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BARBADOS WATER AUTHORITY

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CHAPTER 274A

BARBADOS WATER AUTHORITY

An Act to provide for the establishment of the Barbados Water Authority.

1980-42.
1982-26.
1987-18.
1988-22.

[8th October, 1980] Commence-
ment.
1980/
153.

1. This Act may be cited as the *Barbados Water Authority Act*. Short title.

PART I

Preliminary

2. In this Act,

Inter-
pretation.

"Authority" means the Barbados Water Authority established by section 4;

"Board" means the Board of Directors of the Authority;

"premises" includes land, whether open or enclosed, whether built on or not, whether public or private and whether or not maintained under any enactment;

"sewage" includes industrial and commercial waste and such other matters or substance as may be prescribed;

"sewerage works" means any works for the collection, transmission, treatment and disposal of sewage or any part of such works;

"water works" means any works for the collection, production, treatment, storage, supply and distribution of water or any part of such works.

3. This Act binds the Crown.

Applica-
tion.

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PART II

*Establishment, Constitution and Functions of
the Authority*

Establishment of Authority.

4. (1) There is established an Authority to be known as the Barbados Water Authority.

Cap. 1.

(2) The Authority is a body corporate to which, subject to this Act, section 21 of the *Interpretation Act* applies.

Functions of Authority.

5. The functions of the Authority are

- (a) to obtain and analyse information and maintain records of the total water resources of Barbados;
- (b) to manage, allocate and monitor the water resources of Barbados with a view to ensuring their best development, utilisation, conservation and protection in the public interest;
- (c) after consultation with such persons as the Minister may direct or otherwise, to prepare and submit to the Minister from time to time proposals for the establishment of efficient, co-ordinated and economical water supply and sewerage systems capable of meeting the need for water and sewerage services throughout Barbados;
- (d) to prepare details of schemes for the development of water resources and for the supply of water and sewerage services and to construct, maintain and operate such schemes;
- (e) to keep under constant review the quality, reliability and availability of water supply and sewerage services and the rates to be charged for these services;
- (f) to control and regulate the production, treatment, storage, transmission, distribution and use of water for public purposes;
- (g) to design, construct, acquire, provide, operate and maintain water works for the purposes of supplying water for public purposes;

- (h) to design, construct, acquire, provide, operate and maintain sewerage works for the purpose of receiving, treating and disposing of sewage;
- (i) to control and regulate the disposal of sewage through sewerage plants that are not part of the Authority's systems;
- (j) to conduct research programmes and prepare statistics for its purposes;
- (k) to disseminate information and advice with respect to the management, collection, production, transmission, treatment, storage, supply and distribution of water and where applicable, sewage;
- (l) to provide such facilities as may be necessary for training and educating its employees and for research;
- (m) to advise the Minister on the matters referred to in paragraph (e) and such other matters relating to water supply and sewerage services as the Minister refers to the Authority;
- (n) to perform such other functions as the Minister assigns or as the Authority considers necessary or expedient for its purposes.

6. (1) The Authority shall unless prevented by drought, other extraordinary event or unavoidable accident provide to the public a supply of potable water for domestic purposes and a potable or otherwise satisfactory supply of water for agricultural, industrial and commercial purposes and for such other purposes as are prescribed.

Supply of water.

(2) For the purposes of subsection (1), the Authority may examine any surface or underground waters in Barbados to determine whether pollution exists and the causes thereof.

(3) The expression "water for domestic purposes" when used in relation to the supply of water does not include

- (a) a supply of water for animals other than domestic animals or for washing motor vehicles that are kept for hire; and
- (b) a supply of water for any profession, trade or business or for use in fountains.

(4) The expression "domestic animals" means animals kept for domestic purposes.

(5) The expression "water for agricultural purposes" when used in relation to the supply of water, does not include water used for the purposes of watering household gardens.

(6) The expression "water for industrial or commercial purposes" when used in relation to the supply of water means water used in connection with any profession, trade, business or industrial or commercial enterprise.

PART III

Administration

Board of Directors.

7. (1) There shall be a Board of Directors of the Authority which is responsible for the policy and general administration of the Authority.

Schedule.

(2) The Schedule applies to the appointment and constitution of the Board and otherwise in relation thereto.

