

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE SPECIAL ECONOMIC ZONES  
LAW, 2011, LAW 22 OF 2011, TO ALLOW THE SPECIAL ECONOMIC  
ZONE AUTHORITY TO MORE EFFICIENTLY EXECUTE  
PROCEDURES AND PERFORM FUNCTIONS AS PRESCRIBED; TO  
PERMIT ENFORCEMENT UNDER THE LAW TO BE CARRIED OUT BY  
A TRADE OFFICER WITHIN THE DEPARTMENT OF COMMERCE  
AND INVESTMENT; AND FOR INCIDENTAL AND CONNECTED  
PURPOSES**

**THE SPECIAL ECONOMIC ZONES (AMENDMENT) BILL, 2015**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill amends the Special Economic Zones Law, 2011, Law 22 of 2011 (the “principal Law”) to permit the Special Economic Zone Authority to more efficiently execute procedures and perform functions required to be executed and performed as prescribed under the principal Law. The Bill permits the enforcement of the principal law to be carried out by trade officers within the department of Government known as the Department of Commerce and Investment and provides for incidental and connected purposes.

Clause 1 of the Bill sets out the short title and commencement.

Clause 2 of the Bill amends section 2 of the principal Law to include definitions for the words “Director”, “trade officer” and “warrant” in the principal Law.

Clause 3 of the Bill amends section 3 of the principal Law so that the members of the Authority include three persons appointed by Cabinet from the private sector. This clause also removes the Directors of the Planning and Labour departments and the Chief Surveyor from the Authority.

Clause 4 of the Bill stipulates that the Department of Commerce and Investment shall be the Secretariat to the Authority and makes provision for the processing of applications and permits and the manner in which minutes shall be kept.

Clause 5 of the Bill extends the functions of the Authority so that the Authority may conduct due diligence on directors and any person with a beneficial interest in a company in the Special Economic Zone and the Authority may establish the process for the manner in which applications are to be made to the Authority.

Clause 6 of the Bill permits the Authority to appoint committees to assist the Authority in exercising the Authority’s functions, the manner in which the committees are to be constituted and the manner in which the functions delegated by the Authority to the committees are to be performed.

Clause 7 of the Bill permits the Authority to co-opt persons to attend meetings of the Authority for advisory purposes and to delegate to the Secretariat the function of considering applications for renewal.

Clause 8 of the Bill extends the number of days in which the Authority may request additional information from three to five.

Clause 9 of the Bill permits the appointment of trade officers for the purpose of enforcing the Law pursuant to the instruction of the Authority.

Clause 10 of the Bill confers the rights, powers and privileges of a constable on a trade officer appointed under the Law for the purposes of enforcement and places an obligation on such an officer to carry and produce if necessary, the prescribed identification. This clause also inserts section 29B into the principal Law and makes provision for the application and execution of warrants issued under the Law.

Clause 11 of the Bill amends Schedule 1 of the principal Law so that the period of appointment of a member of the Authority is no longer a fixed period but determined by Cabinet.

Clause 12 of the Bill amends Schedule 3 of the principal Law so that -

- (a) remuneration agreed cannot be lower than the minimum wage prescribed under the Labour Law (2011 Revision); and
- (b) the transfer and exchange of pension monies is subject to the provisions of the National Pensions Law (2012 Revision).

**THE SPECIAL ECONOMIC ZONES (AMENDMENT) BILL, 2015**

**ARRANGEMENT OF CLAUSES**

1. Short title and commencement
2. Amendment of section 2 of the Special Economic Zones Law 2011, Law 22 of 2011 - interpretation
3. Amendment of section 3 - establishment of the Special Economic Zone Authority
4. Amendment of section 4 - secretariat
5. Amendment of section 5 - functions of the Authority
6. Insertion of section 5A - committees and special meetings
7. Amendment of section 6 - powers of the Authority
8. Amendment of section 15 - request for further information
9. Amendment of section 29 - enforcement
10. Insertion of sections 29A - powers of trade officer to enforce Law and 29B - warrant to enter and search premises
11. Amendment of Schedule 1 - constitution and procedure of Authority
12. Amendment of Schedule 3 - benefits accruing to special economic zone enterprises located within Cayman Enterprise City

CAYMAN ISLANDS

**A BILL FOR A LAW TO AMEND THE SPECIAL ECONOMIC ZONES LAW, 2011, LAW 22 OF 2011, TO ALLOW THE SPECIAL ECONOMIC ZONE AUTHORITY TO MORE EFFICIENTLY EXECUTE PROCEDURES AND PERFORM FUNCTIONS AS PRESCRIBED; TO PERMIT ENFORCEMENT UNDER THE LAW TO BE CARRIED OUT BY A TRADE OFFICER WITHIN THE DEPARTMENT OF COMMERCE AND INVESTMENT; AND FOR INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

1. (1) This Law may be cited as the Special Economic Zones (Amendment) Law, 2015.

