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CAYMAN ISLANDS



**TRUSTS (AMENDMENT) (NO. 2) BILL,
2020**

A BILL FOR A LAW TO AMEND THE TRUSTS LAW (2020 REVISION) TO ENHANCE THE OVERSIGHT OF RECORDS IN RELATION TO AN EXEMPTED TRUST; AND FOR INCIDENTAL AND CONNECTED PURPOSES

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ENACTED by the Legislature of the Cayman Islands.

Short title

1. This Law may be cited as the Trusts (Amendment) (No. 2) Law, 2020.

Amendment of section 77 of the Trusts Law (2020 Revision) - accounts, minutes and information

2. The *Trusts Law (2020 Revision)* is amended by inserting after subsection (2) the following subsections —

“(3) In March of each year the trustees of every exempted trust shall furnish to the Registrar of Trusts a return in the form of a declaration that the exempted trust is keeping accurate accounts and records.

(4) Where a trustee does not submit the return by the due date under subsection (3), the trustee shall incur a penalty of —

- (a) 33.33% of the annual fee specified in section 78 if the documents are submitted between the 1st April and the 30th June;

- (b) 66.67% of the annual fee specified in section 78 if the documents are submitted between 1st July and the 30th September; and
- (c) 100% of the annual fee specified in section 78 if the documents are submitted between the 1st October and the 31st December, and every officer of a trust corporation or sole trustee of a trust as the case may be who knowingly and wilfully authorizes or permits such default shall incur the like penalty.”.

Insertion of Part VIA - administrative fines

3. The principal Law is amended by inserting after Part VI the following Part —

“Part VIA - Administrative fines

Registrar’s power to impose administrative fine

86A. The Registrar has the power to impose an administrative fine on a person who breaches a provision of the Law that is specified in the Schedule.

Administrative fine amounts

86B. The Registrar may impose under section 86A an administrative fine of the amount of five thousand dollars and may, in addition to the fine for the initial breach, impose a further administrative fine of one thousand dollars for every month that the breach continues, until one of the following occurs —

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

The power to impose administrative fine

86C. For the purposes of section 86A —

- (a) an administrative fine may be imposed for a breach that is not an offence;
- (b) where a breach set out in the Schedule is also an offence, an administrative 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 an administrative fine where criminal proceedings have commenced or have been concluded in relation to the acts that constitute the breach.

Limitation period

- 86D.**(1) The Registrar shall not impose an administrative 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

86E. If a breach set out in the Schedule is an offence, an administrative fine for the breach shall not preclude a prosecution for the breach or liability for any relevant fees.

Registrar may issue guidance

86F. The Registrar may issue guidance published on the enforcement of administrative fines and such guidance shall be published in the Gazette, on official government websites or any other media as determined by the Registrar.

Registrar's rule-making power

86G. The Registrar may, by rules published in the Gazette, provide for —

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

Amendment of Schedule

4. The Schedule is amended in the Schedule heading by inserting after the word “Schedule” the word “1”.

Insertion of Schedule - administrative fines

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

“SCHEDULE 2*(section 86A)***Administrative Fines**

No.	Section	Description of breach
1.	77(3)	Failure of a trustee which does not comply before the expiry of the period for late filing of the return or the payment of the fee under section 77 — (a) to file with the Registrar a return signed by or on behalf of trustee declaring that the trustee is maintaining proper books of account; or (b) before the expiry of the periods for late payment under subsection (4), pay to the Registrar the prescribed annual fee.”.

Passed by the Legislative Assembly the day of , 2020.

Speaker

Clerk of the Legislative Assembly

