

ANTIGUA AND BARBUDA



LAW (MISCELLANEOUS AMENDMENT) ACT, 2020

No. 3 of 2020

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ANTIGUA AND BARBUDA
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[L.S.]



I Assent,

Rodney Williams,
Governor-General.

25th March, 2020.

ANTIGUA AND BARBUDA

LAW (MISCELLANEOUS AMENDMENT) ACT 2020

No. 3 of 2020

AN ACT to amend the provisions of certain Acts of Parliament to strengthen the effectiveness of laws relating to taxation, to facilitate the exchange of account information for tax purposes, to give effect to global standards of transparency in tax matters and for related purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short Title

This Act may be cited as the Law (Miscellaneous Amendment) Act, 2020.

2. Amendment to International Business Corporations Act, Cap. 222

The International Business Corporations Act, Cap. 222 is amended –

- (a) in section 4A (1) by inserting immediately after the words “Antigua and Barbuda”, the following words “and any member State of CARICOM (Caribbean Community)”;
- (b) in section 5 by repealing subsection (1) and replacing it with the following –

“(1) The following categories of persons, who hold a license under the Corporate Management and Trust Services Providers Act, 2008 are permitted to incorporate a corporation under the Act –

(a) any two citizens of Antigua and Barbuda, one of whom is entitled to practice as an Attorney-at-Law in Antigua and Barbuda;

(b) a corporation that was incorporated under this Act; or

(c) a body corporate authorised by a resolution of the House of Representatives.”

(c) in section 27 (1) by repealing the words “must be in the prescribed form only and” and replacing it with the following words, “must be registered shares only”

(d) in section 130(1) by inserting a new paragraph (d) immediately after paragraph (c) as follows –

“(d) identity and legal ownership information of its shareholders, clients and directors”;

(e) in section 136(1) by deleting the words “the transfer of a bearer certificate of corporation shall be effected by delivery of the certificate”;

(f) in section 140(2) by deleting the words “other than a bearer security”;

(g) in section 344 by repealing paragraph (m) in subsection 1;

3. Amendment to the Corporate Management and Trust Service Providers Act, 2008

(1) Section 18 subsection (3) of the Corporate Management and Trust Services Providers Act, 2008 is amended –

(i) at paragraph (b), by inserting immediately after the word “services”, the following words “for a period of six (6) years from the date of the discontinuation of such services”;

(ii) by inserting immediately after paragraph (b) a new paragraph (c) as follows –

“(c) identity and legal ownership information of its shareholders, clients and directors”;

(2) Section 19 of the Corporate Management and Trust Services Providers Act, 2008 is amended by inserting immediately after the word “maintain”, the following words “for a period of six (6) years”; Amendment to section 16”;

4. Amendment to the Antigua and Barbuda Tax Information Exchange Act, 2002

The Antigua and Barbuda Tax Information Exchange Act, 2002 is amended as follows –

(a) in section 4(2) by repealing subparagraph (d) and replacing it with the following –

“(d) the identity of the taxpayer whether it is an individual request or a group request in respect of whom the information is sought”

(b) in section 5(3) by inserting immediately after the word “financial institution” the following words “notary, an accountant, tax advisor”

(c) by inserting a new section 5A immediately after section 5 as follows–

“5A. Authority to obtain information from residents

(1) In this section –

“accounting information” means data or information about a company’s financial transactions;

“beneficial ownership” means a person who enjoys the benefits of ownership of property or an interest in property but who may not be registered or listed as the legal owner of the property”;

“corporate service provider” holds the same meaning as that in the Corporate Management and Trust Services Providers Act, 2010;

“legal ownership information” means a person who is recognised by law to have an enforceable claim or title to property;

“identity information” means information which can be used to distinguish or trace the identity of an individual; it includes their name, date of birth, place of birth, citizenship, social security or biometrics;

(2) The Commissioner may, in the execution of any request, require any corporate service provider or financial institution to supply particulars as may be required for the purpose of this Act, which may include legal ownership information, identity information and accounting information which may be in their possession for exchange of information for tax purposes.

(3) The Commissioner may, in the execution of any request, require any resident person who has had any commercial dealings with a company which is under investigation in a requesting State, to supply particulars as may be required for the purpose of this Act, which may be in their possession for specific exchange of information for tax purposes.

(4) The Commissioner may in the execution of any request, require a company, or person connected with the company to disclose ownership information, which may be in their possession for specific exchange of information for tax purposes.

(d) in section 11 by repealing subsection (4) and replacing it with the following –

“(4). A person who commits an offence under this Act may be proceeded against summarily and is liable on conviction to a fine of \$10,000.00 or to imprisonment for a term of one year or to both.”

5. Amendment to the Insurance Act, 2007

The Insurance Act, 2007 is amended as follows –

- (a) in section 2 by inserting the following word and its meaning in its proper alphabetical position within the section –

“pension” means a fund into which a sum of money is deposited during the employment years of an employee and from which payments are made, in a periodic manner, to the person upon retirement”

- (b) in section 93(2) by inserting a new paragraph (h) immediately after paragraph (g) as follows –

“(h) where the Superintendent believes it is in the public interest so to do”

- (c) in section 94 by inserting the following new paragraph (f) immediately after paragraph (e) as follows –

“(f) for any significant breach of the provisions of this Act”

- (c) in section 186 (1)(d)(i) by inserting the words “registered in the Civil Registry” immediately after the words “trust deeds”.

6. Amendment to the Co-operative Societies Act, 2010

The Co-operative Societies Act, 2010 is amended in section 7 by inserting subsection (11) –

“(11) The Supervisor shall have the authority to—

- (a) impose administrative penalties for breaches of the Act or failure to follow directives which shall not exceed Five Hundred Eastern Caribbean Dollars;
- (b) suspend or cancel the registration of any Co-operative Society which breaches the Act.”

7. Amendment to the Companies Act, 1995

The Companies Act, 1995 is amended in section 177(1) by inserting a new paragraph (d) immediately after paragraph (c) as follows –

“(d) identity and legal ownership information of its shareholders, clients and directors”;

Passed the House of Representatives on
the 7th day of February, 2020.

Passed the Senate on the 19th day of
February, 2020.

Gerald Watts, Q.C.,
Speaker.

Alicia Williams Grant,
President.

A. Peters,
Clerk to the House of Representatives.(Acting)

A. Peters,
Clerk to the Senate.(Acting)