that term under the Development and Planning Law (2015 Revision)) to the use of the land or a building or other structure on the land; or
 - (c) clearing, site works and other activities to prepare for the carrying out of an activity mentioned in paragraph (a) or (b);
- “(retailer)” includes a person -
- (a) who offers products as follows for sale directly to the

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public in small quantities -

- (i) products bought directly from a merchant (including online or by order); or
 - (ii) products that the person imports; or
- (b) who manufactures and sells their own products;

“significant interest”, in a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person and whether legally or equitably, entitling or enabling the person, directly or indirectly -

- (a) to control ten percent or more of the company’s voting rights at its general meetings; or
- (b) to a share of ten percent or more in -
 - (i) the company’s declared and paid dividends; or
 - (ii) distributions of the company’s surplus assets;

“trade or business” includes -

Schedule 1

- (a) a trade or business in a category of trade or business set out in Part B of Schedule 1;
- (b) the carrying out of the following, whether online, seasonally, occasionally or otherwise -
 - (i) a profession, calling, vocation or occupation or trade;
 - (ii) a manufacture, mercantile, wholesale or retail operation; or
 - (iii) any kind of undertaking; and
- (c) the carrying out of property development; and”.

3. The principal Law is amended in section 3 by repealing paragraph (b) and substituting the following paragraphs -

Amendment of section 3
- application

- “(b) Caymanians who produce and sell agricultural products or cottage industry products, including, for example, jams, jellies, heavy cakes, sauces and thatch work; and
- (ba) any Caymanian who is self-employed and who creates for sale artistic, dramatic, musical or literary works.”.

4. The principal Law is amended in section 5 as follows -

Amendment of section 5
- functions of the Board

- (a) in paragraph (a), by deleting the words “for a licence”; and
- (b) in paragraph (b), by inserting after the word “suspension,” the word “amendment.”.

5. The principal Law is amended by repealing section 6(1) and substituting the following -

Amendment of section 6-
delegation by the Board

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“6. (1) The Board may delegate to the Department any or all of the Board’s functions under section 5(a), (b) and (c), except for the grant, suspension, revocation and refusal of licences.”.

Amendment of section 7
- trade officers

6. The principal Law is amended in section 7 by -
- (a) in subsection (2), deleting the words “discharging their duties” and substituting the words “performing the functions of trade officers”;
 - (b) inserting after subsection (3) the following subsection -

“(3A) The Board or Department may issue trade officers with the arms (other than firearms) and other equipment (including, for example, batons, handcuffs and other protection or restraint devices) necessary to perform their functions.”;
 - (c) in subsection (4), by deleting the word “duties” and substituting the word “functions”;
 - (d) in subsection (6), by deleting the words “discharging duties” and substituting the words “performing functions”.

Amendment of section 18 - application for grant or renewal of a licence

7. The principal Law is amended in section 18 as follows -
- (a) by inserting, after subsection (1), the following subsection -

“(1A) A company can only apply for the grant or renewal of a licence if it -

 - (a) is Caymanian owned and controlled;
 - (b) holds, or has applied for, a licence under the Local Companies (Control) Law (2015 Revision); or
 - (c) is a non-resident company, non-LCC Law company, exempted company or limited liability company.”;
 - (b) by repealing subsection (2)(b)(iii)(B) and substituting the following sub-subparagraph -

“(B) all individuals who have a significant interest in, or who are directors of, the applicant, where the applicant is a company other than a listed entity; or”;
 - (c) by repealing subsection (2)(b)(iv) and inserting the following subparagraph -

“(iv) in the case of an application for the grant of a licence only -

 - (A) a reference for the applicant from a financial

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institution; or

- (B) a 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);
- (d) in subsection (2)(b)(vii) and (viii), by inserting after the words "relating to" the word "employee";
- (e) by repealing subsection (4); and
- (f) by inserting after subsection (9), the following subsection -

“(10) In this section -

“beneficial interest”, in a company, includes a share in the company, or if the company is a limited liability company, an LLC interest in it within the meaning of that term under section 5 of the Limited Liability Companies Law, 2016 (Law 2 of 2016);

“financial institution” has the meaning given in section 182(1) of the Proceeds of Crime Law (2016 Revision); and

“required clearance document”, for an individual, means the following document made within 6 months before the application for grant or renewal in question -

- (a) an affidavit by the individual swearing that the individual has no convictions if -
 - (i) the individual has been residing in a country or territory that does not give police clearance certificates; or
 - (ii) the individual has been residing in the Islands for less than six months; or
- (b) otherwise, an original police clearance certificate issued under section 144(4) of the Police Law (2014 Revision).”.

