



LOCAL COMPANIES

According to the Companies Act 1981, a local company is one that is controlled by Bermudians. This means that:

- at least 60% of the total voting rights in the company are exercisable by Bermudians; and
- at least 60% of the directors of the company are Bermudian; and
- at least 60% of the securities of the company are beneficially owned by Bermudians.

The following are deemed to be Bermudian according to section 113(1) of the Companies Act 1981:

- The Government or any corporation of which the majority of the directors, managers or trustees are subject to appointment by the Governor of Bermuda or a Minister of Parliament;
- Any person who has Bermudian status (by virtue of the law relating to immigration);
- A local company in which the percentage of shares beneficially owned by Bermudians of class i) or ii) above is not less than 80% of the total issued share capital of that company;
- A local statutory company, i.e. a corporation other than a company, incorporated by an Act, the principal functions of which relate to operations and affairs in Bermuda;
- An institution licensed as a bank under section 14(5)(a) of the Banks and Deposit Companies Act 1999;
- A wholly owned subsidiary of a local company complying with the Third Schedule of the Companies Act;
- A trust of which the majority of the trustees are Bermudian, and which is established for the benefit of Bermuda, Bermudians or things Bermudian

No voting security is deemed to be beneficially owned by a Bermudian unless that Bermudian is able to exercise the rights attached to that share free from obligation to, or for the benefit of, any person who is not Bermudian, nor if the Bermudian holds it jointly or severally with any non-Bermudian.

A local company limited by shares, must forward to the Registrar of Companies, before commencing business, a return of shareholdings in the company as at the date of making the return, signed by two directors of the company. Thereafter, a return must be submitted annually to the Registrar not later than 31st March each year.

The officers of a local company may not, without prior consent from the Minister of Finance, allot shares whenever such allotment will result in the number of shares

beneficially owned by non-Bermudians exceeding 40%. The officers may ask the applicant or transferee of the shares to furnish proof of nationality.

A local company may, with the sanction of the Minister of Finance, acquire and hold in its corporate name, any land in Bermuda required for the purposes of the company, provided that the land holding powers specified in its Memorandum of Association are not exceeded.

Within one month of filing its Memorandum of Association, and thereafter before 31st March each year, every local company must send to the Registrar of Companies a declaration of the issued capital of the company and pay the annual registration fee.

A company is exempt from paying the annual fee in any year if:

- it is a company limited by guarantee and is not a mutual company; or
- it is operated for a charitable purpose; or
- it does not pursue a commercial enterprise for profit and the income during each year since incorporation has not exceeded BD\$500.

A company complying with the above requirements may carry on business inside and outside Bermuda.

Licences to conduct business in Bermuda

A local company may apply to the Minister of Finance for a licence to conduct business in Bermuda under section 114B of the Companies Act 1981 i.e. where Bermudian control is less than 60%. The issue of such a licence is entirely at the discretion of the Minister and will be for such duration and subject to such terms and conditions as the Minister may see fit to impose.

When deciding whether or not to issue a licence, the Minister will be guided by the public interest and will consider, among other things, the economic situation in Bermuda, the nature and previous conduct of the applicant(s), and any advantages or disadvantages which may result from the company carrying on business in Bermuda.

Once a licence is issued a fee must be paid to Government. Thereafter, this fee is payable in January of each year for as long as the licence subsists.

A company of which the proposed principal business in Bermuda is the ownership or operation of a hotel in Bermuda may also be granted a licence. In such a case, the Minister of Finance will consult with the Minister of Tourism and may impose conditions on the grant of the licence, including restricting the transfer of shares.

Applications for Consent to form Local Companies

Applications for local companies should normally be submitted by law firms; however, with the concurrence of the Minister of Finance the Authority accepts applications from individuals and entities other than law firms.