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**MINUTES OF THE 128<sup>th</sup> MEETING OF THE TWELFTH ANGUILLA**  
**EXECUTIVE COUNCIL HELD ON THURSDAY 16<sup>th</sup> MARCH 2023 AT 9.00 AM**

- PRESENT: Her Excellency the Governor, Ms Dileeni Daniel-Selvaratnam  
The Honourable Deputy Governor, Mr Perin Bradley  
The Honourable Minister for Social Development, Cultural Affairs, Youth Affairs, Gender Affairs, Education and Library Services, Ms Dee-Ann Kentish-Rogers  
The Honourable Minister for Home Affairs, Immigration, Labour, Human Rights, Constitutional Affairs, Information and Broadcasting, Lands and Physical Planning, Mr Kenneth Hodge  
The Honourable Minister for Infrastructure, Communications, Utilities, Housing and Tourism, Mr Haydn Hughes  
The Honourable Minister for Sustainability, Innovation and Environment, Mrs Quincia Gumbs-Marie  
The Honourable Attorney General, Mr Dwight Horsford  
Clerk to Executive Council, Mrs Angela Hughes
- IN ATTENDANCE: The Honourable Parliamentary Secretary, Mr Merrick Richardson  
Financial Specialist, Mr Stephen Turnbull
- ABSENT: The Honourable Premier and Minister for Finance, Economic Development & Investment and Health, Dr Ellis Webster

EX MIN 23/72

**CONFIRMATION OF THE MINUTES**

Parliamentary Secretary and Financial Specialist remained.

Council confirmed the Minutes of the 127<sup>th</sup> Meeting of Executive Council held on Thursday 9<sup>th</sup> March, 2023.

**MATTERS ARISING FROM THE MINUTES**

EX MIN 23/73

**EX MEMO 23/53 THE INTERNATIONAL TAX COMPLIANCE – COMMON REPORTING STANDARD – UPDATE OF INTENDED PARTICIPATING JURISDICTIONS**

Parliamentary Secretary and Financial Specialist remained. PAS, Finance, Ms Marisa Harding-Hodge and Compliance Manager, Ms Nordisia Lake joined the meeting.

The Compliance Manager briefed Council. A key part of the global agenda to reform the global financial system has been the pursuit of greater international transparency. Globalisation and technological advances have made it easier for taxpayers to hold investments in financial institutions outside of their country of residence. The ability to exchange taxpayer information between jurisdictions' tax authorities is critical to combating tax evasion at the international level.

The Common Reporting Standard (commonly referred to as CRS) calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis.

In furtherance of Anguilla's commitment to fighting tax evasion, Anguilla joined with a group of other OECD member states in adopting the Common Reporting Standard. The declaration broadly affirms the endorser's intention to adopt the OECD Standard for Automatic Exchange of Financial Account Information (the Standard) "swiftly, on a reciprocal basis" and calls upon "all financial centers to implement the new single global standard without delay." Anguilla is part of a subset of 'early adopters' committed to initiating first exchanges which commenced in 2017.

The implementation of the CRS does not automatically result in information exchange between all countries. A jurisdiction wishing to

automatically exchange tax information will still need to enter into an agreement with Anguilla. To protect the confidentiality of information shared by Anguilla, Anguilla would not enter into an agreement to automatically exchange information with another country unless the country has the legal framework and administrative capacity to ensure confidentiality.

Anguilla has been exchanging information with the current list of jurisdictions since 2017. Anguilla needs to update this list based on new jurisdictions who are now exchanging under the standard and have submitted an expression of interest to exchange with Anguilla. The list of jurisdictions that Anguilla is proposing to commit to exchanging CRS information with in 2023 and onwards was provided for consideration.

Council:

- 1) noted the background as per the paper;
- 2) noted that no additional risks or issues have been identified as a consequence of updating the listing and Anguilla is already committed to the process. A multilateral agreement has already been signed by the UKG. The need to update the listing arises as not all jurisdictions signed up to make the commitment at the same time;
- 3) approved an amendment to the International Tax Compliance (CRS) Regulations to update Schedule 2 Participating Jurisdictions, with the listing provided; and
- 4) instructed the Attorney General's Chambers to prepare the required amendment to the International Tax Compliance (CRS) Regulations for execution.

Action: PS, FIN; PAS, FIN; HON, PREM

EX MIN 23/74

**EX MEMO 23/54 GLOBAL FORUM ON TRANSPARENCY AND EXCHANGE OF INFORMATION FOR TAX PURPOSES (GLOBAL FORUM) EXCHANGE OF INFORMATION ON REQUEST STANDARD (EOIR) SUPPLEMENTARY REVIEW**

Parliamentary Secretary and Financial Specialist remained. The Director of the FSC, Ms Tina Bryan joined the meeting.

The PAS Finance briefed Council. The paper considers issues highlighted in Anguilla's draft Supplementary Review on Request Standard (EOIR) Peer Review, Anguilla is rated as **Partially Compliant**. The paper also presents ancillary issues.

Anguilla previously underwent a peer review in 2014 (first round peer review) where a rating of Partially Compliant was obtained for compliance with the international standard on transparency and exchange of information on request (EOIR).

