

CAYMAN ISLANDS



THE BUILDERS (AMENDMENT) BILL, 2019

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A BILL FOR A LAW TO AMEND THE BUILDERS LAW (2018 REVISION) TO CHANGE THE COMPOSITION OF THE BUILDERS BOARD; TO STREAMLINE THE QUALIFICATION REQUIREMENTS FOR APPOINTMENT TO THE BUILDERS BOARD; TO CHANGE THE CATEGORIES OF REGISTRATION FOR CONTRACTORS; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Commerce, Planning and Infrastructure (CPI)



Memorandum of OBJECTS AND REASONS

This Bill seeks to amend the Builders Law (2018 Revision) (the “principal Law”) to change the composition of the Builders Board; to streamline the qualification requirements for appointment to the Builders Board and to change the categories of registration for contractors.

Clause 1 contains the short title and commencement provisions.

Clause 2 amends the principal Law to make it gender neutral.

Clause 3 amends section 2 of the principal Law by introducing new definitions for terms used in the legislation.

Clause 4 amends section 4 of the principal Law by repealing and replacing subsection (3) to change the composition of the Builders Board established under that section so that the voting members appointed by the Cabinet three of which must have sufficient experience and knowledge in the construction and development industries. The amendment also changes the qualification requirements for appointment to the Builders Board so that such members must comprise at least a person registered by a prescribed recognised body as a professional in engineering, a person licensed as an electrician or master electrician under the Electricity Regulations (2011 Revision), a person licensed in the Islands as an plumber or master plumber under the Water Authority Regulations (2018 Revision) and a person qualified to practice law in the Islands under the Legal Practitioners Law (2015 Revision) also appointed by the Cabinet. The Director of Planning is also a member of the Board and serving by virtue of the office.

Clause 5 amends section 6 of the principal Law to change the categories of registration for business entities to register as contractors.

Clause 6 amends section 13 of the principal Law to change the time at which a licence expires to twenty-four months after the date of its issue.

Clause 7 amends section 15 of the principal Law to provide for the removal of the name of a business entity from the register or suspend the licence of a business entity if the business entity fails to comply with the Code of Ethics and Professional Conduct. Clause 7 also amends section 15 of the principal Law to provide that the revocation of a licence or the removal of the name of a business entity from the register must not be construed as a deletion of the historical particulars of the business entity but the register shall be an accurate representation of registered business entities and business entities that hold a valid licence.

Clause 8 provides for the repeal of Part IV of the principal Law which deals with the registration of qualified persons.

Clause 9 amends of section 27 of the principal Law to remove the reference to section 20(8) of the principal Law.

Clause 10 amends sections 30 of the principal Law to change the reference to “qualified individual” to “qualified person”.

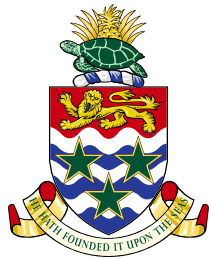
Clause 11 amends section 40 of the principal Law to change the reference to “qualified individual” to “qualified person”.

Clause 12 amends section 41 of the principal Law to change the references to “qualified individual” to “qualified person”.

Clause 13 contains savings and transitional provisions regarding the members of the Builders Board and qualified individuals.



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ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Law may be cited as the *Builders (Amendment) Law, 2018*.
- (2) This Law shall come into force on such date as may be appointed by the Cabinet and different dates may be appointed for different provisions of this Law.

Amendment of the Builders Law (2018 Revision)

2. The *Builders Law (2018 Revision)*, in this Law referred to as the “principal Law”, is amended —
 - (a) in sections 2, 4(5), 6(1)(a), (b) and (c), 7(1), 12(4) and (5)(b), 15(1)(d), (e) and (f), 16(2) and (3), 19(5), 20(1),(2), (7), (8) and (9), 21(2), 22(1)(b) and (2), 23, 25(1)(a) and (b); 26(2)(c); 27(3), 32(a) and 41(1) and (2) and paragraphs 2(4), 5(a), (b), (c) and (e) and (6) of the Schedule, by deleting

the word “his” wherever it appears in those provisions and substituting the words “his or her”; and

- (b) in sections 7(1), 10(2)(a), (b), (c) and (d), 16(3) and (6), 19(3) and (5), 20(3), 24(6)(b) and (7)(a), 25(2), 26(7)(b), and 41(1) and (2) and paragraph 3(1) of the Schedule, by deleting the word “he” wherever it appears in those provisions and substituting the words “he or she”.

