

*Elsworth J* 18/15/17 (14)

## COMMERCIAL ENTERPRISES BILL, 2017

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## COMMERCIAL ENTERPRISES BILL, 2017

### A BILL FOR AN ACT FOR THE DESIGNATION OF SPECIFIED COMMERCIAL ENTERPRISES AND SPECIFIED COMMERCIAL ECONOMIC ZONES IN THE BAHAMAS

Enacted by the Parliament of The Bahamas

**1. Short title.**

- (1) This Act may be cited as the Commercial Enterprises Act, 2017.
- (2) This Act shall come into force on a day to be appointed by the Minister by notice published in the *Gazette*.

**2. Interpretation.**

In this Act —

“**in-house professionals**” means an employee rendering professional or advisory services to a specified commercial enterprise within the strict confines of the undertakings of that enterprise and not in competition with professionals and advisors in the open marketplace of The Bahamas;

“**Investment Board**” or “**Board**” means the Board established under section 12 of the International Persons Landholding Act (*Ch.140*);

“**Minister**” means Minister responsible for Financial Services;

“**person**” means an individual or an incorporated entity whether within or outside The Bahamas;

“**plan**” means a business plan established under section 4;

“**specified commercial enterprise**” means an enterprise as described in section 4.

**3. Application of Act.**

This Act shall apply to any person who is desirous of establishing a specified commercial enterprise in The Bahamas.

**4. Specified commercial enterprises.**

- (1) A specified commercial enterprise is an enterprise—
  - (a) established with an investment of not less than two hundred and fifty thousand dollars;
  - (b) that carries on any of the business undertakings or services specified in the *First Schedule*; and
  - (c) being approved by the Investment Board as such.
- (2) A specified commercial enterprise may conduct business from any location in The Bahamas subject to zoning ordinances.
- (3) The Minister may by Order amend the *First Schedule*.
- (4) The Minister may prescribe by regulations that any Island or any part of any Island is a “specified commercial enterprise zone” for the purposes of rationalizing infrastructural investment, efficient land use or the encouragement of clusters of commercial development.
- (5) The Minister of Finance after consulting with the Minister may prescribe such economic incentives as may be required to give effect to such Specified Commercial Enterprise Zone.

**5. Application to the Board.**

- (1) Any commercial enterprise that is desirous of making an investment in The Bahamas and obtaining work permits in respect of its senior management or in-house professionals may apply to the Board for a specified commercial enterprise certificate.
- (2) Every application shall be in the prescribed form as shown in the *Second Schedule* and accompanied by a business plan which indicates with specificity the nature of the proposed commercial enterprise, its staffing needs, inclusive of the number of work permits which may be required, and such training and capacity-building opportunities as may be agreed to be afforded to Bahamians in respect of positions staffed by work permit holders.

**6. Commercial Enterprises Facilitation Unit.**

There shall be established within the Board a Commercial Enterprises Facilitation Unit charged with the duty on behalf of the Board to receive and to efficiently consider and determine every application in a timely manner and advise the Board accordingly.

**7. Specified commercial enterprise certificate.**

- (1) The Board, upon being satisfied that —
  - (a) the application is in respect of a commercial enterprise listed in the *First Schedule*;
  - (b) the work permits requested are required for an executive or manager or individual with specialized knowledge relating to the enterprise,may issue a certificate to the enterprise (hereinafter referred to as a “specified commercial enterprise certificate”) entitling that enterprise to a specified number of work permits for specified posts.
- (2) The said certificate shall remain valid for an initial period of one year and may be renewed or extended to such longer period, upon written application of the holder of such certificate, and the business plan to which the certificate relates may thereupon be varied or amended as may be agreed between the Board and the enterprise.
- (3) Where such a certificate has been issued the person who receives the same and any in-house professional designated by him in writing may freely enter The Bahamas for the purpose of setting up or conducting such specified commercial enterprise in reliance upon the said Certificate.
- (4) Where any person entering The Bahamas pursuant to subsection (3) is a holder of a passport issued by country for which a visa, in accordance with the Immigration Act (*Ch. 191*), is required for entry into The Bahamas, that person shall apply for and obtain such visa prior to entering The Bahamas.

**8. Application for work permits.**

- (1) Any person entering The Bahamas pursuant to section 7(3) shall within thirty days of such entry submit a completed application for a work permit to the Department of Immigration in accordance with the Immigration Act (*Ch. 191*) and attach a copy of the said certificate along with the requisite documentation thereto.
- (2) The Director of Immigration shall determine any work permit applied for not later than fourteen working days after the filing thereof and the payment of the application fee, failing which the work permit shall be deemed to have been granted pursuant to this Act, and may only be later revoked if the Director has reasonable grounds for so doing on the basis of public safety, public morality or national security.
- (3) Any person whose application for a work permit has been deemed to have been approved as provided for herein shall forthwith be issued with such work permit and immigration card subject to the terms set forth in subsection (4).

