

# **BUSINESS LICENCE (AMENDMENT) BILL, 2024**

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## **BUSINESS LICENCE (AMENDMENT) BILL, 2024**

### **A BILL FOR AN ACT TO AMEND THE BUSINESS LICENCE ACT**

**Enacted by the Parliament of The Bahamas**

#### **1. Short title and commencement.**

- (1) This Act, which amends the Business Licence Act (*No 13. of 2023*), shall be cited as the Business Licence (Amendment) Act, 2024.
- (2) This Act shall come into force on the 1<sup>st</sup> day of July, 2024 with the exception of section 38(1)(j) which shall come into operation on the 1<sup>st</sup> day of January 2025.

#### **2. Amendment of section 16 of the principal Act.**

Section 16 of the principal Act is amended by the deletion of the section and the substitution of the following—

- “(1) A licence under this Act shall be required for the rental of residential property where such property is owned by —
- (a) a foreign person; or
  - (b) a Bahamian company other than a company that —
    - (i) has no assets other than residential property and monies in bank accounts;
    - (ii) does not carry on any business other than the rental of residential property; and

- (iii) has no physical or virtual operations and employs no staff.
- (2) For the purpose of this section —  
“residential property” means any building, premises, structure, or other place in The Bahamas, or any part thereof, used or intended to be used solely as a place of residence or abode of a natural person together with any appurtenances belonging thereto or enjoyed therewith.”.

### **3. Amendment of section 17 of the principal Act.**

Section 17 of the principal Act is amended by —

- (a) the deletion of the word “new” in the chapeau;
- (b) renumbering the section as subsection (1); and
- (c) the insertion of the following new subsections —
  - “(2) Every application for a business licence shall, in addition to the declaration of beneficial ownership referred to in subsection (1) —
    - (a) if an existing business, state —
      - (i) the trading name;
      - (ii) the date of commencement of the business and any changes of trading name; and
      - (iii) where it is carried on under two or more trading names, each of those trading names;
    - (b) if a new business, provide a minimum of three proposed names for the business in order of preference for the Secretary’s approval;
    - (c) if in the name of an individual, include the following particulars —
      - (i) present given name and surname;
      - (ii) any former given name and surname;
      - (iii) nationality;
      - (iv) usual place of residence;
      - (v) other business occupation (if any);
    - (d) if in the name of a corporation, include its corporate name and registered or principal office;
    - (e) if in the name of a firm, include the particulars referred to in paragraphs (c) and (d) in respect of each individual or corporation which is a partner in the firm.

- (3) Every application for a business licence shall be signed by the applicant as follows —
  - (a) in the case of an individual, by the individual himself;
  - (b) in the case of a corporation, by a director and the secretary; and
  - (c) in the case of a firm, either by all the individuals who are partners and a director or the secretary of each corporation which is a partner or by any individual partner or director or the secretary of any corporate partner by power of attorney for and on behalf of all members of the firm.
- (4) Notwithstanding subsection (3), an application for a business licence may be signed by the agent of the applicant.”.

#### **4. Amendment of section 20 of the principal Act.**

Section 20 of the principal Act is amended by the insertion immediately after subsection (3) of the following new subsection —

- “(4) An appeal against a decision of the Secretary under this section shall lie to the Tax Appeal Commission whose decision shall be final.”.

#### **5. Insertion of new section 20A into the principal Act.**

The principal Act is amended by the insertion immediately after section 20 of the following new section —

##### **“20A. Trading name complaint.**

- (1) Where after the approval of a trading name of a business by the Secretary under this Act, a licensee is of the opinion that the trading name approved is identical with or so nearly resembles its own trading name as to cause confusion or imply an association with the licensee, the licensee may make a complaint to the Secretary in the prescribed form and pay the prescribed fee.
- (2) Upon receiving the complaint, the Secretary shall notify the business with respect to which the complaint was made and shall hear both parties in the manner prescribed.
- (3) After hearing the parties, if the Secretary finds the complaint proven, the Secretary shall revoke the approval of the trading name given under section 19.
- (4) An appeal against a decision of the Secretary under this section shall lie to the Tax Appeal Commission whose decision shall be final.”.

**6. Amendment of section 21 of the principal Act.**

Section 21 of the principal Act is amended by the insertion immediately after subsection (2) of the following new subsection —

“(2A) An international business company whose revenue is solely derived from operations outside The Bahamas may obtain a licence without the approval of the Minister of Finance”.

