



**Tuvalu**

**COMPANIES AND BUSINESS  
REGISTRATION ACT**

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**CAP. 40.12**





Tuvalu

## COMPANIES AND BUSINESS REGISTRATION ACT

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Tuvalu

# COMPANIES AND BUSINESS REGISTRATION ACT

## AN ACT TO GOVERN THE REGISTRATION OF COMPANIES AND OTHER BUSINESS ENTERPRISES IN TUVALU<sup>1</sup>

Commencement [1st October 1978]

### 1 Short title

This Act may be cited as the Companies and Business Registration Act.

### 2 Interpretation

In this Act, unless the context otherwise requires —

“**certified**” means certified in the prescribed manner to be a true copy and correct translation;

“**director**” includes any person occupying the position of director of a company, by whatever name called;

“**partnership**” means any 2 or more persons combining together on more than one occasion in a common business enterprise with a view to profit;

“**place of business**” includes a share transfer or registration office;

“**prescribed**” means prescribed by regulations made under the provisions of section 7;

“**prospectus**” means any prospectus, notice, circular, advertisement or other invitation, offering to the public for subscription or purchase any shares or debentures of a company.

## **2A Restriction on application<sup>2</sup>**

On and after the commencement of the Companies Act,<sup>3</sup> nothing in this Act shall apply to an external company to which that Act applies.

## **3 Registration of companies and partnerships**

- (1) Every company or partnership which has established or shall establish a place of business in Tuvalu or which derives profits from any enterprise or operation in Tuvalu shall file with the Minister the following documents —
  - (a) a certified copy of the charters, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, or, in the case of a partnership, a copy of the deed or agreement creating such partnership or written evidence of the terms upon which such partnership exists and which, in the case of such partnership having foreign interests, clearly sets out that such interests carry a maximum of 20 per cent<sup>4</sup> of all assets and profits that may be derived or accruing from the operations of such partnership in Tuvalu, and if the relevant document is not in the English language, a certified translation thereof in English;
  - (b) a list of directors of the company or of the partners in the partnership, as the case may be;
  - (c) the names and addresses of one or more persons resident in Tuvalu authorised to accept on behalf of the company or partnership service of process or of any notices required to be served on the company or partnership or on any partner in respect of partnership business.
- (2) The Minister shall cause a register of all information filed under this section to be maintained in such form as he may prescribe.
- (3) In the event of any alteration being made or necessitated in any document filed under subsection (1)(a) hereof or in any of the particulars furnished under the foregoing subsections the company or partnership shall, within the prescribed time, file with the Minister a notice of such alteration.
- (4) Any process or notice required to be served on a company or partnership or any partner in respect of partnership business shall be sufficiently served if addressed to any person whose name has been filed under the foregoing provisions of this section and left at the address which has been so filed.

## **3A Limit on foreign interests**

- (1) No partnership shall have foreign interests greater than such percentage of each of —
  - (a) all assets; and

- (b) all profits that may be derived or may accrue from the operations of the partnership in Tuvalu,  
as the Minister may by regulations prescribe, either subject to prescribed conditions or unconditionally.<sup>5</sup>
- (2) Regulations under subsection (1) may —
- (a) be made either in relation to all partnerships (with or without specified exceptions) or in relation to a specified class or description of partnership; and
- (b) make the same provision for all partnerships, different provisions for different classes or descriptions of partnerships or different provisions for the same classes or descriptions of partnerships for different purposes.
- (3) Without prejudice to section 6, the Minister shall refuse to register a partnership which does not comply with regulations under subsection (1).

#### **4 Filing of annual balance sheet**

- (1) Every company or partnership to which this section applies shall in every year file with the Minister a balance sheet properly drawn up so as to exhibit a true and correct view of the state of affairs of the company or partnership.
- (2) For the avoidance of doubt it is hereby declared that any balance sheet filed under the foregoing subsection shall be made available by the Minister to the Minister responsible for the administration of the Income Tax Act.<sup>6</sup>

#### **5 Use of word “Limited”**

Every company to which this Act applies and which used the word “Limited” as part of its name shall —

- (a) in every prospectus inviting subscriptions for its shares or debentures in Tuvalu state the country in which it is incorporated;
- (b) conspicuously exhibit on every place where it carries on business in Tuvalu the name of the company and the country in which it is incorporated; and
- (c) display the name of the company and of the country in which it is incorporated on all bill-heads and letter paper and in all notices, advertisements and other official publications of the company.

#### **5A Filing of documents**

- (1) Every individual carrying on a business enterprise (otherwise than in partnership) with a view to profit shall, within 30 days of the relevant date, file with the Minister such document or documents as may be prescribed.

- (2) In this section, “the relevant date” in relation to an individual carrying on a business enterprise as provided in subsection (1) means the date on which he starts doing so.

## 6 Offence

If any company or partnership to which this Act applies fails to comply with any of the requirements of this Act, such company and every officer or agent of such partnership shall be liable to a fine of \$100, or in the case of a continuing offence, \$10 for every day during which the failure continues.

## 7 Regulations

The Minister may make regulations to carry out the provisions of this Act, including but not restricted to the prescription of fees to be paid in respect of the filing of any document.

## ENDNOTES

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<sup>1</sup> 1990 Revised Edition, Cap. 59 - Acts 2 of 1978, 3 of 1985 and 2 of 1987

Amended by Act 13 of 1991, commencement 2 April 1992

<sup>2</sup> Inserted by Act 2 of 1987 and amended by Act 13 of 1991

<sup>3</sup> Cap 40.08

<sup>4</sup> The Partnerships (Foreign Interests) Regulations 1987 (LN 2/1987) specified that —

“the prescribed percentage limit on foreign interests in a partnership is 40% for each of -

(a) all assets, and

(b) all profits that may be derived or may accrue from the operations of the partnership in Tuvalu.”

<sup>5</sup> See note at endnote 4

<sup>6</sup> Cap. 26.16