On September 1<sup>st</sup> 2020, the Global Forum published a second round peer review report of Anguilla. This report assessed Anguilla's rating as Non-Compliant and in order to improve this rating, legislative and regulatory amendments and adjustments were necessary to comply with the OECD Global Forum Recommendations on Transparency and Exchange of Information for Tax Purposes, as set out in the 2016 Terms of Reference on EOIR.

This Non-Compliant rating was issued due to a number of major deficiencies highlighted during the review period. Legislative amendments to address these gaps were implemented in 2021.

Following the release of the second round Peer Review, Anguilla requested and was approved for a supplementary review. As noted before, the draft report rates Anguilla as Partially Compliant due to significant issues identified. Anguilla needs to make certain adjustments to its regime in order to improve the findings of the supplementary review and increase the likelihood that the rating can be revised to Largely Compliant.

Legislative amendments to address the recommendations made in the report are needed. The Commercial Registry has to develop a compliance strategy in order to supervise Anguillian entities and arrangements, as it pertains to their obligations under the Registry Act. A senior officer from the Attorney General's Chambers needs to be assigned to provide guidance in relation to interpretation and

drafting of legislation and to attend the PRG meeting in June, where Anguilla will be required to defend its report.

Industry members (company managers, Anguilla Compliance Association and Anguilla Financial Services members) will be briefly consulted for a one-week period about proposed changes. They are generally supportive of changes to improve the transparency of Anguillian corporate structures.

For the amendments to be considered in the supplementary review they will have to be in force by **either the 3<sup>rd</sup> or 17<sup>th</sup> April** (to be confirmed).

Council:

- 1) noted that Anguilla's draft supplementary report suggests a rating of Partially Compliant against EOIR, and recommends improvements to the following:
  - a) The legal framework for maintenance of beneficial ownership information for entities and arrangements.
  - b) The legal framework for the availability of accounting information for struck off entities or entities that keep their accounting records outside of Anguilla.
  - c) The practical implementation of its laws to ensure adequate supervision and enforcement of the obligations so that accounting information is available in line with the standard for entities.
- 2) noted that a Largely Compliant rating on the EOIR is the target for the next review. Noted that the key area of concern is the adequate supervision of Anguilla entities and arrangements, as in this area Anguilla is non-compliant. Noted that the legislative changes which were made in November were not fully reflected in the supplementary review undertaken in December, but the expectation is that they will be taken into consideration for the April supplementary review;
- 3) instructed the Attorney General's Chambers to assign a senior officer to participate in the Supplementary EOIR review and to prepare amendments to the Business Companies Act and Commercial Registry and Beneficial Ownership Registration System Act as indicated, for approval by Council. Noted the proposed legislative amendments and the priority

for completion of same. Noted that there is a recent Privy Council decision on the application of the AML framework to lawyers and the Attorney General's Chambers shall share the information with the Ministry of Finance;

- 4) instructed the Ministry of Finance (MOF) to liaise with the industry in relation to the proposed draft legislative amendments;
- 5) noted that the operations of the Commercial Registry are affected by resourcing, staffing and operational challenges. The registered companies that conduct relevant activities must demonstrate actual engagement in Anguilla. Companies are required to file accounting records and under the Registry Act the Commercial Registry is required to demonstrate that it can adequately manage compliance matters, actively review cases and perform a regulatory function, such that enforcement action can be taken if needed. A solely repository function will not be adequate and a regulatory function has to be established;
- 6) noted that there is a need for dedicated resources in the Commercial Registry to lead on compliance and enforcement activities. Having this officer in place immediately is crucial as the deficiency has negatively impacted two reviews for which Anguilla remains blacklisted. This post was intended to be included under the 2023 budget but was omitted in error. It is proposed that this post should be accommodated through the supplementary appropriation and funded through savings as will be identified in the MOF/Commercial Registry Budgets, so that the expenditure envelope is not increased. The Registry has identified EC\$30k of savings and the MOF will work to identify further savings so that the officer can be in place for Quarter 2;
- 7) approved the additional Deputy Registrar – Enforcement & Compliance post, for inclusion in the 2023 Supplementary Budget; and
- 8) agreed that the Ministry of Finance has to make a determination by March 23, as it relates to the best way of taking the Commercial Registry forward in order to meet its mandate to conduct regulatory activities. Noted the indication made that if this matter is not addressed then the outcome of any future supplementary review will not change.

Council authorised the issue of the Action Sheet before confirmation of the Minutes.

Action: PS, FIN; PAS, FIN; HON, PREM

EX MIN 23/75

**EX MEMO 23/55 APPOINTMENT OF A COMMISSIONER AND CHAIR TO THE BOARD OF THE PUBLIC UTILITIES COMMISSION (PUC)**

Parliamentary Secretary and Financial Specialist remained.

The Hon Minister for MICUHT briefed Council. According to section 3(1) of the Public Utilities Commission Act 2014 (the “Act”), “the affairs of the Commission shall be managed by a Board consisting of five (5) commissioners.”

