ANGUILLA

LAW REVISION (MISCELLANEOUS AMENDMENTS) ACT, 2024

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LAW REVISION (MISCELLANEOUS AMENDMENTS) ACT, 2024

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I Assent

Julia Crouch, OBE
Governor

24th July 2024
Date

ANGUILLA

NO. 19/2024

LAW REVISION (MISCELLANEOUS AMENDMENTS) ACT, 2024

[Gazette Dated: 26th July, 2024] [Commencement: Assent under section 57 of the Constitution]

AN ACT to amend various statutes and regulations to correct errors discovered during Anguilla's 2022 Law Revision and to improve the clarity of their drafting. Amendments are made for the purpose of correcting erroneous cross-references, adding definitions to clarify the meaning of undefined terms, reinstating legislation that was inadvertently repealed, repealing spent legislation and improving the readability of unduly complex provisions.

ENACTED by the Legislature of Anguilla

PART 1

AMENDMENTS TO BUSINESS COMPANIES ACT

Amendments to the Business Companies Act

1. The Business Companies Act is amended—

(a) by repealing section 174(5) and substituting the following—

"(5) When an application has been made for, and during the period of operation of, a portfolio liquidation order—

(a) no proceedings may be instituted or continued by or against the segregated portfolio company—

(i) in relation to the segregated portfolio in respect of which the portfolio liquidation order was made, and

(ii) for the portfolio liquidation order to be discharged or varied; and

(b) no steps may be taken to enforce any security or in the execution of legal process in respect of the business or segregated portfolio assets of, or attributable to, the segregated portfolio in respect of which the portfolio liquidation order was made;

except by leave of the Court, which may be conditional or unconditional."; and

(b) by deleting the opening phrase of section 229(1) before paragraph (a) and substituting the following—

"(1) The Court may order the liquidation and dissolution of a company or any of its affiliated companies upon the application of a shareholder, debenture holder, creditor, director or officer of the company, or upon application of the Commission, if the Court is satisfied that—".

Insertion of new Part in the Business Companies Act

2. The Business Companies Act is `further amended by inserting the following Part immediately after Part 14—

"PART 14A

SPECIAL ECONOMIC ZONE COMPANIES

Interpretation

226A. For the purposes of this Part—

"special economic zone business" means any type of business authorised to be carried on in a special economic zone pursuant to section 10(2)(d) of the Special Economic Zones Act, 2020; and

"special economic zone company" means the holder of a valid SEZ trade certificate issued under section 17 of the Special Economic Zones Act, 2020.

A Company may apply to be registered as a special economic zone company

226B. (1) A company or a foreign company registered under this Act may at any time apply to the Registrar to be registered as a special economic zone company.

(2) Where an application is made—

(a) to incorporate a company pursuant to section 5;

(b) to the Registrar for a certificate of continuation pursuant to section 203; or

(c) to register a company as a foreign company pursuant to section 216(2);

an application under subsection (1) may be made simultaneously.

(3) An application under subsection (1) shall be accompanied by a fee prescribed by Regulations.

Registration as a special economic zone company

226C. (1) The Registrar shall register a company or foreign company as a special economic zone company in accordance with subsections (2) and (3) and shall issue such company or foreign company a certificate of registration as a Special Economic Zone Company.

(2) Where the company was not already incorporated or continued, or registered as a foreign company under this Act prior to the application under section 226B the Registrar shall register the company or foreign company where—

(a) the articles of incorporation of the company or foreign company specifies that the business of the company includes special economic zone business; and

(b) the name of the company or foreign company includes the words "Special Economic Zone Company" or the letters "SEZC".

(3) Where the company was already incorporated or continued, or registered as a foreign company under this Act prior to the application under section 226B, the Registrar shall register the company or foreign company where—

(a) the Registrar has been provided with a copy of a resolution of the directors of the company amending its articles of incorporation to carry on special economic zone business, and

(b) the Registrar has been provided with a copy of a resolution of the directors of the company changing its name to a name that includes the words "Special Economic Zone Company" or the letters "SEZC".

(4) On registering a company as a special economic zone company the Registrar shall—

(a) in the case of a company referred to in subsection (2) certify in the certificate of incorporation issued in accordance with section 5 or the certificate of continuation issued pursuant to section 203, or the certificate of registration of a foreign company issued in accordance with section 217 that the company is registered as a special economic zone company; and

(b) in the case of a company referred to in subsection (3), issue a certificate stating that the company is registered as a special economic zone company and stating the date of such registration.

(5) A resolution of the directors passed for the purpose of subsection (3)(b) has no effect until the company is registered as a special economic zone company.

