

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE HEALTH SERVICES
AUTHORITY LAW (2010 REVISION) TO VARY THE IMMUNITY AND
INDEMNITY PROVISIONS THAT ARE APPLICABLE TO THE
AUTHORITY, ITS DIRECTORS, ITS EMPLOYEES AND HEALTH
FOUNDATION COMMITTEE MEMBERS; AND TO MAKE PROVISION
FOR INCIDENTAL AND CONNECTED MATTERS**

THE HEALTH SERVICES AUTHORITY (AMENDMENT) BILL, 2016

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Health Services Authority Law (2010 Revision).

Currently, section 12 of the principal Law provides as follows -

“12. Neither the Authority, nor any director or employee of the Authority, nor any Committee member, shall be liable in damages for anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was in bad faith.”.

The legal advice given to the Government is that, to the extent that section 12 precludes an aggrieved person from seeking effective redress at any time in a court of law in respect of alleged clinical negligence and any loss or damage resulting therefrom, it is arguably contrary to public policy, in which notions of fairness, justice, equity and reasonableness are inherent. Moreover, the implications of the blanket immunity might be far-reaching in scope and might extend beyond claims for clinical negligence to other causes of action.

Clause 2 of the Bill, therefore, seeks to amend section 12 of the principal Law to remove the immunity conferred -

- (a) in respect of Health Services Authority employees; and
- (b) in respect of negligent acts of the Authority, Directors of the Authority and Cayman Islands Health Foundation Committee Members.

Clause 3 of the Bill seeks to amend section 13 of the principal Law to remove the indemnity conferred in respect of negligent acts of the Directors of the Health Services Authority and Cayman Islands Health Foundation Committee Members.

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ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Health Services Authority (Amendment) Law, 2016. Short title

2. The Health Services Authority Law (2010 Revision) is amended by repealing section 12 and substituting the following section - Repeal and substitution of section 12 of the Health Services Authority Law (2010 Revision) - immunity

“Immunity “12. Neither the Authority, nor any director nor any Committee member shall be liable in damages for anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was negligent or in bad faith.”.

3. The Health Services Authority Law (2010 Revision) is amended in section 13 by inserting before the words “bad faith” the words “negligence or ”. Amendment of section 13 of the Health Services Authority Law (2010 Revision) - indemnity

Passed by the Legislative Assembly the day of , 2016.

Speaker.

Clerk of the Legislative Assembly.