

No. 3 of 2006.

*The Caribbean Community
(Movement of Factors) Act, 2006.*

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

26th June, 2006.

**ANTIGUA AND BARBUDA
No. 3 of 2006**

AN ACT to give effect to the provisions of the Treaty establishing the Caribbean Community, including the CARICOM Single Market and Economy, relating to the exercise by nationals of the Caribbean Community of the right of establishment, the right to provide services and the right to move capital into and within Antigua and Barbuda and out of Antigua and Barbuda to another Member State of the Caribbean Community and for connected matters.

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BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Representatives and the Senate of Antigua and Barbuda, and by the authority of the same, as follows—

PART I

PRELIMINARY

1. (1) This Act may be cited as the Caribbean Community (Movement of Factors) Act, 2006.

Short title and
commencement.

(2) This Act shall come into operation on such date as the Minister may appoint by Order published in the *Gazette*.

Interpretation.

2. In this Act—

“Agreement” means the Agreement establishing the Eastern Caribbean Central Bank made on the 5th day of July, 1983;

“Central Bank” means the Eastern Caribbean Central Bank established under article 3 of the Agreement;

“Committee of Central Bank Governors” means the body of the Community so named in Article 18(2) of the Treaty;

“Community” means the Caribbean Community including the CARICOM Single Market and Economy established by the Treaty;

“Community Council of Ministers” or “the Community Council” means the organ of the Community so named in Article 10 (1)(b) of the Treaty;

“Conference of Heads of Government” or “Conference” means the organ of the Community so named in Article 10 (1) (a) of the Treaty;

“Council for Finance and Planning” means the organ of the Community so named in Article 10 (2)(a) of the Treaty;

“Council for Human and Social Development” means the organ of the Community so named in Article 10 (2)(d) of the Treaty;

“Council for Trade and Economic Development” means the organ of the Community so named in Article 10 (2)(b) of the Treaty;

“economic enterprise” includes—

- (a) any type of organisation for the production of, or the trade in, goods or the provision of services (other than a non-profit organisation) owned or controlled by a national of a Member State;
- (b) an agency, branch or a subsidiary of such enterprise of a national of a Member State;

“Member State” means a Member State of the Community listed in the First Schedule;

“Minister” means the Minister assigned responsibility for trade;

“national” means a person who—

- (a) is a citizen of a Member State;
- (b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or
- (c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);

For the purposes of this definition, a company or other legal entity is—

- (i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);
- (ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions.

“non-wage-earning activity” means an activity undertaken by a self-employed person;

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“right of establishment” includes the right—

- (a) to engage in any non-wage-earning activity of a commercial, industrial, agricultural, professional or artisanal nature; or
- (b) to create and manage an economic enterprise;

“service” means a service provided against remuneration other than wages in any approved sector and “the provision of a service” means the supply of a service-

- (a) from the territory of a Member State into the territory of another Member State;
- (b) in the territory of a Member State to a service consumer of another Member State;
- (c) by a service supplier of a Member State through commercial presence in the territory of another Member State;
- (d) by a service supplier of a Member State through the presence of a natural person of a Member State in the territory of another Member State;

“Treaty” means the Revised Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy signed at Nassau, The Bahamas, on 5th July 2001.

Application of this Act.

3. (1) Save as otherwise provided in this section and in sections 7 and 9, this Act shall apply to-

- (a) the right of establishment, and the right to provide a service in Antigua and Barbuda by a national of another Member State; and
- (b) the right of a national of a Member State to move capital into and within Antigua and Barbuda and out of Antigua and Barbuda to another Member State.

(2) An activity in Antigua and Barbuda involving the exercise of governmental authority by a duly authorised person shall be excluded from the operation of this Act.

(3) For the purposes of sub-section (2) “an activity in Antigua and Barbuda involving the exercise of governmental authority” means an activity conducted in Antigua and Barbuda neither on a commercial basis nor in competition with one or more economic enterprises such as—

- (a) an activity conducted by the Central Bank in pursuance of monetary or exchange rate policies;
- (b) an activity forming part of a statutory system of social security or public retirement plans;
- (c) an activity forming part of a system of national security or for the establishment or maintenance of public order;
- (d) any other activity conducted by a public entity for the account of, or with the guarantee or using financial resources of, the Government of Antigua and Barbuda; and
- (e) such other activity as may be excluded by Regulations made pursuant to section 31.

4. (1) Subject to this Act, a national of a Member State shall enjoy—

- (a) in Antigua and Barbuda—
 - (i) the right of establishment;
 - (ii) the right to provide a service; and
- (b) the right to move capital into and within Antigua and Barbuda and out of Antigua and Barbuda to another Member State,

Rights of a national of a Member State in respect of establishment services and capital.

without discrimination on the ground of nationality.

5. (1) For the purposes of this Act the enactments listed in column 1 of the Second Schedule are amended to the extent specified in column 2 with effect from the date of coming into force of this Act.

