



# PORTCULLIS NOTICES

MCI (P) 030/07/2022

5 Aug 2022

## AMENDMENT TO PART V OF THE CAYMAN COMPANIES ACT COMES INTO EFFECT ON 31 AUGUST 2022

The commencement order for the Companies Amendment Act, 2021 was published in the Cayman Islands Legislation Gazette on 29 July 2022.

Pursuant to the commencement order, the Companies (Amendment) Act, 2021 comes into force on 31 August 2022.

The legislation applies to a company, and any other entity or partnership, that is liable to be wound up under the provisions of Part V of the Companies Act (2022 Revision). Its two main objectives are to separate restructuring from the winding-up regime; and to improve access to both the restructuring and winding-up regimes.

### Restructuring regime: Separation and access

Prior to the amendment, a company that wanted to restructure first needed to apply to the Court to wind up (in other words, liquidate) the company, which may have given the impression that the company was going out of business rather than restructuring. The winding-up application also could have triggered wind-up covenants in finance documents.

The Act also improves access to the restructuring regime by no longer requiring a shareholder resolution, or an express power in the company's articles of association, before company directors can apply for a restructuring.

### Access to the winding-up regime

For all companies existing before the Act's commencement, the Act equalises access to the winding-up regime by enabling all existing companies to add, in their articles of association, a provision that no longer requires a shareholder resolution or express power to allow company directors to apply for a winding-up.

For companies incorporated after the Act's commencement, the Act improves access to the winding-up regime by no longer requiring a shareholder resolution, or an express power to be added in the company's articles of association, before company directors can apply for a winding-up. However, a company still may choose to include these provisions in their articles of association, to govern the process that company directors are to follow for winding-up.



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To support the Act, the Insolvency Rules Committee, chaired by the Chief Justice, the Hon. Anthony Smellie, QC, has prepared amendments to the Companies Winding Up Rules, 2018. These amendments, which do not need Parliamentary process, are intended to come into force simultaneously with the Act.

For more details, please find refer to the links below:

[Companies \(Amendment\) Act, 2021](#)

[Companies \(Amendment\) Act, 2021 \(Commencement\) Order, 2022](#)

Thank you for your attention to this matter.

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