Cancellation of registration

226D. (1) A company ceases to be a special economic zone company if—

(a) the company is struck off or dissolved under Part 15, or the Registrar issues a certificate of discontinuance under section 205(4) or removes the name of the company from the Register of Foreign Companies under section 223(2); or

(b) the Registrar issues a certificate of deregistration—

(i) which records a change of name for the company that does not include the words "Special Economic Zone Company" or the letters "SEZC", and

(ii) where the company passes a resolution of the directors to amend its articles of incorporation to exclude the carrying on of special economic zone business.

(2) Where the Registrar issues a certificate of deregistration the company shall pay a deregistration fee prescribed by Regulations.

(3) On a company ceasing to be a special economic zone company, the certificate issued pursuant to section 226C(1) ceases to have effect.".

Validation of acts and things done by the Registrar in relation to special economic zone companies

3. (1) When the Companies Act was repealed and replaced by the Act, the consequential amendment made by section 37 of the Special Economic Zones Act, 2020, which amended the Companies Act to insert Part 4A (providing g for the registration of economic zone companies) was also repealed, and no provision was included in the Act to save Part 4A.

(2) Since 19 April 2022, the Registrar has continued to exercise the Registrar's powers and perform the Registrar's duties under Part 4A of the Companies Act as if that Part were not repealed, including the registration of special economic zone companies and issuance of certificates of registration.

(3) Every act or thing done by the Registrar from 19 April 2022 to the date of commencement of this Act in the purported exercise of the Registrar's powers and performance of duties under Part 4A of Companies Act, as amended by section 37 of the Special Economic Zones Act, 2020, that would have been lawful if Part 4A had been in force when it was done, is validated and declared to have been lawfully done by the Registrar.".

PART 2

AMENDMENTS TO OTHER ACTS

Anguilla Economic Residence Act

4. Section 10 of the Anguilla Economic Residence Act is amended by inserting the following subsection after subsection (6)—

"(7) In subsection (5)(f), a "politically exposed person" has the meaning given in the Anti-money Laundering and Terrorist Financing Regulations.".

Business Licences Moratorium Act

5. The Business Licences Moratorium Act is repealed.

Child Justice Act

6. The Child Justice Act is amended by repealing section 46(4)(a)(i) and substituting the following—

"(i) the application of any option contained in section 45(2) or (3), or".

Child Protection Act

7. The Child Protection Act is amended in section 111 by deleting the words following paragraph (b) and substituting the words "the Court may direct that the recording be played in the proceedings in lieu of the child giving evidence in person.".

Commercial Registry and Beneficial Ownership Registration System Act

8. The Commercial Registry and Beneficial Ownership Registration System Act is amended by repealing section 3 and replacing it with the following—

"Compliance by and enforcement on trusts and limited partnerships

3. (1) In this Act—

(a) an obligation, penalty or other sanction imposed on;

(b) anything required to be done or not to be done by; and

(c) a notification addressed to or served on;

an express trust or a limited partnership shall be construed in accordance with subsection (2) or (3), whichever is applicable.

(2) In relation to an express trust, the obligation, requirement or notification shall be construed as being imposed on, required of, addressed to or served on the trustee of the trust or, if there is more than one trustee, of each of the trustees.

(3) In relation to a limited partnership, the obligation, requirement or notification shall be construed as being imposed on, required of, addressed to or served on the general partner of the limited partnership or, if there is more than one general partner, of each of the general partners.".

Financial Services Commission Act

9. The Financial Services Commission Act is amended by repealing section 35(2)(f) and substituting the following—

"(f) where the licensee is a company incorporated or continued under the Business Companies Act, apply to the Court for the liquidation and dissolution of the company under section 229(1) of that Act.".

Goods and Services Tax Act

10. The Goods and Services Tax Act is amended in section 68(3) by inserting immediately after the word "invoice" the words "or sales receipt".

Magistrate's Code of Procedure Act

11. The Magistrate's Code of Procedure Act is amended in section 58 by repealing subsections (4) and (5).

PART 3

AMENDMENTS TO REGULATIONS

Health Services Fees and Charges Regulations

12. Schedule 2 of the Health Services Fees and Charges Regulations is amended by inserting in item 10(c) of that Schedule the following: Radiological, Electrocardiogram, Ultra-Sound and Ct Scan Fees and Charges (in EC dollars) in the 3 columns from left to right opposite the entry "Intravenous pyelogram (IVC)— ; ; and .

