

2018-12-11

OBJECTS AND REASONS

This Bill would provide for the grant of a foreign currency permit for any entity that earn one hundred per cent of its annual income in foreign currency and for related matters.

Arrangement of Sections

PART I

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2. Interpretation

PART II

APPLICATION FOR AND GRANT OF PERMIT

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FIRST SCHEDULE

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FEES

BARBADOS

A Bill entitled

An Act to provide for the grant of foreign currency permits and for related matters.

ENACTED by the Parliament of Barbados as follows:

PART I

Short title

1. This Act may be cited as the *Foreign Currency Permits Act, 2018*.

Interpretation

2. In this Act,

“company” has the meaning assigned to it by the *Companies Act, Cap. 308*;

“firm” has the meaning assigned to it by section 6 of the *Partnership Act, Cap. 313*;

“Director” means the Director of International Business;

“foreign currency” has the meaning assigned to it by the *Income Tax Act, Cap. 73*;

“foreign currency permit” or “permit” means the document granted to a qualified person by the Director;

“person” includes a company, firm and a society;

“qualified person” includes a company, firm or society which earns one hundred per cent of its income in foreign currency;

“service provider” has the meaning assigned to it by the *Corporate and Trust Services Providers (Amendment) Act, 2018 (Act 2018-)*;

“society” has the meaning assigned to it by the *Societies With Restricted Liability Act, Cap. 318B*.

PART II

APPLICATION FOR AND GRANT OF PERMIT

Application for permit

3.(1) A qualified person may, in such form as the Director determines, apply to the Director for the grant of a foreign currency permit.

(2) An application made under subsection (1) must contain the following:

- (a) details of the registered office, where applicable;
- (b) details of the service provider, where applicable;
- (c) details of the auditor;
- (d) date of the end of the financial year;
- (e) the number of persons to be employed who require work permits;
- (f) the positions to be held by the persons who require work permits;
- (g) the names, addresses and company number of every related entity carrying on business which is, licensed, incorporated, registered or organised in Barbados;
- (h) a list of the activities in which the qualified person will engage and a full description of the business that it intends to carry on;
- (i) the academic qualifications, training, experience, corporate status and description of the business of every director and manager, where applicable;
- (j) whether any senior member of staff or manager has ever in, any country, been convicted of a criminal offence involving fraud or any other offence of dishonesty, money laundering or insider trading; and
- (k) whether any senior member of staff or manager has been investigated by a regulatory body in any country.

- (3) An application for the grant or renewal of a permit must be accompanied by
- (a) the prescribed fee which shall be non-refundable; and
 - (b) a declaration in the form set out in the *Second Schedule* certifying that the audited annual financial statements of the applicant for the financial year immediately preceding the year of application disclosing that one hundred per cent of the applicant's income for that year was earned in foreign currency, or in the case of an initial application, a declaration in the form set out in the *Second Schedule* certifying that the entity intends to earn one hundred per cent of its income in foreign currency.
- (4) An applicant under subsection (1) must satisfy such other conditions as the Director may require.
- (5) Where an applicant applies for the first time for the grant of a permit, that applicant shall file together with its application a declaration in the form set out in the *Second Schedule* with the Director.

Grant on renewal of foreign currency permit

- 4.** Where the applicant complies with section 3 the Director may grant, or as the case may be, renew the permit.

Cancellation or refusal of Permit

- 5.(1)** Where a qualified person
- (a) fails to comply with any condition of its permit set out in section 3; or
 - (b) fails to comply with or ceases to satisfy any requirement of this Act; or
 - (c) who knowingly
 - (i) makes an untrue statement of a material fact;
 - (ii) omits to state a material fact; or

(iii) makes a statement containing information that is misleading;
the Director shall refuse to grant that person a permit or where that permit has already been granted, cancel or refuse to renew it.

(2) The Director may also refuse to grant a permit or he may cancel or refuse to renew a permit on the ground of public policy.

(3) The Director shall give a qualified person notice in writing where

(a) he intends to refuse to issue a permit; or

(b) if the permit has already been issued, and he intends to cancel or refuse to renew it the reasons therefor.

(4) A notice given under this section shall specify that the qualified person may within 21 days of the date of the notice inform the Director of his objections.

(5) Where the Director is satisfied that the qualified person has met all of the conditions for the grant or renewal of the permit, he may withdraw the notice referred to in subsection (3).

(6) Where the Director is not satisfied that the qualified person has met all the conditions, he may cancel or refuse the permit and notify the qualified person of his decision.

Appeal

6. A qualified person who is aggrieved by the decision of the Director to cancel or refuse to renew a permit, may within 30 days of being notified of the cancellation or refusal to renew by the Director, apply to a Judge in chambers.

Surrender of permit

7. A qualified person, to whom a permit has been granted, may by a resolution of the Board of Directors, surrender the permit by filing a declaration with the Director.

Validity of permit

8. A permit remains valid for 12 months unless cancelled or revoked by the Director.

Exemption

9. The *Exchange Control Act*, Cap. 71 does not apply to a company granted a permit under this Act.

Fees

10.(1) The fees set out in the second column of the *Second Schedule* are payable in respect of the matters set out opposite thereto in the first column thereof.

(2) The Minister may by order amend, vary or revoke the *Second Schedule*.

Regulations

11. The Minister may make regulations for giving effect to this Act.

Commencement

12. This Act shall come into operation on the 1st day of January 2019.

FIRST SCHEDULE

(Section 3(3), (5))

DECLARATION

I _____
Name of Declarant

of _____
Full Address of Declarant

do hereby declare as follows:

- a. that I am the Director of [company/proposed company] and that I am authorised to make this declaration under the *Foreign Currency Permits Act, 2018* (Act 2018-) and the Regulations and that having made all reasonable enquiries, the information supplied to the Ministry in connection with this application is, to the best of my knowledge and belief, accurate in material respects and does not omit any information which might reasonably be considered relevant to the application.
- b. that the [company/proposed company] [generates/will continue to generate] one hundred per cent (100%) of its income in foreign currency.

Declared this _____ day of _____ 20_____.

Name of Declarant

First Schedule - (Concl'd)

DECLARATION

I _____
Name of Declarant

of _____
Full Address of Declarant

do hereby declare as follows:

- a. that I am the Manager of the [society/proposed society] and that I am authorised to make this declaration under the *Societies With Restricted Liability Act*, Cap. 318B and the Regulations and that having made all reasonable enquiries, the information supplied to the Ministry in connection with this application is, to the best of my knowledge and belief, accurate in material respects and does not omit any information which might reasonably be considered relevant to the application.
- b. that the company [will generate/continue to generate] one hundred per cent (100%) of its income in foreign currency.

Declared this _____ day of _____ 20_____.

Name of Declarant

SECOND SCHEDULE

(Section 10)

FEEES

Application for permit	\$250.00
Permit	\$1000.00
Renewal of permit	\$1000.00

Read three times and passed the House of Assembly this
day of _____, 2018.

Speaker

Read three times and passed the Senate this _____ day of
, 2018.

President