



No. 41 of 2000

**AN ACT TO PROVIDE FOR THE LICENSING AND REGULATION OF
FINANCIAL AND CORPORATE SERVICE PROVIDERS AND
FOR CONNECTED PURPOSES**

[Date of Assent – 29th December, 2000]

Enacted by the Parliament of The Bahamas.

- Short title and commencement.** 1.(1) This Act may be cited as the Financial and Corporate Service Providers Act, 2000.
- (2) This Act shall come into operation on such day as the Minister may appoint by notice in the Gazette.
- Interpretation.** 2. In this Act -
- “auditor” means a public accountant licensed under the provisions of the Public Accountants Act, 1991;
- “financial and corporate services” means the provision of financial and corporate services for profit or reward in or from within The Bahamas and includes -
- (a) the conduct or the carrying on of financial services in or from The Bahamas, including on-line financial services;
- No. 8 of 1991.**

- (b) the registration or management and administration of international business companies incorporated or existing under the International Business Companies Act, 2000 ;
- (c) the provision of registered agent services and registered office services for companies mentioned in paragraph (b);
- (d) the provision of directors or officers for companies mentioned in paragraph (b);
- (e) the provision of nominee shareholders for companies mentioned in paragraph (b);
- (f) the provision of partners for partnerships registered and existing under the Exempted Limited Partnership Act, 1995; and
- (g) the provision of registered agent services and registered office services for partnerships registered and existing under the Exempted Limited Partnership Act, 1995;

No. 10 of 1995.

No. 10 of 1995.

“Inspector” means the Inspector of Financial and Corporate

Services appointed under section 12;

“licence” means a licence granted under subsection (4) of section 4;

“licensee” means a person holding a licence under this Act;

“Minister” means the minister responsible for companies.

PART II
LICENCES

**Requirement
for licence.**

3. Subject to section 20 and notwithstanding any other law or practice, no person shall carry on the business of financial and corporate services in or from within The Bahamas unless that person has obtained a licence under this Act for those purposes.

**Application
for licence.**

4.(1) An application for a licence under this Act shall be made to the Inspector in the form specified in the Schedule.

Schedule.

(2) The Minister may by order prescribe different types of licences subject to such terms and conditions as is deemed necessary.

(3) The Inspector shall in granting a licence take into account the following -

- (a) whether the applicant is a fit and proper person;
- (b) whether the applicant is qualified to carry out the business of a financial and corporate service provider;
- (c) the professional reputation and experience of the applicant;
- (d) whether each officer, director or manager of the applicant is a fit and proper person to act as such;
- (e) in the case of an application by a partnership, whether each partner is a fit and proper person to act as such; and
- (f) whether the applicant, if an individual, is resident

in The Bahamas or, if a company, is registered under the Companies Act, 1992.

No. 18 of 1992.

(4) An appeal against a decision to refuse to grant a licence shall be made to the Supreme Court.

(5) The Inspector shall cause notice of the grant of a licence under this Act to be published in the Gazette.

Fees.

5.(1) An application under section 4 shall be accompanied by such fee as the Minister may by regulations prescribe.

(2) The issue of a licence under section 4 shall be subject to the payment of such fee as the Minister may by regulations prescribe.

**Duration
of licence.**

6.(1) A licence issued under this Act is valid until the 31st December of the year in which it is issued but is renewable as of the 1st January in each year thereafter for a further period of one year upon payment of such fee as the Minister may by regulations prescribe.

(2) The Inspector before renewing a licence under this Act shall take into consideration those matters referred to in section 4(3).

**Notification
of change in
particulars
of licensee.**

7. Where a change occurs in the particulars of a licensee as set out in the application for the licence, the licensee shall within thirty days, inform the Inspector of the change.

**Display of
licence.**

8. A licence issued under this Act shall be prominently displayed on the premises where the business of financial and corporate services is carried on.

**Register
of manage-
ment companies.**

9.(1) The Inspector shall maintain a register in which shall be entered the following particulars -

(a) the name of the licensee;

- (c) the address of the licensee;
- (d) the location of the registered office; and
- (d) the date the licence was issued.