Removal and notification of removal of restrictions on establishment, services and capital — Second Schedule.

(2) The Minister shall notify, not later than 30 June 2006, the Council for Trade and Economic Development or the Council for Finance and Planning, as the case may require, of any remaining restrictions on-

- (a) the right of establishment and the right to provide a service in Antigua and Barbuda in respect of a national of another Member State; and
- (b) the right to move capital into and within Antigua and Barbuda and out of Antigua and Barbuda to another Member State, and to make current payments and transfers.

(3) The Minister may by Order, subject to an affirmative resolution of Parliament, amend the Schedules and may amend the Second Schedule to include any existing restriction and any restriction not notified to the Council for Trade and Economic Development or the Council for Finance and Planning, as the case may require, in accordance with subsection (2).

Prohibition of new restrictions.

6. Subject to this Act, the Minister shall not introduce new restrictions on a national of another Member State entitled to the rights specified in section 4.

PART II THE RIGHT OF ESTABLISHMENT

Treatment of monopolies.

7. (1) Notwithstanding any provision to the contrary in this Act, the Minister may determine that the public interest requires the exclusion or restriction of the right of establishment in any industry or in a particular section of an industry.

(2) Where a determination by the Minister has been made pursuant to subsection (1) and results in the continuation or establishment of—

- (a) a government monopoly, the Minister shall adopt appropriate measures to ensure that the monopoly does not discriminate among nationals of a Member State, save as otherwise provided in this Act, and is subject to the agreed rules of competition established for an economic enterprise of the Community; or

- (b) a private sector monopoly, the Minister shall, subject to this Act, adopt appropriate measures to ensure that national treatment is accorded to a national of another Member State in terms of participation in its operations.

8. Restrictions on the right of establishment in Antigua and Barbuda in respect of a national of another Member State shall be removed in accordance with the programme approved by Conference in accordance with Article 33(3) of the Treaty.

Programme to remove restrictions on establishment.

9. The Minister shall, by Order published in the *Gazette*, adopt measures based on criteria established by the competent Organ of the Community to safeguard against manipulation or abuse of the right of establishment, to gain an unfair advantage against a national of Antigua and Barbuda or another Member State.

Minister to adopt safeguard measures.

10. (1) In carrying out his or her duties under this Part, the Minister shall use his or her best endeavours to ensure that a national of another Member State desirous of engaging in an approved economic activity in Antigua and Barbuda is not impeded in the exercise of his or her right of establishment.

Management of removal of restrictions on the rights of establishment.

(2) Without prejudice to the generality of subsection (1) the Minister shall—

- (a) remove administrative practices and procedures which impede the exercise of the right of establishment by a national of another Member State;
- (b) remove all restrictions on the movement of managerial, technical and supervisory staff of an economic enterprise established by a national of a Member State in Antigua and Barbuda;
- (c) remove all restrictions on entering and residing in Antigua and Barbuda by a spouse and immediate dependent family member of a national establishing an economic enterprise and of managerial, technical and supervisory staff of an economic enterprise of a national of another Member State;
- (d) ensure that a national of another Member State exercising his or her right of establishment has the

right to acquire or otherwise possess or control land, buildings and other property adequate for the purpose;

- (e) implement Community standards to ensure protection of the interests of partners, members and other persons with financial interests in companies and other entities that have rights equivalent to those of similar entities in a Member State;
- (f) implement measures established by the Council for Human and Social Development for the coordination of legislative and administrative requirements of a Member State for the conduct of non-wage-earning activities in the Community.

PART III

THE RIGHT TO PROVIDE SERVICES

Programme to remove restrictions.

11. (1) Subject to this Act, restrictions on the right to provide a service in Antigua and Barbuda in respect of a national of another Member State shall be removed in accordance with the programme approved by the Conference pursuant to Article 37 (2) of the Treaty.

(2) Notwithstanding subsection (1), the Minister may with the consent of the Council for Finance and Planning and with the approval of the Conference, exclude certain financial services from the application of this Act in accordance with Article 38 (2) of the Treaty.

Collateral activities by service providers.

12. Without prejudice to the provisions relating to the right of establishment, a national of another Member State exercising the right to provide a service in Antigua and Barbuda may, in order to provide the service, temporarily engage in an approved activity in Antigua and Barbuda under conditions no less favourable than those enjoyed by a national of Antigua and Barbuda.

Management of removal of restrictions on right to provide a service.

13. (1) The Minister shall take such measures as may be necessary to ensure that a national of another Member State is not impeded in the exercise of his or her right to provide a service in Antigua and Barbuda.

