

**A BILL
ENTITLED**

AN ACT to Amend the Companies Act.

BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows: -

Short title and construction.

1. This Act may be cited as the Companies (Amendment) Act, 2013, and shall be read and construed as one with the Companies Act (hereinafter referred to as the “principal Act”) and all amendments thereto.

Amendment of section 2 of principal Act.

2. Section 2 of the principal Act is amended by inserting next after subsection (5) the following –

“ (6) Where rules made under section 393(2)(b) require or permit articles of incorporation, forms, returns, notices or other documents required to be sent to the Registrar, to be created, stored or communicated electronically, references in this Act to signing shall, in relation thereto, include the use of electronic signatures.”.

Amendment of section 3 of principal Act.

3. Section 3 of the principal Act is amended by deleting subsection (1) and substituting therefor the following –

“ (1) One or more persons may form a company
by -

(a) signing and sending to the Registrar –

(i) articles of incorporation;

(ii) an application in the form set out as

Sixteenth Schedule.

Form BRF 1 in the Sixteenth Schedule; and

(b) otherwise complying with the requirements of this Act in respect of registration.”.

Repeal and replacement

4. Section 13 of the principal Act is repealed and the following

**of section 13
of principal
Act.**

substituted therefor -

**“Certificate
of incor-
poration
to be con-
clusive
evidence.**

13. A certificate of incorporation given by the Registrar in respect of any company shall be conclusive evidence that all the requirements of this Act in respect of registration and of matters precedent and incidental thereto have been complied with, and that the company is authorised to be registered and duly registered under this Act.”.

**Amendment
of section
106 of
principal
Act.**

5. Section 106 of the principal Act is amended –

- (a) in subsection (1), by inserting immediately after the word “addressed” the words “and notice thereof shall be included in the form set out as Form BRF1 in the Sixteenth Schedule”; and
- (b) by deleting subsection (2) and substituting therefor the following –

“ (2) Notice of any change in the situation of a registered office, shall be given to the Registrar in the prescribed form within fourteen days of any change in such situation; and the Registrar shall record the change or cause the change to be recorded.

(2A) The inclusion in the annual return of a company of a statement as to the address of its registered office shall not be taken to satisfy the obligation imposed by subsection (2).”.

**Amendment
of section
172 of
principal
Act.**

6. Section 172 (6) of the principal Act is amended by deleting the word “fifteen” and substituting therefor the word “fourteen”.

**Amendment
of section
183 of**

7. Section 183 of the principal Act is amended by deleting –

- (a) paragraph (a) and substituting therefor the following -

principal Act.

“(a) in the case of an individual –

- (i) his Christian name;
- (ii) his surname;
- (iii) his usual address;
- (iv) his nationality, and if that nationality is not the nationality of origin, his nationality of origin;
- (v) his business occupation, if any, or, if he has no business occupation but holds any other directorship or directorships, particulars of that directorship or of some one of those directorships;”;

(b) subsection (3) and substituting therefor the following –

“ (3) A company shall, within fourteen days of any change in the appointment of a director, give notice to the Registrar of the change in the prescribed form.

(3A) The inclusion in the annual return of a company of a statement of the names of a company’s directors shall not be taken to satisfy the duty imposed by subsection (3).”.

Insertion of new section 351A in principal Act.

8. The principal Act is amended by inserting next after section 351 the following -

“Powers of Registrar re Form BRF 1. Sixth Schedule.

351A. – (1) Where the Registrar receives an application in the form set out as Form BRF 1 in the Sixteenth Schedule, the Registrar shall -

- (a) use such of the information on Form BRF 1 as is relevant to the functions of the Registrar under the Companies Act or Registration of Business Names Act; and
- (b) transmit the relevant portions of the

information to each public body that is by law required to perform the function for which the applicant is applying, as is indicated on the duly completed Form BRF

1.

(2) The delivery to the Registrar of the duly completed Form BRF 1 shall be an application for such of the following as is required by the applicant in the Form -

- (a) a taxpayer registration number under the *Revenue Administration Act* or any subsidiary legislation made thereunder;
- (b) registration under the *General Consumption Tax Act* or any subsidiary legislation made thereunder to facilitate the payment of general consumption tax;
- (c) registration under the *National Insurance Act*;
- (d) registration under the *National Housing Trust Act* as an employer;
- (e) a tax compliance certificate for a new company under the *Revenue Administration Act*; and
- (f) such other application as may be made under the Form.

(3) Except as may be required under any other law or as provided for in paragraph (b) of subsection (1), the Registrar shall not disclose the information

referred to in that paragraph in any other circumstance.”.

Amendment of section 393 of principal Act.

9. Section 393 of the principal Act is amended in subsection (2) by –
- (a) re-lettering paragraphs (b) and (c) as paragraphs (c) and (d), respectively; and
 - (b) inserting next after paragraph (a) the following -
 - “(b) requiring or permitting articles of incorporation, forms, returns, notices or other documents required to be sent to the Registrar, to be created, stored or communicated electronically;”.

