



ANGUILLA

**INTEGRATION OF REGISTRY INTO FINANCIAL SERVICES
COMMISSION (MISCELLANEOUS AMENDMENTS) ACT, 2024**

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**INTEGRATION OF REGISTRY INTO FINANCIAL SERVICES COMMISSION
(MISCELLANEOUS AMENDMENTS) ACT, 2024**

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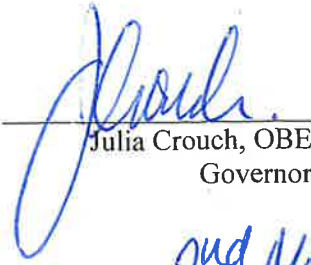
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I Assent


Julia Crouch, OBE
Governor

Date

ANGUILLA

No. 11/2024

A BILL FOR

**INTEGRATION OF REGISTRY INTO FINANCIAL SERVICES COMMISSION
(MISCELLANEOUS AMENDMENTS) ACT, 2024**

[Gazette Dated: 2nd May, 2024] [Commencement: Section 18]

An Act to make provision for the integration of the Registry into the Financial Services Commission by amending the Business Companies Act, the Financial Services Commission Act, the Commercial Registry and Beneficial Ownership Registration System Act, the Patents Act, and the Trademarks Act.

ENACTED by the Legislature of Anguilla

PART 1

BUSINESS COMPANIES ACT

Interpretation

1. In this Part, “principal Act” means the Business Companies Act.

Amendment to section 257

2. Section 257 of the principal Act is amended by—

(a) repealing subsection (1) and replacing it with the following—

“(1) The Commission may, on the recommendation of the Director of the Commission, establish a committee named the “Company Law Review Advisory Committee.”;

(b) deleting subsection (4) and substituting the following—

“(4) The Chairman of the Committee shall be the Director of the Commission.”.

Repeal and replacement of section 258

3. Section 258 of the principal Act is repealed and replaced with the following—

“Registrar of Companies

258. (1) The Commission—

(a) shall appoint a suitably experienced person to be Registrar of Companies; and

(b) may appoint Deputy Registrars on such terms and conditions as it considers appropriate.

(2) The Registrar and any Deputy Registrars are employees of the Commission.

(3) Subject to the control of the Commission, the Registrar is responsible for the administration of this Act.

(4) Subject to the control of the Registrar, a Deputy Registrar has and may exercise the powers, duties and functions of the Registrar and the fact that a Deputy Registrar exercises those powers, duties and functions is conclusive evidence of his or her authority to do so.”

PART 2

FINANCIAL SERVICES COMMISSION ACT

Interpretation

4. In this Part the “principal Act” means the Financial Services Commission Act.

Amendment to section 1

5. The principal Act is amended in section 1 by—

(a) inserting the following definition in its appropriate alphabetical order—

““Registry” means the Commercial Registry established under Part 5 of the Commercial Registry and Beneficial Ownership Registration System Act;”;

(b) deleting the definition of “Registry Act” and substituting the following—

““Registry Act” has the meaning specified in the Commercial Registry Beneficial Ownership Registration System Act;”.

Amendment to section 3

6. The principal Act is amended in section 3—

(a) by deleting subsection (1)(a) and substituting the following—

“(a) to supervise licensees in accordance with, and to enforce, this Act, the financial services enactments, the Registry Acts and the Regulatory Codes;”;

(b) by deleting subsection (1)(j)(i) and substituting the following—

“(i) the amendment, revision or replacement of the Registry Acts, the financial services enactments or of any legislation connected with financial services business, companies, partnerships, trusts, foundations or any other business structures or arrangements;”;

(c) by deleting subsection (1)(j)(iii) and substituting the following—

“(iii) the introduction of any new legislation connected with the Registry, financial services business, companies, partnerships, trusts, foundations or any other business structures or arrangements or the AML/CFT regime; and”;

(d) by deleting subsection (1)(m) and substituting the following—

“(m) to provide such information and advice to licensees and the public, or any section of the public, concerning the Registry Acts, financial services and the AML/CFT regime as it considers appropriate;”.

