

CAYMAN ISLANDS



Supplement No. 3 published with Extraordinary
Gazette No. 45 dated 8th June, 2016.

THE SPECIAL ECONOMIC ZONES (AMENDMENT) LAW, 2016

(LAW 5 OF 2016)

THE SPECIAL ECONOMIC ZONES (AMENDMENT) LAW, 2016

ARRANGEMENT OF SECTIONS

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 14 - application for trade certificate
9. Amendment of section 15 - request for further information
10. Amendment of section 29 - enforcement
11. Insertion of sections 29A - powers of trade officer to enforce Law and 29B - warrant to enter and search premises
12. Amendment of Schedule 1 - constitution and procedure of Authority
13. Amendment of Schedule 3 - benefits accruing to special economic zone enterprises located within Cayman Enterprise City

CAYMAN ISLANDS

Law 5 of 2016.

I Assent

Helen Kilpatrick

Governor.

6th June, 2016

**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, 2016.

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
14 - application for trade
certificate

8. The principal Law is amended in section 14 by inserting after subsection (1) the following subsection -

"(1A) Where an exempted company or exempted limited partnership that is already registered as an exempted company or exempted limited partnership in the Islands applies to be registered as a Special Economic Zone entity, the change in registration of the exempted company or exempted limited partnership to registration in the Special Economic Zone shall in accordance with section 50 of the Immigration Law (2015 Revision) be a change of employer for an employee of the exempted company or exempted limited partnership, who holds a work permit."

9. The principal Law is amended in section 15(1) by deleting the word “three” and substituting the word “five”. Amendment of section 15 - request for further information

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

“(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.”.

11. 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.”.

12. 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 1 - constitution and procedure of Authority
13. The principal Law is amended in Schedule 3 as follows -
- Amendment of Schedule 3 - benefits accruing to special economic zone enterprises located within Cayman Enterprise City
- (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 6th day of May, 2016.

Juliana Y. O’Connor-Connolly

Speaker.

Zena Merren-Chin

Clerk of the Legislative Assembly.