



The Official Gazette

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VOL. CLV No. 131

Part A

BRIDGETOWN, BARBADOS, 14TH DECEMBER, 2020

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Act 2020-30: Central Bank of Barbados Act, 2020.

S.I. 2020 No. 83: Duties, Taxes and Other Payments (Exemption)
(Innotech Services Limited) Order, 2020.

Resolution No. 31/2020

Ref. No: 91/13-4 Vol. III

PARLIAMENT

RESOLVED that Parliament in accordance with section 5 of the *Crown Lands (Vesting and Disposal) Act*, Cap. 225 approve the lease to The Maria Holder Memorial Trust of certain parcels of land, the properties of the Crown, and more particularly described in the *First* and *Second Schedules* to this Resolution on the terms and conditions set out in the *Third Schedule* to this Resolution for the purpose of the construction of nursery schools.

APPROVED by the House of Assembly this 27th day of October, Two thousand and twenty.

A. HOLDER
Speaker.

APPROVED by the Senate this 9th day of December, Two thousand and twenty.

R. R. FARLEY
President.

I assent
S. MASON
Governor-General
2020-12-11

FIRST SCHEDULE

ALL THAT certain piece or parcel of land, the property of the Crown, situate at Sayes Court in the parish of Christ Church in this Island containing by admeasurement 6270.3 square metres (inclusive of a road reserve of 230.5 square metres) or thereabouts Abutting and Bounding on lands now or formerly of the Barbados Government on other lands now or formerly of the Barbados Government (Skills Training) on two sides and on a public road known as Highway U leading to Oistins in one direction and to Ealing Grove in the other direction or however else the same may abut and bound as delineated and shown on a Plan certified on the 2nd day of April, 2019 by Michael L. Banfield, Land Surveyor and recorded in the Lands and Surveys Department on the 11th day of April, 2019 as Plan No. 446/2019.

Resolution No. 31/2020 – *Cont'd*

SECOND SCHEDULE

ALL THAT certain piece or parcel of land, the property of the Crown, situate at Holders Hill and Durants Village in the parish of Saint James in this Island containing by admeasurement 5785.3 square metres (inclusive of 46.7 square metres in sidewalk) or thereabouts Abutting and Bounding on a private road (which is on lands now or formerly of Wilfred Harewood and on lands now or formerly of Dennis Worrell) on lands now or formerly of Cecil Browne on lands now or formerly of James Wilson on lands now or formerly of Samuel Brathwaite on lands now or formerly of Lisetta Vaughn on lands now or formerly of Mary Allamby on lands now or formerly of Stevenson Headley on lands now or formerly of George Bellamy on lands now or formerly of Victor Johnson on lands now or formerly of Helena Harewood on a public road known as Durants Village Road leading to Holders Hill on lands now or formerly of Fitz Blenman on lands now or formerly of Charles Coward (Lot 2) on a car park on a driveway on lands now or formerly of Owen Coward (Lot 1) and on a sidewalk which is on a public road known as Holders Hill leading to Highway #1 in one direction and to Thorpes in the other direction or however else the same may abut and bound as delineated and shown on a Plan certified on the 9th day of July, 2019 by Samuel N. Taylor, Land Surveyor and recorded in the Lands and Surveys Department on the 15th day of July, 2019 as Plan No. 887/2019.

THIRD SCHEDULE

Terms and Conditions

- (a) The lease of 2 parcels of Crown land at Sayes Court, in the parish of Christ Church and Holders Hill and Durants Village in the parish of Saint James containing by admeasurement 6,720.3 square metres and 5,785.3 square metres respectively to the Maria Holder Memorial Trust (the Trust) under the following terms and conditions:
 - (i) each lease to be for a term of 30 years;
 - (ii) the rent for each site shall be a one-time payment of \$200.00 plus Value Added Tax, payable in advance;
 - (iii) the premises are being leased for the purpose of the construction of nursery schools;
 - (iv) the lands, together with all improvements shall be handed over and licensed to the Crown for operation by the Ministry responsible for Education and Technological and Vocational Training as nursery schools;
 - (v) the lessee shall be responsible for the costs of development of the site;

