

**THIRD SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 4,020 of 15th August, 2013

B. 17/13

BILL

FOR

AN ACT to amend the Protected Cell Companies Act 2001.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Protected Cell Companies (Amendment) Act 2013 and comes into operation on the day of publication.

Amendment of the Protected Cell Companies Act 2001.

2.(1) The Protected Cell Companies Act 2001 is amended in accordance with this section.

(2) In section 2 for the definition of “Commissioner” substitute—

““Chief Executive” means the person appointed under section 8 of the Financial Services Commission Act 2007;”.

(3) In sections 9(1), 9(6)(e), 18(8)(b), 20(1)(f), 20(3)(c), 25(1)(e) and 25(3)(b) for “the Commissioner” substitute “the Chief Executive”.

(4) For section 11 substitute—

“Consent of the Chief Executive required for protected cell company.

11.(1) Subject to subsection (2), a company may not be incorporated as a protected cell company, and an existing company may not be converted into a protected cell company,

except in accordance with the terms and conditions of the written consent of the Chief Executive, which shall only be granted in the case of a company–

- (a) which is (or which will be) a Gibraltar insurer as defined in section 2 of the Financial Services (Insurance Companies) Act; or
- (b) which is (or which will be) a collective investment scheme authorised by the Authority under the Financial Services (Collective Investment Schemes) Act, 2011.

(2) A company–

- (a) which is established principally for the purposes of issuing bonds, notes or loan or other debt securities or instruments, secured or unsecured, in respect of which the repayment of capital and interest is to be funded from the company's investments; and
- (b) which is not required to be licensed or authorised under the Financial Services (Investment and Fiduciary Services) Act or the Financial Services (Markets in Financial Instruments) Act 2006,

may not be incorporated as a protected cell company, and an existing company may not be converted into a protected cell company except in accordance with the terms and conditions of the written consent of the Chief Executive.

(3) The Minister may by regulations prescribe any other class or descriptions of company which may be incorporated as or converted into a protected cell company with the consent of the Chief Executive.

(4) The Chief Executive may, from time to time, in such manner as he thinks fit–

- (a) vary or revoke any term or condition subject to which a consent under subsections (1) or (2) was granted; and

- (b) impose any new term or condition in relation to any such consent.”.
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EXPLANATORY MEMORANDUM

The authority contained in the Protected Cell Companies Act 2001 to designate protected cell companies is split between the Finance Centre Director and the Chief Executive of the Financial Services Commission, depending on the nature of the particular protected cell company. This Act unifies the authority to give consent for such designations exclusively in the Chief Executive of the Financial Services Commission; it also updates legislative references and terms in the Protected Cell Companies Act 2001.

**Printed by the Gibraltar Chronicle Printing Limited
Unit 3, New Harbours
Government Printers for Gibraltar,
Copies may be purchased at 6, Convent Place, Price £0.40p**