(2) Without prejudice to the generality of subsection (1), the Minister shall—

- (a) remove administrative practices and procedures in Antigua and Barbuda which impede the exercise of the right to provide a service by a national of another Member State;
- (b) remove all restrictions on the entry and residence in Antigua and Barbuda in respect of a spouse and an immediate dependent family member of a national of another Member State providing a service and of the managerial, technical and supervisory staff of such a national; and
- (c) ensure that a national of another Member State exercising the right to provide a service in Antigua and Barbuda has the right to acquire or otherwise possess or control land, buildings and other property on a non-discriminatory basis for purposes directly related to the provision of the service.

PART IV THE RIGHT TO MOVE CAPITAL

14. Subject to this Act, the Minister—

- (a) shall not introduce new restrictions on—
 - (i) the movement of capital;
 - (ii) payments connected with the movement of capital; and
 - (iii) current payments and transfers; and
- (b) shall not render more restrictive the operation of existing regulations governing the movement of capital,

Prohibition of new restrictions on the movement of capital.

except as authorised by the Treaty.

15. (1) Subject to this Act, restrictions on the movement of all capital payments, and on all current payments, including payments for goods and services and other current transfers to a Member State shall be removed.

Removal of restrictions on capital movements.

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(2) For the purposes of this Part, capital and current payments and transfers include—

- (a) equity and portfolio investments;
- (b) short-term bank and credit transactions;
- (c) payment of interest on loans and amortization;
- (d) dividends and other income on investments after taxes;
- (e) repatriation of proceeds from the sale of assets; and
- (f) other transfers and payments relating to investment flows.

Authorisation to facilitate movement of capital.

16. (1) Subject to subsection (2), the Minister shall, where necessary, grant the authorisations required for the movement of capital mentioned in section 15 on a non-discriminatory basis.

(2) Where a loan is to be obtained for the purposes of the State of Antigua and Barbuda in another Member State prior notification shall be given by the person obtaining the loan to the Member State in which the loan is being issued or placed.

Co-ordination of foreign exchange policies and information exchange.

17. (1) The Minister shall take such measures as may be required to coordinate the foreign exchange policies of Antigua and Barbuda with those of another Member State in respect of the movement of capital among Member States and with a third country.

(2) The Minister shall keep the competent authorities of a Member State informed of significant unusual movements of capital within his or her knowledge to and from a third country.

PART V SAFEGUARD MEASURES

Restrictions to safeguard balance of payments.

18. (1) Subject to subsection (3), where the Minister is satisfied that there are serious balance-of-payments and external financial difficulties or the threat thereof, the Minister may, consistently with international obligations assumed by Antigua and Barbuda, adopt or maintain restrictions to address the difficulties.

(2) The restrictions which may be adopted or maintained pursuant to subsection (1) include—

- (a) quantitative restrictions on imports;
- (b) restrictions on the right of establishment;
- (c) restrictions on the right to provide a service; and
- (d) restrictions on the right to move capital or on payments and transfers for transactions connected therewith.

(3) The restrictions mentioned in subsection (2) shall—

- (a) subject to this Act, and relevant determinations of the Conference, the Council for Finance and Planning and the Council for Trade and Economic Development, as the case may require, not discriminate among Member States or against a Member State in favour of a third country;
- (b) at all times seek to minimise damage to the commercial, economic or financial interests of a Member State;
- (c) not exceed those necessary to deal with the circumstances mentioned in sub-section (1);
- (d) be temporary and not longer than eighteen months and must be removed progressively as the situation mentioned in subsection (1) improves.

19. (1) In determining the incidence of restrictions mentioned in section 18, the Minister may accord priority to activities which are essential to the economic stability of Antigua and Barbuda but such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector due regard being paid to any special factors which may be affecting the reserves of Antigua and Barbuda or its need for reserves.

Incidence and
notification of
restrictions.

(2) Restrictions adopted or maintained pursuant to subsection (1) or any changes therein shall be notified within three working days to the Council for Finance and Planning and the Council for Trade and Economic Development, and, in any event,

the Minister shall consult immediately with the competent organ of the Community if requested to do so.

Consultations
for the removal
of restrictions.

20. (1) The Minister shall consult with the Council for Finance and Planning, and, where practicable, before the imposition of restrictions mentioned in section 18, with the objective of being informed of any recommendations for the removal of the restrictions.

(2) The consultations mentioned in subsection (1) shall—

- (a) be designed to assist Antigua and Barbuda to overcome its balance-of-payments and external financial difficulties;
- (b) assess the balance-of-payments situation of Antigua and Barbuda and the restrictions adopted or maintained under section 18 taking into account *inter alia*—
 - (i) the nature and extent of the balance-of-payments and external financial difficulties;
 - (ii) the external economic and trading environment of Antigua and Barbuda; and
 - (iii) alternative corrective measures which may be available.

(3) The consultations under this section shall address the compliance of any restrictions with section 18 (3) and, in particular, the progressive removal of restrictions in accordance with section 18 (3)(d).