Insertion of new Sixteenth Schedule in principal Act. First Schedule. Validation and indemnity.

10. The principal Act is amended by inserting next after the Fifteenth Schedule the heading and form set out in the First Schedule to this Act, as the Sixteenth Schedule.

Second Schedule.

11. – (1) Notwithstanding anything to the contrary in any other enactment, the making and use, in good faith, of the forms set out as Forms 2 and 17 in the Second Schedule to this Act by the Registrar of Companies, and the collection of the prescribed fees in connection therewith, during the period commencing from the 1st day of February, 2005 and ending on the date of commencement of this Act, without the same having been made or done in the manner required by law, are declared to have been validly, properly and lawfully made and done with the effect as if made and used in accordance with the procedure prescribed by law.

(2) Every person liable to be legally proceeded against on the ground of any illegality in relation to the making and use of the forms set out as Forms 2 and 17 in the Second Schedule to this Act, and the collection of the prescribed fees in connection therewith, which was done in good faith, is hereby freed, acquitted, discharged and indemnified against The

Queen's Most Excellent Majesty, Her Heirs and Successors, as well as against all other persons whatsoever from liability.

**Amendment
of enact-
ments.**

12. The provisions of the enactments referred to in the first column of the Third Schedule are amended in the manner specified in the second column of the Third Schedule.

**Third
Schedule.**

FIRST SCHEDULE

(Section 10)

FORM BRF1

SIXTEENTH SCHEDULE

**(Sections 3, 106, 183
and 351A)**

FORM BRF1

[INSERT FORM BRF1 HERE]

SECOND SCHEDULE

(Section 11)

Form 2

[INSERT FORM 2 HERE]

Form 17

[INSERT FORM 17 HERE]

THIRD SCHEDULE

(Section 12)

Amendment of Enactments

Provision

Amendment

Companies Act

Companies
(Forms) Rules,
2005

Insert in the Schedule in the appropriate numerical sequence the form set out as Form 17 in the Second Schedule to the Companies (Amendment) Act, 2013.

General Consumption Tax Act

New section
28A

Insert next after section 28 the following -

“Requirement to submit information.

28A. With effect from the date of commencement of the *Companies (Amendment) Act, 2013*, any person applying to register a company under the *Companies Act* or a business name under the *Registration of Business Names Act* shall, if the company will be or the person is required to register as a taxpayer under this Act (and, in the case of a person applying for registration of a business name, if the person is not already registered as a taxpayer under this Act), complete and submit to the Registrar of Companies the appropriate section of the form set out as Form BRF 1 in the Sixteenth Schedule to the *Companies Act*.”.

National Housing Trust Act

New section
12A

Insert next after section 12 the following –

“Requirement to submit information

12A. With effect from the date of commencement of the *Companies (Amendment) Act, 2013*, any person

regarding employees.

applying to register a company under the *Companies Act* or a business name under the *Registration of Business Names Act* shall, if the company will be or the person is required to be registered with the Trust as an employer (and, in the case of a person applying for registration of a business name, if the person is not already registered with the Trust as an employer), complete and submit to the Registrar of Companies the appropriate section of the form set out as Form BRF 1 in the Sixteenth Schedule to the *Companies Act*.”.

National Insurance Act

New section 6A Insert next after section 6 the following –

“Requirement to register employees.

6A. With effect from the date of commencement of the *Companies (Amendment) Act, 2013*, any person applying to register a company under the *Companies Act* or a business name under the *Registration of Business Names Act* shall if it is intended for the company or person to employ one

**submit
informa-
tion
regarding
TRN and
TCC.**

of commencement of the *Companies (Amendment) Act, 2013*, any person applying to register a company under the *Companies Act* or a business name under the *Registration of Business Names Act* shall apply for a Taxpayer Registration Number, and may apply for a Tax Compliance Certificate, by completing and submitting to the Registrar of Companies the appropriate sections of the form set out as Form BRF 1 in the Sixteenth Schedule to the *Companies Act*.”.

MEMORANDUM OF OBJECTS AND REASONS

At present, entrepreneurs are required to visit multiple government departments in order to register companies and business names for various purposes required by law. This is a major contributor to the poor perception of the ease with which entrepreneurs are able to establish and conduct businesses in Jamaica.

It has been decided to create a “one stop shop” at the Companies Office of Jamaica, which will give registrants of companies and business names the option of making, by means of a single business registration form, applications for registration under the relevant laws.

Consequently, this Bill seeks to amend the Companies Act to authorize the use of the business registration form in order to improve the ease with which business enterprises can be registered under the relevant laws to conduct business in Jamaica. Compliance with these requirements is expected to improve the business environment in Jamaica and the competitiveness of Jamaica as a business destination.

Anthony Hylton
Minister of Industry, Investment
and Commerce