

A BILL

entitled

COMPANIES AND PARTNERSHIPS (FEES) ACT 2018

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WHEREAS it is expedient to increase fees charged under the Companies Act 1981, the Limited Partnership Act 1883, the Exempted Partnerships Act 1992 and the Overseas Partnerships Act 1995, and to make connected provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Companies and Partnerships (Fees) Act 2018.

Repeals and replaces Fifth Schedule to the Companies Act 1981

2 Repeal and replace the Fifth Schedule to the Companies Act 1981 as follows—

“FIFTH SCHEDULE

PART I

(Section 121)

1 The appropriate fee in the case of a company whose business includes the management of any unit trust fund, shall be \$3,050 in respect of each unit trust fund managed by that company at the date of the declaration made under section 121.

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2 When the issued capital of a company if a company limited by shares, or other company having a share capital, is—

	Issued capital	Tax payable
(i)	less than \$50,000	\$685
(ii)	\$50,000 or more but less than \$250,000	\$1,020
(iii)	\$250,000 or more but less than \$500,000	\$1,700
(iv)	\$500,000 or more but less than \$1,000,000	\$3,385
(v)	\$1,000,000 or more but less than \$5,000,000	\$6,765
(vi)	\$5,000,000 or more but less than \$10,000,000	\$12,890
(vii)	\$10,000,000 or more	\$19,330

In the case of a local company which is a mutual company, the tax payable by such company shall be on the same scale as a company limited by shares but the basis shall be the reserve fund of such a company in place of that issued capital.

In the case of a local company which is a company limited by guarantee, other than a mutual company no fee shall be payable.

In the case of a local company engaging in or carrying on wholesale trading business in respect of petroleum and other oils or liquefied petroleum gas the tax payable by such company shall be \$19,330.

PART II (Section 131, 135)

1 A EXEMPTED COMPANIES (Section 131)

Conditions	Fee
(a) Where the assessable capital of the exempted company—	
(i) is \$0-\$12,000	\$2,095
(ii) is \$12,001-\$120,000	\$4,275
(iii) is \$120,001-\$1,200,000	\$6,590
(iv) is \$1,200,001-\$12,000,000	\$8,780
(v) is \$12,000,001-\$100,000,000	\$10,980
(vi) is \$100,000,001-\$500,000,000	\$19,605
(vii) is \$500,000,001 or more	\$32,676
(b) Where the exempted company's business includes the management of any unit trust fund: in respect of each unit trust fund managed by the company at the date the declaration under section 131(1) was made	\$3,050
(bb) (i) Where the exempted company is a small foreign sales corporation which does not lease aircraft	\$615

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For the above purposes, the following expressions have the following meanings—

“finance business” means the business of raising money from the public by the issue of bonds or other securities;

“foreign sales corporation” means a company which—

- (a) has been registered under this Act as an exempted company; and
- (b) has been designated as a foreign sales corporation under the Internal Revenue Code, of the United States of America, and has submitted to the Registrar a certified copy of the document which—
 - (i) evidences such designation; and
 - (ii) specifies whether the company is a small or regular foreign sales corporation;

“insurance business” means the business of effecting or carrying out contracts of insurance or reinsurance as principal, but excluding insurance management or insurance brokerage business;

“mutual fund business” means the business of raising money from the public for investment in real property, shares, stocks or personal property;

“open-ended company” means a company which has power under the terms of its incorporation to redeem or purchase for cancellation its issued shares at the option of, or on the request of, a shareholder;

“physical presence” means that the permit company operates from Bermuda with staff and management present in Bermuda, has an affiliate that does so, or is a member of a group, one of the members of which operates in that manner;

“regular foreign sales corporation” means a foreign sales corporation which, under the Internal Revenue Code of the United States of America, has been so designated.

“small foreign sales corporation” means a foreign sales corporation which, under the Internal Revenue Code of the United States of America, has been so designated;

“specified category ”means—

- (a) the ownership, commercial management or operation of ships or aircraft;
- (b) pharmaceutical operations;

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(c) research and development in bio-science or bio-medicine; or

(d) a charitable purpose, within the meaning of the Charities Act 2014, which would enable the permit company to be registered as a charity under that Act if it were established as such in Bermuda;

“unit trust fund” means a fund under which the property is held on trust for the participants.

2 Where a company liable to pay the higher fee in any year does not carry on the business attracting the higher fee, it shall only pay the lower. Where a company liable to pay the higher fee at any time during a year carries on the business attracting the higher fee, it shall pay that fee for that year.

C SEGREGATED ACCOUNTS COMPANIES

In addition to the annual fee or tax otherwise payable under this Schedule a segregated accounts company registered under section 6 of the Segregated Accounts Companies Act 2000 shall pay an annual fee of \$295 in respect of each segregated account operated by the company, subject to a maximum annual fee of \$1,180 in the aggregate.”