International Tax Compliance (CRS) Regulations

13. Section 1 of the International Tax Compliance (CRS) Regulations is amended by inserting the following definition in alphabetical order—

> ""AML/KYC procedures" includes, in relation to a service provider, "customer due diligence measures" and procedures required to meet the service provider's "AML/CFT obligation", as defined in the Anti-Money Laundering Regulations;".

PART 4

FINAL PROVISION

Citation

14. This Act may be cited as the Law Revision (Miscellaneous Amendments) Act, 2024.

Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this 23rd day of July, 2024

Lenox J. Proctor
Clerk of the House of Assembly

OBJECT AND REASONS

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

The Bill amends various statutes and regulations of Anguilla to correct errors discovered during the 2022 Law Revision and to improve the clarity of their drafting. Amendments are made for the purpose of correcting erroneous cross-references, adding definitions where required to clarify the meaning of undefined terms, reinstating legislation that was inadvertently repealed, repealing spent legislation, and improving the readability of unduly complex provisions.

The Bill consists of 15 clauses.

Clause 1 redrafts section 174(5) of the Business Companies Act to reduce the number of paragraphs to two, thus improving the readability of the subsection, which consists of three paragraphs, which are linked together with two different conjunctions.

The clause also amends section 229(1) of that Act to add the Financial Services Commission to the list of persons who may apply to the court (as provided by section 35(2)(f) of the Financial Services Commission Act) for dissolution of a company or any of its affiliated companies.

Clause 2 amends the Business Companies Act by inserting Part 14A, respecting the registration of special economic zone companies, immediately after Part 14. This Part was added to the Companies Act by a consequential amendment to the Special Economic Zones Act, 2020 but was inadvertently repealed when the Companies Act was repealed and replaced by the Business Companies Act by Act 2 of 2022.

Clause 3 validates any action taken by the Registrar under Part 4A of the Companies Act, as amended by the Special Economic Zones Act, 2020 between the period of 19 April 2022 to the commencement date of this Bill.

Clause 4 adds a definition of the term "politically exposed person" used in section 10 of the Economic Residence Act without definition. A definition of this term is provided in other Anguilla legislation (see, for example, section 14(2) of the Financial Intelligence Unit Act).

Clause 5 repeals the Business Licences Moratorium Act, which is spent.

Clause 6 corrects an erroneous cross-reference in section 46 of the Child Justice Act to section 45(5) and replaces it with a reference to section 45(3), thus expanding the range of options that may be included in a plan recommended, in respect of a child, by a family group conference.

Clause 7 deletes an erroneous reference in the Child Protection Act to a non-existent section of the Evidence Act and gives the Court the power in the Child Protection Act to direct that a recording of evidence previously given by a child be played in proceedings, rather than requiring the child to give such evidence in person.

Clause 8 amends section 3 of the Commercial Registry and Beneficial Ownership Registration System Act by redrafting sections 3(c)(i) and (ii) as subsections 3(2) and (3) since they apply to each of paragraphs 3(a), (b) and (c), not just to paragraph (c). Clause 8 also amends section 11(2)(e) of that Act by substituting a reference to "paragraphs (a) to (d)" for the incorrect reference to "a power mentioned in subsection (1)(a) to (e)" since there are no powers mentioned in those paragraphs.

Clause 9 replaces an incorrect reference in section 35 of the Financial Services Commission Act to the Companies Act (repealed) with a reference to section 229(1) of the Business Companies Act, which replaced the Companies Act. (See Clause 1, which amends section 229(1) to add the Financial Services Commission to the list of persons who may apply to the court for dissolution of a company under that section).

Clause 10 amends section 68(3) of the Goods and Services Tax Act to make failure to provide a sales receipt an offence. Section 28 of that Act requires a taxable person to provide an invoice and a sales receipt for a taxable supply, but section 68(3) creates an offence only for failure to provide an invoice.

Clause 11 amends the Magistrate's Code of Procedure Act to delete two subsections added to section 58 of the Act by section 3 of Act 32 of 2020 governing the procedure for taking depositions of a witness' evidence given by live link which were rendered redundant by the enactment of a similar procedure by section 2 of Act 25 of 2021.

Clause 12 amends the Health Services Fees and Charges Regulations to correct a blank entry in item 10(c) of Schedule 2 by inserting fees for Intravenous pyelograms (IVC).

Clause 13 amends the International Tax Compliance (CRS) Regulations to add a definition for the term "AML/KYC procedures" linking its meaning to the definitions of "customer due diligence measures" and "AML/CFT obligation", in the Anti-Money Laundering Regulations.

Clause **14** is the citation provision for the Act.