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Bill re Companies (Economic Substance) (Amendment) Act, 2021.
Bill re Control of Inefficient Lighting Act, 2021.

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COMPANIES (ECONOMIC SUBSTANCE) (AMENDMENT) ACT, 2021

OBJECTS AND REASONS

This Bill would amend the *Companies (Economic Substance) Act, 2019* (Act 2019-43).

COMPANIES (ECONOMIC SUBSTANCE) (AMENDMENT) ACT, 2021

Arrangement of Sections

1. Short title

2. Amendment of section 2 of Act 2019–43

BARBADOS

A Bill entitled

An Act to amend the *Companies (Economic Substance) Act, 2019* (Act 2019-43).

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Companies (Economic Substance) (Amendment) Act, 2021*.

Amendment of section 2 of Act 2019–43

2. ***Section 2 of the Companies (Economic Substance) Act, 2019 (Act 2019-43) is amended by deleting the definition "resident company" and substituting the following:***

" "resident company" for the purposes of this Act means

(a) a company, whether incorporated in Barbados or elsewhere, or a society with restricted liability organized in Barbados, or an association formed in Barbados, other than an association of underwriters, which is managed and controlled in Barbados;

(b) a company incorporated outside Barbados, that is registered in Barbados as an external company that is not regarded as a tax resident company in the jurisdiction of incorporation; or

(c) a company incorporated in Barbados as an entity but which is not tax resident in any other jurisdiction,

and includes a partnership formed in Barbados which is carrying on one or more relevant activities.".

Read three times and passed the House of Assembly this day of , 2021.

Speaker

Read three times and passed the Senate this day of , 2021.

President

PARLIAMENT

SECOND SESSION OF
2018-2023

BILL

cited as the Companies (Economic Substance) (Amendment) Act, 2021

Government Printing Department

CONTROL OF INEFFICIENT LIGHTING ACT, 2021

OBJECTS AND REASONS

This Bill would provide for the phased elimination of the use and sale of inefficient electrical lamps in Barbados.

CONTROL OF INEFFICIENT LIGHTING ACT, 2021

Arrangement of Sections

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BARBADOS

A Bill entitled

An Act to provide for the phased elimination of the use and sale of inefficient electrical lamps in Barbados.

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Control of Inefficient Lighting Act, 2021*.

Interpretation

2. In this Act,

"appliance" means an item listed in the *First Schedule*;

"Barbados National Standards Institution" has the meaning assigned to it by section 2 of the *Standards Act*, Cap. 326A;

"compliance certificate" means a certificate which a recognized authority issues that verifies that an electrical lamp meets standards which the recognized authority approves in respect of the electrical lamp;

"Director" means the person who holds the post of Director of Commerce and Consumer Affairs which is established by the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

"domestic minimum energy performance standard" means a standard established by the Barbados National Standards Institution which specifies the minimum efficiency performance level for an electrical lamp which is for

(a) distribution, sale or use in Barbados; or

(b) importation into Barbados;

"electrical lamp" includes a halogen lamp, compact fluorescent lamp, mercury vapour lamp, sodium vapour lamp and LED lamp;

"exempted electrical lamp" means an electrical lamp which does not meet the domestic minimum energy performance standard and is operated or used in an appliance;

"LED" means light emitting diode;

"minimum energy performance standard" means a standard which specifies the minimum efficiency performance level of an electrical lamp which effectively limits the maximum amount of energy that may be consumed by an electrical lamp in performing a specific task;

"recognized authority" means an agency, an entity or a laboratory which the Barbados National Standards Institution approves as an accredited authority in respect of its testing, determination or approval of energy performance standards of electrical lamps;

"trading standards inspector" has the meaning assigned to it by section 2 of the *Standards Act*, Cap. 326A.

PART II

ADMINISTRATION

Standards and procedures

3.(1) The Barbados National Standards Institution shall, with the approval of the Minister,

(a) establish domestic minimum energy performance standards for imported electrical lamps and electrical lamps for local distribution, sale or use;

(b) establish energy efficient labelling standards for packages which contain electrical lamps or for labels of electrical lamps; and

(c) approve and establish energy performance test procedures for electrical lamps.

(2) Where the Barbados National Standards Institution establishes a domestic minimum energy performance standard or an energy efficient labelling standard in accordance with subsection (1), the Barbados National Standards Institution shall cause to be published in the *Official Gazette* and in a daily newspaper published in Barbados a notice of the standard.

(3) A domestic minimum energy performance standard or an energy efficient labelling standard may, with the approval of the Minister, be amended or revoked by the Barbados National Standards Institution and a notice to that effect shall be published in the manner specified in subsection (2).

Inspectors

4.(1) A trading standards inspector shall investigate any complaint or conduct concerning any allegation of contravention of this Act or regulations made pursuant to this Act.