Amends section 22 of the Limited Partnership Act 1883

3 In section 22(3) of the Limited Partnership Act 1883, delete “one hundred and fifty dollars” and substitute “\$160”.

Repeals and replaces First Schedule to the Exempted Partnerships Act 1992

4 Repeal and replace the First Schedule to the Exempted Partnerships Act 1992 as follows—

“FIRST SCHEDULE

(section 11)

PART I

Activity	Fee Payable
Fee to accompany application for Authority’s consent under section 7(2), 13A(1)(c) or 13C(2)	\$205

PART II

Fee on application for Authority’s consent to limited partnership and exempted partnership under section 11(2)	\$320
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Fee payable on registration of election to have separate legal personality under section 4A or 4BA of the Partnership Act 1902	\$170
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PART III

Fee payable on registration of a partnership as an exempted partnership and on registration of a partnership as an exempted partnership and limited partnership under section 11(3)	\$2,350
Annual fee payable by exempted partnership and by exempted partnership registered as limited partnership under section 11(3)(d)	\$2,350

PART IV

ADDITIONAL FEES

On delivery of documents to Registrar for registration of exempted partnership under section 9(1)	\$95
On an application for Authority's consent to change a matter under section 13(1)(a)	\$95
For preparing a copy of any document by a public officer:- for each page	\$2
For a search by a public officer of the records maintained by the Registrar for the purpose of obtaining a certificate that the Exempted Partnership Act 1992 has been complied with	\$95
Activity	Fee Payable
For certifying and sealing a copy of any document or set of documents	\$95
For registering or recording every certificate required by this Act	\$170
For each inspection of the register under section 22(2)	\$12

PART V

CONTINUANCE AND DE-REGISTRATION

Fee payable on an application for continuance of a partnership in Bermuda under section 13A	\$425
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Fee payable on filing a statement or declaration for de-registration of partnership under section 13B	\$425
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PART VI
CONVERSION

Fee payable on an application for conversion of an exempted partnership that is both limited and exempted to an exempted company under section 13C	\$595
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PART VII
REGISTERED CHARGES

Fees payable on registration under section 4F of the Partnership Act 1902 of—		
(a)	any charge that may be so registered on the assets of an exempted partnership—	
	(i) where the amount secured is \$1,000,000 or less	\$380
	(ii) where the amount secured is more than \$1,000,000	\$665
(b)	particulars of a series of debentures	\$95
Fee payable on entry of a memorandum of satisfaction under section 4K of the Partnership Act 1902		\$95
Fee payable on an application to amend under section 4G of the Partnership Act 1902, or rectify under section 4H of that Act, a registered charge		\$95

Repeals and replaces Schedule to the Overseas Partnerships Act 1995

5 Repeal and replace the Schedule to the Overseas Partnerships Act 1995 as follows—

“SCHEDULE

(section 23)

PART I

Activity	Fee Payable
Fee to accompany application for Minister’s consent under section 4	\$330

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PART II

Fee payable on registration of overseas partnership under section 23(2)(a)	\$320
Annual fee payable by overseas partnership under section 23(2)(b)	\$2350

PART III

ADDITIONAL FEES

On delivery of documents to Registrar for registration of permit under section 9(2)	\$95
On an application for Minister's consent to change a matter under section 22(1)(a)	\$95
For preparing a copy of any document by a public officer: for each page	\$2
For a search by a public officer of the records maintained by the Registrar for the purpose of obtaining a certificate that the Overseas Partnerships Act 1995 has been complied with	\$95
For certifying and sealing a copy of any document or set of documents	\$95
For registering or recording every certificate required by this Act	\$170
For each inspection of the register under section 10(2)	\$12 "

Minor amendments

6 (1) In section 4C of the Partnership Act 1902, delete "or 4B" and substitute "or 4BA".

(2) In each of the following provisions (which contain references to section 4A of the Partnership Act 1902), after "section 4A" insert "or 4BA"—

- (a) section 27(1) of the Limited Partnership Act 1883;
- (b) sections 132N(12)(b) and 132O(1)(b) of the Companies Act 1981;
- (c) section 13C(1) of, and Part II of the First Schedule to, the Exempted Partnerships Act 1992.

Commencement

- 7 (1) Subject to subsection (2), this Act comes into operation on 1 April 2018.
- (2) Section 6 shall be deemed to have come into operation on 22 June 2016.

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EXPLANATORY MEMORANDUM

This Bill seeks to increase certain fees charged under the Companies Act 1981, the Limited Partnership Act 1883, the Exempted Partnerships Act 1992 and the Overseas Partnerships Act 1995, and to make minor amendments in consequence of the insertion of section 4BA of the Partnership Act 1902 by the Partnerships and Companies Amendment Act 2016.

Clause 1 is self-explanatory.

Clause 2 repeals and replaces the Fifth Schedule to Companies Act to increase the annual fees payable under that Act.

Clause 3 amends section 22(3) of the Limited Partnership Act 1883 to increase the fee payable for registering or recording certificates and notices under that Act.

Clause 4 repeals and replaces the First Schedule to the Exempted Partnerships Act 1992 to increase the annual fees payable under that Act.

Clause 5 repeals and replaces the Schedule to the Overseas Partnerships Act 1995 to increase the annual fees payable under that Act.

Clause 6 amends the specified provisions to refer to section 4BA of the Partnership Act 1902 (election of an existing partnership to have legal personality), consequential on the insertion of section 4BA by section 4 of the Partnerships and Companies Amendment Act 2016.

Clause 7 provides for commencement on 1 April 2018, except for clause 6 which is deemed to have come into operation on 22 June 2016 (the commencement date of the Partnerships and Companies Amendment Act 2016 which inserted section 4BA into the Partnership Act 1902).