(4) In consultations under this section all findings of statistical and other facts presented by the Committee of Central Bank Governors relating to foreign exchange, monetary reserves and balance-of-payments shall be accepted and conclusions shall be based on the assessment by that Committee of the balance-of-payments and external financial situation of Antigua and Barbuda.

21. (1) Where the exercise of rights conferred by this Act creates serious difficulties in any sector of the economy of Antigua and Barbuda, or results in economic hardships in any district, region or part of Antigua and Barbuda, the Minister, may, subject to the provisions of this section, apply such restrictions on the exercise of rights as the Minister considers appropriate in order to resolve the difficulties or alleviate the hardships.

Restrictions to resolve difficulties arising from the exercise of rights.

(2) If the Minister intends to apply restrictions pursuant to sub-section (1), the Minister shall, prior to applying the restrictions, notify the competent organ of the Community of the Minister's intention and the nature of the restrictions.

(3) If the Minister is unable to notify the competent organ prior to the application of the restrictions, the Minister shall, on applying the restrictions, forthwith notify the competent organ of the Community of the application and the nature of the restrictions.

22. (1) The Minister shall, at the time of applying the restrictions mentioned in section 21, submit to the Council for Trade and Economic Development or the Council for Finance and Planning, as the case may require, a programme setting out the measures to be taken by Antigua and Barbuda to resolve the difficulties or alleviate the hardships.

Conditions for the application of restrictions.

(2) The Minister shall act on the determinations of the competent organ of the Community regarding the—

- (a) appropriateness of the restrictions and whether they shall continue; and
- (b) adequacy of the programme and the duration of the restrictions.

23. Restrictions applied by the Minister pursuant to section 21 shall be confined to those necessary to—

Permissible restrictions.

- (a) resolve the difficulties in the affected sectors;
- (b) alleviate economic hardships in a particular district region or part of Antigua and Barbuda;

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- (c) minimise damage to the commercial or economic interests of another Member State; and
- (d) prevent the unreasonable exercise of rights granted by this Act, the exercise of which could impair the development of the CARICOM Single Market and Economy.

Non-discrimination in applying permissible restrictions.

24. The Minister in applying the restrictions pursuant to section 21 shall not discriminate on the ground of nationality and—

- (a) shall progressively relax the restrictions as relevant conditions improve;
- (b) may maintain the restrictions only to the extent that conditions mentioned in section 21 continue to justify their application.

General exceptions to the obligation to remove restrictions.

25. (1) Notwithstanding any provision to the contrary in this Act, the Minister shall not be precluded from taking measures—

- (a) to protect public morals or maintain public order and safety;
- (b) to protect human, animal and plant life;
- (c) to secure compliance with laws or regulations relating to customs enforcement, or to the classification, grading or marketing of goods, or to the operation of monopolies by state enterprises or enterprises given exclusive or special privileges;
- (d) to protect intellectual property rights or to prevent deceptive practices;
- (e) relating to gold or silver;
- (f) relating to products of prison labour;
- (g) relating to child labour;
- (h) to protect national treasures of artistic, historic or archaeological value;

- (i) to prevent or relieve critical food shortages in another exporting Member State;
- (j) relating to the conservation of natural resources or the preservation of the environment;
- (k) to secure compliance with laws or regulations which are consistent with the provisions of the Treaty including those relating to—
 - (i) the prevention of deceptive and fraudulent practices, and the effects of default on contracts;
 - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
- (l) to protect existing economic activities which are based on traditional, historical or customary practices;
- (m) to give effect to international obligations including treaties on the avoidance of double taxation.

(2) Nothing in subsection (1) shall be construed as permitting the Minister to take any measure which constitutes arbitrary or unjustifiable discrimination against a national of another Member State.

26. Nothing in this Act shall be construed as preventing the Minister from taking measures to—

- (a) protect the essential security interests of Antigua and Barbuda—
 - (i) relating to the supply of services carried out directly or indirectly for the purpose of provisioning a military establishment;
 - (ii) in time of war or other public emergency; or
- (b) discharge the obligations of Antigua and Barbuda for the maintenance of international peace and security.

Security exceptions to obligation to remove restrictions.

PART VI

GENERAL

- Determinations of organs and bodies of the Community to be carried out. **27.** The Minister shall, where an organ or body of the Community has been authorised to make any determinations in respect of any of the rights referred to in section 4, carry out such determination.
- Implementation of Community Standards. **28.** The Minister shall establish or employ as required an appropriate mechanism to implement Community standards to determine equivalency or to accord accreditation or mutual recognition to diplomas, certificates and other evidence of qualifications secured by a national of another Member State.
- Right to appeal to Minister for speedy review of decision of a functionary. **29.** Where a functionary purports to restrict a person in the exercise of a right under section 4, the person aggrieved may, without prejudice to any other remedy, appeal to the Minister for a speedy review of the decision of such functionary.
- Offences against this Act. **30.** Any person who, contrary to the provisions of this Act, obstructs or otherwise impedes a national of a Member State in the lawful enjoyment of any right mentioned in section 4 or any right collateral thereto commits an offence and is liable on summary conviction to a fine of ten thousand dollars or to imprisonment for a term of 3 months or to both.
- Regulations. **31.** (1) The Minister may make regulations generally for giving effect to the provisions of this Act.
- (2) Without limiting the generality of sub-section (1) the Minister may make regulations to—
- (a) identify those activities in respect of which the right of establishment shall not apply;
 - (b) determine the conditions under which the right of establishment is to be exercised;
 - (c) remove restrictions on the entry of managerial, technical and supervisory staff to be employed in an economic enterprise and their spouses and immediate dependent family members;
 - (d) remove restrictions on the entry of a spouse and an immediate dependent family member of a national exercising the right to provide services;

