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# LAW REFORM AND REVISION ACT, 2023

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No. 5 of 2023

## LAW REFORM AND REVISION ACT, 2023

### AN ACT TO REPEAL AND REPLACE THE LAW REFORM AND REVISION ACT AND TO MODERNISE THE LAW FOR REFORMING, REVISING, AND CONSOLIDATING THE LAWS OF THE BAHAMAS AND FOR CONNECTED PURPOSES

[Date of Assent - 28<sup>th</sup> April, 2023]

Enacted by the Parliament of The Bahamas

#### PART I - PRELIMINARY

**1. Short title and commencement.**

- (1) This Act may be cited as the Law Reform and Revision Act, 2023.
- (2) This Act shall come into force on the 1<sup>st</sup> day of May, 2023.

**2. Interpretation.**

In this Act —

- “**Commission**” means the Law Reform and Revision Commission constituted under section 3;
- “**Commissioner**” means a Commissioner appointed under section 5;
- “**consolidation**” means the incorporation of amendments into a principal enactment;
- “**database**” means the relevant database of the Laws of The Bahamas maintained under section 12;
- “**existing revised edition**” means the revised edition in force at the date of the commencement of this Act;
- “**laws**” mean the laws of The Bahamas;

“revised edition” means a revised edition of the Statute Law and Subsidiary Legislation of The Bahamas prepared under the provisions of this Act and includes a supplement made thereto;

“Supplement” means the separate volume as a supplement to a revised edition.

## **PART II – CONSTITUTION, APPOINTMENT AND FUNCTIONS OF LAW REFORM AND REVISION COMMISSION**

### **CONSTITUTION AND APPOINTMENT OF COMMISSION**

#### **3. Constitution of Commission.**

There shall be a Law Reform and Revision Commission for the purposes of this Act, consisting of not more than three persons appointed as Commissioners by the Governor-General, on the advice of the Prime Minister, in accordance with section 5 and pursuant to section 4.

#### **4. Qualifications for appointment as Commissioner.**

- (1) A person appointed to be a Commissioner shall be a person, who in the opinion of the Prime Minister, is by reason of his special qualifications, training or experience, suitable for his appointment to the Commission.
- (2) A person referred to in subsection (1) may be a public officer or a person appointed in accordance with section 5(1).

#### **5. Appointment and tenure of Commissioner.**

- (1) A Commissioner (except for a public officer) shall be appointed for such period, not exceeding three years, and on such terms and conditions (including remuneration), as may be determined by the Governor-General at the time of his appointment.
- (2) Where a public officer holding a pensionable office under the Government of The Bahamas is appointed a Commissioner in accordance with section 4, his service shall be deemed continuous and reckoned as if it were service in a public office for the purposes of determining —
  - (a) his pension under the Pensions Act (*Ch. 43*) for which he would have been eligible, calculated and granted to him in respect of his total service as a public officer and a Commissioner;
  - (b) his eligibility for appointment (including on promotion or transfer) to another public office in the public service, based upon his seniority in that service upon his ceasing to be a Commissioner.

- (3) A person who ceases to be a Commissioner shall be eligible for re-appointment.
- (4) A Law Reform Commissioner may at any time resign his office.

## FUNCTIONS AND POWERS OF COMMISSION

### **6. Functions and powers of Commission.**

- (1) It shall be the duty of the Commission to keep under review all the laws applicable to The Bahamas with a view to its systematic development and reform, including in particular —
  - (a) the codification of such law;
  - (b) the elimination of anomalies;
  - (c) the repeal of obsolete and unnecessary enactments; and
  - (d) generally the simplification and modernisation of the law.
- (2) For the purposes specified in subsection (1), the Commission —
  - (a) shall receive and consider any recommendations or proposals for the reform of the law which may be made to the Commission by —
    - (i) the Attorney-General;
    - (ii) public officials;
    - (iii) holders of judicial office;
    - (iv) attorneys-at-law; or
    - (v) members of the public generally;
  - (b) may prepare and submit to the Attorney-General from time to time, programmes for the examination of different branches of the law with a view to reform, including recommendations as to whether such examination should be carried out by the Law Reform Commission or some other body;
  - (c) may undertake, pursuant to any such recommendations approved by the Attorney-General, the examination of particular branches of the law and the formulation of proposals for reform;
  - (d) shall provide at the instance of the Attorney-General, advice and information to Ministries and Departments of the government and other authorities or persons concerned with proposals for the amendment or reform of any branch of the law;
  - (e) may obtain and use such information as to the laws and legal systems of other countries as appears to the Commission likely to facilitate the performance of any of its functions.