Remuneration of Directors.

8. The Directors of the Board are entitled to such remuneration and allowances as the Minister determines.

Appointment of General Manager.

9. (1) The Board may with the approval of the Minister, appoint a person to be General Manager of the Authority, who shall be an employee of the Authority.

(2) The General Manager is subject to the directions of the Board and is responsible to the Board for the execution and management of the affairs of the Authority.

Power to employ.

10. The Board may not, except with the prior approval of the Minister

(a) assign in respect of any office established by the Authority, a salary in excess of such amount as the Minister determines and signifies in writing to the Board;

- (b) appoint a person to an office established by the Board to which a salary is assigned with the approval of the Minister under paragraph (a); or
- (c) make provisions for the payment of pensions, gratuities or similar benefits to its directors or to officers or employees of the Authority in respect of services to the Authority.

11. (1) Subject to subsection (2), the Minister and the Authority may make appropriate arrangements for the transfer or secondment of any officer in the public service to the service of the Authority or to the public service from the service of the Authority.

Transfer
on second-
ment.

(2) Where an officer is transferred or seconded under this section his rights to any pension, gratuity or other allowance for which he would have been eligible had he remained in the public service or in the service of the Authority, as the case may be, are preserved.

(3) Where a public officer is seconded or temporarily transferred to a post in the Authority from a pensionable office within the meaning of section 2 of the *Pensions Act*, the period of service with the Authority, unless the Governor-General otherwise determines, counts for pension under that Act as if the officer had not been so seconded or temporarily transferred.

Cap. 25.

(4) Where

- (a) a public officer is transferred to any post in the service of the Authority; or
- (b) any employee of the Authority is transferred to a post in the public service,

the *Pensions Act* applies to him as if his service with the Authority were other public service within the meaning of that Act; and the *Pensions Regulations, 1947* apply to him accordingly as if the Authority were a scheduled Government within the meaning of regulation 8(1) of those regulations.

Cap. 25.

(5) This section applies *mutatis mutandis*

Cap. 30.
1987-18.

- (a) to a public employee within the meaning of the *Public Employees Pensions Act* seconded or transferred to a post

Cap. 30.

in the Authority or to an employee of the Authority seconded or transferred to a post as public employee in the public service; and

Cap. 20.

- (b) without affecting subsection (2) of section 6 of the *Casual Employees Pensions Act*, a casual employee within the meaning of that Act who serves with the Authority or an employee of the Authority who serves as a casual employee in the public service.

PART IV

Water and Sewerage Works

Land Acquisition.
Cap. 228.

12. (1) The Crown may acquire land under the *Land Acquisition Act*, for any of the Authority's purposes.

(2) For the purposes of this section "land" includes any estate, term, easement, right of interest in, to, over or affecting land.

Inspection of premises.

13. The Authority, its employees and agents may for the purposes of the Authority, at any time that is reasonable in the circumstances, enter into any premises or into any road and make such surveys, examinations, investigations, inspections or other arrangements as it considers necessary; and subject to section 14(3), the Authority is liable for any damage occasioned thereby.

Rights of Authority.

14. (1) Subject to this section, the Authority, its employees and agents may for any of the purposes of the Authority

- (a) enter upon premises for the purpose of laying pipes or for using the water of any stream, spring or pond thereon;
- (b) divert or impound the water from any stream, spring or pond;
- (c) open and break up the surface soil of any road;
- (d) open and break up any sewer, drain or tunnel in or over any road;
- (e) do such other things as it considers necessary for its purposes.

(2) The Authority is liable to make reasonable compensation to the owner or occupier of premises or road authority, as the case may be, for the use of the water of any stream, spring or pond or for any damage occasioned in the performance of its functions under this section.

(3) Compensation payable under this section and section 12 may be in such amount as is agreed upon between the owner or occupier and the Authority or as is assessed in accordance with the *Land Acquisition Act*.

Cap. 228.

15. (1) Before the Authority performs any function under section 14, it must give notice in writing to the owner or occupier of premises or road authority, as the case may be, of its intention so to do not later than 7 days before the work commences.

Notice of intention.