- (e) provide for the temporary imposition of restrictions under section 21; and
- (f) specify the nature of restrictions imposed pursuant to section 21.

FIRST SCHEDULE

- (i) Antigua and Barbuda
- (ii) Bahamas
- (iii) Barbados
- (iv) Belize
- (v) Commonwealth of Dominica
- (vi) Grenada
- (vii) Haiti
- (viii) Guyana
- (ix) Jamaica
- (x) Montserrat
- (xi) St. Kitts-Nevis and Anguilla
- (xii) Saint Lucia
- (xiii) St. Vincent and the Grenadines
- (xiv) Trinidad and Tobago

SECOND SCHEDULE

Column 1	Column 2
ENACTMENT	AMENDMENT
<p>Engineers (Registration) Act Chapter 153</p>	<p>In the Act-</p> <p>(1) In Section 2, insert in their appropriate order the following—</p> <p>“Caribbean Community Accreditation Agency” means the agency established under the Caribbean Community Agreement;</p> <p>“Council for Human and Social Development” means the body of the Caribbean Community empowered by Article 35 of the Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
	<p>Market and Economy to establish common standards and measures for accreditation or mutual recognition of diplomas, certificates and other evidence of qualification of nationals of CARICOM Member States;</p> <p>“Member State” means a Member State of the Caribbean Community listed in the Third Schedule;</p> <p>“national” means a person who—</p> <ul style="list-style-type: none">(a) is a citizen of a Member State;(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b); <p>For the purposes of this definition, a company or other legal entity is—</p> <ul style="list-style-type: none">(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to

Column 1	Column 2
ENACTMENT	AMENDMENT
	<p>name a majority of its directors or otherwise legally to direct its actions;</p> <p>(2) In Section 6— insert immediately after subsection (1) the following— “(2) Paragraphs (c) and (d) shall not apply to a national of a Member State”.</p> <p>(3) In Section 7— insert immediately after subsection (3) the following— “(4) Subsection 1(d) shall not apply to a national of a Member State”.</p> <p>(4) insert immediately after section 26 the following—</p> <p>“Adoption of Common Caribbean Community Standards.</p> <p>27. (1) In making any regulation under paragraph (c) of section 26 the Minister shall adopt the common standards and measures for accreditation and for the mutual recognition of diplomas, certificates and other evidence of qualifications of a national of a Member State established by the Council for Human and Social Development and by the Caribbean Community Accreditation Agency.</p> <p>(2) Where there is a conflict between the rules made by the Council or the Caribbean Community Accreditation Agency and the standards or measures established by the Council for Human and Social Development for adoption in a Member State, the latter shall prevail.</p> <p>(3) Where there is a conflict between the rules made by the Council and any rule made</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
<p>Franchises (Registration and Control) Act Chapter 182a</p>	<p>by the Caribbean Community Accreditation Agency the latter shall prevail.</p> <p>28. Notwithstanding anything to the contrary in this Act or any other law, the provisions of this Act shall apply equally and without discrimination to citizens of Antigua and Barbuda and a national of a Member State.”</p> <p>Equal application of the Act to citizens and a national of a Member State.</p> <p>(5) insert immediately after the Third Schedule the following—</p> <p style="text-align: center;">“FOURTH SCHEDULE Member States</p> <p>(i) Barbados (ii) Belize (iii) Commonwealth of Dominica (iv) Grenada (v) Guyana (vi) Jamaica (vii) St. Christopher and Nevis (viii) Saint Lucia (ix) Saint Vincent and the Grenadines (x) Suriname (xi) Trinidad and Tobago.”</p> <p>In the Act—</p> <p>(1) In Section 2, insert in their appropriate alphabetical order the following—</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Second Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
	<p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions.</p> <p>(2) In Section 3—</p> <p>In subsection (1) (b), insert “or a national of a Member State” after “citizen”.</p> <p>In subsection (2) (b), insert “or a national of a Member State” after “citizen”.</p> <p>(3) Insert immediately after section 21 the following—</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
<p>Insurance (Licence) Act Chapter 220</p>	<p>”Act to apply equally to a national of a Member State.</p> <p>22. Notwithstanding anything to the contrary in any other law, the provisions of this Act shall apply equally and without discrimination to citizens of Antigua and Barbuda and a national of a Member State.”.</p> <p>(4) Insert “First” before “Schedule” and insert immediately after the First Schedule the following—</p> <p style="text-align: center;">“SECOND SCHEDULE Member States</p> <ul style="list-style-type: none">(i) Barbados(ii) Belize(iii) Commonwealth of Dominica(iv) Grenada(v) Guyana(vi) Jamaica(vii) St. Christopher and Nevis(viii) Saint Lucia(ix) Saint Vincent and the Grenadines(x) Suriname(xi) Trinidad and Tobago.” <p>In the Act—</p> <p>(1) In Section 2, insert in their appropriate alphabetical order the following—</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Second Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
	<p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”.</p> <p>(2) In Section 8 (1), insert “or who is a national of a Member State” after “Antigua and Barbuda” where the latter first occurs.</p> <p>(3) In Section 14 (1), insert “or who is a national of a Member State” after “Antigua and Barbuda” where the latter first occurs.</p> <p>(4) Insert immediately after section 30 the following—</p>

