

CAYMAN ISLANDS



TRADE AND BUSINESS LICENSING ACT

(2021 Revision)

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Note (not forming part of this Act): This revision replaces the 2019 Revision which should now be discarded



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CAYMAN ISLANDS



TRADE AND BUSINESS LICENSING ACT

(2021 Revision)

PART 1 - PRELIMINARY

Short title and commencement

1. This Act may be cited as the *Trade and Business Licensing Act (2021 Revision)*.

Interpretation

2. In this Act —

“**agricultural product**” includes any animal or vegetable product of agriculture or husbandry but excludes animals retained as pets;

“**Appeals Tribunal**” means the tribunal established under section 36;

“**Board**” means the Trade and Business Licensing Board established under section 4;

“**Caymanian**” has the meaning assigned to that expression under section 2 of the *Immigration (Transition) Act (2021 Revision)*;

“**Caymanian owned and controlled**” means, in the case of a company, where no less than sixty percent of —

- (a) the voting rights attached to each class of shares in the company is beneficially held by Caymanians; and
- (b) the directors of the company are Caymanian,

and that sixty percent of the voting rights and directorships is enjoyed by Caymanians, to the exclusion of any other person, and cannot by means of any arrangement, artifice or device be exercised either directly or indirectly by persons who are not Caymanian;

“**Chairperson**” means the person appointed under section 9(a)(i) as Chairperson of the Board;

“**Clerk of Court**” has the meaning assigned to that expression in section 2 of the *Grand Court Act (2015 Revision)*;

“**company**” means —

- (a) a company registered under the *Companies Act (2021 Revision)*, including an exempted company;
- (b) a limited liability company;
- (c) a non-resident company; and
- (d) a company, body corporate or corporate entity incorporated under the laws of a jurisdiction outside the Islands;

“**competent authority**” has the meaning given in section 2(1) of the *Proceeds of Crime Act (2020 Revision)*;

“**Department**” means the department of Government known as the Department of Commerce and Investment;

“**Director of Planning**” means the person appointed as such under section 4 of the *Development and Planning Act (2021 Revision)*;

“**DNFBP**” has the meaning given in section 2(1) of the *Anti-Money Laundering Regulations (2020 Revision)*;

“**economic resources**” means assets of every kind, whether tangible or intangible, movable or immovable, which are not funds but can be used to obtain funds, goods or services;

“**exempted company**” means an exempted company registered under section 164 of the *Companies Act (2021 Revision)*;

“**financing**” means the provision of funds or economic resources;

“**function**” includes duty, power and role;

“**funds**” means financial assets and benefits of every kind, including —

- (a) cash, cheques, claims on money, drafts, money orders and other payment instruments;
- (b) deposits with relevant institutions or other persons, balances on accounts, debts and debt obligations;
- (c) publicly and privately traded securities and debt instruments, including stocks and shares, certificates representing securities, bonds, notes, warrants, debentures and derivative products;



- (d) interest, dividends and other income on or value accruing from or generated by assets;
- (e) credit, rights of set-off, guarantees, performance bonds and other financial commitments;
- (f) letters of credit, bills of lading and bills of sale;
- (g) documents providing evidence of an interest in funds or financial resources; and
- (h) any other instrument of export financing;

“**licence**” means a licence granted under section 21;

“**licence fee**” means the licence fee referred to in section 18(2)(f) and in Schedule 1;

“**licensee**” means the holder of a valid licence granted under section 21;

“**limited liability company**” means a limited liability company registered under the *Limited Liability Companies Act (2021 Revision)*;

“**listed entity**” means an entity that, under the *Securities Investment Business Act (2020 Revision)*, has securities listed on a recognised securities exchange;

“**micro business**” means a business that employs less than five persons, not including the owner and has an annual gross revenue of two hundred and fifty thousand dollars or less;

“**non-LCC Law company**” means a company exempted by the Cabinet under section 4(3) of the *Local Companies (Control) Act (2019 Revision)*;

“**non-resident company**” has the meaning given in section 2(1) of the *Local Companies (Control) Act (2019 Revision)*;

“**premises**” includes any place, stall, vehicle or thing from which a business is carried on, irrespective of whether it is fixed or movable or partly fixed or partly movable;

“**proliferation financing**” means the financing of —

- (a) the development or production; or
- (b) the facilitation of the development or production,

of nuclear, radiological, biological or chemical weapons or systems for their delivery;

“**property development**” means carrying out work for any or all of the following activities in relation to land (whether by its owner or by someone else with the owner’s consent) with a view to obtaining a reward from selling or leasing the land —

- (a) constructing or renovating a building or other structure;

- (b) making a material change (within the meaning of that term under the *Development and Planning Act (2021 Revision)*) to the use of the land or a building or other structure on the land; or
- (c) clearing, site works and other activities to prepare for the carrying out of an activity mentioned in paragraph (a) or (b);

“**public place**” includes —

- (a) a road, footpath, footway, court, square, lane, alley, or thoroughfare of a public nature opened to or used by the public as of right;
- (b) a place of public recreation;
- (c) a beach;
- (d) a public building, public park, public garden or public reserve;
- (e) a public wharf, pier or jetty; and
- (f) such other place to which the public has access;

“**renewal fee**” means the renewal fee referred to in sections 18(2)(f) and 23 and Schedule 1;

“**retailer**” includes a person —

- (a) who offers products as follows for sale directly to the public in small quantities —
 - (i) products bought directly from a merchant (including online or by order); or
 - (ii) products that the person imports; or
- (b) who manufactures and sells their own products;

“**secondhand dealer**” means any person, subject to any exemptions provided for in any Law, who by way of the internet or otherwise —

- (a) conducts business which consists wholly or partly of buying or acquiring secondhand articles for the purpose of trade, sale or exchange or otherwise dealing in secondhand articles, including scrap metal or jewellery;
- (b) conducts business within the Islands and contracts with persons or entities outside of the Islands to purchase or sell any secondhand articles, including scrap metal or jewellery; or
- (c) carries on the business of taking goods and chattels in pawn within the meaning of sections 2 and 3 of the *Pawnbrokers Act (1998 Revision)* and as an adjunct to the pawnbroking business acquires, exchanges and disposes of secondhand articles including scrap metal and jewellery,

whether or not the person is licensed as a secondhand dealer under this Act, incorporated under the *Companies Act (2021 Revision)*, licensed as a pawnbroker under the *Pawnbrokers Act (1998 Revision)* or operates by virtue of any other Law;



“**significant interest**”, in a company, means a holding or interest in the company or in any holding company of the company held or owned by a person, either alone or with any other person and whether legally or equitably, entitling or enabling the person, directly or indirectly —

- (a) to control ten percent or more of the company’s voting rights at its general meetings; or
- (b) to a share of ten percent or more in —
 - (i) the company’s declared and paid dividends; or
 - (ii) distributions of the company’s surplus assets;

“**small business**” means a business that employs up to a maximum of twelve persons, not including the owner, and which has an annual gross revenue of up to seven hundred and fifty thousand dollars;

“**Supervisory Authority**” has the meaning given in section 2(1) of the *Anti-Money Laundering Regulations (2020 Revision)*;

“**trade or business**” includes —

- (a) a trade or business in a category of trade or business set out in Part B of Schedule 1;
- (b) the carrying out of the following, whether online, seasonally, occasionally or otherwise —
 - (i) a profession, calling, vocation or occupation or trade;
 - (ii) a manufacture, mercantile, wholesale or retail operation; or
 - (iii) any kind of undertaking; and
- (c) the carrying out of property development; and

“**trade officer**” means a public officer in the Department of Commerce and Investment appointed as such.

Application

3. This Act does not apply to —

- (a) any trade or business licensed or registered to be carried on as a trade or business under another Law without reference to this Act, including where that other Law exempts a person to whom it applies from registering, being licensed or paying a fee;
- (b) the Caymanians who produce and sell agricultural products or cottage industry products, including, for example, jams, jellies, heavy cakes, sauces and thatch work; and
- (ba) any Caymanian who is self-employed and who creates for sale artistic, dramatic, musical or literary works.
- (c) artisans, craftspersons and other persons who do not carry on a business of their own but are themselves employed by other persons;

- (d) self-employed Caymanians who fish; or
- (e) any corporation or body which satisfies the Board that it has been formed for purposes of social or public welfare, religion, charity, art or science and that it applies its income and profits solely for promoting such purposes and does not permit the payment of any dividends to its members.

PART 2 - TRADE AND BUSINESS LICENSING BOARD AND TRADE OFFICERS

Establishment of the Board

4. There is established a Board to be known as the Trade and Business Licensing Board.

Functions of the Board

5. The functions of the Board are —
- (a) the consideration of every application made in accordance with this Act;
 - (b) the grant, renewal, suspension, amendment, revocation or refusal of a licence in accordance with this Act;
 - (c) the enforcement of compliance with the provisions of this Act; and
 - (d) such other functions as may be conferred upon the Board by this or any other Law.

