

No. 13 of 2001.

*The Financial Services Commission
(Amendment) Act, 2001.*

Saint Christopher
and Nevis.

I assent,

CUTHBERT M SEBASTIAN

Governor-General.
4th October 2001.

SAINT CHRISTOPHER AND NEVIS

No. 13 of 2001

AN ACT to amend the Financial Services Commission Act, 2000 to make provision for the issue of a compliance certificate in respect of money laundering.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:—

1. This Act may be cited as the Financial Services Commission (Amendment) Act, 2001.

2. In this Act, unless the context otherwise requires, “Act” means the Financial Services Commission Act, 2000.

3. The Act is amended in section 2 by inserting therein immediately before the definition of “Commission” the following definition,

“ “Accountant” means a person who is qualified as an accountant by examination conducted by one of the institutes of Chartered Accountants or Certified Accountants in England and Wales, Ireland or Scotland, the Canadian Institute of Chartered Accountants or the American Institute of Certified Public Accountants and is a practising member in good standing of one of these institutes or is otherwise approved by any supervisory body of the accounting profession recognised under the law of the Federation.”

4. Section 45 of the Act is amended

(a) in subsection (1) by inserting immediately after the words “the company” the words “or the Registrar”,

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- (b) in subsection (2) by inserting immediately after the words “the company” where they occur for the second time the words “or the Registrar”.

Amendment to section 51. 5. The Act is amended in section 51(10) by inserting immediately after the word “section” appearing in the last line thereof, the words “together with the information required to be kept under section 51(8)(c)”.

Insertion of new section 51A .6. The Act is amended by inserting immediately after section 51 thereof the following new section:

51A. (1) Bearer certificates issued by a company under this Act shall be kept in Saint Kitts in such manner as may be prescribed, at the offices of a person authorised to carry on finance business.

(2) The authorised person referred to in subsection (1) shall maintain a record of each bearer certificate deposited in its custody which shall contain the following information:

- (a) the name of the company issuing the bearer certificate;
- (b) the identification number of the certificate, number of shares and the class of shares in the company contained in the bearer certificate;
- (c) the identity of the bearer of the certificate, that is to say, the name, address, date of birth and details of identification; and
- (d) where applicable, its beneficial owner.

(3) The authorised person shall, where custody of the bearer certificates is transferred to another custodian, notify the Registrar within seven days of such transfer and his notice shall include the particulars of the new custodian.

(4) The authorised person shall not effect a substitution of one bearer for another in relation to the same certificate without prior notification, in writing to the Registrar, and such notification shall include the identification number of the certificate and the date on which the change is to take effect, or within seven days after the change has taken effect.

(5) An authorised person who refuses or fails to comply with the provisions of this section commits an offence, and where the authorised person who commits the offence is a company then every director or officer concerned with the management of that company shall be liable together with the company to be convicted of that offence, unless he satisfies the court that the offence was committed without his knowledge or consent or that he took reasonable steps to prevent the commission of the offence.

(6) An authorised person referred to in subsection (5) shall be liable, on summary conviction,

- (a) in case of a company, to a fine of twenty thousand dollars; and
- (b) in case of an individual, to a fine of twenty thousand dollars or to imprisonment to a term not exceeding twelve months.”.

7. Section 71 of the Act is amended

(a) in subsection (1)

- (i) by inserting immediately after the word “incorporation” the words “or registration under this Act”;
- (ii) by deleting the words “under the company’s common seal” occurring in paragraphs (a) and (b) thereof;
- (iii) by inserting the word “such” immediately after the word “containing” occurring in paragraph (a) thereof;
- (iv) by inserting the words “as may be prescribed” immediately after the word “current” in paragraph (a);
- (v) by inserting the words “or registration” immediately after the word “incorporation” in paragraph (a);
- (vi) by inserting immediately after paragraph (c) the following new paragraph:

“(d) the annual return shall be signed by a Director or the Secretary to the company.”

(b) in subsection (2) thereof by inserting immediately after paragraph (j) the following new paragraphs:

- “(k) the name of the secretary of the company;
- (l) the name of the Custodian of any bearer certificates.”

8. The Act is amended in section 81(1) by inserting immediately after the word “secretary” the words “who is resident in the Federation”.

9. The Act is amended in section 82 by inserting immediately after subsection (2) thereof the following new subsection:

“(3) A private exempt company must have as its secretary a person authorised to carry on either trust or corporate business.”.

10. The Act is amended in section 155 by

- (a) inserting immediately after the word “company” occurring in the second line of subsection (2) thereof the words “or creditor of the company”;

(b) inserting immediately after subsection (4) thereof the following new subsection:

“(5) An order for winding up shall operate in favour of all the creditors and of the contributories of the company as if made on the joint petition of a creditor and a contributory.”;

(c) renumbering subsection (5) as subsection (6).

11. The Act is amended in section 207A by replacing subsection (3) with the following new subsection:

“(3) Where a company is to be re-domiciled for the purpose of carrying on finance business then before delivering the application to be re-domiciled to the Registrar the applicant shall obtain the authorisation that is required to carry on such finance business.”.

12. The Act is amended in section 216A(1) by substituting the word

(a) “the” for the word “a” occurring in the third line thereof; and

(b) “shall” for the word “may” occurring in the fourth line thereof.

13. The Act is amended in section 220A

(a) by inserting immediately after subsection (2) thereof the following new subsection:

“(2A) Any action done by the Registrar from the 16th day of March 2000 up to the day immediately prior to the coming into force of this Companies Amendment Act re-register any company that stood dissolved by virtue of section 220(8) of this Act is hereby validated.”;

(b) by inserting immediately after subsection (3) thereof the following new subsection:

“(4) Notwithstanding the provisions of this section the Registrar may, if it is equitable or in the public interest to do so and upon application, register, up to the 5th day of October 2001, any company that failed to comply with the provisions of this section, except that the company shall pay a penalty of fifty dollars in respect of each week it was late, that is to say, from the 15th day of March 2001 up to the 5th day of October 2001.”.

14. The Act is amended by inserting immediately after section 220A the following new section:

220B. The Registrar may register the memorandum and articles of association of a company or register special resolution altering the memorandum of association to change the name of a company if the name of the company is identical or similar to the name of the company that has been struck off the register and dissolved under the Acts that were repealed by section 220 of this Act, provided that

(a) the company has been struck off the register and dissolved for a continuous period of more than three years; and

(b) no application made to declare the dissolution of the company void under section 215 remains undetermined.”.

WALFORD V GUMBS
Speaker

Passed by the National Assembly this 26th day of September, 2001.

JOSÉ LLOYD
Clerk of the National Assembly