Amendment of section 2 - definitions

3. The principal Law is amended in section 2 as follows —

- (a) by deleting the definitions of “building contractor”, “general contractor”, “qualified individual”, “registered”, “sub-trade” and “trades contractor”; and
- (b) by inserting the following definitions in the appropriate alphabetical sequence —

“**building contractor**” means a business entity which —

- (a) constructs any building or structure where the highest occupied floor is three storeys or less, other than a medical facility; or
- (b) repairs or renovates any building of any size where such work does not affect the structural integrity of the building;

“**electrical contractor**” includes a business entity that constructs, installs, alters, maintains and repairs any electrical system or installation, system component, equipment or appliance;

“**elevator and conveyance contractor**” includes a business entity that constructs, installs, alters, maintains and repairs any elevator, escalator, dumbwaiter, moving walk, or material lift;

“**fire protection contractor**” includes a business entity that constructs, installs, alters, maintains or repairs any fire protection system or any related system components, equipment or devices;

“**fuel gas contractor**” includes a business entity that constructs, installs, alters, maintains or repairs any fuel gas system, piping system, appliance or equipment;

“**general contractor**” means a business entity which —

- (a) performs any type or description of construction, other than civil engineering construction, to construct any building where the highest occupied floor is less than seven storeys; or



- (b) repairs or renovates any building of any size where such work does not affect the structural integrity of the building;

“general contractor - high rise” means a business entity which performs any type or description of construction, other than civil engineering construction;

“labour broker” means a person that supplies labour to another person to conduct work on a construction project;

“mechanical contractor” includes a business entity that constructs, installs, alters, maintains or repairs any mechanical system, system component, equipment or appliance;

“(other specified) - contractor” means a business entity that carries on sub-trade work within one of the categories listed in section 6(4)(a) to (e) including roofing or pool construction or such other work as may be determined by the Board;

“owner-contracting” means acting as a contractor by a Caymanian for the purpose of building his or her home;

“plumbing contractor” includes a business entity that constructs, installs, alters, maintains and repairs any plumbing and sanitary system, system component, equipment or device;

“qualified person” means a person who possess the necessary knowledge and skill to carry out work in a category;

“registered”, in relation to a business entity, means registered under section 6 to undertake work in relation to which the registration relates and includes temporary registration;

“small works contractor” means a business entity which —

- (a) constructs an ancillary or accessory structure not exceeding one storey in height ;
- (b) constructs a fence and a retaining wall that is not over six feet in height, unless supporting a surcharge;
- (c) constructs decks, sidewalks and driveways and similar low horizontal structures;
- (d) installs building accessories; or
- (e) repairs or renovates buildings where such work does not affect the structural integrity of the building, not exceeding three thousand square feet in floor area per project; and

“sub-trade” means specific elements of a trade performed by a business entity.”.

Amendment of section 4 - Builders Board

4. The principal Law is amended in section 4 as follows —

- (a) in subsection (1), by deleting the words “qualified individuals” and substituting the words “qualified persons”;
- (b) by repealing subsection (3) and substituting the following subsection —

“(3) The Board shall consist of —

 - (a) nine voting members appointed by the Cabinet three of which shall possess sufficient experience and knowledge in the construction and development industries, and such members shall comprise at least one of each of the following —
 - (i) a person registered by a prescribed recognised body as a professional in engineering;
 - (ii) a person licensed as an electrician or master electrician under the *Electricity Regulations (2011 Revision)*; and
 - (iii) a person licensed in the Islands as a plumber or master plumber under the *Water Authority Regulations (2018 Revision)*;
 - (b) a person qualified to practice law in the Islands under the *Legal Practitioners Law (2015 Revision)* appointed by the Cabinet; and
 - (c) the Director of Planning who shall serve by virtue of the office.”;
- (c) in subsection (8) —
 - (i) by deleting the words “Qualified Individuals” and substituting the words “Qualified Persons”; and
 - (ii) by deleting the words “qualified individuals” and substituting the words “qualified persons”; and
- (d) by inserting after subsection (8) the following subsection —

“(8A) The Board shall issue and maintain a Code of Ethics and Professional Conduct that shall govern the conduct of registered business entities and qualified persons and which shall be administered by the Board or a committee appointed by the Board for that purpose.”.

Amendment of section 6 - criteria for registration of a business entity as a contractor