(2) A trading standards inspector shall, at a reasonable time, enter premises which the trading standards inspector reasonably believes to have electrical lamps which are for sale or distribution to

(a) open and examine any package or receptacle which is found on the premises which the trading standards inspector reasonably believes contains electrical lamps;

(b) inspect or examine any electrical lamps which are found on the premises and take samples, free of any charge;

(c) examine labels on packages containing electrical lamps or labels of electrical lamps which are found on the premises;

(d) conduct tests on any electrical lamps which are found on the premises to determine or verify the energy performance characteristics of the electrical lamps; or

(e) examine records and documents which relate to the acquisition, importation, exportation, manufacture, sale or distribution of electrical lamps.

(3) Subject to subsection (2) and section 8, a trading standards inspector shall, upon entering premises, produce his certificate of appointment which verifies that he is a trading standards inspector.

(4) Any person who

(a) wilfully obstructs, hinders, assaults or otherwise interferes with a trading standards inspector engaged in the performance of any duty or exercise of any power conferred on him under this Act or regulations made pursuant to this Act; or

(b) knowingly gives false information to a trading standards inspector,

is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

Testing of samples

5. Where a trading standards inspector obtains samples of electrical lamps pursuant to paragraph *(b)* of section 4(2), the Barbados National Standards Institution shall cause tests to be conducted or shall submit the electrical lamps to a recognized authority for tests to be conducted to

(a) determine the energy performance characteristics; or

(b) verify the energy performance standards,

of the electrical lamps within 21 days of obtaining the samples or within any such longer period as the Minister determines.

Imported lamps with certificate of compliance

6. Where a person imports an electrical lamp which has a compliance certificate, the electrical lamp shall be tested in accordance with the provisions of this Act or regulations made pursuant to this Act, notwithstanding the compliance certificate.

Request for electrical lamps

7.(1) Notwithstanding section 4, the Director may, in writing, request a person who

(a) imports;

(b) sells or offers for sale;

(c) distributes; or

(d) manufactures,

electrical lamps to produce, within 30 days of the request, a specified number of electrical lamps to verify that there is compliance with the provisions of this Act or regulations made pursuant to this Act.

(2) The Director, on the recommendation of the Barbados National Standards Institution, shall release any electrical lamps obtained pursuant to subsection (1) where

(a) there is satisfactory proof that there is compliance with the provisions of this Act or regulations made pursuant to this Act; or

(b) a period of 30 days has expired and the results of any tests to be undertaken in respect of the electrical lamps have not been received.

(3) Notwithstanding paragraph *(b)* of subsection (2), the Director may, with the approval of the Minister, extend the period of detention for a further 15 days where the results of tests being undertaken have not been completed within the period specified in paragraph *(b)* of subsection (2).

(4) Subject to subsection (1), where the Director determines that the electrical lamps, the packages of the electrical lamps or the labels of the electrical lamps do not comply with the provisions of this Act or regulations made pursuant to this Act,

(a) the Director shall detain the electrical lamps and commence proceedings within 30 days of the detention; and

(b) the electrical lamps shall be detained until the conclusion of the proceedings.

(5) Subject to subsection (4), where the Director fails to commence proceedings within 30 days of the detention, the electrical lamps shall be returned to the owner.

(6) A person who fails to comply with a request made by the Director pursuant to subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

(7) For the purposes of this section "satisfactory proof" includes a test certificate or test report from a recognized authority in respect of the electrical lamps.

Seizures and warrants

8.(1) Where a magistrate is satisfied by information on oath that there is reasonable ground for suspecting that an offence under this Act or regulations made pursuant to this Act has been committed or is about to be committed, the magistrate may issue a search warrant authorising the trading standards inspector named in the warrant, with or without a member of the Police Force, to

(a) enter and search premises specified in the information; and

(b) examine, test or seize any electrical lamp or other item or to examine and seize any document.

(2) Any electrical lamp, document or other item seized pursuant to a search warrant issued under subsection (1) shall

(a) where proceedings are not commenced within a period of 30 days from the date of seizure, be returned to the owner; or

(b) where legal proceedings are commenced before the expiry of the 30 days, be kept until the conclusion of those proceedings.

(3) Where a trading inspector seizes an electrical lamp pursuant to subsection (1), the Barbados National Standards Institution shall, within 7 days of the seizure, cause tests to be conducted or shall submit the electrical lamps to a recognized authority for tests to be conducted to

(a) determine the energy performance characteristics; or

(b) verify the energy performance standards,

of the electrical lamps.

(4) A trading standards inspector shall not be personally liable for any loss or damage arising from the execution of a search warrant under this section.