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2016

(2016
Revision)

(2014
Revision)

8. The principal Law is amended by repealing section 19(1)(a)(v) and substituting the following subparagraph -

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

“(v) is a company that is not -

- (A) a Caymanian owned and controlled company;

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- (B) the holder of a licence under the Local Companies (Control) Law (2015 Revision); or
(C) a non-resident company, non-LCC Law company, exempted company or limited liability company.”.
- Amendment of section 24 - transfer of licence
9. The principal Law is amended in section 24 by -
- (a) in subsection (2), deleting the words “unless the prior written approval of the Board has been obtained.” and substituting the words “unless -
- (a) the licensee is a listed entity and the disposition is a trade in its securities on a recognised securities exchange under the Securities Investment Business Law (2015 Revision); or
- (b) the person has the Board’s prior written approval.”;
- (b) repealing subsections (4) and (7); and
- (c) in subsection (5), by deleting the words “, or a waiver under subsection (4)”.
- (2015 Revision)
- Repeal and substitution of section 25 - amendment of licence
10. The principal Law is amended by repealing section 25 and substituting the following section -
- “Amendment of licence or Register particulars for licence
25. (1) The Board may make the following amendments to or relating to a licence, if the licensee applies to it to do so -
- (a) amendments to the licence, except in a way that has the effect of transferring or assigning the licence; or
- (b) amendments to a particular mentioned in section 32(2) relating to the licence.
- (2) The application shall be in the prescribed form and accompanied by the amendment fee specified in Schedule 1 made payable to the general revenue of the Islands.”.
- Schedule 1
- Amendment of Schedule 1 - fees
11. The principal Law is amended in Part B of Schedule 1 as follows -
- (a) by inserting in the definitions under the heading “Professional”, in the appropriate alphabetical sequence, the following definitions -
- “ “affiliated agent” means a real estate agent who trades under, or holds out to be affiliated with, a name that is the same as, or similar to, or the derivative of, the name of a real estate agency licensed under this Law under item 11;
- “deals in”, for land, means to deal, or offer to deal in the land, or both, by any or all of the following transactions relating to

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the land -

- (a) purchases;
 - (b) sales; or
 - (c) rentals, tenancies or leasing;”;
- (b) by deleting item 9 under the columns headed “Category of trade or business” and “Fee” (the “columns”) and substituting the following item -
- | | | |
|------------------------|---|---------|
| “9. Property developer | being a person who carries out property development | \$750”; |
|------------------------|---|---------|
- (c) by deleting item 11 under the columns and substituting the following item -
- | | | |
|---|--|---|
| “11. Real estate agency or real estate agent, or both | a real estate agency (an “agency”) or being a real estate agent (an “agent”), or both, who as an agent deals in land | \$750 for each agency, plus an additional \$750 for each affiliated agent of the agency; or
\$750 for a self-employed agent who is not an affiliated agent”; |
|---|--|---|
- (d) under the heading “Trades and Technical” by -
- (i) in item 4 under the columns, after the word “rental” inserting the words “or Car and Scooter Equipment Rental, or both”;
 - (ii) in item 9 under the columns, inserting after the word “Hairdresser” the words “or Massaging Spa Operator (non-medical), or both”; and
 - (iii) deleting item 15 under the columns and substituting the following item -
- | | | |
|---|--|---------|
| “15. Property Management or Property Maintenance, or both | including office equipment and minor building maintenance; | \$300”; |
|---|--|---------|
- (e) by inserting after item 24 under the columns, the following items -
- | | | |
|---------------------------------|--|-------|
| “25. Security and Investigation | including a person carrying on the business of private investigation, debt collection or serving summonses or other legal process, and similar business operations | \$300 |
| 26. Payday Lending | being in the business of making cash loans or cash advances | \$300 |
| 27.. Courier Services | being in the business of transporting packages or documents | \$300 |

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- 28.. Graphic and \$300”;
Web Design and
- (f) under the heading “Miscellaneous”, by deleting the entry for
“Exempted companies under section 164 of the Companies
Law (2013 Revision)” under the columns and substituting the
following entry -

“A non-resident company or an exempted company or \$800” ”.
limited liability company

Passed by the Legislative Assembly the 27th day of March, 2017.

Juliana O’Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.