



# PORTCULLIS NEWS

MCI (P) 023/06/2019

1 July 2020

## CAYMAN COMPANIES (AMENDMENT) (NO. 2) LAWS, 2020

There has been an amendment of the Companies Laws, 2020 by way of the Companies (Amendment) (No. 2) Laws, 2020 gazetted on 22 May 2020 and a Commencement Order will bring in force on 29 June 2020 certain provisions summarised by CIMA as follows: -

### 1. Striking Off for Failure to Pay Fines:

Section 156A has been inserted which gives the Registrar the power to strike a company if an administrative fine imposed pursuant to the new Part XVIIIB remains unpaid for 90 days.

### 2. Application:

Section 245 is amended to delete the words “(other than a company registered as an excluded person under section 5(4) of the Securities Investment Business Law (2020 Revision)” wherever they appear.

### 3. Beneficial Ownership Provisions:

(a) Section 256 is amended so that where the corporate services provider (“CSP”) is of the opinion that a company has failed to comply with section 253 (company has failed to provide to CSP particulars as to registrable persons) or section 255 (company has failed to provide to CSP changes with respect to registrable persons), the CSP has a duty to issue a restrictions notice (“RN”) and send a copy to the Competent Authority;

(b) Section 265 is amended to give the right to issue a restriction notice to the CSP;

(c) Sections 270 and 271 are amended to give the CSP the right to apply to the Grand Court for a relaxation of a restrictions notice;

(d) Section 273 is amended to impose a duty on a CSP to withdraw a restriction notice in certain circumstances. The heading to the section may be misleading as it speaks to “may” when it should say “shall”;

(e) Section 280 is amended to give the Cabinet the power to make regulations to be followed by CSPs in issuing or withdrawing restrictions notices



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### 4. Administrative Fines:

(1) The Companies (Amendment) (No. 2) Law inserts into the Law a new Part, Part XVIIIB -Administrative Fines.

(2) The provisions of the new Part give the Registrar the power to impose administrative fines for a number of breaches of the Law, with the breaches being stated in a new Schedule 7 to the Law; all of the breaches stated in the new Schedule 7 relate to the provisions of Part XVIIIA of the Companies Law, Beneficial Ownership Registers.

(3) The fine for a single breach is CI \$ 5,000.00 with a further fine of CI \$ 1,000.00 for every month that the breach continues, up to a maximum fine for a breach of CI \$ 25,000.00;

(4) There are 19 possible breaches set out in the new Schedule 7;

(5) The Registrar is given the power (section 281F) to issue guidance on the enforcement of administrative fines and the power (section 281G) to make rules, to be published in the Gazette, for aggravating and mitigating factors.

(6) The transitional provision which state that the power of the Registrar to impose administrative fines shall not apply to any person (presumably, to a CSP) until 30 days after the Bill has become law has been taken out.

### 5. Amendment of Schedules:

Section 282 is amended to insert the new Schedule 7.

Please find here links to the Companies (Amendment) (No. 2) Law and Commencement Order: -

[https://www.cima.ky/upimages/commonfiles/CompaniesAmendmentNo.2Law,2020\\_1590507482.PDF](https://www.cima.ky/upimages/commonfiles/CompaniesAmendmentNo.2Law,2020_1590507482.PDF)

[https://www.cima.ky/upimages/commonfiles/CompaniesAmendmentNo.2Law,2020CommencementOrder,2020\\_1591813134.PDF](https://www.cima.ky/upimages/commonfiles/CompaniesAmendmentNo.2Law,2020CommencementOrder,2020_1591813134.PDF)



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As a result of the new obligations imposed upon the CSP, CSP's shall be obligated to issue Notices to Companies that have yet to provide the requisite information for registrable persons. In this respect, if information is not provided within 30 days of receipt of the notice, the CSP will be obligated to issue restriction notices directly to shareholders which would have severe adverse consequences to their interests in the Company. If your Company has yet to provide any such requested information, you are strongly advised to contact your relationship manager to attend to this.

Thank you for your attention to this matter.

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