



BERMUDA

REGISTRAR OF COMPANIES (SUPERVISION AND REGULATION) ACT 2020

2020 : 36

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SCHEDULE
MISCELLANEOUS AMENDMENTS

WHEREAS it is expedient to make further provision with respect to the supervisory and regulatory functions of the Registrar of Companies as regards persons and entities, to make provision for the transfer of supervision of dealers in high value goods from the Financial Intelligence Agency to the Registrar of Companies, and related and connected matters;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Registrar of Companies (Supervision and Regulation) Act 2020.

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Interpretation

2 In this Act—

“Bermuda Monetary Authority” means the Bermuda Monetary Authority established under the Bermuda Monetary Authority Act 1969;

“dealer in high value goods” has the meaning given in section 2(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;

“FIA” means the Financial Intelligence Agency established by section 3 of the Financial Intelligence Agency Act 2007;

“Minister” means the Minister responsible for the Registrar of Companies;

“National Anti-Money Laundering Committee” means the Committee established by section 49 of the Proceeds of Crime Act 1997;

“relevant person” means a person, body or entity with respect to which the Registrar has supervisory or regulatory functions under this or any other statutory provision, including a dealer in high value goods;

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981;

“Superintendent of Real Estate” means the person for the time being appointed under section 3 of the Real Estate Brokers’ Licensing Act 2017.

Supervisory functions and duties of the Registrar

3 (1) The Registrar shall have such supervisory or regulatory functions, duties and powers as are assigned to him by this Act and any other statutory provision.

(2) Without prejudice to the generality of subsection (1), the Registrar—

- (a) has the general function of assisting with the detection and prevention of financial crime with respect to relevant persons;
- (b) has the functions that are conferred on him by section 5 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 in relation to dealers in high value goods;
- (c) shall implement an anti-money laundering or anti-terrorist financing risk-based supervisory or monitoring programme for dealers in high value goods;
- (d) shall effectively supervise all dealers in high value goods, whether or not they are registered with the Registrar.

(3) The Registrar may do all such acts or things as are necessary for the purpose of the performance of his supervisory or regulatory functions and may exercise his powers under this Act or any other statutory provision for that purpose.

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Restricted information

4 (1) Except as provided by section 5—

- (a) no person who under, or for the purposes of, this Act receives information relating to the business or other affairs of any person; and
- (b) no person who obtains such information directly or indirectly from a person who has received it as mentioned in paragraph (a),

shall disclose the information without the consent of the person to whom it relates and (if different) the person from whom it was received.

(2) Notwithstanding any provision of the Public Access to Information Act 2010, subsection (1) shall have effect.

(3) This section does not apply to information which at the time of the disclosure is, or has already been made, available to the public from other sources, or to information in the form of a summary or collection of information so framed as not to enable information relating to any particular person to be ascertained from it.

(4) Any person who discloses information in contravention of subsection (1) commits an offence and is liable on summary conviction to a fine of \$50,000 and to imprisonment for two years or to both.

Permitted disclosure

5 (1) Section 4 does not preclude the disclosure of information if the disclosure is for the purpose of enabling or assisting—

- (a) the Bermuda Monetary Authority to discharge its functions under any statutory provision;
- (b) the Bermuda Casino Gaming Commission to discharge its functions under any statutory provision;
- (c) the Collector of Customs, or a customs officer designated by him, to discharge his functions under any statutory provision;
- (d) the FIA to discharge its functions under any statutory provision;
- (e) the Governor, or the person to whom he has delegated authority, to discharge his statutory functions in relation to international sanctions;
- (f) the Minister responsible for Justice or the Minister of Finance to discharge any of their functions;
- (g) the professional body designated in accordance with section 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008, to discharge its functions under any statutory provision;
- (h) the Registrar General to discharge his functions under the Charities Act 2014 and the associated regulations;

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(i) the Superintendent of Real Estate to discharge his functions under the Real Estate Brokers' Act 2017 or any other statutory provision.

(2) Section 4 does not preclude the disclosure of information to a police officer not below the rank of inspector, or to the Director of Public Prosecutions, in relation to any criminal proceedings.

(3) In this section—

“international sanctions” means those sanctions imposed by every Order (made by the Privy Council as a United Kingdom Order in Council) that is—

(a) listed in Schedule 1 to the International Sanctions Regulations 2013, whether or not it has been extended to Bermuda; or

(b) extended to Bermuda, enabling effect to be given to any international obligation of the United Kingdom relating to economic or other sanctions imposed on any country, organisation, person or group of persons,

and any amendments made from time to time to such Order.

Fees

6 (1) The Minister, with respect to fees—

(a) shall prescribe the registration fees to be paid to the Registrar by dealers in high value goods for the carrying out of the Registrar's supervisory functions with respect to dealers in high value goods under the Proceeds of Crime Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008; and

(b) may prescribe such other fees as he considers appropriate with respect to any supervisory or regulatory functions conferred on the Registrar by this Act or any statutory provision.