- (4) The Director of Immigration shall grant a work permit in the first instance for a period of three years and such permit may be renewable for an additional period of up to three years.

**9. Compliance with licensing and regulatory requirements.**

Notwithstanding the issuance of the said certificate any specified commercial enterprise and where required its employees shall comply with the terms and conditions set by relevant regulatory agencies or professional regulatory bodies in The Bahamas, where applicable.

**FIRST SCHEDULE**

**(section 4(1)(b))**

Captive Insurance  
Reinsurance  
Mutual Fund Administration  
Arbitration  
Wealth Management  
International Trade  
International Arbitrage  
Computer Programming  
Software Design & Writing  
Bioinformatics & Analytics  
Maritime Trade  
Nano Technology  
Biomedical Industries  
Boutique Health Facilities  
Data Storage or Warehousing  
Aviation Approved Maintenance Operations  
Aviation Registration  
Call Centres  
Manufacturing or Assembly of Manufactures



**SECOND SCHEDULE**

(section 5(2))

**COMMERCIAL ENTERPRISE ACT  
APPLICATION FOR SPECIFIED COMMERCIAL  
ENTERPRISE CERTIFICATE**

To: Secretary of the Board  
Investment Board  
P.O. Box CB-10980  
Nassau, The Bahamas

Name of Applicant: \_\_\_\_\_

Address: \_\_\_\_\_

Date of Incorporation: \_\_\_\_\_

Place of Incorporation: \_\_\_\_\_

Nature of Business: \_\_\_\_\_

List of Beneficial Owners: \_\_\_\_\_

Location of Enterprise Operation: \_\_\_\_\_

Amount to be invested: \_\_\_\_\_

Signature of Applicant: \_\_\_\_\_

**REQUIRED DOCUMENTS FOR SPECIFIED COMMERCIAL  
ENTERPRISE CERTIFICATE**

Applicants wishing to apply for a Specified Commercial Enterprise Certificate are required to complete the whole form overleaf and submit along with the following:

- (A) Copy of National Photo Identification (Passport, National Identification Card, Social Security Card or Driver's Licence, etc.)
- (B) Written confirmation that due diligence has been completed to meet "Know Your Customer" requirements, pursuant to the Financial Transactions Reporting Act
- (C) Police Record/Certificate from Country of Residence or Sworn Affidavit where applicable
- (D) If applicant is a Bahamian Registered Company a copy of Certificate of Incorporation/Registration is required
- (E) Financial Reference
- (F) Source of Funding (provide proof thereof)

**Note:**

In respect of Companies, due diligence documents are required for each of the beneficial owners.

Fee of \$500.00 payable to the Public Treasury.

**FOR OFFICIAL USE ONLY**

- Copies of Photo Identification
- Police Record Certificate
- Copy of Certificate of Incorporation/Registration in The Bahamas on behalf of Applicant Company
- Source of Funding
- Financial and Character References

**OBJECTS AND REASONS**

This Bill seeks to liberalise the granting of work permits to an enterprise that wishes to establish itself in The Bahamas and requires work permits for its management team and key personnel.

Clauses 1 and 2 addresses preliminary issues.

Clauses 3 and 4 of the Bill states that the Act applies to any person who establishes a business in an undertaking that is specified in the Schedule and also invests a minimum of two hundred and fifty thousand dollars.

Clauses 5 and 6 of the Bill provides the procedures for making an application under the Act to The Bahamas Investment Board. Clause 6 also seeks to establish the Commercial Enterprises Facilitation Unit within The Bahamas



Investment Board for the purpose of facilitating applications made pursuant to the Act.

Clause 7 seeks to provide for the specified commercial enterprise certificate. This certificate entitles the holder to a specified number of work permits for specified posts.

Clause 8 of the Bill provides that an employee of an enterprise that has a specified commercial enterprise certificate may enter The Bahamas freely and begin to work, however, the application for the work permit must be made within thirty days of that employees entry. The Director of Immigration has fourteen days within which to determine the granting of the work permit. If the Director fails so to do within that time, the work permit its deemed to have been granted. A work permit granted pursuant to this Act shall be for three years and renewable for an additional period of up to three years.

Clause 9 provides that employees who are granted work permits under this Act and are certified professionals are also required to comply with conditions for licensing by the relevant regulatory agency or professional body.