- (3) In performing any of its functions under subsection (1), the Commission may from time to time consult any person who has specialised knowledge in any branch of the law or technical expertise in any particular field, notwithstanding that such person is not appointed to the Commission under section 3.

**7. Staff to assist Commission.**

There shall be a Director of Law Reform and Revision and such other public officers to assist the Commission in carrying out its functions under this Act.

## LAW REFORM

**8. Preparation of annual law reform programme.**

The Commission shall cause to be prepared at the beginning of each year, a programme for law reform specifying the projects to be undertaken during that year and submit it to the Attorney-General no later than 31<sup>st</sup> January of that year.

**9. Preparation of background papers on proposed law reform projects.**

The Commission shall prepare in respect of every project of law reform included in its programme under section 8, a paper detailing —

- (a) the history and scope of the project;
- (b) the existing legislation or process;
- (c) the issues with the existing legislation or process and the need for reform;
- (d) the list of persons consulted in conducting the project;
- (e) the list of sources referred to;
- (f) the result of any surveys carried out;
- (g) any preliminary recommendations; and
- (h) the closing date for comments from interested parties.

**10. Annual report to be laid in Parliament.**

The Commission shall, in respect of every calendar year, submit a report of its proceedings in respect of law reform to the Attorney-General and the Attorney-General shall cause the report to be laid before Parliament with any comments as he thinks fit.

## LAW REVISION

### 11. Law Revision.

The Governor-General shall designate a Commissioner appointed pursuant to section 5 (hereinafter referred to as “the Commissioner”), to have sole responsibility for the functions under this Sub Part and specifically for —

- (a) preparing and publishing a revised edition where such is required;
- (b) causing the incorporation and consolidation of amendments into the existing revised edition pursuant to section 25; and
- (c) performing such other duties as are provided for in this Sub Part.

### 12. Maintenance of electronic databases and records.

- (1) The Commissioner shall be responsible for —
  - (a) maintaining an electronic database of —
    - (i) the existing revised edition with any amendments incorporated therein pursuant to section 25;
    - (ii) annual laws commencing from the date of the commencement of this Act;
  - (b) maintaining detailed records with respect to —
    - (i) all principal legislation enacted;
    - (ii) all subsidiary legislation made;
    - (iii) any Act not yet brought into force;
    - (iv) all laws repealed; and
    - (v) any other relevant information to assist the Commissioner in carrying out his functions; and
  - (c) procuring an electronic database of any revised edition prepared after the commencement of this Act.
- (2) The Commissioner may cause to be published any of the databases prepared under subsection (1) in printed or electronic form and such database may be made available electronically through the medium of a national information structure and shall be deemed to be an official version of the law.
- (3) The Commissioner shall be responsible for putting in place such measures as are necessary for the protection of the databases.

### 13. Annual law revision report.

- (1) The Commissioner shall, in respect of every calendar year, submit to the Attorney-General a report on any aspect of his work on Law Revision.



- (2) The Attorney-General shall cause a report made under this section to be laid before Parliament, subject to any comments he thinks fit.

## PREPARATION OF A REVISED EDITION

### **14. Powers of Commissioner in respect of preparing a revised edition.**

- (1) In the preparation of a revised edition, the Commissioner may —
- (a) omit —
    - (i) all laws or provisions of laws which have been repealed expressly or by necessary implication or which have expired or have become spent;
    - (ii) any repealing provision in any law, and all tables or lists of repealed laws, whether contained in schedules or otherwise where an appropriate explanatory note is provided;
    - (iii) all preambles or parts of preambles and long titles to laws where such omission can, in the opinion of the Commissioner, be conveniently made;
    - (iv) any law prescribing the date when any law or a provision of a law is to come into force where an appropriate explanatory note is provided;
    - (v) any Act containing only special provision in relation to the pension of any person named therein;
    - (vi) any Act which the Minister may by Order specify, provided that the said Act shall remain in force until the same shall have been repealed or shall have expired or become spent or had effect;
    - (vii) any subsidiary legislation which the Minister may by Order specify, provided that the said subsidiary legislation shall remain in force until the same shall have been expressly cancelled or shall have expired or become spent or had effect unless there is anything in an Act to the contrary;
    - (viii) any Appropriation Act or any law that in the opinion of the Commissioner, will within one year of its having been brought into force, have expired or become spent;
    - (ix) all amending Acts or parts thereof where the amendments effected thereby have been embodied by the Commission in the Acts to which they relate;
    - (x) transitional provisions relating to the vesting or transfer of assets and liabilities or enactments providing for the