(2) For the purposes of subsection (1), the fees shall be prescribed under the Government Fees Act 1965.

Regulations

7 (1) The Minister may make such Regulations as he considers expedient for the purposes of this Act.

(2) Regulations made under subsection (1) shall be subject to the negative resolution procedure.

Immunity from suit

8 Section 282 (suits and actions against Registrar and Official Receiver) and 283 (Registrar and Official Receiver to be indemnified in respect of foreign suits) of the Companies Act 1981 apply with the necessary modifications for the purposes of this Act as they apply for the purposes of that Act.

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Miscellaneous amendments

9 The amendments set forth in the Schedule shall have effect.

Commencement

10 This Act shall come into operation on such day as the Minister may by Notice in the Gazette appoint.

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SCHEDULE

(Section 9)

MISCELLANEOUS AMENDMENTS

Amends the Proceeds of Crime Act 1997

- 1 The Proceeds of Crime Act 1997 is amended in section 42A as follows—
- (a) in paragraph (aa) of the definition of “supervisory authority” by deleting “FIA” and substituting “Registrar”;
 - (b) by inserting in the appropriate alphabetical order the following—

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981.”.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

- 2 (1) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended in section 2(1)—
- (a) in the definition of “competent authority”, by deleting “FIA” and substituting “Registrar”;
 - (b) by inserting in the appropriate alphabetical order the following—

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981;”.
- (2) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended as follows—
- (a) by repealing and replacing paragraph (c) of section 3(1) as follows—

“(c) the Registrar for dealers in high value goods;”;
 - (b) by repealing and replacing section 6A(2) as follows—

“(2) The Registrar has the functions conferred on him by section 5 in relation to dealers in high value goods.”;
 - (c) by repealing and replacing subparagraph (ii) of section 8(1)(b) as follows—

“(ii) the Registrar, registered dealers in high value goods.”;
 - (d) in section 20(1A)(b), by deleting “FIA” wherever it appears and substituting “Registrar”.

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(3) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended by repealing and replacing section 14(4)(b) as follows—

“(b) in relation to dealers in high value goods, of such amounts as may be prescribed pursuant to section 6 of the Registrar of Companies (Supervision and Regulation) Act 2020.”.

(4) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended in sections 26(aa) and 33(1A)—

(a) by deleting “FIA” and substituting “Registrar”;

(b) by deleting “section 13A” and substituting “section 20A”.

(5) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended in section 32(1) by inserting after paragraph (aa) the following—

“(ab) the Registrar to discharge his functions under this Act or any other statutory provision;”.

Amends the Anti-Terrorism (Financial and Other Measures) Act 2004

3 The Anti-Terrorism (Financial and Other Measures) Act 2004 is amended as follows—

(a) in section 2, by inserting in the appropriate alphabetical order the following—

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981;”;

(b) in section 120(2)(d), by deleting “FIA” and substituting “Registrar”.

Amends the Financial Intelligence Agency Act 2007

4 (1) The Financial Intelligence Agency Act 2007 in section 8, by deleting “, fees collected pursuant to regulations made under section 16A”.

(2) The Financial Intelligence Agency Act 2007 is amended by repealing section 14(1)(b) and section 16A.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

5 (1) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are amended in section 2(1) as follows—

(a) in paragraph (b) of the definition of “occasional transaction”, by deleting “FIA” and substituting “Registrar”;

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- (b) in paragraph (aa) of the definition of “supervisory authority”, by deleting “FIA” and substituting “Registrar”;
- (c) by inserting in the appropriate alphabetical order the following—

“Registrar” means the Registrar of Companies appointed under section 3 of the Companies Act 1981.”.

(2) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 in regulation 4(d) are amended by deleting “FIA” and substituting “Registrar”.

Amendment of Government Fees Regulations 1976

6 (1) The Government Fees Regulations 1976 are amended as set forth in paragraph 2.

(2) The Schedule to the Government Fees Regulations 1976 is amended by inserting after Head 65 the following—

“

Head 65A

Registrar of Companies (Supervision and Regulation) Act 2020

(1)	Application for registration of a dealer in high value goods under section 6:	
	Sole Trader	\$100
	Business with 2 to 3 employees	\$200
	Business with 6 to 15 employees	\$300
	Business with 16 or more employees	\$400
(2)	Annual fee for registration of a dealer in high value goods under section 6	
	Sole Trader	\$150
	Business with 2 to 3 employees	\$350
	Business with 6 to 15 employees	\$750
	Business with 16 or more employees	\$1,000 ”.

[Assent Date: 27 July 2020]