Column 1	Column 2
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<p>Nurses Registration Act Chapter 296</p>	<p>“Amendment of Schedule.</p> <p>Application to a citizen and a national of a Member State.</p> <p>(5) Insert “First” before “Schedule” and insert immediately after the First Schedule the following—</p> <p style="text-align: center;">“SECONDSCHEDULE Member States</p> <p>(i) Barbados (ii) Belize (iii) Commonwealth of Dominica (iv) Grenada (v) Guyana (vi) Jamaica (vii) St. Christopher and Nevis (viii) Saint Lucia (ix) Saint Vincent and the Grenadines (x) Suriname (xi) Trinidad and Tobago.”</p> <p>In the Act—</p> <p>(1) Insert after section 1 the following—</p> <p>“Interpretation</p> <p>1A. “Caribbean Community Accreditation Agency” means the agency established under the Caribbean Community Accreditation Agreement;</p> <p>“Council for Human and Social Development” means the body of the Caribbean Com-</p>
<p>31. The Minister may by Order subject to affirmative resolution amend the Schedule.</p>	<p>32. Notwithstanding anything to the contrary in any other law, the provisions of this Act shall apply equally and without discrimination to a citizen of Antigua and Barbuda and a national of Member State.”</p>

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	<p>munity empowered by Article 35 of the Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy, to establish common standards and measures for accreditation or mutual recognition of diplomas, certificates and other evidence of qualification of nationals of CARICOM Member States;</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Second Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p> <p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p>

Column 1	Column 2
ENACTMENT	AMENDMENT
	<p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions.”</p> <p>(2) insert immediately after section 4 the following—</p> <p>“Adoption of common Caribbean Community standards.</p> <p>4. (A) (1) In making any rules under this Act the Council shall adopt the common standards and measures for accreditation and for the mutual recognition of diplomas, certificates and other evidence of qualifications of a national of a Member State established by the Council for Human and Social Development or by the Caribbean Community Accreditation Agency.</p> <p>(2) Where there is a conflict between the rules made by the Council or the Caribbean Community Accreditation Agency and the standards or measures established by the Council for Human and Social Development for adoption in a Member State, the latter shall prevail.</p> <p>(3) Where there is a conflict between the rules made by the Council and any rule made by the Caribbean Community Accreditation Agency for adoption in a Member State, the latter shall prevail.”</p>

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	<p>(3) In Section 7 (1), insert “or a Member State” after “United Kingdom”.</p> <p>(4) In the Act —</p> <p>Insert immediately after section 10 the following—</p> <p>”Equal applica- tion of Act to a citizens and a na- tional of a Mem- ber State</p> <p>11. (1) A national of a Member State who is registered as a nurse under this Act, shall not require a work permit, a visa or other immigration permit to enter or remain in Antigua and Barbuda for the purpose of practicing as a nurse.</p> <p>(2) Subsection (1) applies notwithstanding anything to the contrary in any other law.</p> <p>(3) Notwithstanding anything to the contrary in any other law, the provisions of this Act shall apply equally and without discrimination to citizens of Antigua and Barbuda and a national of a Member State.”</p> <p>(5) In the Act —</p> <p>insert the word “First” before “Schedule” and insert immediately after the First Schedule the following—</p> <p style="text-align: center;">“SECOND SCHEDULE</p> <p style="text-align: center;">Member States</p> <p>(i) Barbados</p> <p>(ii) Belize</p> <p>(iii) Commonwealth of Dominica</p> <p>(iv) Grenada</p> <p>(v) Guyana</p> <p>(vi) Jamaica</p> <p>(vii) St. Christopher and Nevis</p> <p>(viii) Saint Lucia</p>