(2) In the case of an emergency arising, notice must be given as soon as possible after the necessity for the action has arisen or after the action is begun.

16. (1) Premises or roads disturbed by the Authority in the performance of its functions shall be restored to their original condition without unnecessary delay.

Restoration.

(2) The Authority must fence that portion of any road that is broken up and shall provide adequate warning devices of the fact of disrepair.

17. Where the Authority delays in making restoration or fails to fence or provide adequate warning devices as required by section 15, the road authority may carry out the work and recover the reasonable cost of doing so from the Authority.

Delay in effecting restoration.

18. A person who hinders or obstructs an employee or agent of the Authority in the performance of his functions under this Part is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or imprisonment for 12 months.

Offence.

PART V

Finances of Authority

19. (1) The funds of the Authority consist of

(a) such amounts as may be voted for the purpose by Parliament;

Funds of Authority.

(b) such amounts as accrue from the operations of the Authority;

(c) such amounts as the Authority borrows or as become available from sources approved by the Minister, other than those referred to in paragraphs (a) and (b).

(2) Subject to subsection (3), the Board may borrow amounts required by it for meeting any of the obligations or performing any of the functions of the Authority.

(3) The power conferred on the Board under subsection (2) may only be exercised with the approval of the Minister who must stipulate

(a) the amount and source of the loan; and

(b) the terms and conditions on which the loan may be effected,

and the approval may either be general or limited to a particular loan.

Applica-
tion of
funds.

20. The funds of the Authority are to be applied towards the administration of this Act.

Invest-
ment of
funds.

21. The Board may not except with the approval of the Minister

(a) invest the funds of the Authority in securities; or

(b) sell any of the securities so invested.

PART VI

Accounts

Budget.

22. (1) The Board must within such time and in such form as the Minister directs, submit to the Minister for approval, estimates of the income receivable by the Authority, its capital expenditure and the total of its recurrent expenditure for the following financial year.

(2) Supplementary estimates must be submitted to the Minister for approval within such time and in such manner as the Minister directs.

23. The Board may, subject to such conditions as the Minister specifies, apply savings effected under any head of its estimates or surplus over estimated receipts, to meet the deficiencies under another head of the estimates; except that the total expenditure must not exceed that approved by the Minister under section 22. Virement.

24. (1) The Board must keep proper accounts and records relating to the activities of the Authority. Accounts.

(2) The Board must in keeping the accounts of the Authority, comply with the accepted standards of commercial accounting.

(3) The Board must keep separate accounts and records of the separate activities of the Authority.

(4) The accounts of the Authority must be audited annually by an auditor appointed annually by the Board with the approval of the Minister.

(5) The Auditor General may at all reasonable times and must on the direction of the Minister, carry out at any time, an investigation into the accounts of the Authority.

(6) The Directors and employees of the Authority shall allow the Auditor General or auditor appointed under subsection (2), access to the books, documents, cash and securities of the Authority and shall on the request of the auditor or Auditor General, supply him with such information as is within their knowledge, of the activities of the Authority.

(7) A person who fails to comply with subsection (6) is guilty of an offence and liable on summary conviction to a fine of \$500 or imprisonment for 6 months or both.

25. (1) The Board must as soon as practicable after the end of each financial year and in any event not later than 5 months after the end of that year, submit to the Minister a report containing, in respect of the Authority. Annual report.

- (a) a detailed account of its activities during the preceding year; and
 - (b) a statement of its audited accounts.
- (2) Copies of the annual report and audited statement shall be laid in Parliament, published in the *Official Gazette* and made available to the public at a reasonable fee.

PART VII

Miscellaneous

Directions
of Minister.
Schedule.

26. The Minister may, after consultation with the Chairman of the Board appointed under paragraph 1(2) of the Schedule, give to the Board directions of a general or specific nature relating to the policy to be followed by the Board in the performance of the functions of the Authority; and the Board must give effect to the directions.

Defining
of areas
of public
water
supply.

27. (1) The Board may by order define areas that include a source of public water supply for the purposes of subsection (2).

(2) Any person who in an area defined under subsection (1):

- (a) swims or bathes;
- (b) places, deposits, discharges or allows to remain therein any material of any kind that is likely to impair the quality of water;
- (c) does any act or takes water so that the amount of water in the area is unduly diminished,

is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or imprisonment for 12 months or both and to a further fine of \$100 for each day or part thereof during which the offence continues after a conviction is obtained.