(2) The register shall be open to inspection by the public.

**Certificate
of registration.**

10.(1) A person who carries on financial and corporate services for his own account shall apply to the Inspector for a certificate of registration.

(2) The Inspector shall on being satisfied that the person referred to in subsection (1) is acting for his own benefit shall grant the certificate of registration upon the payment of the prescribed fee.

(3) The certificate issued under this section is valid until the 31st December of the year in which it is issued but is renewable as of the 1st January in each year thereafter for a further period of one year upon payment of such fee as the Minister may, by regulations prescribe.

PART III

TRANSFERABILITY OF SHARES AND CHANGES IN DIRECTORS

**Shares, etc.
not to be
issued or
transferred
without
approval.**

11.(1) No shares in a company or partnership licensed under this Act shall be issued, transferred or otherwise disposed of without the prior written approval of the Inspector.

(2) No appointment of directors of a company licensed under this Act shall be made without the prior written approval of the Inspector.

(3) Any change of officers of a company shall be notified to the Inspector.

PART IV
ADMINISTRATION

**Inspector of
Financial
and Corporate
Services.**

12.(1) The Minister shall appoint an Inspector of Financial and Corporate Services for the purposes of ensuring the proper administration of this Act.

(2) The Inspector shall be a body corporate with perpetual succession and a common seal with power to acquire hold and dispose of land and other property of whatever kind and to sue and be sued.

(3) The functions of the Inspector are -

- (a) to maintain a general review of financial and corporate services in The Bahamas;
- (b) on an annual basis and when required by the Minister, at the expense of the licensee, to conduct on-site and off-site examinations of the business of the licensee for the purpose of satisfying himself that the provisions of this Act, the Financial Transactions Reporting Act, 2000, the International Business Companies Act, 2000 and any other law are being complied with and in such cases where the Inspector is unable to conduct such examination, to appoint an auditor, at the expense of the licensee, to conduct such examination and to report thereon to the Inspector.

(4) In the performance of his duties under this Act the Inspector may at all reasonable times –

- (a) require a licensee to produce for examination such of his books, records and other documents that the licensee is required to maintain pursuant to section 15; and
- (b) require a licensee to supply such information or explanation,

as the Inspector may reasonably require for the purpose of enabling him to perform his functions under this Act.

(5) The Inspector may, with the approval of the Minister authorize in writing any person or persons to assist him in the performance of his functions under this Act.

PART V

COMPLIANCE MEASURES FOR LICENSEES

Duty to maintain professional conduct.

13.(1)

Every licensee shall -

- (a) maintain a high standard of professional conduct in the performance of his duties as a licensee; and
- (b) refrain from engaging himself or any of his employees in any illegal or improper conduct.

(2) No licensee shall indulge in any activity, whether within or outside The Bahamas, that may reflect adversely on other service managers or the reputation of The Bahamas as an international financial centre.

Obligation of a licensee to clients.

14.(1)

Where any request is made to a licensee by a client to provide financial or corporate services, the licensee shall verify the identity of the client.

- (2) A licensee shall obtain from each client who instructs him -
- (a) details of the client's principal place of business, business address, telephone, facsimile, telex numbers and electronic address of the principals or professionals concerned with the client;
 - (b) two sources of reference to provide adequate indication on the reputation and standing of the client.

(3) A licensee shall keep a record in respect of each client, including the name and address of the beneficial owners of all international business companies incorporated and or existing under the International Business Companies Act, 2000, and the name and address of all partners registered under the Exempted Limited Partnership Act, 1995 on behalf of the client and any information obtained under subsection (1).

No. 10 of 1995.

(4) Where the service provided to a client is for any reason discontinued, the record kept in his case pursuant to subsection (2) shall continue to be maintained for a period of not less than six years from the date of discontinuation.

Keeping record of clients.

15. In addition to the requirement of section 13(2), a licensee shall maintain adequate information on a file about each client so as to enable the licensee to fulfil the obligations under the Act and any rules and regulations made thereunder and any other law.