Short title and commencement

(2) This Law shall come into force on such date as may be appointed by Order made by the Cabinet and different dates may be appointed for different provisions of this Law and in relation to different matters.

2. The Special Economic Zones Law, 2011, Law 22 of 2011, in this Law referred to as the “principal Law”, is amended in section 2 by inserting in the appropriate alphabetical sequence the following definitions -

Amendment of section 2 of the Special Economic Zones Law 2011, Law 22 of 2011 - interpretation

“Director” means the Director in the department of Government known as the Department of Commerce and Investment;

“trade officer” means a public officer who is appointed as a trade officer in the department of Government known as the Department of Commerce and Investment;” and

“warrant” means a warrant to enter and search premises;”.

Amendment of section  
3 - establishment of the  
Special Economic Zone  
Authority

3. The principal Law is amended in section 3 by repealing subsection (2) and substituting the following subsection -

“(2) The Authority shall comprise the following members -

- (a) a Chairman appointed by the Cabinet;
- (b) a Deputy Chairman appointed by the Cabinet;
- (c) three persons from the private sector appointed by the Cabinet; and
- (d) the following *ex officio* members -
  - (i) the Director or the designate of the Director;
  - (ii) the Chief Immigration Officer or the designate of the Chief Immigration Officer;
  - (iii) the Collector of Customs or the designate of the Collector of Customs; and
  - (iv) the Director of the National Workforce Development Agency or the designate of the Director of the National Workforce Development Agency.”.

Amendment of section  
4 - secretariat

4. The principal Law is amended in section 4 as follows -

(a) by repealing subsection (1) and substituting the following subsection -

“(1) The department of Government known as the Department of Commerce and Investment shall be the Secretariat to the Authority.”;

(b) in subsection (2) as follows -

- (i) in paragraph (b) by deleting the word “and”;
- (ii) in paragraph (c) by deleting the words “of the Authority” and substituting the words “of the Authority; and”;
- (iii) by inserting after paragraph (c), the following paragraph -

“(d) act as the primary processing centre through which a special economic zone enterprise can channel all of the applications of the special economic zone enterprise for permits and facilities that are not handled directly by the Authority.”; and

(c) by inserting after subsection (2) the following subsection -

“(3) The minutes to be kept pursuant to subsection (2)(c) include any electronic record or transcript of votes or decisions made during a meeting which takes place by conference telephone, computer or similar method facilitating real time communication between the persons attending the Board meeting or committee meeting.”.

5. The principal Law is amended in section 5(1) as follows -

Amendment of section 5 - functions of the Authority

- (a) by repealing paragraph (f);
- (b) by deleting, at the end of paragraph (j), the word “and”;
- (c) by deleting the full stop at the end of paragraph (k) and inserting “; and”; and
- (d) by inserting after paragraph (k) the following paragraphs -
  - “(l) with respect to the partners, directors of and any person who has a beneficial interest in, partnerships or companies in the Special Economic Zone, prescribe the manner in which due diligence -
    - (i) requirements are to be satisfied; and
    - (ii) investigations are to be conducted; and
  - (m) specify the procedure by which applications are to be submitted to the Authority for permission to conduct special economic zone business in the special economic zone.”.

6. The principal Law is amended by inserting after section 5 the following section -

Insertion of section 5A - committees and special meetings

“Committees and special meetings

5A. (1) The Authority may appoint committees to assist the Authority in exercising the functions of the Authority under section 5(1)(e) of this Law and shall appoint the persons the Authority considers fit to be members of the committees.

(2) The Chairman may designate a member of any committee appointed under subsection (1) to act as secretary to the committee and that member shall perform the duties that the committee may determine.

(3) The Authority may, by instrument in writing, delegate to a committee appointed by the Authority under subsection (1) the functions, other than suspension or revocation of trade certificates, that the Authority considers fit.

(4) A committee to which functions are delegated under subsection (3) shall perform the functions delegated and a decision of the committee is deemed to be a decision of the Authority.

(5) A person appointed to be a member of the Board or a committee may by conference telephone, computer or similar method facilitating real time communication between the persons attending the Board meeting or committee meeting, participate in a meeting of the Board or committee.

(6) Where necessary, for the purposes of constituting a quorum, the participation of a person at a meeting, in the manner specified in subsection (5) is considered to be and accepted as the person's attendance at the meeting."