Regula-
tions.

28. (1) The Board may, with the approval of the Minister make regulations for the purposes of this Act.

(2) In particular the Board may make regulations:

- (a) regulating and controlling the types, specifications, location, construction, repair, removal or alteration of mains, service pipes, valves, hydrants, stand pipes and all other work in or upon any premises that form part of or are connected with water works;
- (b) regulating and controlling the manner in which the service pipes of users of water are to be connected with the mains of the water works supplying the water;
- (c) regulating and controlling the location, construction: repair, removal or alteration of sewers, drain pipes, man-holes, gully traps and all other works in or upon any premises, that form part of or are connected with sewerage works;
- (d) requiring the connection of building sewers to sewerage works and regulating and controlling the manner in which building sewers are to be connected;
- (e) regulating and controlling the content of sewage entering sewerage works;
- (f) prescribing standards of quality for potable and other water supplies, sewage and industrial waste effluents, receiving streams and water courses;
- (g) prohibiting the discharge of any specified matter into the Authority's sewers;
- (h) prescribing operating standards for water works or sewerage works;
- (i) prescribing measures for ensuring the purity of water supply;
- (j) regulating and controlling the use of water from any source of supply;
- (k) exempting certain classes of persons from the payment of rates and charges for the supply of water or sewerage services;
- (l) establishing a fund to assist certain classes of persons either by loans or grants, subject to any terms that may be specified in the regulations, in constructing in-house installations;

1982-26.

- 1982-26. (m) prescribing the manner of effecting the supply of water or sewerage services to premises and the charges for connecting premises to the Authority's mains;
- 1982-26. (n) prescribing the security to be furnished by persons applying for the supply of water or sewerage services; and
- 1982-26. (o) prescribing the conditions for discontinuing the supply of water or sewerage services.

(3) The Board may, with the approval of the Cabinet, make regulations prescribing

- (a) the rates and charges payable in respect of water supply and sewerage services;
- (b) the special rates and charges payable in respect of water supplied for specified purposes, including water supplied for agricultural, industrial or commercial purposes; and
- (c) if required, the areas of Barbados in which such rates and charges and fees are to be levied.

(4) The Regulations may provide a penalty not exceeding \$1 000 or imprisonment for 12 months for their contravention.

(5) Regulations made under this section are subject to negative resolution.

Rates and charges.

29. In determining the rates and charges to be levied for the services of the Authority, the Board may take into consideration in respect of any relevant period, all of the following matters:

- (a) whether the Authority's revenue derived during the relevant period from all its sources is sufficient to cover the Authority's expenses;
- (b) the interest payments to be made by the Authority;
- (c) the repayments of principal to be made on any loan secured under this Act;
- (d) the amounts that the Board thinks ought to be set aside for the Authority's purposes, including amounts for depreciation and reserve funds;

(e) the uses to which water supplied by the Authority is to be applied.

30. (1) Notwithstanding any agreement between the owner and occupier of premises, the Authority may recover any rates or charges payable in respect of such premises from the owner and occupier jointly or severally.

Owner and occupier liability.

(2) If the occupier, as between himself and the owner of the premises, is not liable to pay the rates or charges, he is entitled to deduct from the rent payable by him any sum paid by him in respect of such rates or charges.

(3) If the owner, as between himself and the occupier of premises is not liable to pay the rates or charges the owner is entitled to recover as if it were additional rent, any sum payable by the occupier but paid by the owner.

(4) Unpaid rates and charges are a lien and charge against the premises in respect of which the debt is incurred.

31. The provisions of the *Underground Water Control Act* relating to the control of underground waters apply *mutatis mutandis* to the control of surface waters.

Extension of application of Cap. 283.

32. (1) All rates paid to and received by the Authority with effect from the 1st April, 1984 shall be deemed to have been lawfully and validly paid and received.

Validation. 1982-22.