Suspension of licence.

16.(1) Where the Inspector is of the opinion that a licensee is -

- (a) acting contrary to section 11 or fails to provide access to any document under section 12(4) or fails to obtain any information for the purposes of section 14; or
- (b) in contravention of this Act or any other law,

the Inspector may require him forthwith to take such steps as may be necessary

to rectify the matter, and may forthwith suspend the licence.

(2) A suspension shall not exceed a period of thirty days unless extended from time to time by an order of the court on application of the Inspector on the grounds that it is in the public interest that the suspension continue and specifying the duration of such period of further suspension, which shall not itself exceed sixty days each at any one time.

**Revocation
of licence.**

17.(1) The Inspector may -

- (a) by order, revoke the licence of a licensee -
 - (i) if the Inspector is of the opinion that the licensee is carrying on his business in a manner detrimental to the public interest, the interest of the companies managed by him or to the reputation of The Bahamas;
 - (ii) if the licensee has ceased to carry on financial and corporate services; or
 - (iii) if the licensee becomes bankrupt or goes into liquidation or is wound up or otherwise dissolved.

(2) An appeal under this section shall not operate as a suspension of the revocation.

Offences.

18.(1) Any person who carries on the business of financial and corporate services in or from within The Bahamas without obtaining a licence under this Act commits an offence and is liable on summary conviction to a fine of seventy-five thousand dollars and where the offence continues subsequent to conviction that person is liable to a fine of one thousand dollars for each day the offence continues.

(2) Subject to subsection (1), a person who with intent to deceive, by any act or omission contravenes any provision or requirement of this Act,

commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

(3) Any licensee who advertises inviting either directly or indirectly other parties to commit breaches of the law of the country in which such advertisement appears or to which such advertisement is directed, commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

(4) Any person who with intent to deceive, for any purposes of this Act makes any representation that he knows to be false or does not believe to be true, commits an offence and is liable on summary conviction to a fine of one hundred thousand dollars.

(5) Where a limited liability company is convicted of an offence under subsection (3), every director and every officer concerned with the management of the company is also liable to be convicted for that offence unless he satisfies the court that the offence was committed without his knowledge or consent or that he took all reasonable steps to prevent the commission of the offence.

(6) Any person who -

(a) assaults or obstructs the Inspector or other person in the performance of his functions under this section;

(b) contravenes any provision of this Act for which no punishment is specially provided,

commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

(7) Any licensee who fails to comply with section 14(3) commits an offence and is liable on summary conviction to a fine of fifty thousand dollars.

Appeals.

19.(1) An appeal lies to the Supreme Court from any decision of

the Inspector -

- (a) revoking a licence under subsection (1) of section 17; or
- (b) suspending a licence under subsection (1) of section 16.

(2) An appeal against the decision of the Inspector shall be by motion.

(3) The following procedure applies to appeals from the Inspector –

- (a) the appellant within twenty-one days after the day on which the Inspector has given his decision shall serve a notice in writing, signed by the appellant or his attorney, on the Attorney-General of his intention to appeal and of the general grounds of his appeal, except that any person aggrieved by a decision of the Inspector may upon serving notice on the Attorney-General apply to the court within fourteen days after the day on which the Inspector has given his decision for leave to extend the time within which notice of appeal prescribed by this section may be served, and the court upon hearing the application may extend the time prescribed by this section as it deems fit;
- (b) the Attorney-General shall within twenty-one days of receiving the notice of appeal obtain a copy of the Inspector's decision and transmit to the Registrar of the Supreme Court without delay a copy thereof together with all papers relating to the appeal, except that the Inspector is not compelled to disclose any information if he considers that the public interest would suffer by such disclosure and

a certificate given by the Inspector under the Public Seal is conclusive that disclosure is not in the public interest;

(a) the Registrar of the Supreme Court shall set down the appeal for hearing on such day as is convenient, and shall cause notice of the hearing to be published, in such manner as, the court may direct; and

(b) the court may adjourn the hearing of any appeal and may, upon the hearing thereof, confirm, reverse, vary or modify the decision of the Inspector or remit the matter with the opinion of the court thereon to the Inspector.