Delegation by the Board

6. (1) The Board may delegate to the Department any or all of the Board's functions under section 5(a), (b) and (c), except for the grant, suspension, revocation and refusal of licences.
- (2) The Board may co-opt any person to attend any meeting of the Board at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Board, but a co-opted person shall not have the right to vote.

Trade officers

7. (1) The Board shall be assisted by such trade officers as are necessary for the purposes of this Act.
- (2) Subject to subsection (3), trade officers shall have all the rights, powers, privileges and immunities of a constable when performing the functions of trade officers under this Act.
- (3) A trade officer shall have the authority and power to carry out such instructions as may be given by the Board or the Department in accordance with this Act and may exercise on behalf of the Board or the Department, any powers granted to the Board by this Act.



- (3A) The Board or Department may issue trade officers with the arms (other than firearms) and other equipment (including, for example, batons, handcuffs and other protection or restraint devices) necessary to perform their functions.
- (4) The Chief Officer of the ministry with responsibility for commerce or Chief Officer's designate shall assign such officers of the Department as is considered necessary, to perform the functions of trade officers under this Act.
- (5) Each officer assigned under this section shall be provided with an identification card prepared and signed by the Chief Officer or the Chief Officer's designate and the identification card shall contain the photograph of the respective officer.
- (6) The Director of the Department shall have the same rights, powers, privileges, and immunities conferred on a trade officer under subsection (2) when performing functions under this Act.

Policy directions

8. The Cabinet may, after consultation with the Board, give such general directions as to the policy to be followed by the Board in the performance of its functions under this Act as appear to it to be necessary in the public interest, and the Board shall give effect to any such directions.

Composition of the Board

9. The Board shall comprise of —
 - (a) the following persons appointed from the private sector by the Cabinet —
 - (i) a Chairperson;
 - (ii) a Deputy Chairperson; and
 - (iii) four other members from the private sector; and
 - (b) the following public officers who shall hold office by virtue of their public service appointment —
 - (i) the Director of Commerce and Investment or designate;
 - (ii) the Director of Planning or designate; and
 - (iii) the Director of Environmental Health of the Department of Environmental Health or designate.

Appointment and procedure of Board

10. (1) The Chairperson, Deputy Chairperson and other Board members referred to in section 9(a) may hold office for a period of up to four years and shall be eligible for re-appointment.
- (2) The Cabinet may appoint any person in the place of the Chairperson or any member of the Board where the Chairperson or a member of the Board is removed or has vacated the office.

- (3) The Chairperson or any member under section 9(a) may, at any time, resign the office by instrument in writing addressed to the Cabinet and such resignation shall take effect as from the date of receipt of such instrument by the Cabinet.
- (4) The Board shall meet as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Chairperson may determine.
- (5) If the Chairperson is absent from a meeting the Deputy Chairperson shall preside and if both the Chairperson and the Deputy Chairperson are absent the members present at the meeting shall elect one of their numbers to preside as Chairperson.
- (6) The quorum for meetings of the Board shall be five members including the Chairperson.
- (7) The decisions of the Board shall be by a majority of votes of members present and voting and, in addition to an original vote, the Chairperson shall have a second or casting vote in any case in which the voting is equal.
- (8) The Board shall have the power to delegate its duties and powers to consider expedited licences from time to time to a sub-committee comprised of at least three of its members, the majority of whom shall be members from the private sector, and the decisions of a subcommittee shall be by a majority of votes of members present and voting and, in addition to an original vote, the presiding member shall have a second or casting vote in any case in which the voting is equal.
- (9) Minutes in proper form of each meeting shall be kept by the Secretariat and shall be confirmed by the Chairperson as soon as practicable at a subsequent meeting.
- (10) Members of the Board or a sub-committee of the Board may participate in a meeting of the Board or of the sub-committee, as the case may be, by means of a conference telephone, computer or similar equipment providing real time communication and allowing the participants in the meeting to communicate with each another at the same time, and participation by such means shall constitute presence in person at the meeting of the Board or sub-committee.
- (11) The Board may, subject to this Act, make such rules as it thinks fit to regulate its procedures, its own internal management and the procedures and management of any subcommittee of the Board and at its first meeting shall approve and adopt standing orders that will govern procedure in connection with its meetings.
- (12) For the purposes of this Part, “minutes” includes any electronic record or transcript of votes or decisions made during a meeting that takes place by means of conference telephone, computer or similar equipment.



Disqualification from being a Board member

- 11.** (1) A person who is an elected member of the Cayman Islands Parliament or a member of the Cabinet shall not be appointed as a member of the Board or, where already appointed, remain as a member of the Board.
- (2) Members of the Board shall hold office at the Cabinet's pleasure.

Secretariat

- 12.** (1) The Department is designated as the Secretariat to the Board.
- (2) The Secretariat shall be responsible for the day to day administration of the Board and, to the extent of the authority delegated to it by the Board, shall be responsible for the carrying out of the administrative duties of the Board, and shall provide the secretary who shall record and keep the minutes of all meetings, proceedings and decisions of the Board.

Validity of any act

- 13.** The validity of any act or proceeding of the Board shall not be affected by any vacancy among its members, or by any defect in the appointment of a member.

Duty of confidentiality

- 14.** (1) The facts and particulars of, or relating to, any matter falling for consideration by the Board or any decision of the Board shall be treated as confidential by each Board member and by any person to whom the Board delegates its functions and any such facts or particulars shall not be disclosed otherwise than in the proper performance of duties under this Act or in compliance with an order of a court or tribunal of competent jurisdiction.
- (2) The failure of any Board member or any person to whom it delegates its functions to comply with subsection (1) is an offence and constitutes sufficient ground for the termination of the appointment.
- (3) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both.
- (4) Any allegation of a breach of subsection (1) shall be fully investigated by a constable of the rank of Inspector or above.

Board members' interests

- 15.** Where a Board member has a personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Board, the member shall, if present at the duly constituted meeting of the Board at which such matter is to be determined, as soon as practicable after the commencement of the meeting, disclose the fact and leave the meeting.

Protection from liability and indemnity

16. (1) A Board member shall not be liable in damages for anything done or omitted in the discharge or purported discharge of the member's functions, responsibilities, powers and duties under this Act unless it is shown that the act or omission was in bad faith.
- (2) The Government shall indemnify a Board member against all claims, damages, costs, charges or expenses incurred by that member in the discharge or purported discharge of the member's functions, responsibilities, powers and duties under this Act, except claims, damages, costs, charges or expenses caused by the bad faith of that Board member.

PART 3 - LICENSING**Requirement for licence**

17. (1) A person shall not carry on a trade or business in or from within the Islands unless that person holds a valid licence issued under this Act for each type of trade or business that the licensee is carrying on and in respect of each location from which such trade or business is being carried on, except where the provisions of this Act do not apply to the person.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction —
- (a) in the case of a first offence to a fine of ten thousand dollars or to imprisonment for a term of one year, or to both; or
 - (b) in the case of a second or subsequent offence to a fine of twenty thousand dollars or to imprisonment for a term of two years, or to both.
- (3) Where the Board reasonably suspects or is informed that a person is contravening subsection (1), a trade officer may lay before a Magistrate or a Justice of the Peace an information on oath setting out the grounds for the suspicion and apply for the issue of a warrant to search the premises.
- (4) Where an application is made under subsection (3) for a warrant, the Magistrate or Justice of the Peace may issue a warrant authorising the trade officer to enter upon the premises, and search and inspect the premises with such assistance, including assistance from a police officer, and by such force as is necessary and reasonable, and to —
- (a) examine, inspect, make copies of, seize or remove any document or record that the trade officer or police officer has reasonable grounds to believe is evidence of the commission of an offence; and



- (b) seize any equipment or other property found on the premises in the course of the search that the trade officer or police officer has reasonable grounds to believe is being used in the commission of an offence under this Act.
- (5) A licensee shall take steps to remove or discontinue any advertising pertaining to a trade or business that is in contravention of this section as soon as practicable and in any event not exceeding thirty days from the date of receipt of notification to remove or discontinue advertising in such form as may be prescribed.
- (6) A person who —
 - (a) destroys or alters, or causes to be destroyed or altered, any document, record, equipment or other property found on the premises in the course of a search under subsection (4);
 - (b) hinders, obstructs, prevents or interferes with a trade officer or police officer in the exercise of a power under this section; or
 - (c) fails to remove all advertising in contravention of subsection (5),commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year, or to both.
- (7) Any document, record, equipment or other property seized under a search warrant under this section shall —
 - (a) where legal proceedings are not commenced within a period of thirty days from the date of seizure of the document, record, equipment or other property be returned to the owner; or
 - (b) where legal proceedings are commenced within a period of thirty days of the seizure, be kept until the conclusion of those proceedings.
- (8) Where any document, record, equipment or other property is seized under this section, every effort shall be taken by the trade officer or the police officer to store the seized item in a place and condition that is appropriate for preserving it.
- (9) Where a person is convicted of an offence under this Act in respect of any document, record, equipment or other property seized under this section, the court may order the forfeiture of that document, record, equipment or other property seized.
- (10) Any equipment forfeited under this section is to be disposed of by way of an open sale, where practicable.
- (11) Any net income derived from an open sale under subsection (10) shall be deposited into the general revenue of the Islands.

