



PARLIAMENT OF THE COOK ISLANDS

PARLIAMENT PAPER NO. 20

Rarotonga.

Sir,

Pursuant to Section 15(10), 35A(4) and 221 of the International Companies Act 1981-82 (as inserted by sections 4 and 5 of the International Companies Amendment Act 2003), the Regulations Act 1971-72 and the Legislative Service Act 1968-69, I have the honour to submit the International Companies (Evidence of Identity) (No. 2) Regulation 2004, Serial No. 2004/22

I have the honour to be,

Sir,

Your obedient servant,

M. Uhrle
Financial Supervisory Commission

The HON. Sir G.A. HENRY, KBE, Minister for Financial Supervisory Commission

Price \$1.50



2004/22

**INTERNATIONAL COMPANIES
(EVIDENCE OF IDENTITY) (NO. 2) REGULATIONS 2004**

Sir F. Goodwin

Queen's Representative

ORDER IN EXECUTIVE COUNCIL

At Avarua, Rarotonga, this 8th day of December 2004

Present:

HIS EXCELLENCY THE QUEEN'S REPRESENTATIVE IN EXECUTIVE COUNCIL

PURSUANT to sections 15(10), 35A(4) and 221 of the International Companies Act 1981-82 (as inserted by sections 4 and 5 of the International Companies Amendment Act 2003), His Excellency the Queen's Representative, acting by and with the advice and consent of the Executive Council, makes the following regulations.

ANALYSIS

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|-------------------------------|---------------|
| 1. Title and commencement | 4. Offences |
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REGULATIONS

1. Title and commencement – (1) These regulations may be cited as the International Companies (Evidence of Identity) (No. 2) Regulations 2004.

(2) These regulations shall come into force 5 days after the date the Queen's Representative signs the Order in Executive Council making these regulations.

Price \$1.50

2. Interpretation – (1) In these regulations, unless the context otherwise requires, -

“Act” means the International Companies Act 1981-82;

“association” means any incorporated or unincorporated association of persons, and includes any company, corporation, firm, partnership, society, joint venture, mutual fund, statutory body, association, organisation, state or agency of a state (but excludes a trust);

“director” includes, in relation to any body corporate, any person performing the functions or occupying a position, by whatever title, commonly performed by, or comparable to, a director of a company;

“settlor” means any person who settles assets on a trust;

“trust” includes a charitable trust and a purpose trust but does not include a mutual fund;

“trustee company” means a trustee company licensed pursuant to the Trustee Companies Act 1981-82;

“verification documentation” has the same meaning given by section 2 of the Financial Transactions Reporting Act 2004.

3. Verification documentation - (1) A trustee company or a custodian that is required to obtain evidence of any verify identity under section 15(10) or section 35A(4) of the Act must obtain verification documentation in respect of the person for whom a share is held on trust or in respect of the bearer of a bearer instrument as the case may be, the following information -

(a) if the person is a natural person, the trustee company or custodian must adequately identify and verify his/her identity, including obtaining information relating to:

- (i) the person’s name, address and occupation; and
- (ii) the national identity card or passport or other applicable official identifying document;

(b) if the person is a legal entity, the trustee company or custodian must adequately identify and verify its legal existence and structure, including obtaining information relating to:

- (i) the entity’s name, legal form, registration number and registered address;
- (ii) its principal owners and beneficiaries, and its directors and control structure; and

(iii) provisions regulating the power to bind the entity, and to verify that any person purporting to act on behalf of the entity is authorised to do so and identify those persons;

(c) if the person is an association, the trustee company or custodian must adequately identify and verify its legal existence and structure, including obtaining information relating to:

- (i) the association's name, legal form, registration number and registered address;
- (ii) the principal members of the association; and
- (iii) provisions regulating the power to bind the association, and to verify that any person purporting to act on behalf of the association is authorised to do so and identify those persons;.

(d) if the person is a trust, the trustee company or custodian must adequately obtain information relating to:

- (i) the trust's name and registered office or address for service;
- (ii) the nature of the trust and its beneficiaries; and
- (iii) the name, address, occupation, national identity card or passport or other applicable official identifying document of each settlor and trustee.

(e) if the person is a politically exposed person, the trustee company or custodian must;

- (i) adequately identify and verify his/her identity as set out in this section;
- (ii) have appropriate risk management systems to determine whether the person is a politically exposed person;
- (iii) obtain the approval of senior management before establishing a business relationship with the person;
- (iv) take reasonable measures to establish the source of wealth and source of funds; and
- (v) conduct regular and ongoing enhanced monitoring of the business relationship.

(2) The verification documentation or procedures required for the identification or verification of any particular person or class of persons may be prescribed.

4. **Offences** – (1) Every person who refuses, or fails without reasonable excuse, to comply with these regulations commits an offence punishable by -

- (a) in the case of an individual, to a fine of up to \$10,000;
 - (b) in the case of a person that is a body corporate, to a fine of up to \$50,000
- (2) In proceedings against a person for an offence under these regulations, it is

a defence for that person to show that he or she took all reasonable steps and exercised all due diligence to avoid committing the offence.

**International Companies
(Evidence of Identity) (No. 2) Regulations 2004**

2004/22

5. Revocation - The International Companies (Evidence of Identity) Regulations 2004 is hereby revoked.

G. Harmon
Clerk of the Executive Council

The regulations are administered by the Financial Supervisory Commission

BY AUTHORITY:
Cook Islands Government - 2004