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Stamps Act Chapter 410	<p>(ix) Saint Vincent and the Grenadines (x) Suriname (xi) Trinidad and Tobago.”</p> <p>In the Schedule to the Act under the heading, “LOANS TO NON-CITIZENS” insert immediately after paragraph (b) the following—</p> <p>“(c) Paragraphs (a) and (b) shall not apply to a national of a CARICOM Member State who is seeking to establish a right under the revised Treaty of Chaguaramas or the Caribbean Community (Movement of Factors) Act, 2006.”</p>
Antigua and Barbuda Labour Code Chapter 27	<p>In the Act—</p> <p>(1) In Section F2, insert in their appropriate alphabetical order the following—</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Fourth Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p> <p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes</p>

Column 1	Column 2
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	<p>and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(iii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”.</p> <p>(2) In Section F3, reletter paragraph (g) as (h) and insert immediately after paragraph (f) the following—</p> <p>“(g) a national of a Member State;”</p> <p>(3) insert immediately after the Third Schedule the following—</p> <p style="text-align: center;">“FOURTH SCHEDULE Member States</p> <p>(i) Barbados (ii) Belize (iii) Commonwealth of Dominica (iv) Grenada (v) Guyana (vi) Jamaica (vii) St. Christopher and Nevis (viii) Saint Lucia (ix) Saint Vincent and the Grenadines (x) Suriname</p>

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<p>Immigration and Passport Act</p> <p>Chapter 208</p>	<p>(xi) Trinidad and Tobago.”</p> <p>In the Act—</p> <p>(1) In Section 2 insert in their appropriate alphabetical order the following—</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p> <p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or en-</p>

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	<p>tity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”.</p> <p>(2) In Section 9, reletter paragraph (e) as paragraph (f) and insert immediately after paragraph (d) the following—</p> <p>“(e) a national of a “Member State” seeking to enjoy a right conferred under the Revised Treaty of Chaguaramas or the Caribbean Community (Movement of Factors) Act, 2006.”.</p> <p>(3) insert immediately after section 41 the following—</p> <p>”Amendment of Schedule.</p> <p>42. The Minister may by Order subject to affirmative resolution of the House amend the Schedule.”</p> <p>(4) insert immediately after section 42 the following—</p> <p style="text-align: center;">“SCHEDULE</p> <p style="text-align: center;">Member States</p> <p>(i) Barbados</p> <p>(ii) Belize</p> <p>(iii) Commonwealth of Dominica</p> <p>(iv) Grenada</p> <p>(v) Guyana</p> <p>(vi) Jamaica</p> <p>(vii) St. Christopher and Nevis</p> <p>(viii) Saint Lucia</p> <p>(ix) Saint Vincent and the Grenadines</p>

Column 1	Column 2
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<p>Aliens Restrictions Act Chapter 16</p>	<p>(x) Suriname</p> <p>(xi) Trinidad and Tobago.”.</p> <p>In the Act—</p> <p>(1) Insert immediately after section 3 the following—</p> <p>Application 4. (1) .This Act shall not apply to a national of a Member State.</p> <p>(2) In this Act—</p> <p>(a) “Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean states listed in the Schedule;</p> <p>(b) “national” means a person who—</p> <p>(i) is a citizen of a Member State;</p> <p>(ii) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(iii) is a company or other legal entity constituted in a Member State in</p>

Column 1	Column 2
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	<p>accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or</p>

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<p>Architects (Registration) Act</p> <p>Chapter 34</p>	<p>otherwise legally to direct it actions.”</p> <p>Amendment of Schedule</p> <p>5. The Minister may by Order subject to affirmative resolution amend the Schedule.”</p> <p>(2) Insert immediately after section 5 the following—</p> <p style="text-align: center;">“SCHEDULE</p> <p style="text-align: center;">Member States</p> <p>(i) Barbados (ii) Belize (iii) Commonwealth of Dominica (iv) Grenada (v) Guyana (vi) Jamaica (vii) St. Christopher and Nevis (viii) Saint Lucia (ix) Saint Vincent and the Grenadines (x) Suriname (xi) Trinidad and Tobago.”.</p> <p>In the Act—</p> <p>(1) In Section 2 insert in their appropriate alphabetical order the following—</p> <p>“Council for Human and Social Development” means the body of the Caribbean Community empowered by Article 35 of the Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy to establish common standards and measures for accreditation or mutual recognition of</p>

Column 1	Column 2
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	<p>diplomas, certificates and other evidence of qualification of nationals of CARICOM Member States;</p> <p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Second Schedule;</p> <p>“national” means a person who—</p> <p>(a) is a citizen of a Member State;</p> <p>(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or</p> <p>(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b);</p> <p>For the purposes of this definition, a company or other legal entity is—</p> <p>(i) substantially owned if more than 50 percent of the equity interest in the company or entity</p>