Application for grant or renewal of a licence

18. (1) Any person carrying on a trade or business shall, unless excluded from the application of this Act, apply to the Board for the grant or renewal of a licence in accordance with the respective categories of trade or business set out in Part B of Schedule 1.
- (1A) A company can only apply for the grant or renewal of a licence if it —
- (a) is Caymanian owned and controlled;
 - (b) holds, or has applied for, a licence under the *Local Companies (Control) Act (2019 Revision)*; or
 - (c) is a non-resident company, non-LCC Law company, exempted company or limited liability company.
- (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 Act (2021 Revision)*;
 - (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;
 - (da) if applicable, evidence of the registration with the relevant Supervisory Authority where the applicant is a DNFBP or intends to carry out business as a DNFBP;
 - (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) An applicant who is —
- (a) Caymanian;
 - (b) a permanent resident; or
 - (c) the holder of a Permanent Residency and Employment Rights Certificate, and who has been legally and ordinarily resident in the Islands for five or more years 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) To the extent that the information required under sections 18 or 19 to support an application for the grant or renewal of a licence is held by a relevant public

authority or government agency, an applicant may permit the Board to receive that information directly from the public authority or government agency where —

- (a) the Board has entered into an arrangement, understanding or agreement with the public authority, government agency, Supervisory Authority or competent authority for anti-money laundering, counter proliferation financing or counter terrorist financing purposes; and
 - (b) the information is material, adequate, current, relevant or as may otherwise be prescribed by Regulations.
- (2F) The Board may enter into an arrangement, understanding or agreement with any government agency, public authority, Supervisory Authority or competent authority for anti-money laundering, counter proliferation financing or counter terrorist financing purposes, to facilitate the electronic or other receipt of information under subsection (2E).
- (2G) Where an applicant does not utilise the option under subsection (2E), the applicant still has an obligation to provide the information to the Board.
- (2GA) The Board may, to the extent that information is required by a Supervisory Authority or competent authority for anti-money laundering, counter proliferation financing or counter terrorist financing purposes, share through the Secretariat any information held by the Secretariat where subsections (2E)(a) and (b) have been satisfied.
- (2H) The Cabinet may make Regulations exempting certain applicants or categories of applicants from any or all of the provisions under section 18.
- (2I) For the purposes of this section —
- (a) “**permanent resident**” has the meaning assigned under section 2 of the **repealed Immigration Law (2015 Revision)**; and
 - (b) the expression “**holder of a Residency and Employment Rights Certificate**” has the same meaning as the expression had under section 38 of the **repealed Immigration Law (2015 Revision)**.
- (3) An application for the renewal of a licence shall be made at least twenty-eight days before, but not more than three months before, the date of expiry of the licence.
- (4) **Repealed** by section 7(e) of the *Trade and Business (Amendment) Act, 2017 [Law 8 of 2017]*.
- (5) Where an incomplete application is submitted under subsection (1), the Board may require an applicant to complete and re-submit the application, subject to payment of the re-submission fee specified in Schedule 1.
- (6) The Board may take such steps to carry out due diligence procedures, including a fit and proper test, with regards to any director or any person who has a



beneficial interest in a trade or business for which an application for the grant or renewal of a licence is made under this Act.

- (7) The Cabinet may waive the licence fee for an individual trade or business or the trades or businesses in a sector or an industry set out in Part B of Schedule 1 where the Cabinet determines it is in the public interest to do so.
- (8) A person shall not —
- (a) in relation to any application submitted pursuant to this section; or
 - (b) in relation to any information or particulars that the person is required to furnish pursuant to this section,
- make any representation or statement that the person knows is false or misleading in a material particular.
- (9) A person who contravenes subsection (8) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year or to both.
- (10) In this section —

“**beneficial interest**”, in a company, includes a share in the company, or if the company is a limited liability company, an LLC interest in it within the meaning of that term under section 5 of the *Limited Liability Companies Act (2021 Revision)*;

“**financial institution**” has the meaning given in section 182(1) of the *Proceeds of Crime Act (2020 Revision)*; and

“**required clearance document**”, for an individual, means the following document made within 6 months before the application for grant or renewal in question —

- (a) an affidavit by the individual swearing that the individual has no convictions if —
 - (i) the individual has been residing in a country or territory that does not give police clearance certificates; or
 - (ii) the individual has been residing in the Islands for less than six months; or
- (b) otherwise, an original police clearance certificate issued under section 144(4) of the *Police Act (2021 Revision)*.

Restriction on grant or renewal of a licence

19. (1) A licence shall not be granted by the Board under this Act where the Board is satisfied that —
- (a) the applicant —

- (i) is a person who is not Caymanian as defined by the *Immigration (Transition) Act (2021 Revision)* and does not hold a work permit as defined by the *Immigration (Transition) Act (2021 Revision)*;
 - (ii) is adjudged bankrupt or suspended payment to or compounded with the applicant's creditors;
 - (iii) is, under this or any other Law, disqualified from holding the licence sought; or
 - (iv) **Repealed** by section 3(c) of the *Trade and Business Licensing (Amendment) Act, 2018 [Law 2 of 2018]*.
 - (v) is a company that is not —
 - (A) a Caymanian owned and controlled company;
 - (B) the holder of a licence under the *Local Companies (Control) Act (2019 Revision)*; or
 - (C) a non-resident company, non-LCC Law company, exempted company or limited liability company; or
 - (vi) is a DNFBP or intends to carry on business as a DNFBP and —
 - (A) is not registered with; or
 - (B) has had its registration cancelled by, the relevant Supervisory Authority;
 - (b) the Chief Medical Officer has, on the grounds of public health in relation to the premises in which the applicant proposes to carry on the trade or business, objected to the grant of a licence to the applicant; or
 - (c) the grant of the licence would be contrary to the public interest.
- (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 Act or any other applicable Law regulating the applicant, including Laws relating to employee pensions, employee health insurance, labour relations, anti-money laundering, counter proliferation financing and counter terrorist financing in the Islands and the applicant has not taken the necessary steps to resolve the non-compliance.
- (2) The Board may refuse to grant a licence to a person or where a person has already been granted a licence, revoke the licence where, in the Board's opinion, the person is carrying on or intending to carry on trade or business under a name which is likely to mislead persons because it is —



- (a) identical to the name of any other person carrying on trade or business, whether in the Islands or not, or so nearly resembles that name as to be calculated to deceive;
- (aa) identical or similar to a registered trade mark unless it is established that the trade or business is the owner of the trade mark or it has a licence to use the trade mark;
- (b) calculated to suggest, falsely, the patronage of or connection with some person or authority, whether in the Islands or not; or
- (c) calculated to suggest, falsely, that such person has a special status in relation to, or derived from, the Government or has the official backing or acts on behalf of the Government or any department, branch, agency or office of Government.

Request for additional information

- 20.** (1) Where an application is submitted to the Board pursuant to section 18, the Board may, within twenty-eight days of the receipt of the application request additional information from the applicant that it deems necessary for the purpose of considering the application.
- (2) Where the Board makes a request for information pursuant to subsection (1), the applicant shall submit that information within fourteen days of the request or within a further period of time as may be requested by the applicant and granted by the Board in writing.
- (3) The Board shall not unreasonably refuse to give a further time period under subsection (2).
- (4) Where the applicant has not submitted the additional information within the timeframe outlined in subsection (2) the Board shall —
- (a) cease considering the application;
 - (b) return the application to the applicant along with the licence fee;
 - (c) give the applicant the reason in writing for the Board’s decision to cease considering the application; and
 - (d) where the applicant was a licensee at the time of the application, give the status of the applicant’s licence and the steps that the applicant needs to take to have the licence reinstated and to be otherwise in compliance with this Act.
- (5) Where the Board returns an application under subsection (4) and the applicant wishes to re-apply, the applicant shall pay to the general revenue of the Islands the fees referred to in section 18(2)(f).
- (6) Where an application for renewal has been returned under subsection (4), the respective licence shall be deemed to be suspended or revoked by the Board and section 29(6) or (7), as the case may be, shall apply.

