

ANTIGUA AND BARBUDA



RATIFICATION OF TREATIES (AMENDMENT) BILL, 2020

No. of 2020

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AN ACT to amend the Ratification of Treaties Act, Cap. 364

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as the Ratification of Treaties (Amendment) Act 2020.

2. Interpretation

In this Act—

“principal Act” means the Ratification of Treaties Act, Cap. 364

3. Amendment of section 3 – Ratification of certain treaties by House of Representatives

Section 3 of the principal Act is amended in subsection (3) by –

- (i) inserting after the word “treaty” the words “to which subsection (1) relates”; and
- (ii) inserting immediately after the words “an Act of Parliament” the words “or a Resolution of the House of Representatives”

4. Amendment of section 5 – Other treaties

Section 5 of the principal Act is amended by repealing subsection (5) in its entirety and replacing it as follows –

“5. Other treaties

Nothing in this Act shall be construed as in any way affecting the powers of the Government to give effect to a treaty to which subsection (1) does not apply by means of subsidiary instrument.”

Passed by the House of Representatives

this day of 2020

Speaker

Clerk to the House of Representatives

Passed by the Senate

this day of 2020

President

Clerk to the Senate

EXPLANATORY MEMORANDUM

The purpose of this amendment is to correct an error that has long existed in the Ratification of Treaties Act, Cap. 364.

The Ratification of Treaties Act is an essential part of maintaining the sovereignty and democracy of Antigua and Barbuda by guarding against Antigua and Barbuda becoming drawn into international obligations which have not been considered by the Parliament of Antigua and Barbuda and which may conflict with domestic legislations or involve the State in financial, social or economic obligations that are not to the benefit of the State or our people.

Under the Ratification of Treaties Act, Treaties to which Antigua and Barbuda become a Party have to be ratified either by an Act of Parliament or by Resolution of the House of Representatives before the provisions of the Treaty can be enforced domestically. Notwithstanding the differentiation of the two procedures in the Act, and the identification of which procedure is to be applied to a particular circumstance, subsection (3) of section 3 of the Act went on to state that

“(3) No provision of a treaty shall become, or be enforceable as, part of the law of Antigua and Barbuda except by or under an Act of Parliament”

The wording of subsection (3) tends to create two erroneous interpretation –

First, that ONLY ratification by an Act of Parliament is capable of creating enforceable treaty obligations in Antigua and Barbuda. **Second**, it ignores the fact that the procedure for ratification outlined in section 3 only relates to treaties that are described in subsection (1). The amendment is therefore aimed at correcting this ambiguity that could arise.

The Bill contains four (4) clauses, clauses 3 and 4 being the substantive clauses as it relates to the amendment.

Clause 3 amends section 3 subsection (3) which currently provides:

“(3) No provision of a treaty shall become, or be enforceable as, part of the law of Antigua and Barbuda except by or under an Act of Parliament.”

The amendment would now cause it to read thus:

“(3) No provision of a treaty **to which subsection (1) relates** shall become, or be enforceable as, part of the law of Antigua and Barbuda except by or under an Act of Parliament **or a Resolution of the House of Representatives.**”

This would make the subsection more consistent with the remainder of the section.

Clause 4 amends section 5 of the Act. Section 5 currently allows the Government to use other methods to give effect to a treaty which is not one that falls within section 3 subsection (1). It provides:

“5. Other Treaties

Nothing in this Act shall be construed as in any way affecting the powers of the Government with respect to treaties to which subsection (1) of section 3 does not apply.”

The proposed new wording to give greater clarity to the section is:

“5. Other treaties

Nothing in this Act shall be construed as in any way affecting the powers of the Government to give effect to a treaty to which subsection (1) of section 3 does not apply by means of a subsidiary instrument.”

*Hon. E. P Chet Greene
Minister of Foreign Affairs*