



Government of Bermuda
Ministry of Economic Development

Ministerial Statement
To the House of Assembly

By

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Minister of Economic Development

EXEMPTED PARTNERSHIPS AMENDMENT ACT 2015

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Mr. Speaker, I am pleased to introduce to this Honourable House the first of four related Bills that will result in amendments to the legislation governing partnerships in Bermuda. The first Bill will introduce changes to the Exempted Partnerships Act 1992. Subsequent Bills will address changes to the Limited Partnership Act 1883; the Partnership Act 1902; and the Companies Act 1981.

Mr. Speaker, the Bermuda Government has engaged in a targeted, multi-faceted approach to revitalize and reinvigorate our economy. This has resulted in

strong collaboration between the Government, the Bermuda Monetary Authority (“BMA”), the Bermuda Business Development Agency and many other firms across the private sector. In the past 2 years, this collaboration has resulted in several important legislative reform initiatives. This includes, but is not limited to, key changes to Bermuda’s trust legislation, the Companies Act 1981 and amendments to the Investment Funds Act 2006 which introduced two new classes of exempt funds in Bermuda.

Mr. Speaker, the current proposed amendments to Bermuda’s partnership regime are also the direct result of this collaboration. The Bills being introduced to this Honourable House today were initiated by the Bermuda Business Development Agency’s Legal Focus Group working together with the Asset Management Focus Group. The policies underpinning the amendments and the actual Bills have been carefully reviewed by appropriate entities within the private sector, Government and the BMA.

Mr. Speaker, the proposed amendments to the laws governing partnerships are designed to improve Bermuda’s product offering and to increase Bermuda’s competitiveness as a jurisdiction. These Bills also address amendments recently introduced by one of Bermuda’s principal competitor jurisdictions, the Cayman Islands, to its Exempted Partnership Law. In order to gain, and in some instances

maintain, a competitive edge in our partnership legislation, it is important for Bermuda to understand and respond to market demands and potential advantages offered by competitor jurisdictions. The efficiency and effectiveness with which we deliver solutions to the market is critical to sustaining Bermuda's reputation as a premier international business centre.

Mr. Speaker, Bermuda offers two types of partnerships - general partnerships and limited partnerships. These partnerships are further classified as either local or exempted. Local partnerships are those which meet Bermudian control requirements and which compete in, and serve, the local market. Exempted partnerships, however, do not compete in our domestic economy even though they are ordinarily resident in Bermuda.

Mr. Speaker, the current legislative reform initiative takes into account the fact that the vast majority of partnerships registered in Bermuda are private or closed investment funds. As well, the private sector has indicated that there is significant demand in the asset management industry for structures such as exempted partnerships and limited partnerships. These structures are used as vehicles to engage in some of Bermuda's innovative product offerings such as the new class A and B exempt funds or special purpose vehicles used for insurance linked securities transactions.

Mr. Speaker, the proposed amendments will modernize our partnership laws by adding new features and more flexibility to our product offering. The changes will also achieve greater consistency amongst the rights afforded to shareholders of companies and those afforded to owners of partnership interests.

Mr. Speaker, the first of the key changes within this Bill will allow an exempted partnership to have a secondary name in addition to its primary name. This flexibility may be attractive to partnerships which have or which target investors in other jurisdictions such as Asia, the Middle East, South America, North Africa, etc. This change would achieve parity amongst partnerships and companies as the Companies Act 1981 already includes a similar provision.

Mr. Speaker, this Bill would also eliminate the requirement to obtain approval from the BMA when a general partnership interest is being transferred to an entity with the same beneficial owner as the existing general partner. Instead, the partnership will be required to simply notify the BMA of the transfer. This change will decrease the time and resources required for these changes for both the partnership and the BMA. It would eliminate the current practice of duplicate vetting since the new rule would only apply to transferees that have previously been vetted by or are otherwise known to the BMA.

Mr. Speaker, this Bill would enable partnerships registered overseas to deregister in their home jurisdiction and continue their business operations in Bermuda, and vice versa. This change is also consistent with the rules for exempted companies, and would provide greater flexibility for an exempted partnership to relocate its base of operations without having to dissolve the partnership.

Finally, **Mr. Speaker**, the proposed amendments will streamline the statutory and administrative processes by which an exempted partnership can transition into an exempted company, and vice versa, by enabling structural conversions. This change is intended to be an expedient and cost effective statutory formality that ensures continuity of any business entity wishing to change its legal structure.

Mr. Speaker, there are no statutory provisions currently enabling such flexibility in restructuring exempted partnerships or companies. This proposed change would allow these entities to convert to a different and more advantageous structure based on their individual business needs and without having to dissolve the entity from which they wish to convert. Statutory conversions will only apply to partnerships that are registered as both exempted and limited and which have elected to have separate legal personality. This is to ensure that any conversion is amongst

those entities that bare the same fundamental legal characteristics in being separate legal entities with limited liability.

Mr. Speaker, under these new rules, an exempted partnership that converts to an exempted company would, for all purposes of the laws of Bermuda, be the same entity both before and after the conversion. Although the structure and governing laws may change, generally speaking, the rights and privileges, property, obligations and powers of the partnership that has converted, will remain attached to the exempted company to which such partnership has converted.

Mr. Speaker, exempted partnerships are very important to supporting Bermuda's continued growth because partnerships are a common structure used to engage in investment activities across the globe. Statistics from the Registrar of Companies indicates that at December 31st 2014, there were 985 exempted partnerships on the Register.

Mr. Speaker, these and the other proposed amendments we will address today are critical because New York based business referrers have made it clear to Bermuda practitioners that they use Cayman as a preferred domicile for private equity fund formation because their legislation is more innovative, responsive and user friendly. Bermuda must respond by (i) introducing corresponding amendments to restore

equivalence in the offshore partnership product and (ii) introducing amendments which Cayman does not currently have to both improve Bermuda's product and provide a marketing opportunity.

Mr. Speaker, let me close by noting that the Ministry is also actively pursuing changes for local partnership entities that would establish parity amongst all Bermuda entities with respect to conversions and we are currently engaged in proper consultation with all relevant stakeholders. As we continue to modernize and enhance our partnership rules, I look forward to introducing additional Bills to this Honourable House in the near future.

Thank you **Mr. Speaker**.