Grant of licence and expedited licence

21. (1) The Board shall, within ninety days of submission or resubmission of an application for a new licence or the receipt of information requested pursuant to section 20, whichever is later, grant or refuse a licence and shall notify the applicant of the grant or refusal and give reasons in writing where the licence is refused.
- (2) The Board shall, within thirty days of submission or resubmission of an application for the renewal of a licence or the receipt of information requested pursuant to section 20, whichever is later, renew a licence or refuse to renew a licence and shall notify the applicant of the renewal or refusal to renew and give reasons in writing where the renewal is refused.
- (3) In the event of the Board refusing to grant or renew a licence, the fee paid pursuant to section 18(2)(f) shall be refunded to the applicant.
- (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.
- (5) Notwithstanding subsection (1) or (2), the Board, on receipt of an application for an expedited licence or renewal of a licence which is accompanied by an expedited licence fee of the amount specified in Schedule 1 and otherwise in accordance with the requirements under section 18, shall grant, renew or refuse the licence within five business days of receiving an eligible application.
- (6) Notwithstanding the provisions in section 6, determinations on applications for expedited licences shall be taken by a subcommittee of the Board, such subcommittee being comprised of at least three members of the Board.
- (7) The Cabinet may make regulations setting out the criteria for the grant of an expedited licence in such sectors or industries as the Cabinet may specify.
- (8) A licensee who fails to comply with a condition or restriction commits an offence and is liable on summary conviction to a fine of five thousand dollars.

Evidence of licence and public display of licence

22. (1) A licence granted or renewed under this Act shall be evidenced by a certificate in the prescribed form and the licence shall be framed by the licensee and publicly displayed on the premises to which such licence relates.
- (2) A licensee who fails to display the licence as required under subsection (1) commits an offence and is liable on summary conviction to a fine of five hundred dollars.

Validity of licence and renewal fee

23. (1) Subject to —
- (a) the voluntary surrender of a licence under section 27;



- (b) the suspension or revocation of a licence under section 29;
 - (c) the revocation of a licence under section 30; or
 - (d) the revocation of a licence under section 31,
- a licence shall be valid for the period specified in the licence.
- (2) A licensee who fails to pay the renewal fee within twenty-eight days after the expiry date of the licence shall, unless the Board waives it, pay to the general revenue of the Islands a surcharge not exceeding twenty-five per cent of the renewal fee specified in Schedule 1 for every month or part of a month that the renewal fee is not paid, such amount not exceeding the renewal fee.
 - (3) If the renewal fee referred to in subsection (2) is not paid and the licensee continues to operate the trade or business, in addition to any criminal penalties to which the licensee is liable, the unpaid renewal fee may be sued for by the Board by action as a civil debt and the Board may require, and the court may order, the payment of any surcharge accrued under subsection (2) in respect of the late payment of the renewal fee.
 - (4) Where the renewal fee is not paid for a period of five months a licence shall be suspended or revoked by the Board and section 29(6) or (7), as the case may be, shall apply.

Transfer of licence

- 24.** (1) A licensee shall not transfer or assign a licence to any other person, including a company.
- (2) Notwithstanding subsection (1), a person owning or holding a significant interest in a licensee shall not sell, transfer, charge or otherwise dispose of that person's interest in the licensee, or any part of that person's interest, unless —
 - (a) the licensee is a listed entity and the disposition is a trade in its securities on a recognised securities exchange under the *Securities Investment Business Act (2020 Revision)*; or
 - (b) the person has the Board's prior written approval.
 - (3) A licensee shall not, unless with the written approval of the Board —
 - (a) cause, permit or acquiesce in a sale, transfer, charge or other disposition referred to in subsection (2); or
 - (b) issue or allot any shares or cause, permit or acquiesce in any other reorganisation of its share capital that results in —
 - (i) a person acquiring a significant interest in the licensee; or
 - (ii) a person who already owns or holds a significant interest in the licensee, increasing or decreasing the size of that person's interest.
 - (4) **Repealed** by section 9(b) of the the *Trade and Business (Amendment) Act, 2017* [Law 8 of 2017].

- (5) The Board shall not unreasonably withhold the approval required under subsections (2) or (3).
- (6) Notwithstanding anything in this section, where a sale, transfer, charge or other disposition referred to in this section is as a result of an internal reorganisation of a body corporate that constitutes ultimate transfer of control of a licensee, a new licence will be required in addition to the prior written approval of the Board.
- (7) **Repealed** by section 9(b) of the the *Trade and Business (Amendment) Act, 2017* [Law 8 of 2017].

Amendment of licence or Register particulars for licence

- 25.** (1) The Board may make the following amendments to or relating to a licence, if the licensee applies to it to do so —
- (a) amendments to the licence, except in a way that has the effect of transferring or assigning the licence; or
 - (b) amendments to a particular mentioned in section 32(2) relating to the licence.
- (2) The application shall be in the prescribed form and accompanied by the amendment fee specified in Schedule 1 made payable to the general revenue of the Islands.

Notification of changes of addresses, etc.

- 26.** (1) A licensee who, during the currency of the licence, changes address or, being a corporation, its corporate identity or the scope of its trade or business shall notify the Board no later than thirty days after such change of address, corporate identity or scope.
- (2) A licensee who fails to notify the Board in the circumstances set out in subsection (1) commits an offence and shall be liable on summary conviction to a fine of five hundred dollars.

Surrender of licence

- 27.** A licensee shall, within thirty days of voluntarily ceasing to carry on a trade or business, give notice in writing to the Board and surrender the licence which shall be deemed to be invalid from the date the licensee ceased to carry on the trade or business or such other date as may be determined by the Board.



Breaches by licensee

- 28.** (1) Where the Board or Department reasonably suspects that a licensee is in breach of any provision of this Act, the Board or Department may conduct any investigation it considers necessary in relation to the licensee and may upon obtaining a warrant perform any of the following in the course of such investigation —
- (a) enter any premises for the purpose of ascertaining compliance with this Act;
 - (b) compel the production of books, records and documents in the custody or control of the licensee;
 - (c) compel the appearance of an employee or officer of a licensee or any other person for the purpose of ascertaining compliance with this Act or the relevant licence;
 - (d) inspect, examine or make copies of any book, record or document in the possession of the licensee relevant to the licence held by the licensee;
 - (e) require verification of income and all other matters pertinent to the licence; and
 - (f) seize or remove any document or records relating to the licence for the purpose of examination and inspection.
- (1A) The Board shall, where the licensee is a DNFBP or carrying out business as a DNFBP, upon receipt of a notice pursuant to regulation 55J of the *Anti-Money Laundering Regulations (2020 Revision)* suspend or revoke a licence.
- (2) A person shall not —
- (a) hinder, obstruct, prevent or interfere with the Board in the exercise of a power pursuant to this section;
 - (b) fail without reasonable excuse to answer any question relating to any register, book, record or other document or any relevant matter when required to do so by the Board under subsection (1); or
 - (c) provide false or misleading information to the Board that leads to an investigation or during the course of an investigation.
- (3) A person who contravenes subsection (2) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year, or to both.
- (4) Where, after an investigation under this section, the Board finds that —
- (a) the allegations or suspicions under subsection (1) are substantiated, the Board shall so notify the licensee of its findings and, where appropriate, issue directions to the licensee requesting the licensee to stop the breach and take remedial action within a specific time period; or

- (b) where the allegations under subsection (1) are found by the Board to be unsubstantiated, the Board shall cease its investigations.
- (5) A licensee who fails to comply with a direction of the Board given pursuant to subsection (4)(a) commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of two years, or to both.
- (6) Any document or record seized or removed under this section for the purpose of examination or inspection shall be returned promptly on completion of the examination or inspection.

Suspension or revocation of licence

- 29.** (1) Notwithstanding section 28(5), where a licensee fails to comply with any direction given by the Board under section 28(4), the Board may suspend or revoke the licence.
- (1A) The Board shall, where the licensee is a DNFBP or carrying out business as a DNFBP, upon receipt of a notice pursuant to regulation 55J of the *Anti-Money Laundering Regulations (2020 Revision)* suspend or revoke a licence.
 - (2) Prior to the suspension or the revocation of a licence pursuant to subsection (1) or section 20, the Board shall give the licensee notice in writing of the intention to do so, specifying the grounds on which the Board considers that the licence ought to be suspended or revoked and shall require the licensee to submit to it, within a specified period being not less than fourteen days of receipt of the notice by the licensee, a written statement of objection to the suspension or revocation, where the licensee intends to object to the suspension or revocation.
 - (3) A notice issued under subsection (2) shall be served on a licensee —
 - (a) personally or at the licensee's registered office; or
 - (b) if service is not possible in accordance with paragraph (a), by notice published in the Gazette and in any other medium as the Board determines.
 - (4) The Board shall, where it has considered a statement of objection submitted pursuant to subsection (2), inform the licensee of its decision and shall give the reasons for its decision in writing.
 - (5) A person aggrieved by the decision of the Board under subsection (4) shall have the right of appeal under section 37.
 - (6) A licence that is revoked is invalid.
 - (7) A licence that is suspended is invalid for the period during which it is suspended.
 - (8) The Board shall, by notice published in the Gazette and any other medium as the Board determines, inform the public of the suspension or revocation of a licence pursuant to this section.



