

ANTIGUA AND BARBUDA



STATUTORY CORPORATIONS (GENERAL PROVISIONS) BILL, 2016

NO. OF 2016

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AN ACT apply the provisions of this Act to statutory corporations for the purpose of utilizing the available administrative, professional and technical resources within the service of the government, to improve administrative efficiency and for related purposes.

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title and Commencement

(1) This Act may be cited as the Statutory Corporations (General Provisions) Act, 2016.

(2) This Act comes into operation on a date which the Minister shall appoint by notice published in the *Gazette*.

2. Interpretation

In this Act—

“public service” has the same meaning assigned to the term “public service” in section 127 of the Constitution of Antigua and Barbuda;

“employee” means a person holding a post of a managerial, administrative, professional or technical rank in a statutory corporation;

“Minister” refers to the Minister with responsibility for the specific statutory corporation as set out in the Act establishing the statutory corporation;

“remuneration” means pay and allowances; and

“secondment” means the temporary transfer of an employee from his substantive post or office for duty in another post in another statutory corporation or the public

service with a view to returning that employee to his substantive post at a later date; and the expression “seconded” shall be construed accordingly; and

“statutory corporation” includes a corporation established by an Act of Parliament, or a legal entity incorporated or established under the laws of Antigua and Barbuda of which the majority of the shares are subscribed by the Government of Antigua and Barbuda.

3. Application of Act

Despite the provisions of any law to the contrary, this Act applies to all statutory corporations.

4. Appointment and termination of board members

(1) The Minister responsible for a statutory corporation shall, with the approval of the Cabinet, appoint on terms and conditions as may be considered appropriate, fit and proper persons to serve on the board of a statutory corporation.

(2) The names of the members of any board of a statutory corporation shall be published in the *Gazette*.

(3) The Minister responsible for a statutory corporation may, with the approval of Cabinet, terminate the appointment of any member of the board if it is in the best interest of public administration.

(4) A member of a board of a statutory corporation whose appointment is terminated shall, as soon as practicable, be published in the *Gazette*.

(5) Notwithstanding the provisions of any law or agreement to the contrary, the tenure of a member of a board of a statutory corporation shall automatically terminate on the swearing in of a new administration of government.

(6) The provisions of subsection (5) shall not apply to boards established under the Constitution.

5. Appointment and removal of senior officers of statutory corporations

The board of a statutory corporation shall not appoint or remove any person to a managerial position without the approval of the Cabinet.

6. Decisions of the board

(1) The board of a statutory corporation shall obtain the approval of the Minister responsible for that statutory corporation before making any decision—

- (a) in which there is to be a binding agreement between the board and a contracting party the duration of which exceeds 6 months; or
- (b) in which there is a monetary arrangement involving the board or requiring the consent of the board.

(2) A decision of the board involving any matter of local enterprise may be superseded by Cabinet.

(3) Where the board of a statutory corporation is required to grant approval on a matter and fails to do so, or refuses to grant approval without providing reasons which are consistent with the policy of Cabinet, Cabinet may grant the approval upon review of the matter.

7. Secondment of employees of statutory corporations

(1) The Cabinet may, if it considers it in the best interest of public administration, transfer an employee on secondment from one statutory corporation to another statutory corporation, or to the public service.

(2) An employee may be seconded to—

- (a) a post of equivalent or similar rank in another statutory corporation; or
- (b) to a non-established post in the public service.

8. Conditions of secondment

An employee of a statutory corporation who is transferred on secondment shall—

- (a) perform his duties under the terms and conditions prescribed in his instrument of transfer on secondment, or prescribed by the Minister or the

Chairman of the board of the statutory corporation to which he has been seconded;

- (b) be considered as remaining on the establishment of the statutory corporation of which he is employed and shall be eligible for promotion and entitled to all the benefits of that statutory corporation;
- (c) receive a salary not lower than the salary paid to him prior to the transfer on secondment;
- (d) be entitled to higher remuneration if he is seconded to a post with remuneration which is higher than his remuneration prior to the secondment;
- (e) be subject to the laws and regulations governing the statutory corporation or department of the public service to which he has been seconded.

9. Regulations

The Cabinet, may make regulations prescribing all matters which are necessary for carrying out or giving effect to the purposes of this Act.

Passed by the House of Representatives on the _____, 2016. Passed by the Senate on the _____, 2016.

Speaker.

President.

Clerk to the House of Representatives.

Clerk to the Senate.

EXPLANATORY MEMORANDUM

The Statutory Corporations Bill seeks to regulate the administration of statutory corporations in Antigua and Barbuda, and in so doing make the best use of the available resources.

Clause 3 specifies that the Act applies to all statutory corporations in Antigua and Barbuda.

Clause 4 states that the members of the various boards may be appointed and terminated by the Minister under whose portfolio the statutory corporation falls, after obtaining the approval of the Cabinet.

Clause 5 stipulates that senior officers of any statutory corporation may only be appointed after the board has received the approval of the Cabinet.

Clause 6 directs that certain decisions of the board of a statutory corporation can only be executed with the approval of the Minister.

Clause 7 states that employees of statutory corporations may be seconded to other statutory corporations, or to the public service.

Clause 8 outlines the conditions associated with the secondment of any employee of a statutory corporation.

Clause 9 gives the Cabinet the power to make regulations for the operation of the Act.

***Hon. Steadroy C. O Benjamin
Minister of Legal Affairs,
Public Safety and Labour***

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