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**INTERNATIONAL BUSINESS COMPANIES
(AMENDMENT) ACT, 2020**

Arrangement of Sections

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No. 35 of 2020

**INTERNATIONAL BUSINESS COMPANIES
(AMENDMENT) ACT, 2020**

**AN ACT TO AMEND THE INTERNATIONAL BUSINESS COMPANIES
ACT TO REMOVE THE MANDATORY REQUIREMENT OF A COMPANY
SEAL AND TO MAKE NEW PROVISIONS FOR THE EXECUTION
OF CONTRACTS, DEEDS AND OTHER INSTRUMENTS AND FOR
CONNECTED MATTERS**

[Date of Assent - 11th December, 2020]

Enacted by the Parliament of The Bahamas

1. Short title.

This Act, which amends the International Business Companies Act (*Ch. 309*), may be cited as the International Business Companies (Amendment) Act, 2020 .

2. Amendment of section 28 of the principal Act.

Section 28 of the principal Act is amended by the deletion of subsection (2) and the substitution of the following —

- “(2) When authorized by its Articles and a company issues certificates in respect of its shares, the certificates shall be signed by —
- (a) two directors or two officers of the company; or
 - (b) one director and one officer of the company.”.

3. Amendment of section 67 of the principal Act.

Section 67 of the principal Act is amended by the deletion of subsection (6) and the substitution of the following subsections —

- “(6) A company may elect to have a common seal.
- (7) A company which elects to have a common seal —
- (a) shall have its name engraved in legible characters on the seal;

- (b) shall keep the seal at its registered office; and
 - (c) where authorised by its Articles, may maintain a duplicate seal or seals, each of which shall be a facsimile of the common seal, at such place or places throughout the world as it may authorise and a duplicate seal may bear on its face the name of any country, territory, district or place where it is to be used.
- (8) An instrument to which a duplicate seal of a company is affixed shall bind the company as if it had been sealed with the common seal of the company.
 - (9) A company having a duplicate seal may authorise any person appointed for the purpose to affix the duplicate seal to an instrument to which the company is a party.
 - (10) A director or officer of a company, or a person acting on behalf of a company, shall not use or authorise the use of a seal purporting to be a seal of the company on which the name of the company is not engraved in accordance with subsection (4)(a).”.

4. Repeal and replacement of section 69 of the principal Act.

Section 69 of the principal Act is repealed and replaced by the following —

“69. Contracts generally.

- (1) A company may enter into a contract in the same manner as an individual may enter into a contract, such that —
 - (a) where a contract entered into by an individual would be required by law to be in writing and signed, that contract may be entered into by or on behalf of a company in writing and signed by a person acting under the express or implied authority of the company, and may be varied or discharged in the same manner; and
 - (b) where a contract entered into by an individual would be valid although entered into orally and not reduced to writing, that contract may be entered into orally by or on behalf of a company by a a person acting under the express or implied authority of the company and not reduced to writing, and may be varied or discharged in the same manner.
- (2) A contract is valid and binding on the company, its successors and all other parties to the contract where —

- (a) it is entered into by the company in accordance with subsection (1); and
- (b) it is executed by the company in a manner contemplated by the parties in accordance with section 69C.”.

5. Insertion of new sections 69A - 69C into the principal Act.

The principal Act is amended by the insertion immediately after section 69 of new sections 69A , 69B and 69C as follows —

“69A. Deeds generally.

- (1) A document is validly executed by a company as a deed where it is executed in accordance with the provisions of this section and is delivered as a deed.
- (2) A document executed by a company as a deed shall be expressed to be or to be executed as, or otherwise shall make clear on its face that it is intended to be, a deed and —
 - (a) shall be signed by a director of the company or by a person acting with the express or implied authority of the company in the presence of a witness who attests the signature; or
 - (b) shall be sealed with the seal of the company and witnessed and attested by a director or such other person authorised by the company’s memorandum and articles to witness and attest the application of the company’s seal in the presence of a witness who attests the signature.
- (3) For the purposes of subsection (2), the mere execution by a company of a document under seal shall not be taken to make clear on its face or otherwise be an expression that it is or is intended to be a deed.
- (4) A document executed as a deed in accordance with this section is presumed to be delivered when executed, unless a contrary intention is proved.
- (5) Any signature affixed by or at the direction of an individual in the name or on behalf of a company in execution of a deed under this section shall comply with section 3 of the Property (Execution of Deeds and Documents) Act, 2020.”.

69B. Deeds executed by foreign companies.

- (1) A deed intended to be governed by the laws of The Bahamas and executed by a foreign company or other foreign entity is validly executed where —
 - (a) the deed is executed in a manner permitted by the laws of the territory in which the foreign company or other foreign entity is incorporated, registered or organised; and
 - (b) the intention to be governed by the laws of The Bahamas is stated in or otherwise made apparent on the face of the deed
- (2) A deed executed by a foreign company or other foreign entity in accordance with subsection (1) is valid and binding under the laws of The Bahamas and shall be treated as a deed executed in compliance with section 69A.”.

69C. Manner of execution of instruments.

- (1) A contract, deed or other instrument may be executed by a company in any manner contemplated by the parties.
- (2) Without prejudice to the generality of subsection (1), execution by a company includes without limitation —
 - (a) execution of the complete instrument by the party or parties thereto; or
 - (b) execution of signature pages to the instrument, whether or not the instrument is at the time in final form, which are physically or electronically attached or added to, or compiled with, the remainder of the instrument by or on behalf of the executing party or otherwise with the executing party’s express or implied authority.
- (3) This section applies to a deed or instrument under seal whether made before, on or after the date this section comes into operation but no deed or instrument under seal made before such date shall be invalid by reason only of a provision of this section.”.

6. Repeal and replacement of section 72 of the principal Act.

Section 72 of the principal Act is repealed and replaced by the following —

“72. Power of attorney.

- (1) Where the Memorandum and Articles of a company permit it to appoint a person to act on its behalf as its attorney, the

company may appoint such attorney by instrument in writing, generally or in relation to a specific matter.

- (2) An attorney appointed in accordance with subsection (1) binds the company where the act of the attorney is in accordance with the instrument under which the attorney was appointed.
- (3) An instrument appointing an attorney under this section may be executed as a deed or signed by a person acting with the express or implied authority of the company in the presence of a witness who attests the signature.”.

7. Insertion of new section 181A into the principal Act.

“181A. Offences in relation to misuse of company seal.

- (1) Where a company contravenes or fails to comply with section 67(4)(a), the company and every director an officer of the company who is in default commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.
- (2) A director or officer of a company or a person acting on behalf of a company who, in contravention of section 67(7), uses or authorises the use of a seal purporting to be a seal of the company on which the name of the company is not engraved commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years.”.

8. Insertion of new section 197 into the principal Act.

The principal Act is amended by the insertion immediately after section 196 of a new section 197 as follows —

“197. Compliance with sections 28, 67, 69, 69A, 69B, 69C and 72.

It shall not be necessary for a company to amend its Memorandum and Articles of Association in order to satisfy the requirements of sections 28, 67, 69, 69A, 69B, 69C and 72.”.