Amendment to section 11

7. The principal Act is amended in section 11 by deleting subsections (2) and (3).

Insertion of new Part 8A

8. The principal Act is amended by inserting the following new Part after Part 8—

“PART 8A

REVENUE SHARING AGREEMENT AND RESERVE FUNDS

Revenue Sharing Agreement

53A. The revenue generated by the Company Registry shall be shared with the Commission in accordance with this Part.

Operational Funds

53B. (1) The following fees hereinafter referred to as the “Registry Fees” shall be received by the Commission on behalf of the Government—

(a) annual fees;

- (b) incorporation and registration fees;
- (c) intellectual property fees, including fees from patents, trademarks, industrial design and other related fees.

(2) The Commission shall open an account and the funds collected under subsection (1) shall be paid into this account within reasonable time.

(3) The funds paid into the account referred to in subsection (2) shall be held by the Commission on behalf of the Government of Anguilla.

(4) All monies paid into the account referred to in subsection (2) and (3) shall, in accordance with subsections (7) and (8), be paid into the Consolidated fund within—

- (a) 30 days of the end of each quarter; or
- (b) such period as may be agreed between Executive Council and the Commission.

(5) Where monies are received by the Commission under this section, the Commission shall retain a percentage of not more than 25% of the aforementioned monies.

(6) Notwithstanding subsection (5), the Commission and the Executive Council may agree to a percentage that is greater than 25% in any financial year where extraordinary circumstances arise.

(7) When determining the percentage of money to be retained pursuant to subsections (5) and (6), the Executive Council and the Commission shall—

- (a) prior to the commencement of the financial year; and
 - (b) in accordance with the considerations referred to in subsection (8);
- agree what percentage of monies shall be—

(i) remitted to the Government and paid into the Consolidated Fund, and

(ii) retained by the Commission for use by the Commission.

(8) In determining what percentage of monies shall be retained by the Commission for any financial year, the following considerations shall be taken into account—

- (a) the need to maintain the independence and financial viability of the Commission;
- (b) any shortfall or anticipated shortfall in revenue paid or to be paid to the Government for any financial year;

- (c) any increase in requests for assistance from foreign regulatory authorities and the costs associated therewith;
- (d) the need to service loans and credit obtained on goods and services;
- (e) the scope of the functions of the Commission and the need for the efficient and effective implementation of such functions;
- (f) any surplus or deficit beyond what was projected for the prior financial year.

Reserve Fund

53C. (1) The Commission shall make an annual payment into the reserve fund established for use by the Commission.

(2) The payments made under subsection (1) shall be held in an account hereby referred to as the contingency reserve account.

(3) The payment into the fund shall—

- (a) be 10% of the Net Registry Fees; and
- (b) not exceed XCD\$900,000 in any one year.

(4) For the purposes of subsection (3), the Net Registry Company Fees shall be the Registry Company Fees collected less funds retained by the Commission in accordance with section 53B.

(5) No payments shall be made into the reserve fund where in a particular year, the reserve fund amounts to XCD\$13.5 million.

(6) The monies in the reserve fund shall be used by the Commission for the purposes including the following—

- (a) future capital expansion;
- (b) capital projects; and
- (c) revenue reserves including contingency; and
- (d) such other purposes as approved by the Executive Council.

Transitional provisions in relation to reserves held by the Commission on the prescribed date

53D. (1) The reserves held by the Commission on the day on which the offices of the Registry are abolished, shall be paid into a separate account hereby referred to as the “contributed capital account”.

(2) The reserves referred to in subsection (1) shall be based on audits made in relation to the existing reserves held by the Commission.”.

Repeal of sections 19 and 20

9. Sections 19 and 20 of the Financial Services Commission Act are hereby repealed.

Amendment to Schedule 5

10. The principal Act is amended in Schedule 5—

- (a) by inserting the following new section after section 7—

Officers and employees of the Registry

7A. Every officer of the Registry shall, before the expiry of 26 April 2024 make one of the below elections—

- (a) enter into a contract of employment with the Commission, on terms and conditions which are more favourable than those which were attached to the appointment held by the officer in the public service;

- (b) request to be transferred to another department of the Government.