Council:

- 1) approved the reappointment of Mrs Keesha Webster-Carty as a Commissioner and Chairman to the Board of the Public Utilities Commission for a term of two years, effective from March 17, 2023;
- 2) approved the publication of the name of the newly appointed Commissioner and Chairman in the Gazette, pursuant to section 3(5) of the Act;
- 3) agreed that the Public Utilities Commission shall provide Board Governance and Public Financial Management Training for the appointed Board member, which is to be completed within three months of their appointment; and
- 4) noted that the PUC must inform the Ministry of ICUHT three (3) months in advance, of the expiry of any and all PUC members appointments or resignations from the PUC.

Council authorised the issue of the Action Sheet before confirmation of the Minutes.

Action: PS, MICUHT; HON, MIN MICUHT

EX MIN 23/76

**EX MEMO 23/56 REFUSAL TO GRANT WORK PERMITS**

Parliamentary Secretary and Financial Specialist remained.

The Hon Minister for Home Affairs briefed Council. Section 165(3) of the Labour (Relations) Act 2018, requires the Minister for Home Affairs & Labour to consult with Executive Council before refusing to grant work permits. Council noted the reasons for the Minister's proposed work permit refusals as follows:

In relation to one person, pursuant to section 171(a) of the Labour (Relations) Act, the employer has not demonstrated a genuine need to engage the services of the prospective worker.

In relation to one person, pursuant to section 171(b) of the Labour (Relations) Act, there are Anguillians, their spouses, or persons resident on island who are qualified to fill the position.

Council:

- 1) thanked the Ministry for the paper;
- 2) noted section 164 of the Labour (Relations) Act 2018 containing the principles governing work permits;
- 3) noted that in keeping with section 165(3) of the Labour (Relations) Act 2018, the Hon Minister for Home Affairs & Labour consulted with Executive Council before refusing to grant work permits; and
- 4) considered and endorsed the proposal by the Hon Minister that the two persons be **refused** work permits on the basis of the foregoing information.

Council authorised the issue of the Action Sheet before confirmation of the Minutes.

Action: PS, HA; LAB, COMM; CIO; HON, MIN HA

EX MIN 23/78

**EX MEMO 23/58 APPOINTMENT AND REAPPOINTMENT OF THE MEMBERS OF THE PAROLE BOARD AND CONSIDERATION OF AMENDMENTS TO THE PAROLE OF PRISONERS ACT**

Parliamentary Secretary and Financial Specialist remained.

The Hon Attorney General briefed Council. Section 2(1) of the Parole of Prisoners Act R.S.A.c.P3 (the "Act") establishes the Parole Board. Members are appointed by the Governor-in-Council to serve for a two-year term and are eligible for reappointment.

Under section 2(2) of the Act the Parole Board shall consist of 5 members appointed by the Governor-in-Council from each of the following:

- a) An attorney-at-law formerly engaged in the practice of criminal law;
- b) A social worker, psychologist, psychiatric nurse, or other mental health professional;
- c) A religious leader;
- d) A person with experience in law enforcement but who is not a public officer; and
- e) A member of the general public.

Under the current Act an alternate member can only be appointed for the period of absence of a full-time member. Ideally, alternate members should be from the same category of persons specified in section 2(2) of the Act.

"Alternate member" is not a term found in the current Parole of Prisoners Act. The term alternate member is used in this paper to identify a person that is appointed in accordance with sections 2(7) and (8) of the Act to be a member of the Parole Board when a member is absent from Anguilla, ill, otherwise unable to discharge his/her duties or has an interest in the case of a prisoner.

Given the challenges with the application of the current Act, especially in the appointment of alternate members, amendments are being proposed to the Act, to make it more readily adaptable and to allow alternates to sit at a hearing as a board member when required.

## Council:

- 1) approved the reappointment of the following members of the Parole Board for two (2) years in accordance with section 2 of the Parole of Prisoners Act:
  - Mr Hubert M Hughes - Law Enforcement Professional - (Sections 2(2) and (3))
  - Mrs Rhonda Connor - Mental Health Professional - (Sections 2(2))
- 2) approved the appointment of Mr Hubert M Hughes as Chairperson;
- 3) approved the appointment of the following persons to the Parole Board for two (2) years in accordance with section 2 of the Parole of Prisoners Act:
  - Mr Don Mitchell, KC - Lawyer with experience in criminal law (Sections 2(2))
  - Bishop Samuel Daniels - Religious Leader (Section 2(2))
  - Ms Vanessa Croft - Member of the Community (Section 2(2))
- 4) noted that member appointments may be validly backdated in an instrument of appointment;
- 5) approved the amendments to the Parole of Prisoners Act. Approved the Bill for the Parole of Prisoners (Validation and Amendment) Act, which includes the appointment of two alternate members. This will facilitate budget allocation for the payments to members as well as ensure that named persons can receive training when the opportunities arise; and
- 6) noted that pending implementation of recommendation 5 above, alternate members will accordingly be identified for consideration by Executive Council.

The Hon Deputy Governor recused himself as his wife Mrs Hyacinth Bradley has acted as an alternate member. He took no part in the discussions or the determination.

Council authorised the issue of the Action Sheet before confirmation of the Minutes.

Action: HON, DG; HON, AG

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