PART III

ELECTRICAL LAMPS

Invoices, labels and packages

9.(1) Subject to section 11, a person shall not import, distribute, sell or offer for sale an electrical lamp unless

(a) the package of the electrical lamp or the label of the electrical lamp clearly states

(i) the country of origin;

(ii) the name and brand;

(iii) the name and address of the manufacturer;

(iv) the lot or batch number;

(v) the lumens per watt;

(vi) the light colour;

(vii) the colour temperature;

(viii) the rated voltage;

(ix) the frequency;

(x) the cap type;

(xi) the colour rendering index;

(xii) the model number;

(xiii) where applicable, the unique identifier; and

(xiv) the minimum energy performance standard,

of the electrical lamp;

(b) the energy performance characteristics information on the package or label of the electrical lamp corresponds with the energy performance characteristics of the electrical lamp; and

(c) the information on the package or the label of the electrical lamp complies with the energy efficient labelling standards established by the Barbados National Standards Institution.

(2) A person shall not

(a) import an electrical lamp; or

(b) distribute, sell or offer for sale an electrical lamp which is for local use,

unless the energy performance characteristics of the electrical lamp complies with the domestic minimum energy performance standard.

(3) Where a person imports, distributes or sells an electrical lamp, the person shall ensure that the invoice for the electrical lamp clearly states the minimum energy performance standard of the electrical lamp.

(4) A person shall not

(a) alter, deface, remove or obscure the label of an electrical lamp or the information referred to in paragraph *(a)* of subsection (1) on the package of an electrical lamp; or

(b) knowingly display a label or a package of an electrical lamp which displays inaccurate, misleading or false information.

(5) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

Manufacture of electrical lamps

10.(1) Subject to sections 9 and 11, where a person manufactures an electrical lamp, that person

(a) shall

(i) conduct on the electrical lamp energy performance tests which the Barbados National Standards Institution approves or establishes; or

(ii) ensure that energy performance tests are conducted by a recognized authority on the electrical lamp,

before the distribution or sale of the electrical lamp;

(b) shall ensure that

(i) the package of the electrical lamp contains information; or

(ii) the electrical lamp has a label,

which clearly states the minimum energy performance standard of the electrical lamp; and

(c) shall ensure that the information on the package or the label of the electrical lamp is in accordance with energy efficient labelling standards established by the Barbados National Standards Institution.

(2) Where a person manufactures electrical lamps for local use, the person shall ensure that the electrical lamps meet the domestic minimum energy performance standard.

(3) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

Defences

11. Where a person is charged with an offence under section 9 or section 10, it shall be a defence to prove, as the case may be, that the person

(a) reasonably relied on information or representations supplied by an overseas manufacturer or distributor of the electrical lamp;

(b) reasonably relied on results from a person who conducted tests to determine the energy performance characteristics of the electrical lamp; or

(c) exercised reasonable care to ascertain whether the energy performance characteristics of the electrical lamp complied with the domestic minimum efficiency performance standard.

PART IV

RESTRICTIONS AND LICENCES

Prohibition

12.(1) With effect from the 1st day of January, 2022, any electrical lamp which emits less than 15 lumens per watt is deemed to be a prohibited good within the meaning of the *Customs Act*, Cap. 66 which has been imported contrary to section 89 (1) of that Act.

(2) With effect from the 1st day of July, 2022, no person shall

(a) manufacture, offer for sale or sell any electrical lamp which is for local use; or

(b) distribute for local retail purposes any electrical lamp,

which emits less than 15 lumens per watt.

(3) With effect from the 1st day of July, 2022, any electrical lamp which emits less than 25 lumens per watt is deemed to be a prohibited good within the meaning of the *Customs Act*, Cap. 66 which has been imported contrary to section 89 (1) of that Act.

(4) With effect from the 1st day of January, 2023, no person shall

(a) manufacture, offer for sale or sell any electrical lamp which is for local use; or

(b) distribute for local retail purposes any electrical lamp,

which emits less than 25 lumens per watt.

(5) With effect from the 1st day of January, 2023, any electrical lamp which emits less than 40 lumens per watt is deemed to be a prohibited good within the meaning of the *Customs Act*, Cap. 66 which has been imported contrary to section 89 (1) of that Act.

(6) With effect from the 1st day of July, 2023, no person shall

(a) manufacture, offer for sale or sell any electrical lamp which is for local use; or

(b) distribute for local retail purposes any electrical lamp,

which emits less than 40 lumens per watt.

(7) With effect from the 1st day of July, 2023, any electrical lamp which emits less than 55 lumens per watt is deemed to be a prohibited good within the meaning of the *Customs Act*, Cap. 66 which has been imported contrary to section 89 (1) of that Act.

(8) With effect from the 1st day of January, 2024, no person shall

(a) manufacture, offer for sale or sell any electrical lamp which is for local use; or

(b) distribute for local retail purposes any electrical lamp,

which emits less than 55 lumens per watt.