7B. Where an officer enters into a contract of employment under section 7A(a) he severs his relationship with the public service and shall no longer be a public officer.

7C. Where a person requests to be transferred to another department pursuant to sections 7A(b) his transfer shall be effective on the prescribed date.

7D. Where a person referred to in section 7A fails to make an election under section 7A, the Governor may transfer such officer to another post in the public service, such transfer being effective on the prescribed date.

7E. Where an officer is transferred to another department in Government pursuant to section 7A(b) or 7D, he is liable to be transferred to a post of equivalent grade in the public service.

7F. The offices in the Registry shall be abolished on the prescribed date.

7G. Where an officer enters into a contract of employment with the Commission pursuant to section 7A(a), the question of his pension shall be dealt with in accordance with the provisions of Part 4 of the Pensions Act.

7H. For the purposes of this sections 7A to 7G—

- (a) an officer means a public officer employed in the service of the Government;

- (b) prescribed date means a date prescribed by the regulation made under section 57.

- (b) by inserting the following new section after section 8—

“Contracts entered into by the Registry

8A. Where prior to the prescribed date, the Government through the Registry or on behalf of the Registry had a contract with any person, other than a contract of employment with a public officer in the Registry, which is not discharged on that prescribed date—

- (a) the contract continues to have effect as if it was originally made with the Commission; and

- (b) all the rights, powers, duties and liabilities which accrued under or in connection with the contract shall be enforceable by or against the Commission as if the contract was originally made between that person and the Commission.
- 8B. Notwithstanding section 8A the Commission shall not be liable for—
- (a) any contracts in relation to which legal proceedings or any action connected to the contract commenced prior to the prescribed date; or
- (b) any contracts that were not included in the list referred to in 8C.
- 8C. The Government shall produce a list of all contracts entered into by the Registry and all contracts entered into by the Government of behalf of the Ministry and such list shall be furnished to the Commission by 26 April, 2024.”.
- 8D. For the purposes of this sections 8A prescribed date means a date prescribed by the regulations made under section 57.
- (c) by inserting the following new section after section 9—
- “9A. Guidance issued by the Registrar, and any amendments to such Guidance issued by the Registrar under section 51(2) of the Commercial Registry and Beneficial Ownership Registration System Act, prior to the prescribed date shall take effect as if issued by the Commission.”;
- 9B. For the purposes of this sections 9A prescribed date means a date prescribed by the regulations made under section 57.
- (d) by inserting the following new section before the section headed “Validation of acts and things done under the Act”—

“Vesting of Assets

- 9C. (1) The assets of the Registry shall, on the prescribed date vest in the Commission.
- 9D. The assets referred to in section 9C shall include the following—
- (a) Commercial Registry Electronic System (CRES);
- (b) furniture;
- (c) any other physical or intellectual property belonging to the Registry.
- 9E. For the purposes of section 9C prescribed date means a date prescribed by the regulations made under section 57.

Transfer of monies held by the Registry on behalf of registered agents

- 9F. The monies referred to in sections 9G and 9H, held by the Registry on behalf of a registered agent shall, on the prescribed date be transferred to the Commission.
- 9G. The monies referred to in section 9F are monies belonging to a registered agent that are held by the Registry on behalf of such agents, for the purpose of facilitating transactions to be completed on the –

(a) Commercial Registry Electronic System, in relation to active registered agents; and

(b) Anguilla Commercial Online Registration Network in relation to inactive registered agents.

9H. The monies to be transferred pursuant to section 9F shall be the closing balances held by the Registry in relation to each registered agent after deductions have been made for transactions completed on the Commercial Registry Electronic System and the Anguilla Commercial Online Registration Network.

9I. A record of the monies referred to in section 9F shall be maintained by the Registry and such record shall, up until the prescribed date, be updated daily by the Registry.

9J. The record referred to in section 9I shall be compiled into a report and same shall be submitted to the Commission on the prescribed date.

9K. For the purposes of section 9F to 9J, prescribed date means a date prescribed by regulations made under section 57.”.