- continuation in force of existing regulations and other instruments or the validation thereof;
- (xi) any provision in any Act which provides that any regulations or other forms of subsidiary legislation shall be read and construed with such adaptations and modifications as are necessary to bring them into conformity with the provisions of such Act or any other Act which such Act amends;
  - (xii) any Schedule to an Act, which in the opinion of the Commissioner is too voluminous and constantly changing, where an appropriate explanatory note is provided;
  - (xii) any law which in the opinion of the Commissioner is of limited application and can conveniently be placed in the database of omitted laws;
- (b) establish such tables, indices and lists as the Commissioner thinks appropriate;
  - (c) make such modifications as the Commissioner sees fit to —
    - (i) the table of contents of any statute law;
    - (ii) the supplement to a revised edition;
    - (iii) any other existing table; or
    - (iv) any index;
  - (d) assign new chapter numbers to the laws as considered appropriate;
  - (e) transfer any law contained in any volume of a revised edition to any other volume to which in the opinion of the Commissioner, it more properly belongs;
  - (f) consolidate the laws by incorporating into any law any amendments made to it by any other law;
  - (g) alter the form or arrangement of any section of any law —
    - (i) by combining it in whole or in part with another section or other sections;
    - (ii) by dividing it into two or more subsections;
    - (iii) by transposing words; or
    - (iv) by renumbering the sections;
  - (h) divide any law, whether consolidated or not, into parts or other divisions and to give each such part or division a suitable heading;
  - (i) add a short title or citation to any law, or alter the short title, citation or long title to any law, if in the opinion of the Commissioner he considers it necessary so to do;
  - (j) clarify the language of any provision of any law appearing to the Commissioner to require such clarification;
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- (k) correct grammatical, typographical, punctuation and other like mistakes appearing in any law;
  - (l) correct cross-references to sections appearing in any law;
  - (m) make additions, omissions or alterations in any law not affecting the meaning of that law;
  - (n) supply or alter marginal notes or section headings, as the case may be;
  - (o) provide footnotes, explanatory notes or any other notes by way of amplification;
  - (p) make formal alterations to any law as to names, localities, offices, titles and otherwise, as are necessary for the purpose of securing uniformity of expression or style or to bring the laws into conformity with the circumstances of The Bahamas;
  - (q) rectify any error appearing in any law subject to the provisions of this Act;
  - (r) make adaptations or alterations to any law as appears to the Commissioner to be necessary or proper as a consequence of —
    - (i) any change in the Constitution;
    - (ii) any change to Her Majesty's dominions; or
    - (iii) any change to any member of the Commonwealth or in the composition of the Commonwealth;
  - (s) do all such things relating to form and method as appears to the Commissioner to be necessary for the perfecting of a revised edition.
- (2) No law omitted from the laws under the authority of this Act or otherwise, shall be deemed to be without force and validity by reason only of its having been so omitted.

**15. Assistance with a revised edition.**

- (1) The Attorney-General may, on the advice of the Commissioner, appoint suitably qualified persons to assist the Commissioner with the preparation of a revised edition.
- (2) The Attorney-General may authorise the payment of compensation and expenses to persons appointed under subsection (1).

**16. Contents of a revised edition.**

- (1) A revised edition shall be printed in one or more volumes or in such other form as the Commissioner may determine, and shall contain —
  - (a) the Constitution of The Bahamas;

- (b) all Acts of The Bahamas, except such Acts as the Commissioner has power to omit under section 14;
  - (c) all subsidiary legislation of The Bahamas, except such subsidiary legislation as the Commissioner has power to omit under section 14;
  - (d) such Acts of the United Kingdom applying to The Bahamas as the Commissioner deems appropriate to include.
- (2) A revised edition may contain a reprint of such Orders in Council, Letters Patent, proclamations, rules, orders, regulations and other forms of subsidiary legislation made in the United Kingdom and having effect as part of the law in force in The Bahamas.