(4) An appeal against a decision of the Inspector shall not operate as a suspension of the decision of the Inspector.

**Act not
applicable
to Banks and
Trust
Companies
Regulation Act.**

20. This Act does not apply to a company licensed under the Banks and Trust Companies Regulation Act.

**Ch. 287.
Regulations.**

21. The Minister may make regulations generally for carrying out the purpose and provisions of this Act into effect, and specifically -

(a) prescribing anything by this Act authorized or required to be prescribed; and

(b) exempting any person or business, or class of persons or business, from any provision of this Act.

Minister may give directions. 22. The Minister may give to the Inspector directions of a general or of a specific nature as to the policy to be followed by the Inspector in the carrying out or pursuit of his functions as appear to the Minister requisite in the public interest and the Inspector shall give effect to any such directions.

Directions. 23. Without limiting or affecting section 21, the Minister may, from time to time, issue by publication in the Gazette, directions in relation to the inspection and such matters as he may think fit and appropriate and failure by any licensee to comply with the directions shall be taken into consideration when any action is proposed to be taken under section 16 or 17.

Transitional. 24. A person who at the date of the commencement of this Act is lawfully permitted to carry on the business of financial and corporate services including registered agents shall make an application within three months from the coming into force of this Act for a licence under this Act.

SCHEDULE

(Section 4(1))

**APPLICATION FOR A FINANCIAL
AND CORPORATE SERVICES LICENCE**

1. Name of applicant _____
2. Address of principal office of applicant and, in the case of a company, its registered office

3. In the case of a company, the names, addresses and nationalities of all directors

4. In the case of a company, the names, addresses and nationalities of all shareholders

5. In the case of a company, the names, addresses and nationalities of the beneficial owners of the company

6. In the case of a partnership, the names and addresses of all partners

7. In the case of a company, the names and addresses of all officers and managers

8. Names and addresses of attorneys, if any, for the applicant, together with a letter from the attorneys confirming that they act for the applicant

9. In the case of a company, the name and address of the registered office in The Bahamas upon which any required notices may be served

10. In the case of a company -

- (a) a certified copy of a certificate of incorporation;
- (b) a certified copy of Memorandum and Articles of Association; and
- (c) a certificate of good standing.

11. A detailed resume, two character references in writing, one financial reference from a bank or trust company registered under the Banks and Trust Companies Regulation Act, a police certificate for the previous five years in respect of each shareholder, beneficial owner, officer and director.

12. Status for the purposes of the Exchange Control Regulations Act and any regulations made thereunder and in force at the date of the application.

13. A detailed overview/summary of internal control procedures to be put in place.

14. A synopsis of the company's anti money laundering policies along with a summary of the due diligence

procedures with respect to the vetting of prospective clients.

15. Identification of the company's target market.

ARRANGEMENT OF SECTIONS

1. Short title and commencement.
2. Interpretation.

PART II LICENCES

3. Requirement for licence.
4. Application for licence.
5. Fees.
6. Duration of licence.
7. Notification of change in particulars of licensee.
8. Display of licence.
9. Register of management companies.
10. Certificate of registration.

PART III TRANSFERABILITY OF SHARES AND CHANGES IN DIRECTORS

11. Shares, etc. not to be issued or transferred without approval.

PART IV ADMINISTRATION

12. Inspector of Financial and Corporate Services.

PART V
COMPLIANCE MEASURES FOR LICENSEES

13. Duty to maintain professional conduct.
14. Obligation of licensees to clients.
15. Keeping record of clients.
16. Suspension of licence.
17. Revocation of licence.
18. Offences.
19. Appeals.
20. Act not applicable to Banks and Trust Companies Regulation Act.
21. Regulations.
22. Minister may give directions.
23. Directions.
24. Transitional.

SCHEDULE.