PART 3

COMMERCIAL REGISTRY AND BENEFICIAL OWNERSHIP REGISTRATION SYSTEM ACT

Interpretation

11. In this Part, “principal Act” means the Commercial Registry and Beneficial Ownership Registration System Act.

Amendment to section 7

12. The principal Act is amended in section 7 by deleting subsections (2) and (3).

PART 4

TRADEMARKS ACT

Interpretation

13. In this Part, “principal Act” means the Trademarks Act.

Amendment to section 52

14. The principal Act is amended in section 52 by deleting the phrase “the Financial Services Department or”.

PART 5
PATENTS ACT

Interpretation

15. In this Part, “principal Act” means the Patents Act.

Amendment to section 41

16. The principal Act is amended in section 41 by deleting the phrase “the Financial Services Department or”.

PART 6
MISCELLANEOUS

Regulations

17. The Governor may make regulations for the better carrying out of the provisions of this Act.

Citation and commencement

18. (1) This Act may be cited as the Integration of Registry into Financial Services Commission (Miscellaneous Amendments) Act, 2024.

(2) Subject to subsection (3), this Act comes into force on assent.

(3) The following provisions of this Act come into force on the day appointed by the Governor in Council by Notice published in the *Gazette*—

- (a) Parts 1;
- (b) in Part 2, sections 5 to 9;
- (c) Parts 3, 4 and 5.



Barbara Webster-Bourne
Speaker

Passed by the House of Assembly this 26th day of April, 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 Bill for consideration is the Integration of Registry into Financial Services Commission (Miscellaneous Amendments) Bill.

Part 1 of the Bill (**clauses 1 to 3**) provides for amendments to the Business Companies Act with the interpretation provision (**clause 1**).

Clause 2 amends section 257 of the Business Companies Act to allow the Commission to establish the Company Law Review Advisory Committee and the Chairman of the Committee to be the Director of the Commission.

Clause 3 amends section 258 of the Business Companies Act to provide for the appointment by the Commission of the Registrar and Deputy Registrars as employees of the Commission. Under the Commission, the Registrar will continue to be the administrator of the Business Companies Act.

Part 2 of the Bill (**clauses 4 to 10**) provides for amendments to the Financial Services Commission Act with the interpretation provision (**clause 4**).

Clause 5 provides for the amendment of the definitions of “Registry” and “Registry Act” in the Financial Services Commission Act.

Clause 6 amends section 3 of the Financial Services Commission Act to allow the Commission to incorporate as a principal function the enforcement of the Registry Acts; to make recommendations to the Governor on the Registry Acts as well as the introduction of any new legislation connected with the Registry. Further to provide information and advice to licensees and the public concerning the Registry Acts.

Clause 7 allows for the deletion of section 11 subsections (2) and (3) which provided for the inspection of the Registry by the Commission.

Clause 8 provides for the revenue sharing agreement and reserve funds. This clause provides details of the operational funds and reserve funds of the Commission. It also includes a transitional provision in relation to the reserves held by the Commission on the transition date.

Clause 9 provides for the repeal of sections 19 and 20 of the Financial Services Commission Act which referred to the charge against company registration fees and the payment of surplus to Government.

Clause 10 provides for the amending of Schedule 5 for the transitional provisions of the officers and employees of the Registry. The clause also provides for contracts entered into by the Registry to be transferred to the Commission and the vesting of assets.

Part 3 of the Bill (**clauses 11 and 12**) provides for amendments to the Commercial Registry and Beneficial Ownership Registration System Act with the interpretation provision (**clause 11**).

Clause 12 provides for the deletion of section 7 subsections (2) and (3) of the Commercial Registry and Beneficial Ownership Registration System Act.

Part 4 of the Bill (**clauses 13 and 14**) provides for amendments to the Trademarks Act with the interpretation provision (**clause 13**).

Clause 14 provides for the amendment to section 52 of the Trademarks Act.

Part 5 of the Bill (**clauses 15 and 16**) provides for amendments to the Patents Act with the interpretation provision (**clause 15**).

Clause 16 provides for the amendment to section 41 of the Patents Act.

Clause 17 deals with the power to make regulations.

Clause 18 deals for the title and commencement provisions of the Bill.