Revocation order

- 30.** (1) In the event of a licensee under this Act being convicted of any offence connected with the conduct of the licensee's trade or business licensed under this Act, the convicting court may order that the licence be revoked and may order that the licensee be disqualified for a period not exceeding three years from applying for the grant of any new licence for any business.
- (2) The Clerk of the Court shall forthwith give notice to the Board of the making of the order under subsection (1).
- (3) No refund of any licence fee shall be payable as the result of such revocation under subsection (1).

Revocation under Local Companies (Control) Act

- 31.** In the event of a revocation under the *Local Companies (Control) Act (2019 Revision)* of a licence under that Act authorising the holder to carry on any trade or business in respect of which the holder also holds a licence under this Act, such revocation shall by that fact itself revoke the licence under this Act and no refund of any licence fee shall be payable as a result.

Register

- 32.** (1) Subject to subsection (2), the Board shall keep and maintain a register of all licensees, in such form as may be determined by the Board.
- (2) The Board shall record the following particulars in the Register for each licensee —
- (a) the name of the licensee;
 - (b) the postal address of the licensee;
 - (c) the address of the premises at which the trade or business is being carried out;
 - (d) the category of the licence;
 - (e) the date of expiry of the licence; and
 - (f) the terms and conditions of the licence.
- (3) Subject to subsection (4), the Board shall allow —
- (a) the public access to the Register and shall take such steps as may be necessary to give effect to this; and
 - (b) a person to inspect the Register and make a copy of any part of the Register on payment of the inspection fee specified in Schedule 1.
- (4) Nothing in this section shall be read as repealing any provision of a Law that restricts access to records.

Permission under other Laws

33. (1) A licence issued pursuant to this Act shall not have the effect of dispensing with the necessity of obtaining permission where such permission is required pursuant to any other Law.
- (2) In this section “**permission**” includes registration, licence, authorisation and permit.

Restriction on the use of the word “licensed”

34. (1) A licensee shall not use the word “licensed” in juxtaposition with any word describing a trade or business carried on by the licensee on the ground only that the licensee is licensed under this Act.
- (2) A licence under this Act has no relevance to the qualification, skill or financial stability of the licensee.
- (3) A licensee who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of one year, or to both.

PART 4 - MISCELLANEOUS

Ticketable offences

35. (1) Notwithstanding any other provision of this Act, the offences set out in Schedule 2 are designated as ticketable offences.
- (2) The payment of the fixed penalty stated on the ticket up to twenty-eight days after being served is an option to discharge liability to conviction for the offence set out on the ticket.
- (3) Where a person is served with a ticket under this section in respect of an offence set out in Schedule 2, criminal proceedings in respect of the act that constitutes the offence specified on the ticket, shall not commence except where the fixed penalty remains unpaid after twenty-eight days of the service of the ticket.
- (4) Payment of a fixed penalty under this section shall be made to the Department and all fixed penalties paid under this Act shall, unless otherwise expressly stated, form part of the general revenue of the Islands.
- (5) In any proceedings, a certificate that payment of the fixed penalty was or was not made to the Department by the date specified in the certificate shall, where the certificate is signed by the Director, be sufficient evidence of the facts stated unless the contrary is proved.
- (6) A ticket shall be in the form set out in Schedule 3 and shall —



- (a) contain a statement signed by the trade officer certifying that the trade officer has reason to believe that an offence has been committed under this Act;
 - (b) include a summary of the facts of the offence and the specific section of this Act that has been contravened;
 - (c) indicate with reasonable precision, having regard to all the circumstances, the time and place at which the offence was committed;
 - (d) set out the fixed penalty for the offence;
 - (e) set out the options that the person served with the ticket has in responding to it and the time within which the person shall respond;
 - (f) state the period of time during which proceedings will not be commenced for the offence;
 - (g) require the person, in the event that the fixed penalty is not paid nor the plea under subsection (12) entered within the period specified in the notice, to attend before the summary court to enter a plea on such date as may be specified, the date being not earlier than ten days after the expiration of the period specified in subsection (3); and
 - (h) state that the ticket may be used as the evidence of the Department.
- (7) The fixed penalty for ticketable offences shall be as specified in Schedule 2.
 - (8) Service of a ticket on the person whom a trade officer has reason to believe committed an offence is effected by the trade officer delivering a copy of the ticket to the person or by leaving it at the last known place of business or abode of the person or by sending it by registered mail to the last known place of business or abode of the person.
 - (9) A trade officer who serves a ticket shall complete and sign a certificate of service stating that the ticket was, on the date set out in the certificate, served on the person whom the trade officer had reason to believe committed the offence and the certificate shall be evidence that, on the date set out in the certificate, a ticket was served on the person whom the trade officer had reason to believe committed the offence.
 - (10) A person may pay the total amount set out in the ticket in accordance with subsection (11), enter a “not guilty” plea in accordance with subsection (12) or attend the summary court on the date set out on the ticket and enter a plea.
 - (11) The payment of the total fixed penalty within twenty-eight days of being served constitutes a discharge from liability for conviction for the offence.
 - (12) A person who is served with a ticket who wishes to enter a “not guilty” plea may request a trial by signing the request for trial on the ticket and delivering it to the Clerk of Court within twenty-eight days of being served with the ticket and the Clerk shall enter the plea of “not guilty”.

- (13) As soon as practicable after a person requests a trial under subsection (12), the Clerk of the Court shall notify the Department of the request, request the duplicate ticket, fix the time and place of the trial and notify the defendant and the prosecution of the time and place of the trial.
- (14) A person who has been served with a ticket under this section and has not exercised any of the options referred to in subsection (10) or (12) shall attend at the court on the date specified in the ticket which shall be no earlier than thirty-eight days after the date that the ticket was served on the person and the notice of the court date on the ticket shall be notice to the defendant and the prosecution of the same.
- (15) The Department shall, within forty-eight hours, file with the Clerk every ticket that remains unpaid after twenty-eight days of having been served.
- (16) A ticket filed with the Clerk of Court is evidence of the facts alleged in the ticket without proof of the signature or official character of the person appearing to have completed the ticket or the person on whom the ticket was served.
- (17) Except as otherwise provided, a notice or document required or authorised to be given or delivered under this section may be given or delivered personally by registered mail or by other prescribed means.
- (18) Evidence that a notice or document required or authorised to be given or delivered to a person under this section was sent by registered mail or any other prescribed means to the person at the last known place of abode or business address appearing on a ticket, certificate of service or other document in the court file, is sufficient evidence that the notice or document was given or delivered to the person, unless the contrary is proved.
- (19) A person who is convicted of a ticketable offence in a trial requested under subsection (12) or in a trial as a result of a failure to exercise the options under subsection (10) may be liable to a fine greater than the fixed penalty provided for that ticketable offence but not exceeding the maximum fine provided for that offence under this Act.
- (20) The ticket, for the purposes of a trial under subsection (12) and subsection (14), is deemed to be a complaint within the meaning of section 14 of the *Criminal Procedure Code (2021 Revision)*.
- (21) Notwithstanding anything in law to the contrary, where the ticket remains unpaid at the expiration of the time specified for the payment of the fixed penalty or where the person served requests a trial the ticket shall be deemed to be a summons issued in accordance with section 15 of the *Criminal Procedure Code (2021 Revision)*.
- (22) Proceedings in respect of an offence deemed to be instituted by a ticket under this Act shall not be listed for hearing in Court unless —



- (a) the trade officer delivers the duplicate of the ticket with an endorsement stating that the fixed penalty had not been received within the twenty-eight-day period within which it was payable; and
 - (b) a period of ten days has elapsed from the last day on which the fixed penalty was payable.
- (23) Where the fixed penalty is not paid within the time specified in the ticket or the person served requests a trial, proceedings in respect of the offence specified in the ticket shall be in accordance with the procedure set out for Category C offences under the *Criminal Procedure Code (2021 Revision)*.

