

CAYMAN ISLANDS



Supplement No. 1 published with Extraordinary
Gazette No. 14 dated 19th February, 2018.

**A BILL FOR 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**

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 2018

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Trade and Business Licensing Law, 2018 to adjust the application procedure for trade and business licences in the Islands. This is with a view to addressing some of the challenges experienced by applicants for licences by removing some of the requirements made of applicants and by simplifying the application procedure.

Clause 1 seeks to provide for the short title and commencement of the legislation.

Clause 2 seeks to amend the principal Law to provide that a reference or a current utility bill is required from an applicant who is not Caymanian. The provision also seeks to amend the principal Law to exempt Caymanians from the requirement to provide a police clearance certificate when submitting an application for a licence under the Law except where the application is for a licence in a sector for which the Board determines that a police clearance certificate is required.

Clause 2 also seeks to amend the Law to provide that where an applicant is a company it may provide the required company documents or it may permit the Board to receive the information directly from the relevant registry. Similarly, an applicant who is required to provide a police clearance certificate may provide the certificate or permit the Board to receive the information directly from the relevant registry of the Royal Cayman Islands Police Service. Additionally, clause 2 seeks to amend the principal Law by providing that the Board may enter into an arrangement, understanding or agreement with any public authority to facilitate the electronic or other receipt of the information required under section 18(2E). By way of the exemptions and the options for the Board to receive information electronically, the provisions in clause 2 aim to make the application procedure more simple and manageable.

Clause 3 seeks to amend the principal Law to provide that a licence shall not be renewed where the applicant is not compliant with this Law and Laws relating to employee pensions, employee health insurance and labour relations. Clause 3 removes the requirement for first time applicants for licences to be compliant with employee pensions, employee health insurance and labour relations at the point of application for the licence.

Clause 4 seeks to amend the principal Law to remove the requirement to publish by order any conditions or restrictions that are attached to licences by the Board. The provision states that the Board may attach conditions or restrictions as it considers fit in the interest of, among other things, public safety and public health.

THE TRADE AND BUSINESS LICENSING (AMENDMENT) BILL, 2018

ARRANGEMENT OF CLAUSES

1. Short title and commencement
2. Amendment of section 18 of the Trade and Business Licensing Law, 2014 (Law 21 of 2014) - application for grant or renewal of a licence
3. Amendment of section 19 - restriction on grant or renewal of a licence
4. Amendment of section 21 - grant of licence and expedited licence

CAYMAN ISLANDS

**A BILL FOR 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) Every Caymanian applicant 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) An applicant may provide the information required under subsections (2A), (2B) or (2C) with the application or may permit the Board to receive the information directly from the relevant registry maintained by government or a public authority.

(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).".

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";

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

- (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 day of , 2018.

Speaker.

Clerk of the Legislative Assembly.