

# AN UPDATE ON THE CHANGING LEGAL LANDSCAPE IN NEVIS



BY MATTHEW SMITH

Legal Counsel



The first half of 2018 has seen more changes to Nevis company and trust law being enacted than at any point since the mid-90s. Turbulent times for the Jurisdiction in the form of an EU blacklisting have also been quelled with the recent removal of Nevis from the blacklist, and while other jurisdictions find themselves in stormy waters thanks to a UK Parliament ruling on beneficial ownership registers, all remains calm in Nevis.

## [Changes to company and trust law](#)

Changes have recently been made to Nevis trust and company law. A new Limited Liability Company Ordinance ('LLC Ordinance') and a new Nevis Business Corporation Ordinance ('IBC Ordinance')

both came into force on 1 January 2018. A new Trust Ordinance is yet to be gazetted, and will come into force soon after this has taken place.

While the new Ordinances do not exactly usher in a sea change in Nevis trust and company law, there are some developments which will be of interest and of note to our clients and attorneys. In addition, the consolidation of the previous Ordinances and their numerous amendments will make it easier to navigate a course through the law. The new Ordinances also replace the distinctly 20th century notice provisions set out in the old Ordinances by allowing notice to be given by electronic means of communication, including those not yet invented.

The main changes ushered in by both the LLC Ordinance and IBC Ordinance are as follows:

- Company names may now be in languages other than English;
- All LLCs and IBCs must maintain a registered agent which has a physical place of business in Nevis, which is the address of the company's registered office;
- If a company loses its registered agent (for non-payment of renewal fees, for example) and does not appoint a replacement within 30 days, it will be fined US\$500 by the Registrar;
- For a fee, any person may examine and make copies of any documents filed with the Registrar. Our clients are reminded

that we do not file any documents with the Registrar which enable the identification of company officers or their addresses;

- LLCs and IBCs may now create and register charges;
- The amount of the bond which must be paid by any creditor bringing proceedings against an LLC or IBC now falls to be determined by the Nevis High Court – the figure of \$100,000 has been scrapped. This could result in both higher and lower bonds;
- A company is removed from the Register if it fails to pay its renewal fee for one year or if it fails to maintain a registered agent for 60 days;
- LLCs and IBCs may apply for tax residency in Nevis.

In addition, the following changes have also been made by the IBC Ordinance:

- Bearer share certificates may not be distributed and must be retained by a registered agent or approved custodian;
- Provisions requiring minimum numbers of directors to be appointed have been repealed and IBCs are no longer required to have natural persons acting as president, treasurer and secretary;
- LLCs may be converted to IBCs.

While it is now plain sailing for LLCs and IBCs, as the above changes are now well-established, it has not exactly been full steam ahead for the Trust Ordinance, although this is expected to be gazetted imminently. Once in force, the Trust Ordinance will provide for the following

changes to be made:

- A requirement that Nevis trusts must have a registered agent with a physical place of business in Nevis;
- Provisions allowing registration and renewal of a trust to be done by the trust's registered agent, rather than the trustee (although they will often be one and the same).

### EU blacklisting avoided

The Government of St Kitts and Nevis found itself in choppy waters in March 2018 when the country was added to the EU List of Uncooperative Jurisdictions for Tax Purposes (commonly known as 'the EU Blacklist'). However, as has proved the case with many of the other jurisdictions which the EU has taken upon itself to blacklist over the last 6 months, the country's inclusion was short-lived and it was removed just over two months later. EU blacklisting and the threat of sanctions is widely viewed as a shot across the bows which causes affected jurisdictions to further consider the effect of their tax policies and make commitments to change to the EU. It is not yet clear what commitments the SKN Government has made to the EU, or whether all it was required to do was to draw the EU's attention to factors overlooked in its initial assessment. Either way, removal from the EU Blacklist is a welcome development and hopefully heralds a period of smooth sailing ahead.

### Beneficial ownership register – no change for Nevis

In more news of unwarranted meddling from the other side of the Atlantic, the UK Parliament voted in May 2018 to force British Overseas Territories to introduce publicly accessible registers of company beneficial ownership, following the introduction of such registers in a number of European countries. Nevis is not among the British Overseas Territories, which include Bermuda, the British Virgin Islands, the Cayman Islands and Gibraltar, but is anticipated to be one of the main beneficiaries of the decision, as many company owners are expected to move their business interests to jurisdictions, such as Nevis, which respect their right to privacy and do not make details of beneficial owners available to the public.

If you are interested in a Nevis LLC, IBC or trust contact us today  
[enquiries@southpacgroup.com](mailto:enquiries@southpacgroup.com)

