



No. 5 of 2010

INTERNATIONAL BUSINESS COMPANIES (AMENDMENT) ACT, 2010

AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES
ACT.

[Date of Assent - 16th March, 2010]

Enacted by the Parliament of The Bahamas.

1. Short title and commencement.

- (1) This Act which amends the International Business Companies Act (*Ch. 309*) may be cited as the International Business Companies (Amendment) Act, 2010.
- (2) Section 3 of this Act shall be deemed to have come into force on the 29th day of December, 2000.

2. Amendment of section 165 of the principal Act.

Section 165 of the principal Act is amended by the insertion of the following new subsections immediately after subsection (3) —

“(3A) If a company fails to pay the increased licence fees referred to in section 176(3), the Registrar shall within thirty days immediately following the date specified in that section, publish in the Gazette and serve on the company a notice stating —

- (a) the amount of the licence fees payable by virtue of section 176(3); and
- (b) that the name of the company will be struck off the register if the company fails to pay the increased licence fees on or before the 31st day of December next ensuing.

(3B) If a company fails to pay the increased licence fees stated in the notice referred to in subsection (3A) by the 31st day of December, the Registrar shall strike the name of the company off the register from the 1st day of January next ensuing.”

3. Repeal and replacement of section 166 of the principal Act.

Section 166 of the principal Act is repealed and replaced as follows —

“166. Restoration to Register.

- (1) If the name of a company has been struck off the Register under section 165(2), the company, or a creditor, member or liquidator thereof, may within five years immediately following the date of the striking off, apply to the Registrar to have the name of the company restored to the Register.
- (2) If upon an application under subsection (1) the Registrar is satisfied that it would be fair and reasonable for the name of the company to be restored to the Register, the Registrar shall restore the name of the company to the Register and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck off the Register.
- (3) If the name of the company has been struck off the Register under section 165(3B), the company, or a creditor, member or liquidator thereof, may within five years immediately following the date of the striking off, apply to the Registrar to have the name of the company restored to the Register, and upon payment to the Registrar of—
 - (a) the restoration fee specified in the *First Schedule*;
 - (b) the licence fee stated in the notice referred to in section 165(3A); and
 - (c) the licence fee in the amount stated in the notice referred to in paragraph (b) for each year or part thereof during which the name of the company remained struck off the Register,the Registrar shall restore the name of the company to the Register and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck off the Register.
- (4) If the period of five years under subsection (1) or (3) has expired, the company or a creditor, member or liquidator thereof, may apply to the Court to have the name of the company restored to the Register.

- (5) Where the company, or a creditor, member or liquidator thereof applies to the Court pursuant to subsection (4), to have the name of the company restored to the Register, the Court shall order the name of the company to be restored to the Register —
- (a) where the company has been struck off the Register under section 165(2), if it is satisfied that it would be fair and reasonable for the name of the company to be restored to the Register; or
 - (b) where the company has been struck off the Register under section 165(3B), upon the payment of the fees required under subsection (3),
- and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck off the Register.
- (6) For the purpose of this Part, the appointment of an official liquidator under section 168 operates as an order to restore the name of the company to the Register.”

4. Amendment of section 169 of the principal Act.

Section 169 of the principal Act is amended in subsection (1) by the deletion of the words “section 165(3)” and the substitution of the words “section 165”.

5. Amendment of section 176 of the principal Act.

Section 176 of the principal Act is amended as follows —

- (a) by the repeal and replacement of subsection (2) as follows —
 - “(2) If a company fails to pay the fee specified in the third or fourth item of the *First Schedule* by the 31st day of March in each year, the fee increases by ten per cent of that amount.”; and
- (b) by the repeal of subsection (4).

6. Insertion of new section 176A into the principal Act.

The principal Act is amended by the insertion immediately after section 176 of the following new section —

“176A. Penalty.

- (1) In addition to the fees payable under section 166(3), the company on restoration to the Register shall be liable to a penalty of one hundred dollars for each year or part thereof that the name of the company remained struck off the Register.

- (2) For the removal of doubt, the penalty imposed under subsection (1) shall only be payable by a company which has been struck off the Register after the commencement of this Act.”.