**17. Layout of revised edition.**

- (1) Subject to the provisions of this Sub Part, each Act shall form a separate chapter and chapters shall be numbered consecutively and arranged under such titles as the Commissioner may determine.
- (2) The number and year of the principal Act and of any amending Acts shall be set out in the margin at the commencement of each chapter.
- (3) The date on which the principal Act came into force shall be set out immediately below the title of the Act and, in the case of Acts of a limited duration, the date on which the Act is due to expire, unless it is renewed.

**18. Publication of a revised edition.**

- (1) A revised edition may be placed in loose leaf or bound printed format and shall bear —
  - (a) on every page, the words “STATUTE LAW OF THE BAHAMAS” and a reference to the relevant Law Revision Order, if applicable;
  - (b) at the front of each volume thereto, a statement indicating that it was —
    - (i) prepared under the authority of the Law Reform and Revision Act; and
    - (ii) published on behalf of the Government of the Commonwealth of The Bahamas.
- (2) A revised edition may be placed in electronic format or may be made available electronically through the medium of a national information structure and shall bear —
  - (a) bear on every page, the words “STATUTE LAW OF THE BAHAMAS” and a reference to the relevant Law Revision Order, if applicable;

- (b) bear on the physical cover of the electronic format or home page of such other format, a statement indicating that —
  - (i) it is an electronic version of the Statute Laws of The Bahamas;
  - (ii) it is published on behalf of the Government of the Commonwealth of The Bahamas;
- (c) be deemed to be an official version of the law.
- (3) The size of the volume and paper contained in a revised edition shall be of such dimensions as is recommended by the Commissioner and as agreed to by the Attorney-General.
- (4) The Commissioner shall —
  - (a) cause ten copies of the revised edition to be bound in volumes in a permanent form;
  - (b) certify every volume of each copy produced under paragraph (a) to be a true copy of the revised edition prepared by him,and such copies shall be secured in a manner as the Attorney-General may direct.
- (5) Copies of the revised edition may be offered to the public in printed or electronic form, at a cost to be determined by the Cabinet Office.

**19. Commencement of a revised edition.**

A revised edition shall come into operation on such date as the Attorney-General may by order published in the Gazette, appoint.

**20. Distribution and sale of revised edition.**

Copies of a revised edition, whether printed or in electronic format may be —

- (a) distributed among such persons, ministries, departments, or authorities as the Attorney-General may direct;
- (b) made available for sale to the public (and include an electronic subscription service) at such price as the Cabinet Office shall determine.

**21. Certain Acts to be printed in a supplement.**

The Commissioner may cause to be printed in a separate volume as a supplement to a revised edition such Acts or subsidiary legislation as were omitted from the revised editions prior to the existing revised edition, as the Commissioner may think fit, and any such volume may contain such tables and indexes as the Commissioner may deem appropriate.

## **PART III - RECTIFICATION AND CORRECTION OF ERRORS, CONSOLIDATION OF AMENDEMENTS AND REPRINT OF LAWS**

### **RECTIFICATION AND CORRECTION OF ERRORS**

#### **22. Rectification of minor errors in laws.**

- (1) If any error in a law comes to the attention of the Commissioner during a law revision exercise carried out pursuant to section 25, he shall, if he is of the view that the error is —
  - (a) a minor one, rectify the error;
  - (b) of significance, advise the Attorney-General of the error and the Attorney-General shall by order, (to be known as a “Law Revision Rectification Order”) rectify the error by setting out the required amendments to the law therein.
- (2) An order made under subsection (1)(b) may have retrospective effect as from the date specified in the order.
- (3) Nothing in this Act shall empower the Commissioner to make any alteration or amendment in the substance or otherwise affecting the meaning of any law or provision of any law.

#### **23. Correction of errors of substance.**

- (1) Notwithstanding section 22(3), if in any case it appears necessary to the Commissioner to alter the substance of any law, the Commissioner shall draft a Bill setting out the alterations and amendments therein, and the Bill shall be submitted to Parliament by the Attorney-General for passage by both Houses thereof.
- (2) Upon passage of the Bill referred to in subsection (1), the Commissioner may proceed to incorporate and consolidate any amendments contained in the Bill as passed and enacted.