5. The principal Law is amended in section 6 as follows —



- (a) in subsection (2), by deleting the words “persons who are qualified” and substituting the words “qualified persons in accordance with regulations made under this Law”;
- (b) by repealing subsection (4) and substituting the following subsections —
 - “(4) A business entity may be registered as a contractor in the category of —
 - (a) general contractor- high rise;
 - (b) general contractor;
 - (c) building contractor;
 - (d) small works contractor;
 - (e) civil engineering contractor;
 - (f) electrical contractor;
 - (g) elevator and conveyance contractor;
 - (h) fuel gas contractor;
 - (i) fire protection contractor;
 - (j) mechanical contractor;
 - (k) plumbing contractor; or
 - (l) (other specified) – contractor,
 and the Board may determine from time to time, the category of work that shall comprise any of the categories specified in paragraphs (a) to (l) or the respective sub-trades and may, in addition but without recategorising a business entity, permit a business entity to undertake work of a kind that belongs to another category of registration and such permission may relate to a particular project or class of projects, or both.
 - (4A) A business entity that desires to register as an (other specified) - contractor may apply to the Board for registration at the business entity’s discretion, provided that, if the business entity is so registered, this Law shall govern the business entity but such registration shall not be required except where the (other specified) - contractor is required to consult with Department of Planning in the discharge of their duties.”;
- (c) by repealing subsection (5) and substituting the following subsections —
 - “(5) A contractor registered by the Board in one of the categories specified in subsection (4) may also be registered as a contractor in another category if considered by the Board to be so qualified.
 - (5A) An individual seeking to engage in owner-contracting may apply to the Board for an exemption from the registration requirements

under this Law, and such an exemption may be limited to a single house or duplex once every seven years, but the time limitation shall not apply —

- (a) to additions, ancillary buildings, conversions between single houses and duplexes and renovation of existing buildings; or
- (b) as determined by the Board in special circumstances.

(5B) A labour broker shall not be registered under the registration categories.

(5C) A business entity that enters into a contract with a labour broker or another business entity for the supply of labour to conduct work on a project shall ensure that the labour broker or other business entity is in compliance with the Trade and Business Law (2018 Revision) prior to entering into the contract and over the duration of the contract.

(5D) A contractor registered by the Board in one of the categories specified in subsection (4) or a person engaging in owner-contracting may sub-contract work to a business entity from another category but shall be responsible for the resultant construction.

(5E) Registration under this Law shall not have the effect of dispensing with the necessity of compliance or obtaining permission where such permission or compliance is required under any other Law.”; and

(d) by inserting after subsection (11) the following subsection —

“(12) In this section “permission” includes registration, licence, authorisation and permit.”.

Amendment of section 13 - issuance and expiry of registration as a business entity

6. The principal Law is amended in section 13(5) by deleting the word “twelve” and substituting the word “twenty-four”.

Amendment of section 15 - removal, suspension, etc., of business entities from register

7. The principal Law is amended in section 15 as follows —

(a) in subsection (1) —

- (i) in paragraph (f), by deleting after the semi-colon the word “or”; and
- (ii) by inserting after paragraph (f) the following paragraph —

“(fa) the business entity fails to comply with the Code of Ethics and Professional Conduct issued and maintained under section 4(8A); or”; and



- (b) by inserting after subsection (10) the following subsection —
- “(11) The revocation of a licence or the removal of the name of a business entity from the register under this section shall not be construed as a deletion of the historical particulars of the business entity but the register shall be an accurate representation of registered business entities and business entities that hold a valid licence.”.

Repeal of Part IV - registration of qualified individuals

8. The principal Law is amended in section 27(4) by deleting the words “and 20(8)”.

Amendment of section 27 - powers of court in relation to non-compliance notices

9. The principal Law is amended in section 27(4) by deleting the words “and 20(8)”.

Amendment of section 30 - right of the public to complain

10. The principal Law is amended in section 30(1) by deleting the words “, a qualified individual or both,” and substituting the words “or qualified person, or both,”.

Amendment of section 40 - regulations

11. The principal Law is amended in section 40(2) as follows —
- (a) in paragraph (f) by deleting the words “qualified individuals” and substituting the words “qualified persons”;
 - (b) in paragraph (g) by deleting the words “under section 20(5)”;
 - (c) by inserting after paragraph (g) the following paragraph —
“(ga) a Code of Ethics and Professional Conduct;”.

Amendment of section 41 - transitional

12. The principal Law is amended in section 41 as follows —
- (a) in subsection (1) —
 - (i) by deleting words “qualified individual” and substituting the words “qualified person”; and
 - (ii) by deleting the word “individual” wherever it appears and substituting the word “person”; and
 - (b) in subsection (2) by deleting the words “qualified individual” and substituting the words “qualified person”.

Savings and transitional provisions

13. Notwithstanding anything to the contrary —

- (a) after the coming into force of this Law, a new Board shall be appointed under section 4(3) of the principal Law as amended by this amending Law;
- (b) a person who immediately before the coming into force of this amending Law is a member of the Builders Board shall continue to hold office as a member of the Board until such time as his or her appointment expires or new members of the Builders Board are appointed under section 4(3) of the principal Law as amended by this amending Law, whichever is earlier; and
- (c) a person who was a qualified individual immediately prior to the commencement of this amending Law shall be deemed to be a qualified person for the purpose of the principal Law.

Passed by the Legislative Assembly the day of , 2019

Speaker

Clerk of the Legislative Assembly