(9) A person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both; and in the case of a continuing offence, to a further fine of $1 000 for each day or part thereof during which the offence continues after which a conviction was first obtained.

Exemptions

13.(1) Sections 9(2), 10(2) and 12 do not apply to exempted electrical lamps.

(2) Notwithstanding subsection (1), the Minister may by order exempt any electrical lamp from the provisions of this Act.

Exempted electrical lamp importation licence

14.(1) With effect from the 1st day of January, 2022, a person shall not import an exempted electrical lamp without an exempted electrical lamp importation licence.

(2) A person who desires to obtain an exempted electrical lamp importation licence shall apply to the Minister responsible for Commerce.

(3) An application for an exempted electrical lamp importation licence shall be in such form as the Minister responsible for Commerce approves.

(4) The Minister responsible for Commerce may, on receipt of an application made pursuant to subsection (2) and on payment of the fee set out in the *Second Schedule*, grant the applicant an exempted electrical lamp importation licence.

(5) Where the Minister responsible for Commerce does not approve an application, that Minister shall inform the applicant in writing the reasons for not approving the application.

(6) A licence granted pursuant to subsection (4) shall

(a) be in such form as the Minister responsible for Commerce approves;

(b) be valid for a period of one year from the date of issue;

(c) state the terms and conditions of the licence; and

(d) not be transferable.

(7) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both; and in the case of a continuing offence, to a further fine of $1 000 for each day or part thereof during which the offence continues after which a conviction was first obtained.

(8) A person who is granted a licence pursuant to this section and who contravenes the terms or conditions of the licence is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

Distribution licence

15.(1) With effect from the 30th day of June, 2022, a person shall not manufacture, distribute, sell or offer for sale an exempted electrical lamp which is for local use without a distribution licence.

(2) A person who desires to obtain a distribution licence shall apply to the Minister responsible for Commerce.

(3) An application for a distribution licence shall be in such form as the Minister responsible for Commerce approves.

(4) The Minister responsible for Commerce may, on receipt of an application made pursuant to subsection (2) and on payment of the fee set out in the *Second Schedule*, grant a distribution licence.

(5) Where the Minister responsible for Commerce does not approve an application, that Minister shall inform the applicant in writing the reasons for not approving the application.

(6) A licence granted pursuant to subsection (4) shall

(a) be in such form as the Minister responsible for Commerce approves;

(b) be valid for a period of one year from the date of issue;

(c) state the terms and conditions of the licence; and

(d) not be transferable.

(7) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both and in the case of a continuing offence, to a further fine of $1 000 for each day or part thereof during which the offence continues after which a conviction was first obtained.

(8) A person who is granted a licence pursuant to this section and who contravenes the terms or conditions of the licence is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

Record of licences

16.(1) The Ministry responsible for Commerce shall

(a) maintain a record of licences that the Minister responsible for Commerce issues pursuant to this Act; and

(b) forward a copy of that record to the Barbados National Standards Institution.

(2) Subject to subsection (1), the Barbados National Standards Institution shall maintain a database which reflects the copy of the record that it receives from the Ministry responsible for Commerce.

Production of licence

17.(1) A person who holds a licence issued pursuant to this Act shall produce his licence for inspection when asked to do so by a trading standards inspector or a member of the Police Force.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on summary conviction to a fine of $100 000 or to imprisonment for a term of one year or to both.

PART V

MISCELLANEOUS

Immunity

18. Notwithstanding section 8(4), a person shall not be liable for anything done or omitted in the discharge or the purported discharge of his functions under this Act unless that act or omission was done in bad faith.

Schedules

19. The Minister may by order amend, vary or revoke the *Schedules*.

Regulations

20. The Minister may make regulations

(a) respecting the labelling or packaging of electrical lamps;

(b) prescribing energy performance test procedures for electrical lamps;

(c) prescribing anything that is authorised or required by this Act to be prescribed; and

(d) giving effect to the provisions of this Act.

FIRST SCHEDULE

(Section 2)

APPLIANCES

1. Airport runway lights

2. Automobile lights

3. Freezers

4. Heating equipment

5. Laboratory equipment

6. Lighting equipment

7. Medical equipment

8. Microwaves

9. Ovens

10. Refrigerators

11. Stoves

12. Stove hoods

SECOND SCHEDULE

(Sections 14(4) and 15(4))

LICENCE FEES

Fee for exempted electrical lamp importation licence	$100.00
Fee for distribution licence	$200.00

Read three times and passed the House of Assembly this day of , 2021.

Speaker

Read three times and passed the Senate this day of , 2021.

President

PARLIAMENT

SECOND SESSION OF
2018-2023

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