Appeals Tribunal

- 36.** (1) For the purposes of this Act, there is established an Appeals Tribunal which shall comprise the following members —
- (a) a Chairperson who shall be an attorney-at-law;
 - (b) a Deputy Chairperson; and
 - (c) three other members,
- all of whom shall be appointed by the Cabinet for a period not exceeding two years.
- (2) For the purpose of exercising its jurisdiction under this Act, the Appeals Tribunal shall sit and be duly constituted to hear and determine appeals with three of its members sitting together, one of whom shall be the chairperson or in the absence of the Chairperson, the Deputy Chairperson.
- (3) The Chairperson or, in absence of the Chairperson, the Deputy Chairperson shall preside over meetings of the Appeals Tribunal.
- (4) The Cabinet shall appoint a person to be the secretary to the Appeals Tribunal who shall record and keep all minutes of the meetings, proceedings and decisions of the Appeals Tribunal, and such secretary shall have no right to vote.
- (5) The Appeals Tribunal shall meet at such times as may be necessary or desirable in the public interest.
- (6) If a member of the Appeals Tribunal has any personal or pecuniary interest, direct or indirect, in any matter which is to be determined by the Tribunal, the member shall, if present at the meeting of the Tribunal at which such matter is to be determined, as soon as practicable after the commencement of the meeting, disclose the fact, and shall not take part in the consideration or discussion of such matter or vote on any question with respect to the matter.
- (7) The Appeals Tribunal shall reach its decision by a majority of votes of its members present and voting at a meeting and the Chairperson or Deputy Chairperson or other member of the Appeals Tribunal presiding at the meeting shall, in addition to the original vote, have a casting vote.

- (8) Subject to subsections (3) to (7), and sections 37 and 38, the Appeals Tribunal shall regulate its own procedure.

Appeals from decisions of the Board

- 37.** (1) A person aggrieved by, or dissatisfied with, a decision of the Board made under this Act may, within twenty-eight days of the communication of the decision, or such longer period as the Appeals Tribunal may allow for good cause shown, appeal against that decision to the Appeals Tribunal.
- (2) For the purposes of subsection (1), the decision shall, if notice of it is sent to a person by registered mail, be deemed to have been communicated to the person at the time at which it would have been received.

Conduct of appeals

- 38.** (1) Appeals under section 37 shall be by notice in writing addressed to the Appeals Tribunal, and shall specify —
- (a) the decision against which the appeal is made;
 - (b) the Board's reasons for its decision;
 - (c) the grounds of the appeal; and
 - (d) whether the appellant wishes to be heard personally or by a representative, and the notice of appeal shall be accompanied by the non-refundable processing fee specified in Schedule 1.
- (2) On receipt of the notice of appeal, the Appeals Tribunal shall, where the appellant has applied to be heard personally or by a representative, decide whether the appellant shall be so heard and, if it is so decided, fix a time and date for such hearing and shall notify the appellant and the Board thereof.
- (3) At the hearing of an appeal where the appellant or the appellant's representative is present, the appellant or the representative shall be given an opportunity to address the Appeals Tribunal, and a representative of the Board shall be heard in answer if called upon by the Appeals Tribunal in that behalf, and the Appeals Tribunal may call upon either party to address it further.
- (4) Representatives of either party need not be persons having legal qualifications.
- (5) The decision of the Appeals Tribunal shall be communicated to the appellant and the Board no later than twenty-eight days after the hearing.
- (6) On an appeal, the Appeals Tribunal may make such order in accordance with this Act as it thinks fit.
- (7) An appeal may be made to the Grand Court from a decision of the Appeals Tribunal on a point of law only.
- (8) The Cabinet may make regulations prescribing the procedure and forms to be used for appeals under this section.



Offences by officers of body corporate

39. (1) Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of any director, manager, secretary or other officer of the body corporate or any person who was purporting to act in any such capacity, the officer or any person purporting to act in that capacity, as well as the body corporate commits that offence and are both liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of the member in connection with the member's functions of management as if the member were a director of the body corporate.

Regulations

40. (1) The Cabinet may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or as are necessary or convenient to be prescribed for giving effect to the purposes of this Act.
- (2) Regulations made pursuant to subsection (1) may —
- (a) prescribe categories of licences and impose conditions for such categories of licences;
 - (b) reserve specified businesses and specified categories of licences for Caymanians and may impose restrictions or prohibitions on the carrying out of specified businesses and the granting of specified categories of licences to persons who are not Caymanian;
 - (c) grant, from time to time, incentives to micro businesses and small businesses in the form of reduced licensing fees or schedules for the payment of licensing fees under this Act;
 - (d) create offences punishable by a fine not exceeding five thousand dollars;
 - (e) amend the definition of the terms “micro business” and “small business; and
 - (f) amend Schedules 1, 2 and 3.

Repealed

41. The *Trade and Business Licensing Law (2007 Revision)* was **repealed** by section 41 of the *Trade and Business Licensing Act, 2014 [Law 21 of 2014]*.

Savings and transitional provisions

42. (1) Every application for a licence or renewal of a licence under the **repealed** *Trade and Business Licensing Law (2007 Revision)*, in this section referred to as “**the repealed Law**”, that has not been wholly dealt with by the Board when this Act comes into force shall be processed in the manner that the application would have been processed under the **repealed Law** and on the grant of the licence, the Board shall direct the licensee of any steps to be taken by the licensee in order that there is compliance with this Act and the period of time within which the steps shall be taken, such directions having the same legal effect as directions under section 28.
- (2) Any approval, decision, appeal or other matter in progress under the **repealed Law** that has not been wholly dealt with by the Board or other person or body when this Act comes into force shall be handled as the respective matter would have been handled under the **repealed Law** until the matter is wholly dealt with.
- (3) Except as otherwise expressly provided in this Act every civil matter and proceeding commenced in any court under the **repealed Law** and pending or in progress immediately before this Act comes into force may be continued, completed and enforced under this Act.
- (4) All proceedings in respect of offences committed in contravention of the **repealed Law** may be commenced or continued as if this Act had not come into force.
- (5) Subject to subsection (6), every licence, approval, incentive, temporary reduction in fees or direction made or granted under the **repealed Law** and in force immediately before this Act comes into force shall continue in force after this Act comes into force on the same conditions and with the same effect as if they had been made or granted in accordance with this Act.
- (6) A licensee existing at the coming into force of this Act who is not in compliance with this Act shall comply within six months of the coming into force of this Act or such longer period as the Board may, for good cause shown, permit.
- (7) Every form issued or prescribed for use under the **repealed Law** is to be regarded as issued or approved for use under this Act until another form is issued or prescribed for use under this Act in place of that form.
- (8) Where any period of time specified in the **repealed Law** is current at the coming into force of this Act, and there is a corresponding provision in this Act, this Act shall have effect as if that corresponding provision had been in force when that period began to run.



SCHEDULE 1*(sections 18, 21, 23, 25, 32, and 38)***FEES****Part A**

Description	Section	Fee
1. Application fee (non-refundable)	18(2)(f)	\$75
2. Licence fee	18(2)(f)	As set out in the respective category in Part B
3. Renewal fee	18(2)(f), 23(2)	As set out in the respective category in Part B
4. Re-submission fee	18(5)	\$50
5. Expedited licence fee	21(5)	\$400 (In addition to the relevant licence fee in No. 2 and the processing fee.)
6. Expedited renewal of licence fee	21(5)	\$100 (In addition to the relevant licence fee in No. 2 and the processing fee.)
7. Amendment fee	25	\$50

8.	Inspection of Register fee	32(3)	\$10
9.	Non-refundable processing fee (Appeals)	38(1)	\$100

Part B

The respective licence and renewal fee shall be as set out below —

Professional

For the purposes of this heading —

“**affiliated agent**” means a real estate agent who trades under, or holds out to be affiliated with, a name that is the same as, or similar to, or the derivative of, the name of a real estate agency licensed under this Act under item 11;

“**computer specialist**” means a person (whether industry certified or not) involved in the development, assembly, building, maintenance or repair of computer equipment and computer programmes or similar work relating to computers;

“**deals in**”, for land, means to deal, or offer to deal in the land, or both, by any or all of the following transactions relating to the land —

- (a) purchases;
- (b) sales; or
- (c) rentals, tenancies or leasing;

“**firm**” means a company, a partnership or other business enterprise;

“**member**” means a partner, director, associate or other professional;

“**other professional**” means —

- (a) a person who engages in a trade or business (such as an accountant, actuary, architect, engineer, statistician and surveyor) which is different from the employer’s main trade or business; and
- (b) a person who provides chargeable services in a trade or business to the employer’s customers;

“**professional**” includes accountant, actuary, architect, civil engineer, electrical engineer, land surveyor, mechanical engineer, quantity surveyor, statistician, surveyor, or similar profession; and

“**outsourced employee**” means a person who —

- (a) is employed in a trade or business which provides staffing for other businesses and is deployed to work in other trades or businesses for short periods of time or on a long term basis; and



- (b) provides chargeable services in the trade or business to the employer's customers.