(2) Any rebate in rates purported to have been granted by the Authority shall be deemed to have been validly granted as if regulations had been made under section 28(3).

s.7(2)

SCHEDULE

1. (1) Subject to paragraph 3 the Board must consist of not less than 7 nor more than 11 members to be designated Directors and appointed by the Minister by instrument in writing from among persons who have recognised standing, knowledge and experience in matters relating to engineering, law, trade, finance, administration, labour relations, health and agriculture.

(2) The Minister must appoint 2 Directors to be respectively Chairman and Deputy Chairman of the Board.

(3) In the case of the inability of any Director to act, the Minister may appoint a person to act temporarily in the place of that Director.

2. Subject to paragraphs 4, 5 and 6 a Director holds office for a term of 3 years, but that Director is eligible for re-appointment.

3. A person who is appointed to fill a vacancy created by the death, resignation or removal from office of a former Director holds office only for the unexpired term of that former Director.

4. A Director other than the Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Chairman who must forthwith forward it to the Minister; and the Director ceases to be Director of the Board upon the date of the receipt by the Minister of the instrument.

5. The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister and upon the date of the receipt by the Minister of the instrument, ceases to be Chairman or Deputy Chairman, as the case may be and a Director of the Board.

6. A vacancy in the membership of the Board occurs

(a) on the death or resignation of a Director;

(b) on the revocation by the Minister of the appointment of the Director;
or

(c) on the absence of a Director from 3 consecutive meetings of the Board without the Minister's approval.

7. The Chairman must cause to be published in the *Official Gazette* the fact of the appointment, removal, resignation or death of a Director.

8. (1) The seal of the Authority must be kept in the custody of the Chairman, Deputy Chairman, the General Manager or Secretary of the Authority and may be affixed to documents or instruments pursuant to a resolution of the Board.

(2) The seal of the Authority is authenticated by the signature of the Chairman or Deputy Chairman and the General Manager or person performing the functions of Secretary to the Board.

(3) All documents, other than those required by law to be under seal made by the Board and all decisions of the Board, are to be signified under the hand of the Chairman, Deputy Chairman, General Manager or the Secretary.

9. (1) Meetings of the Board must be held at least once every 2 months and at such other times as the Board considers necessary or expedient for the transaction of the business of the Authority.

(2) The Chairman, or in the event of his absence from Barbados or inability to act as such, the Deputy Chairman may at any time call a special meeting of the Board and must call such a meeting within 7 days of the receipt by him of a request for that purpose addressed to him in writing and signed by not less than 3 Directors.

(3) Subject to sub-paragraph (4), the Chairman or in his absence the Deputy Chairman must preside at all meetings of the Board.

(4) In the absence of both the Chairman and the Deputy Chairman, the Directors present and constituting a quorum must elect a Chairman from among their number to preside at the meeting.

(5) Four members of the Board form a quorum.

(6) The decisions of the Board are to be by a majority of votes and in any case in which the voting is equal, the Chairman or other person presiding at the meeting, in addition to having an original vote, has a casting vote.

(7) Minutes of each meeting are to be kept by the Secretary to the Board or by such other officer as the Board appoints for the purpose and are to be confirmed by the Board and signed by the Chairman or Deputy Chairman at the next meeting of the Board.

(8) Certified copies of the confirmed minutes of each meeting are to be forwarded to the Minister.

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10. (1) The Board may

- (a) appoint such committees composed of Directors and other persons not being Directors, for the purpose of assisting or advising the Board on the proper performance of the functions of the Authority; and
- (b) with the approval of the Minister, delegate to the committees such functions as it considers necessary.

(2) A person co-opted, under sub-paragraph (1) is not entitled to vote at any meeting of the Board.

11. Any act done or proceeding taken by the Board under this Act or the regulations, may not be questioned on the ground of

- (a) the existence of any vacancy in the membership of, or of any defect in the constitution of the Board;
- (b) the contravention by a Director of paragraph 12;
- (c) any omission, defect or irregularity that does not affect the merits of the case.

12. (1) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Authority, shall forthwith declare in writing to the Secretary for the information of the Board, the nature and extent of his interest.

(2) A member may not participate in any proceedings or discussions nor vote in respect of any contract in which he is interested, and if he does his vote is not to be counted.

(3) A Director who fails to comply with sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine of \$2 500 or imprisonment for a term of 12 months or both.