Amendment of section  
6 - powers of the  
Authority

7. The principal Law is amended in section 6 by inserting after subsection (1) the following subsections -

“(1A) The Authority may co-opt any person to attend any meeting of the Authority at which it is proposed to deal with a particular matter, for the purpose of assisting or advising the Authority but a co-opted person does not have the right to vote at the meeting to which the person was co-opted.

(1B) The Authority may delegate to the Secretariat the Authority's function of examining and processing applications with respect to the renewal of applications and including the refusal of applications for renewal.”.

Amendment of section  
15 - request for further  
information

8. The principal Law is amended in section 15(1) by deleting the word “three” and substituting the word “five”.

Amendment of section  
29 - enforcement

9. The principal Law is amended in section 29 by inserting after subsection (2) the following subsections -

“(3) The Chief Officer of the Ministry with responsibility for the department of Government known as the Department of Commerce and Investment or the Chief Officer's designate shall assign trade officers to the Authority for the purpose of assisting the Authority with the execution of



the functions of the Authority and the exercise of the powers of the Authority under this Law.

(4) The Authority may instruct the Director or a trade officer assigned to the Authority, as necessary for the purpose of executing the functions of the Authority or enforcing the powers of the Authority under sections 5(1)(h) or 5(1)(i) of this Law.

(5) The Director or a trade officer -

- (a) shall have the authority and power to carry out any instruction of the Authority pursuant to subsection (3); and
- (b) may enforce on behalf of the Authority any power of the Authority under sections 5(1)(h) or 5(1)(i) of this Law.”.

10. The principal Law is amended by inserting after section 29 the following sections -

Insertion of sections 29A - powers of trade officer to enforce Law and 29B - warrant to enter and search premises

“Powers of trade officer to enforce Law

29A. (1) For the purposes of this Law, the Director or a trade officer, carrying out an instruction or exercising any power pursuant to section 29, shall have the rights, powers, privileges and immunities of a constable and may enter and search any premises with a warrant issued by a Justice of the Peace or Magistrate.

(2) The Director or a trade officer, when carrying out instructions or exercising a power under this Law, shall at all times carry and produce if requested, photo identification issued by the department of Government known as the Department of Commerce and Investment which clearly indicates that the person producing the photo identification is the Director or a trade officer from the department of Government known as the Department of Commerce and Investment.

Warrant to enter and search premises

29B. (1) An application for a warrant shall be made by the Authority to a Magistrate or a Justice of the Peace in the prescribed manner.

(2) The member of the Authority who, on behalf of the Authority, provides the information on oath forming the basis upon which the application for the warrant is made shall also sign the application for the warrant.

(3) If a Magistrate or a Justice of the Peace is satisfied by information on oath given by a member of the Authority that -

- (a) there is reasonable ground for suspecting that an offence against this Law has been or is being committed and that evidence of the commission of the offence is to be found at any premises specified in the information; or
- (b) any books or documents which ought to have been produced and have not been produced are to be found at any premises,

the Magistrate or Justice of the Peace may grant a warrant authorising the Authority to execute the warrant to enter and search the premises specified in the information at any time within one month from the date of the warrant.

(4) Where a warrant is granted under subsection (3) the Authority may delegate the power to enter and search premises to a trade officer to execute the warrant on behalf of the Authority.

(5) Where under this section a trade officer has the power to enter and search any premises the trade officer may use force that is reasonably necessary for the purpose of exercising that power of entry and search.

(6) A person who obstructs a trade officer in the exercise of any power conferred on the trade officer under this Law commits an offence and is liable on summary conviction to a fine of five thousand dollars or to imprisonment for one year, or to both.”.

Amendment of Schedule 1 - constitution and procedure of Authority

11. The principal Law is amended in Schedule 1 paragraph 1 by inserting after the words “not exceeding two years” the words “or until Cabinet makes a re-appointment”.

Amendment of Schedule 3 - benefits accruing to special economic zone enterprises located within Cayman Enterprise City

12. The principal Law is amended in Schedule 3 as follows -

- (a) in paragraph 3(a) by inserting after the words “the Confidential Relationships (Preservation) Law (2009 Revision)” the words

- “but such remuneration shall not be lower than that prescribed as the minimum wage in the Labour Law (2011 Revision)”; and
- (b) by deleting paragraph (b) and substituting the following paragraph -
- “(b) the transfer or exchange of pension money or pension assets out of the Islands in respect of partners, directors, officers and employees of a special economic zone enterprise at the end of the valid period of the partners, directors, officers and employees respective work permits shall be subject to the National Pensions Law (2012 Revision).”.

Passed by the Legislative Assembly the            day of            , 2015.

Speaker.

Clerk of the Legislative Assembly.