	Category of trade or business	Fee
1. Accountant	including auditor, actuary, bookkeeper and statistician	\$2,000 for each professional member of the business
2. Accountancy firms-	the fee in No.1 for each accountant employed by the firm is in addition to the fee set out below —	Exempt
	(a) A firm of 1-5 accountants and other professionals;	\$20,000
	(b) A firm of 6-10 accountants and other professionals;	\$40,000
	(c) A firm of 11-15 accountants and other professionals;	\$60,000
	(d) A firm of 16-20 accountants and other professionals;	\$200,000
	(e) A firm of 21-25 accountants and other professionals;	\$250,000
	(f) A firm of 26-30 accountants and other professionals;	\$300,000
	(g) A firm of 31-40 accountants and other professionals;	\$350,000
	(h) A firm of 41-50 accountants and other professionals;	\$400,000
	(i) A firm of 51 or more accountants and other professionals	
3. Agency providing temporary employees		\$1,000 for each agency and \$750 for each outsourced employee Outsourced employee fee not applicable where employee is Caymanian
4. Agent	including airline, shipping or travel agent, salesman, immigration assistance agent, advertising agent, consultant, and any other professional agent not mentioned herein	\$1,000
5. Auctioneer	being a person other than a Government officer or an officer of the Court acting in the course of the duties of the auctioneer who sells or offers for sale any kind of property or right to property to another whether by public auction or private treaty	\$750 for each professional member of the business
6. Broker	being a person who, for a commission or other reward, negotiates contracts between other brokers or principals and includes a commission agent, a <i>del credere</i> agent and factor	\$750 for each professional member of the business
7. Computer specialist		\$1,500

8. Firms of professionals in the construction sector (accountants excluded)	In addition to the fee at No. 10 for each professional employed in the firm — (a) A firm of 1-5 professionals; (b) A firm of 6-10 professionals; (c) A firm of 11-15 professionals; (d) A firm of 16-20 professionals; (e) A firm of 21-25 professionals; or (f) A firm of 26 or more professionals	Exempt \$1,500 \$2,500 \$4,000 \$5,000 \$10,000
9. Property developer	being a person who carries out property development	\$750
10. Professionals in the construction sector (accountants excluded)	including architect, civil engineer, electrical engineer, mechanical engineer, land surveyor, quantity surveyor or any other professional in the construction sector	\$1,500 for each professional member of the business
11. Real estate agency or real estate agent, or both	a real estate agency (an “agency”) or being a real estate agent (an “agent”), or both, who as an agent deals in land	\$750 for each agency, plus an additional \$750 for each affiliated agent of the agency; or \$750 for a self-employed agent who is not an affiliated agent
12. Recruitment and selection agency		\$1,000 in addition to \$750 for each outsourced employee

Trades and Technical

Category of trade or business

Fee

1. Baker	including a person carrying on the business of making bread, buns, cakes, biscuits, pastry and any other article of food incidental thereto — a business employing 7 or fewer persons a business employing 8 to 15 persons a business employing 16 or more persons	\$350 \$1,000 \$3,000
2. Barber	any person engaged in the trimming and styling of men’s hair	\$150
3. Building and Engineering Trade	including any person carrying on the business of a mason, carpenter, joiner, plasterer, painter, electrician, plumber, welder or other trade within the construction industry with less than ten employees	\$750
4. Car and Scooter rental or Car and Scooter Equipment Rental, or both		\$300
5. Car wash	including mobile car wash	\$300
6. Gardening	including landscaping	\$300
7. Health and fitness business	including personal trainers	\$300



8. Janitorial		\$300
9. Hairdresser or Massaging Spa Operator (non- medical), or both	including beautician, manicurist and pedicurist	\$350
10. Job Printer	including all persons carrying on the business of printing other than newspaper printing	\$500
11. Launderer	including any person carrying on the business of cleaning of wearing apparel, household textiles and other materials by means of immersion in water or otherwise with or without the addition of soap, dry solvent or other cleaning aids and includes the pressing or ironing of any such material by any means whatsoever save laundry services rendered by individuals or family units in premises not normally open to the public	\$300
12. Music and dance schools		\$300
13. Photography and videography services		\$300
14. Pre-school care and child care		\$300
15. Property Management or Property Maintenance, or both	including office equipment and minor building maintenance	\$300
16. Recycling		\$300
17. Retailer	including any person who buys from a merchant or who themselves imports and offers for sale direct to the public in small quantities and who manufactures and sells that person's own products —	\$200
	for a business with 800 square feet or less of selling area —	\$450
	for a business with 801-1200 square feet of selling area —	\$2000
	for a business with 1201-1500 square feet of selling area —	\$3000
	for a business with 1501-2000 square feet of selling area —	\$4000
	for a business with 2001-4000 square feet of selling area —	
	for a business with more than 4000 square feet of selling area-	
17A. Dealer in Precious Metals and Stones	being a person who buys or sells precious metals, precious stones or jewellery in the course of its business activities —	\$200
	for a business with 800 square feet or less of selling area —	\$450
	for a business with 801-1200 square feet of selling area —	\$1,200
	for a business with 801-1200 square feet of selling area —	\$2,000
	for a business with 801-1200 square feet of selling area —	\$3,000
	for a business with 801-1200 square feet of selling area —	\$4,000

	for a business with 1201-1500 square feet of selling area —	
	for a business with 1501-2000 square feet of selling area —	
	for a business with 2001-4000 square feet of selling area —	
	for a business with more than 4000 square feet of selling area —	
18. Service Station, Garage or Marina	including any person carrying on the business in any premises of fuelling motor vehicles with petroleum or diesel or of lubricating such vehicles or of repairing tyres or tubes of such vehicles and also includes any marina for the servicing of sailing or power boats —	\$800
	for a business which consists only of a service station —	\$800
	for a business which consists of a garage or marina, with or without service station —	\$1500
	for a business which consists of a service station with or without a garage or marina, but with a convenience store of 800 square feet or less of selling area —	\$2000:
	for a business which consists of a service station with or without a garage or marina, but with a convenience store of 801 square feet or more of selling area-	
	Provided that any service station or garage on Grand Cayman other than in West Bay or George Town shall pay at the rate of fifty per cent.	
19. Shoe Repairs	including a person who repairs boots and shoes	\$150
20. Super Cargo	including the master or other person selling goods on board any vessel within the waters of the Islands, excluding local persons who fish	\$600
21. Tailor	including a dressmaker and a fitter and repairer of clothes	\$150
22. Training	Including education and career guidance services	\$300
23. Undertaker	including a mortician and an embalmer	\$600
24. Weddings, event planning, disc jockeys, entertainment		\$300
25. Security and Investigation	including a person carrying on the business of private investigation, debt collection or serving summonses or other legal process, and similar business operations	\$300
26. Payday Lending	being in the business of making cash loans or cash advances	\$300
27. Courier Services	being in the business of transporting packages or documents	\$300
28. Graphic and Web Design		



Commerce

Category of trade or business	Fee
1. Bulk Fuel Installation	\$125,000
Propane gas	\$12,500
2. Contractor	including any person carrying on the business of building or civil engineering contracting or labour broking
(a) a business employing ten or fewer persons —	\$1,000
(b) a business employing eleven or more persons —	\$3,500
	any other person, being a company carrying on such a business, to whom a licence has been granted under section 11(1) of the <i>Local Companies (Control) Act (2019 Revision)</i>
	\$25,000
3. Merchants and Wholesalers	including a person who imports or holds goods for sale or resale to retailers —
	\$2,000
	for a business with 800 square feet or less of selling area —
	\$2,250
	for a business with 801-1200 square feet of selling area —
	\$3,000
	for a business with 1201-1500 square feet of selling area —
	\$4,000
	for a business with 1501-2000 square feet of selling area —
	\$6,000
	for a business with 2001-4000 square feet of selling area —
	\$7,500
	—
4. Restaurateur	including any person other than a hotel operator or a guest house operator carrying on, in any premises, the business of selling, or offering for sale, food or drink for human consumption on or off the premises —
	\$325
	\$500
	for a business with seats for 30 or fewer customers —
	\$1,000
	for a business with seats for 31 to 60 customers —
	\$1,600
	for a business with seats for 61 to 100 customers —
	\$2,500
	for a business with seats for 101 to 150 customers —
	\$3,500
	for a business with seats for 151 to 200 customers —
	\$3,500
	for a business with seats for more than 200 customers —
5. Secondhand dealer	Excluding exempt persons
	\$1,000
6. Vendor of intoxicating liquor	being a business which is an applicant for a licence or the renewal of a licence under the <i>Liquor Licensing Act (2019 Revision)</i> but excluding merchants and wholesalers, restaurateurs, service stations and any other business for which the disposal of intoxicating liquor is only a part of the goods or services offered and for which this Schedule provides an appropriate category
	\$100



Industry, Agriculture and Primary Activities

	Category of trade or business	Fee
1. Agricultural production and agro based industries	including turtle, poultry and animal husbandry, hydroponics	Exempt
2. Block making, quarrying and building materials	including any person carrying on the business of making blocks or building components	\$4,000
3. Jewellery manufacturer		\$400
4. Miscellaneous manufacturing		\$400
5. Newspaper Printer	being any person carrying on the business of printing and publishing a newspaper or magazine-	\$2,000 per publication
6. Transportation Land	including any person operating a public bus, taxi or jitney service	\$250
Sea	including any person operating ferries, etc., or water sports service	\$200
7. Utility Services	including the operating of desalination or well water services providing water to the public; the provision of a service for emptying cesspools and septic tanks —	\$5,000
	a bulk water distributor's business —	\$2,000
	a retail water distributor's business —	\$300
	a business of emptying or maintaining cesspools or septic tanks —	\$5,000
	any other person being a company carrying on such a business to whom a licence has been granted under section 11(1) of the <i>Local Companies (Control) Act (2019 Revision)</i> —	

Miscellaneous

Category of trade or business	Fee
Any other business or trade not specified herein in which a service is offered for reward	\$300
A non-resident company or an exempted company or limited liability company	\$800

Licensing Fee for Little Cayman and Cayman Brac

A trade or business carried out in Cayman Brac or Little Cayman the relevant fee shall be fifty percent of the respective licence fee or renewal fee set out in this Schedule.