Column 1	Column 2
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<p>Caribbean Community Skilled Nationals Act, 1997 (No. 3 of 1997)</p>	<p>is beneficially owned by a person mentioned in paragraphs (a) and (b);</p> <p>(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”.</p> <p>(2) In Section 5 (1) substitute the words “; and” for the full stop occurring at the end of paragraph (c) and insert immediately after paragraph (c) the following—</p> <p>“(d) he is a national of a Member State.”</p> <p>(3) In Section 8 (b) insert “not being a Member State” after “country”.</p> <p>(4) Insert the word “First” before “Schedule” and insert immediately after the First Schedule the following—</p> <p style="text-align: center;">“SECOND SCHEDULE Member States</p> <p>(i) Barbados (ii) Belize (iii) Commonwealth of Dominica (iv) Grenada (v) Guyana (vi) Jamaica (vii) St. Christopher and Nevis (viii) Saint Lucia (ix) Saint Vincent and the Grenadines (x) Suriname (xi) Trinidad and Tobago.”</p> <p>In the Act—</p>

Column 1	Column 2
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<p>Veterinary Act Chapter 464</p>	<p>(1) In Section 5, delete “section 14 and” occurring after “subject to”</p> <p>(2) In Section 6, delete “subject to section 14” occurring after “may”</p> <p>(3) In Section 7 (1), delete “and to section 14 “ occurring before “grant”.</p> <p>(4) In Section 10—</p> <p style="padding-left: 40px;">(a) in subsection (1), delete “sections 14 and” and insert “section” after “subject to”</p> <p style="padding-left: 40px;">(b) in subsection (2), delete “section 14 and” occurring after “subject to”.</p> <p>(5) In Section 11 (1) and (2) and Section 12 delete “section 14 and” occurring after “subject to”.</p> <p>(6) Delete Section 14.</p> <p>In the Act—</p> <p>(1) In section 2 insert in their appropriate alphabetical order the following—</p> <p style="padding-left: 40px;">“Caribbean Community Accreditation Agency” “means the agency established under the Caribbean Community Accreditation Agreement;</p> <p style="padding-left: 40px;">“Council for Human and Social Development” means the body of the Caribbean Community empowered by Article 35 of the Treaty of Chaguaramas establishing the Caribbean Community including the CARICOM Single Market and Economy, to establish common standards and measures for accreditation or mutual recognition of diplomas, certificates and other evidence of qualification of nationals of CARICOM Member States;</p>

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	<p>“Member State” means a Member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in the Third Schedule;</p> <p>“national” means a person who—</p> <ul style="list-style-type: none">(a) is a citizen of a Member State;(b) has a connection with a Member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that Member State for the purposes of the laws of that Member State relating to immigration; or(c) is a company or other legal entity constituted in a Member State in accordance with the laws of that Member State and which that Member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the Community and is substantially owned and effectively controlled by persons mentioned in paragraphs (a) and (b); <p>For the purposes of this definition, a company or other legal entity is—</p> <ul style="list-style-type: none">(i) substantially owned if more than 50 percent of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b);(ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or otherwise legally to direct its actions;”. <p>(2) In Section 11 insert immediately after subsection (1) the following—</p>

Column 1	Column 2
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	<p>“(2) A national of a Member State who is registered as a veterinary surgeon under this Act, shall not require a work permit or a visa to enter or remain in Antigua and Barbuda for the purpose of practicing as a veterinary surgeon.</p> <p>(3) Subsection (1) applies notwithstanding anything to the contrary in any other law.”.</p> <p>(3) Insert after section 20 the following—</p> <p>”Adoption of common standards by the Council.</p> <p>21. (1) In making any regulations under this Act the Board shall adopt the common standards and measures for accreditation and for the mutual recognition of diplomas, certificates and other evidence of qualifications of a national of a Member State established by the Council for Human and Social Development or by the Caribbean Community Accreditation Agency.</p> <p>(2) Where there is a conflict between the rules made by the Board or the Caribbean Community Accreditation Agency and the standards or measures established by the Council for Human and Social Development for adoption in a Member State, the latter shall prevail.</p> <p>(3) Where there is a conflict between the rules made by the Board and any rule made by the Caribbean Community Accreditation Agency the latter shall prevail.”</p> <p>22. Notwithstanding anything to the contrary in any other law, the provisions of this Act shall apply equally and</p>

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(Movement of Factors) Act, 2006.*

No. 3 of 2006.

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	Equal application of Act to a national of a Member State. without discrimination to a citizen of Antigua and Barbuda and a national of a Member State.”

Passed by the House of Representatives
this 4th day of May, 2006.

D. Giselle Isaac-Arrindell,
Speaker.

Yvonne Henry,
Clerk to the House of Representatives.

Passed by the Senate this 26th day
of May, 2006.

Hazlyn Francis,
President.

Yvonne Henry,
Clerk to the Senate.

Printed at the Government Printing Office, Antigua and Barbuda,
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