#### **24. Rectification of omissions from the laws.**

- (1) If an omission from the laws comes to the attention of the Commissioner, the Commissioner shall rectify the omission in such manner as he determines to be appropriate.
- (2) Notwithstanding subsection (1), if the Commissioner is of the opinion that the rectification of an omission should be made by order, the Commissioner shall advise the Attorney-General of the omission and the Attorney-General may by order rectify the omission.
- (3) An order made under subsection (2) —

- (a) shall be laid in Parliament;
  - (b) may be made to have retrospective effect; and
  - (c) may contain such consequential, supplementary or ancillary provisions as appear to the Attorney-General to be necessary or expedient in the circumstances.
- (4) For the purposes of this section, “omission” means any omission from the laws otherwise than made in accordance with this Act.

## INCORPORATION AND CONSOLIDATION OF AMENDMENTS INTO THE REVISED EDITION

### **25. Incorporation and consolidation of amendments into revised edition.**

- (1) The Commissioner shall from time to time, conduct a law revision exercise, to incorporate and consolidate all of the amendments into the existing revised edition.
- (2) In performing his functions under subsection (1), the Commissioner may exercise any of the powers set out in section 14 except those powers referred to in paragraphs (h) and (s).
- (3) The Attorney-General may, upon completion of the law revision exercise, by a Law Revision Order —
  - (a) authorise in the inclusion of the existing revised edition, every page to be comprised therein that incorporates any amendments made to the laws subsequent to the existing revised edition; and
  - (b) direct the removal of any page from the existing revised edition.
- (4) Every page —
  - (a) authorised to be included in the existing revised edition, shall form part of the laws from a particular date;
  - (b) directed to be removed from the existing revised edition, shall cease to form a part of the laws;
  - (c) comprised in the laws pursuant to this section shall bear on its face or overleaf a reference to the Law Revision Order by which its inclusion in the laws is authorised.

### **26. Commissioner may advise on remaking of subsidiary legislation.**

- (1) If an Act is repealed and replaced, but the subsidiary legislation made under the former Act continues in force, the Commissioner may in writing advise the relevant ministry that the subsidiary legislation be revoked and subsidiary legislation be made under the current Act if the Commissioner

is of the opinion that the subsidiary legislation is substantially in conflict with the new Act.

- (2) Upon receipt of advice from the Commissioner pursuant to subsection (1), the ministry shall, as soon as possible, take the appropriate action to have the conflict resolved.

**27. Revision of fees and fines.**

If the Commissioner is of the view that a fee or fine prescribed in an enactment requires revising due to the passage of time, the Commissioner shall, in writing, advise the relevant ministry that the fee or fine so prescribed should be revised, and the ministry shall, as soon as possible, take the appropriate action to have the fee or fine increased by an Act of Parliament.

## REPRINT OF LAWS

**28. Reprint of written laws with additions, omissions, etc..**

Notwithstanding section 80 of the Interpretation and General Clauses Act (*Ch. 2*), the Government Printer may, on the request of the Commissioner and with the approval of the Attorney-General, print copies of any written law with all additions, omissions, substitutions and amendments effected by any amending written law and such copies shall be deemed to be authentic copies of the written law so amended as at the date of such printing.

## PART IV – MISCELLANEOUS

**29. Construction of references where laws are repealed and replaced.**

Whenever in any enactment or in any document of whatever kind, any reference is made to any enactment affected by or under the operation of this Act, the reference shall, where necessary and practicable, be construed as a reference to the corresponding enactment in the most recent revised edition.

**30. Retention of hard copies of amended laws.**

The Commissioner shall cause to be retained a printed copy of all laws which have been consolidated or revised.

**31. Expenses.**

The expenses of and incidental to the carrying out of the provisions of this Act shall be paid from such moneys as may be provided by Parliament for that purpose.



**32. Savings.**

The Commission constituted before the coming into force of this Act, shall continue to be constituted for the purposes of this Act, as if the Commission had been appointed under this Act.

**33. Repeal.**

The Law Reform and Revision Act (*Ch. 3*) is hereby repealed.