ANGUILLA

SPECIAL ECONOMIC ZONES (AMENDMENT) ACT, 2024

Published by Authority

I Assent

Julia Crouch, OBE
Governor

18th March 2024
Date

ANGUILLA

No. 8/2024

SPECIAL ECONOMIC ZONES (AMENDMENT) ACT, 2024

[Gazette Dated: 19th March 2024] [Commencement: Assent under section 57 of the Constitution]

An Act to amend the Special Economic Zone Act, 2020.

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act, "principal Act" means the Special Economic Zone Act, 2020.

Amendment of section 4

2. The principal Act is amended in section 4 by repealing subsection (1)(h) and substituting the following—

"(h) refer applications to the Financial Services Commission when it appears that the applicant may be involved in financial services activities;".

Amendment of section 17

3. The principal Act is amended by repealing section 17 and substituting the following—

Grant or refusal of SEZ trade certificate

17. (1) Where an application is submitted pursuant to section 15, the Authority shall within 7 days of the application being made or additional information being received pursuant to section 16, as the case may be—

(a) grant or refuse the SEZ trade certificate;

(b) notify the applicant of the grant or the refusal; and

(c) give the reasons in writing for a refusal, where an application is refused.

(2) Where the Authority grants a SEZ trade certificate under this section, such certificate may be valid for a period of up to 5 years.".

Amendment of section 18

4. The principal Act is amended in section 18 by deleting subsection (1)(b) and substituting the following—

"(b) be issued on payment of the SEZ trade certificate fee as specified in Schedule 2 and in accordance with section 23(2b);".

Amendment of section 23

5. The principal Act is amended in section 23—

(a) by deleting the marginal note and substituting the following—

"**Validity of SEZ trade certificate and SEZ trade certificate fee**";

(b) by deleting subsection (2) and substituting the following—

"(2) Where a special economic zone company wishes to renew its SEZ trade certificate, the company shall pay to the Authority, the SEZ trade certificate fee specified in Schedule 2.

(2a) The fee referred to in subsection (2) shall be paid on or before the date on which the SEZ trade certificate expires.

(2b) Where a trade certificate is granted for a period of more than 1 year, the trade certificate shall not be issued unless the annual fee in relation to each year for which the certificate is valid is paid in full.".

(c) by deleting subsections (3) and (4) and substituting the following—

"(3) A special economic zone company that fails to pay the SEZ trade certificate fee by the date specified in subsection (2a) shall pay a surcharge, in accordance with the following formula—

Surcharge = (1/12 x $150) x (N)

(N) = number of months or parts of a month in relation to which SEZ trade certificate fee is not paid.

(4) If the SEZ trade certificate fee referred to in subsection (2) is not paid, and the special economic zone company continues to operate within the special economic zone, the unpaid SEZ trade certificate fee may be recovered by the Authority by action as a civil debt and the Authority may require, and the court may order, the payment of any surcharge accrued under subsection (3) in respect of the late payment of the SEZ trade certificate fee.".

Insertion of new section 28A

6. The principal Act is amended by inserting the following new section after section 28—

"**Due diligence checks**

28A. (1) The Authority shall, perform annual due diligence checks in relation to every special economic zone company registered under this Act.

(2) Where due diligence checks conducted under subsection (1), reveal that there have been substantial changes to the special economic zone company, its shareholders, directors and senior officers, the Authority shall—

(a) conduct a thorough investigation into such changes; and

(b) give the special economic zone company an opportunity to put forward written or oral submissions to explain the changes identified; and

(c) consider the findings of the investigations and submissions made by the special economic zone company.

(3) Where the Authority has—

(a) in accordance with subsection (2) considered its findings and any submissions; and

(b) determined that such changes render the special economic zone company unfit to operate;

the Authority may revoke the SEZ trade certificate issued to the special economic zone company in accordance with section 29.

(4) Where a SEZ trade certificate is revoked under this section, the special economic zone company may be disqualified from operating a special economic zone business for such period as the Authority considers fit, but not exceeding 5 years.

(5) For the purposes of subsection (2) substantial changes include the following—

(a) legal issues;

(b) financial irregularities;

(c) ethical breaches; or

(d) any other factors that may adversely affect the special economic zone company's suitability to operate as a special economic zone company.".

Amendment to section 29

7. The principal Act is amended in section 29—

(a) in subsection (1) by deleting the phrase "section 28(2)" and substituting the phrase "sections 28(2) and 28A(3)"; and

(b) in subsection (2)(b) by deleting the phrase section 28(5) and substituting the phrase "sections 28(5) and 28A(4)".

Citation

8. This Act may be cited as the Special Economic Zones (Amendment) Act, 2024.

Barbara Bourne
Speaker

Passed by the House of Assembly this 12th day of March, 2024

Lenox J. Proctor
Clerk of the House of Assembly

OBJECTS AND REASONS

(The objects and reasons do not form part of the Bill)

The Special Economic Zone Act was passed in March 2020. Since then the Special Economic Zone Authority has been established, and is in the process of approving various trade and employment certificate applications. In response to the evolving needs and dynamics of our Special Economic Zones (SEZ), there is a series of proposed amendments aimed at enhancing the operational framework.

- The amendments to the Act involve changing the provision related to trade certificates. Currently, trade certificates require annual renewal, while employment certificates may have a validity of up to 5 years. This presents a potential issue since the validity of employment certificates hinges on the company's ongoing existence. The proposal is to extend the validity of the trade certificates for a period of up to 5 years. This alteration is intended to align the durations of employment and trade certificates.

- The renewal of trade certificates will now occur on the anniversary of their initial issuance, as opposed to the current practice of annual renewals (1st January each year). This change aims to be more in line with multi-year certificates. When certificates have multi-year validity, anniversary-based renewals are a natural fit. This ensures that certificate holders can maximize the full term of their certificate, while also eliminating the need for prorated payments.

- There is a change in how fees for trade and employment certificates are paid. Instead of annual payments, the fees will be paid in full based on the certificate's duration. This would streamline the fee structure.

- Given that the Act will now allow for multiple year trade certificates, there is a need to conduct annual due diligence checks and further strengthen and clarify the power of the SEZ Authority to revoke a certificate where there are substantial changes to the SEZ company which adversely affect their suitability to operate in the SEZ.

- Section 4(1) of the Act outlines the responsibilities of the Authority. In relation to section 4(1)(h), concerning financial services activities, this should be within the remit of the Financial Services Commission rather than the Authority. The Act will now empower the Authority to refer applications to the FSC when it appears that the applicant may be involved in financial services activities. This change aligns with existing operational practices.