



PARLIAMENT OF THE COOK ISLANDS

INTERNATIONAL COMPANIES (REMOVAL OF TAX EXEMPTION) AMENDMENT BILL 2019

EXPLANATORY NOTE

This note does not form part of the Bill, but is intended to indicate its effect, and to identify the most important aspects of the Bill.

- Clause 1** sets out the Title of the Bill.
- Clause 2** provides that the Bill comes into force on the day after the date on which it receives the assent of the Queen's Representative.
- Clause 3** provides that the Bill amends the International Companies Act 1981-82 (the **principal Act**).
- Clause 4** repeals section 243(1)(d) of the principal Act.
- Clause 5** amends section 249 of the principal Act by replacing it with a new section. The new section provides for exemptions from the laws of the Cook Islands for international companies incorporated under the International Companies Act 1981-82 except for those statutes listed in subsection (2), which under this Bill, now includes the Customs Revenue and Border Protection Act 2012, Customs Tariff Act 2012, Departure Tax Act 2012, Income Tax Act 1997, and Value Added Tax Act 1997.
- Clause 6** repeals section 250 of the principal Act.
- Clause 7** provides that amendments within the Bill will not apply to international or foreign registered companies incorporated or registered before the Bill comes into force, until 1 January 2022. However, regulations (which may include provisions with retrospective effect) may provide for certain transactions involving those companies to be subject to the amendments made by the Bill (eg, the application of the Income Tax Act 1997) earlier than 1 January 2022.

Hon. Mark Brown

**International Companies (Removal of Tax Exemption)
Amendment Bill 2019**

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An Act to amend the International Companies Act 1981-82.

The Parliament of the Cook Islands enacts as follows—

1	Title This Act is the International Companies (Removal of Tax Exemption) Amendment Act 2019.
2	Commencement This Act comes into force on the day after the date on which it receives the assent of the Queen's Representative.
3	Principal Act amended This Act amends the International Companies Act 1981-82 (the principal Act).
4	Section 243 amended (Contents of Trust Deed) Repeal section 243(1)(d).

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Section 249 replaced (Application of other enactments to international companies)

Replace section 249 with:

“249 Application of other enactments to international companies and foreign companies

“(1) Except where provided for in this section, no Act of the Cook Islands, nor any regulation, by-law, or rule, in respect of an international or foreign company incorporated or registered under this Act, may do any of the following:

- “(a) impose—
 - “(i) any liability, duty, responsibility, obligation, or restrictions;
 - “(ii) any fine or penalty; or
- “(b) require—
 - “(i) the deposit of any moneys in any public account by the company;
 - “(ii) the filing of any accounts, returns, reports or records by the company;
 - “(iii) the licensing or registration of the company.

“(2) Subsection (1) does not apply to the Banking Act 2011, the Countering Terrorism and the Proliferation of Weapons of Mass Destruction Act 2004, the Crimes Act 1969, the Criminal Procedure Act 1980-81, the Customs Revenue and Border Protection Act 2012, the Customs Tariff Act 2012, the Departure Tax Act 2012, the Extradition Act 2003, the Financial Intelligence Unit Act 2015, the Financial Supervisory Commission Act 2003, the Financial Transactions Reporting Act 2017, the Income Tax Act 1997, the Mutual Assistance in Criminal Matters Act 2003, the Proceeds of Crime Act 2003, the Shipping Act 1998, the Trustee Companies Act 2014, and the Value Added Tax Act 1997, and any subsidiary legislation of the Acts referred to in this subsection.

“(3) Every international company and every foreign company may sue and be sued in the court, subject to—

- “(a) the Judicature Act 1980-81 and to every regulation or rule made under that Act; and
- “(b) all other rules of procedure of the court, whether provided for under or by an enactment or made by the court in its inherent jurisdiction.

“(4) Except where onshore business is transacted by way of an isolated transaction that is completed within a period of 31 days (not being one of a number of similar transactions repeated more than once), subsection (1) does not apply to a foreign company which transacts onshore business (as defined in section 249A) in its transaction of that onshore business, whether it be by way of an isolated transaction or of a continuing nature.”

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Section 250 repealed (Exemption of non-resident recipients of income)

Repeal section 250.

7 **Transitional provision**

- (1) Sections 243 and 249, as amended or replaced by the International Companies (Removal of Tax Exemption) Amendment Act 2019 (“the 2019 Act”), apply with immediate effect to the following companies:
- (a) an international company incorporated (or registered) on or after the date on which the 2019 Act comes into force;
 - (b) a foreign company registered on or after the date on which the 2019 Act comes into force.
- (2) However, sections 243, 249, and 250, as they read before the commencement of the 2019 Act, continue to apply to the following companies until the close of 31 December 2021:
- (a) an international company incorporated (or registered) before the date on which the 2019 Act comes into force;
 - (b) a foreign company registered before the date on which the 2019 Act comes into force.
- (3) On and after 1 January 2022 sections 243 and 249, as amended or replaced by the 2019 Act, apply to all international companies and foreign companies.
- (4) Despite subsection (2)—
- (a) the extent to which subsection (2) applies, or does not apply, to certain transactions undertaken by those international companies and foreign registered companies may be prescribed by regulations; and
 - (b) those regulations may have retrospective effect.

This Act is administered by the Financial Supervisory Commission.
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