

ANGUILLA

A BILL FOR
**TRUST COMPANIES AND OFFSHORE BANKING
(AMENDMENT) ACT, 2020**

DRAFT

Published by Authority

**TRUST COMPANIES AND OFFSHORE BANKING
(AMENDMENT) ACT, 2020**

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DRAFT

I Assent

Governor

Date

ANGUILLA

No. /2020

A BILL FOR

**TRUST COMPANIES AND OFFSHORE BANKING
(AMENDMENT) ACT, 2020**

An Act to amend the Trust Companies and Offshore Banking Act, RSA Chap. T60, to remove from the Principal Act all references to Trust Companies.

[Gazette Dated: _____, 2020] [Commencement: Assent under section 57 of the Constitution]

ENACTED by the Legislature of Anguilla

Interpretation

1. In this Act, “Principal Act” means the Trust Companies and Offshore Banking Act, RSA Chap. T60.

Amendment of section 1 of the Principal Act

2. The Principal Act is amended in section 1 -
- (a) in subsection (1) by deleting the respective definitions of “attorney-at-law”, “trust”, “trust business” and “trust company licence”; and

- (b) in subsection (4) by deleting the words “or trust business outside Anguilla carries on banking business or trust business, as the case may be,” and substituting them with the following -
“outside Anguilla carries on banking business”.

Amendment of section 2 of the Principal Act

3. The Principal Act is amended in section 2(2)(b) by deleting “or a trust company licence” and “or trust business”.

Deletion of Part 3 of the Principal Act

4. The Principal Act is amended by deleting Part 3.

Amendment of Part 4 of the Principal Act

5. The Principal Act is amended in Part 4 by deleting the heading and substituting it with the following -

“ADDITIONAL MATTERS APPLICABLE TO OFFSHORE BANKING BUSINESS”.

Amendment of section 15 of the Principal Act

6. The Principal Act is amended by deleting section 15 and substituting it with the following-

“Interpretation

15. In this Part -

“licence” means an offshore banking licence;

“licensed business” means the offshore banking business that the licensee is licensed to carry on;

“licensee” means a person holding an offshore banking licence.”.

Amendment of section 16 of the Principal Act

7. The Principal Act is amended in section 16 by deleting subsection (3) and substituting it with the following-

“(3) If the Commission is satisfied -

- (a) that the licensee has ceased to carry on the licensed business and that the licensee has repaid all deposits accepted by it; or
(b) if the licensee is being wound up, that it is solvent and is able on demand to repay all deposits accepted by it,

the Commission may approve the surrender.”.

Amendment of section 17 of the Principal Act

8. The Principal Act is amended in section 17(a) by deleting “or under the extension of a licence under section 13(4)”.

Amendment of section 20 of the Principal Act

9. The Principal Act is amended in section 20 -

- (a) in subsection (1)(a)(i) by deleting the words “, “savings” or “trust”” and substituting them with the following -
“or “savings” ”;
- (b) in subsection (1)(a)(ii) by deleting the words “trust business or”;
- (c) in subsection (1)(b) by deleting the words “trust business or”; and
- (d) in subsection (2) by deleting the words “or trust business”.

Amendment of section 32 of the Principal Act

10. The Principal Act is amended in section 32 by deleting the words “, section 13(6), section 14(3)”.

Amendment of section 33 of the Principal Act

11. The Principal Act is amended in section 33 -

- (a) by inserting the word “and” at the end of paragraph (b);
- (b) by deleting “; and” at the end of paragraph (c) and substituting a full stop; and
- (c) by deleting paragraph (d).

Amendment of section 34 of the Principal Act

12. The Principal Act is amended in section 34(3) by deleting the words “or, in the case of the holder of a restricted trust company licence, in contravention of the restriction,”.

Amendment of section 35 of the Principal Act

13. The Principal Act is amended in section 35 by deleting the words “Trust Companies and”.

Citation

14. This Act may be cited as the Trust Companies and Offshore Banking (Amendment) Act, 2020.

OBJECTS AND REASONS

(The objects and reasons do not form part of the Bill)

This Bill seeks to amend the Trust Companies and Offshore Banking Act, RSA Chap. T60, to remove from the Principal Act the obligations imposed, and the rights conferred, on trust companies. Trust companies would, in future, be regulated by other specific statutory provisions.

Clause 1 is the interpretation clause of the Bill.

Clause 2 deletes various definitions that would become superfluous as a result of the other amendments to the Principal Act.

Clause 3 seeks to remove from the Principal Act the provision under section 2, whereby a person holding a trust company licence, is not required to hold a licence under the Trades, Businesses, Occupations and Professions Licensing Act in respect of its trust business.

Clause 4 would delete Part 3 of the Principal Act. That Part contains sections 9 to 14 and prohibits persons from carrying on trust business in or from within Anguilla without a licence. Part 3 provides the procedure for applying for a licence and prescribes classes of licence.

Clause 5 amends the heading of Part 4 of the Principal Act to delete the references to trust companies.

Clause 6 seeks to amend section 15 of the Principal Act in order to redefine various terms so as to exclude references to trust companies.

Clause 7 would amend section 16 of the Principal Act to exclude references to trust companies in the provision dealing with the surrender of licences.

Clause 8 would amend section 17 of the Principal Act to exclude the reference to the extension of a general trust company licence to its wholly-owned subsidiary.

Clause 9 seeks to remove from section 20 of the Principal Act references to trust companies in relation to restrictions on the use of terms.

Clause 10 would amend section 32 of the Principal Act to exclude references to trust companies in respect of appeals to the Financial Services Commission.

Clause 11 would amend section 33 of the Principal Act in order to remove the power to make regulations exempting trust companies from the operation of the Act.

Clause 12 seeks to amend section 34 of the Principal Act (which deals with penalties) to exclude references to the holder of a restricted trust company licence.

Clause 13 would amend section 35 of the Principal Act to change the Act's title to the 'Offshore Banking Act'.

Clause 14 provides the citation for the Bill.

Speaker

Passed by the House of Assembly this day of , 2020

Clerk of the House of Assembly

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