**7. Amendment of section 35 of the principal Act.**

Section 35 of the principal Act is amended in subsection (7) by the insertion immediately after the words “purpose of” in the chapeau, of the words “section 26 and”.

**8. Amendment of section 38 of the principal Act.**

(1) Section 38 of the principal Act is amended —

(a) by the renumbering of the section as subsection (1);

(b) in subsection (1) —

(i) in subparagraph (ii) of paragraph (d), by the insertion immediately after the word “wholly” of the word “funded”;

(ii) by the deletion of paragraph (i) and the substitution of the following new paragraphs —

“(i) where the business has a turnover no greater than one hundred thousand dollars;

(j) by a co-operative credit union registered under The Bahamas Co-operative Credit Unions Act (*Ch. 314A*) provided it has satisfied the Secretary that it has paid to the Central Bank the fees prescribed under The Bahamas Co-operative Credit Unions Act.”;

(c) by the insertion of the following new subsection —

“(2) Paragraph (i) of subsection (1) does not apply to a business that is a family office, a financial services entity, an international business company, or to a business whose revenue is derived from proprietary trading.”.

(2) Paragraph (j) of section 38(1) shall come into force on the 1st day of January, 2025.

**9. Amendment of Second Schedule to the principal Act.**

The *Second Schedule* to the principal Act is amended —

(a) in Part I —

- (i) by the deletion of paragraphs (1) to (3) and the substitution of the following new paragraphs —

“(1) A tax for businesses for which no special provision has been made under this Schedule, on the proportion of turnover as follows —

- (a) for a business with turnover greater than \$100,000.00 per annum but not exceeding \$500,000.00 per annum, a tax of 0.5% of turnover;
- (b) for a business with turnover greater than \$500,000 per annum but not exceeding \$5 million per annum, a tax of 0.75% of turnover;
- (c) for a business with turnover greater than \$5 million per annum, a tax of 1.25% of turnover.

(2) Where a business is —

- (a) agricultural and animal husbandry/mixed farming;
- (b) fishing/fish farms;
- (c) food/meat/fruit processing,

the rate of tax shall be as follows —

Proportion of turnover	Annual tax
Not exceeding \$100,000	0.00%
Exceeding \$100,000 but not exceeding \$500,000	0.50%
Exceeding \$500,000	0.75%

(3) Paragraph (2) does not apply to businesses engaged in the export of salt.”.

- (b) in Part II, in paragraph (1) in the sixth row of the second column under the heading “ Annual Tax”, by the deletion of the words “0.25% of turnover up to a maximum of \$100,000” and the substitution of the words “the greater of \$2,500 and 0.25% of turnover but up to a maximum of \$100,000”.

## 10. Amendment of Third Schedule to the principal Act.

Paragraph (3) of Part B of the Third Schedule to the principal Act is deleted.

## **OBJECTS AND REASONS**

Clause 1 of the Bill sets out the Short title and commencement.

Clause 2 of the Bill seeks to define which Bahamian-owned corporate entities carrying on residential rental operations are exempted from the requirement for business licence and the type of residential property in respect of which the exemption applies.

Clause 3 specified the documents and information required to establish beneficial ownership in an application for a business licence. In error these provisions had appeared in the Third Schedule to the Act.

Clauses 4 seek to amend section 20 to provide for a person aggrieved by the decision of the Secretary with respect to a trading name to appeal to the Tax Appeal Commission.

Clause 5 seeks to provide a mechanism for licensees to make a complaint about an approved trading name.

Clause 6 seeks to amend section 21 so that international business companies that do not have operations in the domestic market are excluded from having to obtain the approval of the Minister to be granted a licence.

Clause 7 seeks to amend section 35 to ensure that the definitions in section 35 also apply to section 26.

Clause 8 seeks to amend section 38 of the Act to clarify that exemptions are provided to wholly funded governmental entities, and to grant an exemption to Co-operative Credit Unions with effect from 1<sup>st</sup> January, 2025. Clause 7 also clarifies that family offices, financial services entities, international business companies, or businesses whose revenue is derived from proprietary trading are not exempted from business licence tax regardless of their turnover.

Clause 9 seeks to amend the Second Schedule to —

- (a) change from a flat rate to a progressive rate of tax for agricultural businesses with a maximum rate of .75%; and
- (b) setting minimum taxes of \$2500 for financial services that are regulated by the Securities Commission and operate outside the domestic market .

Clause 10 amends the Third Schedule to delete the information that was inadvertently placed in section 17 of the Act.