SCHEDULE 2

(section 35)

TICKETABLE OFFENCES

Description of ticketable offence	Section	Fixed Penalty
1. Carrying on a trade or business in or from within the Islands without a valid licence (first offence only). Any further contravention of this provision shall not be considered as a ticketable offence.	17(1)	\$500
2. Destroying or altering or causing to be destroyed or altered, any document, record, equipment or other property found in the course of a search.	17(6)(a)	\$2,500
3. Hindering or obstructing or preventing or interfering with a trade officer or police officer in the exercise of any power under this Act	17(6)(b)	\$2,500
4. Failing to remove all advertising in contravention of section 17	17(6)(c)	\$500
5. Failing to comply with a condition or restriction	21(4)	\$1000
6. Failing to display licence as required	22(1)	\$100
7. Failing to notify Board of change of address	26(1)	\$100
8. Hindering or obstructing or preventing or interfering with the Board in the exercise of its powers under section 28.	28(2)(a)	\$2,500
9. Failing without reasonable excuse to answer any question relating to any register, book,	28(2)(b)	\$2,500



- record or other document or any relevant matter when required to do so by the Board.
- | | | | |
|-----|--|-------|---------|
| 10. | Failing to comply with a direction of the Board. | 28(5) | \$1,000 |
| 11. | Using the word “licensed” in juxtaposition with any word describing a trade or business carried out by the licensee on the ground only that the licensee is licensed under this Act. | 34(1) | \$2,500 |



SCHEDULE 3*(sections 35 and 40)*

FORM OF TICKET
TRADE AND BUSINESS LICENSING ACT
(2021 Revision)

FRONT OF TICKET

TICKET NUMBER	NAME OF PERSON & DATE OF BIRTH:
---------------	---------------------------------

DATE & TIME:	TRADE OR BUSINESS NAME/LICENCE No.:
LOCATION:	TELEPHONE & EMAIL:

LIST OF TICKETABLE OFFENCES

No.	Description of ticketable offence.	Section	Fixed penalty	Tick relevant box
1.	Carrying on a trade or business in the Islands without a valid licence (first offence)	17(1) TBL	\$500	
2.	Destroying or altering or causing to be destroyed or altered, any document, record, equipment required to be produced	17(6)(a)TBL	\$2,500	
3	Hindering or obstructing or preventing or interfering with a trade officer or police officer in the exercise of the trade officer's or the police officer's powers under this Act	17(6)(b)TBL	\$2,500	
4.	Fails to remove all advertising in contravention of section 17	17(6)(c)TBL	\$500	
5.	Failing to comply with a condition or restriction	21(4) TBL	\$1000	
6.	Failing to display licence as required	22(1) TBL	\$100	
7.	Failing to notify Board of change of address	26(1) TBL	\$100	
8.	Hindering or obstructing or preventing or interfering with the Board in the exercise of the Board's powers under this Act.	28(2)(a)TBL	\$2,500	
9.	Failing without reasonable excuse to answer any question relating to any register, book, record or other document or any relevant matter when required to do so by the Board.	28(2)(b)TBL	\$2,500	
10.	Failing to comply with a direction of the Board.	28(5) TBL	\$1,000	
11.	Using the word "licensed" in juxtaposition with any word describing a trade or business carried on by the licensee on the ground only that the licensee is licensed under this Act.	34(1) TBL	\$2,500	



I, the undersigned trade officer of the Department of Commerce and Investment, have reason to believe that

(Name of Person)

has committed the following ticketable offence detailed in the second column with the respective fixed penalty in the fourth column —

the facts being that

(Provide a summary of the facts of offence and the provision contravened)

Time and place at which offence committed:

The person on whom this ticket is served —

- (a) may pay the fixed penalty prior to the _____ day of _____, 20__;
- (b) may enter a plea of “not guilty” up to twenty-eight days after being served and indicate now an intention to plead “not guilty” by ticking box ; or
- (c) where the ticket is not paid or there is no notification of an intention to plead “not guilty”, must attend the Summary Court:
 - in Grand Cayman, at 10 am on Tuesday, _____ 20 ;
 - in Cayman Brac, at 10 am on Thursday, _____ 20

I am an officer authorised by the Department of Commerce and Investment and I certify that I served this ticket on the person named on the date and time stated above.

(Name of Officer) (Signature)

PLEASE SEE BACK OF TICKET

Criminal proceedings shall not commence until thirty-eight days after being served with this ticket. If you fail to pay the fixed penalty or to attend Court, a warrant of arrest may be issued and you may be kept in custody until you can be brought before the Court.

BACK OF TICKET

PLEASE READ CAREFULLY

1. PAYMENT

You may discharge liability to being convicted by delivering a copy of this ticket and the total amount of the penalty set out in this ticket to the Department of Commerce and



Investment at the address indicated below prior to the date set out at (a) on the Front of Ticket, being twenty-eight days after the service of this ticket.

Payments by cheque or money order are to be made payable to the Cayman Islands Government. *Please print the ticket number on the front of the cheque or money order.*

2. PLEA OF NOT GUILTY

If you wish to plead not guilty, deliver a copy of the ticket to the Clerk of Court within 28 days of being served with this ticket. You must attend court on the date given at (c) on the Front of Ticket.

You may deliver the copy of the ticket to the Clerk of Court —

- (i) where ticket is served in Grand Cayman by taking a copy of the ticket to the Criminal Registry at the Court, George Town on any working day between 9 am and 3 pm or by sending the copy of the ticket by email to TBLTickets@judicial.ky; or
- (ii) where ticket is served in Cayman Brac or Little Cayman, by sending the copy of the ticket by email to TBLTickets@judicial.ky or taking a copy of the ticket to the Department of Commerce and Investment at the Bodden and Bodden Building #143 Stake Bay.

3. FAILURE TO PAY

Consequent on your failure to pay the fixed penalty specified in paragraph (a) or to enter a plea under paragraph (b), you are summoned to appear at the Summary Court at George Town or, where served on Cayman Brac or Little Cayman, at Cayman Brac at 10:00 a.m. on the date set out at paragraph (c) on this ticket.

If you fail to appear, the magistrate may issue a warrant of arrest to compel your attendance. The date of the hearing shall be no less than thirty-eight days after the service of the ticket.

NOTICE

This ticket may be used as evidence of the Department or the Board

Submit or send payment to: The Department of Commerce and Investment, Government Administration Building, Elgin Avenue, George Town or at the District Administration Office in Cayman Brac or Little Cayman.

Hours of operation - (George Town and Cayman Brac): 8:30 am - 4:00 pm;

(Little Cayman): 9:00 am - 4:00 pm



**Publication in consolidated and revised form authorised by the Cabinet this 5th day
of January, 2021.**

Kim Bullings
Clerk of the Cabinet



ENDNOTES

Table of Legislation history:

SL #	Law #	Legislation	Commencement	Gazette
	56/2020	Citation of Acts of Parliament Act, 2020	3-Dec-2020	LG89/2020/s1
	27/2019	Trade and Business Licensing (Amendment) Law, 2019	1-Jun-2020	LG42/2020/s1
		Trade and Business Licensing Law (2019 Revision)	21-Feb-2019	LG4/2019/s8
	2/2018	Trade and Business Licensing (Amendment) Law, 2018	18-Jun-2018	GE33/2018/s1
39/2015		Trade and Business Licensing (Amendment of Schedules) Regulations, 2015	1-Jan-2016	GE99/2015/s3
21/2018		Trade and Business Licensing (Amendment) Law, 2018 (Commencement) Order, 2018	15-Jun-2018	GE47/2018/s1
		Trade and Business Licensing Law (2018 Revision)	28-Mar-2018	GE26/2018 s3
	8/2017	Trade and Business Licensing (Amendment) Law, 2017	26-May-2017	GE43/2017/s2
50/2015		Trade and Business Licensing Law, 2014 (Commencement) Order, 2015	18-Dec-2015	GE99/2015/s2
	21/2014	Trade and Business Licensing Law, 2014	1-Jan-2016	G2/2015/s3





(Price: \$10.40)