Resolution No. 31/2020 – *Cont'd*

- (vi) the lessee shall comply with the requirements of all planning, building, safety and health and related legislation throughout the term;
 - (vii) the lessee shall indemnify the Crown from all actions arising from its use of the premises;
 - (viii) the lessee shall not assign, mortgage, demise, underlet or otherwise part with possession of the demised premises or any part thereof without the lessor's consent;
 - (ix) the lessee reserves the right to surrender its lease with improvements thereon at any time by giving 8 months' notice;
 - (x) the lease shall terminate on the transfer of the Trust's interests in the developed nursery schools to the Crown;
 - (xi) the premises with improvements thereon shall revert to the Crown for nil consideration at the end of the lease or its sooner determination; and
 - (xii) the lessee shall not use, permit or suffer the demised premises or any part thereof to be used for any purpose other than a nursery school.
- (b) The licences of the land from the Trust shall be to the Crown for the purpose of allowing the Ministry responsible for Education and Technological and Vocational Training to operate nursery schools developed by The Maria Holder Memorial Trust on the following terms and conditions:
- (i) the licence to be for a term of 30 years less one day;
 - (ii) the licence fee shall be \$1 500.00 plus Value Added Tax per annum per site, payable annually in advance;
 - (iii) the Crown as licensee shall be responsible for keeping the demised premises insured for their full re-instatement value under a comprehensive policy in the joint names of the Crown and the Trust;
 - (iv) the Crown as licensee shall keep the interior and exterior of the premises, inclusive of drains, sanitary and water apparatus, gates and fences in good and tenable repair;

Resolution No. 31/2020 – *Concl'd*

- (v) the Trust shall be responsible for the repair of any latent defect in the structure of the premises or repairs arising therefrom;
- (vi) the Crown as licensee shall not carry out any additions or extensions to the demised premises without the approval of the Trust;
- (vii) the Crown as licensee shall use the demised premises as nursery schools and for ancillary education purposes, unless written consent by the Trust is given to do otherwise;
- (viii) the Crown as licensee shall not share nor part with possession of the demised premises or any part thereof;
- (ix) the Crown as licensee shall permit the Trust with 2 days' written notice, to inspect the premises, and thereafter giving the licensee written notice specifying any repairs, maintenance and replacement necessary to be done and require the licensee to execute said repairs within 21 days;
- (x) if the licensee is unable to execute the repairs within 21 days as set out in paragraph (ix), the Trust will execute the repairs and the costs thereof are to be treated as a debt due to the Trust that is to be settled within 2 months of the date of the Trust's invoice for the work undertaken;
- (xi) the Crown as licensee through the occupying agency shall be responsible for maintaining Public Liability Insurance of not less than \$2 000 000.00 per site, subject to an annual review by the Trust's Brokers and indemnify the Trust in the event of any liability;
- (xii) the Crown, through the occupying agency shall be responsible for all outgoings arising from the use of the sites as nursery schools;
- (xiii) the Crown is bound to give 8 months' notice should it wish to terminate the licence of any nursery school site before its expiry date; and
- (xiv) the Crown, through the occupying agency shall be responsible for the maintenance and upkeep of the premises.

Resolution No. 32/2020

Ref. No: 0301/334/1 Vol. 1

PARLIAMENT

RESOLVED that Parliament in accordance with section 5 of the *Land Acquisition Act*, Cap. 228 approve the compulsory acquisition by the Crown of the parcels of land situate at Gemswick in the parish of Saint Philip in this Island and more particularly described in the *Schedules* hereto for the public purpose, namely enhancing public safety and national security.

APPROVED by the House of Assembly this 17th day of November, Two thousand and Twenty.

A. HOLDER
Speaker.

APPROVED by the Senate this 9th day of December, Two thousand and Twenty.

R. R. FARLEY
President.

I assent
S. MASON
Governor-General
2020-12-11

FIRST SCHEDULE

ALL THAT land the property of Balmoral Investments Limited situate at Gemswick in the parish of Saint Philip in this Island containing by admeasurement 13.110 hectares or thereabouts (inclusive of 0.003 hectares (25.3 square metres) in road) Abutting and Bounding on lands now or formerly of The Maria Holder Memorial Trust (The Maria Holder Nursery School Olbury) on the Lot 15 on lands now or late of Clairmonte Yarde (Lot 14) on lands now or late of Henderson Rowe (Lot 10) on lands now or late of Susan Patterson (Lot 9) on lands now or late of Lucy Chalon (Lot 8) on lands now or late of Albertine Callender (Lot 7) on lands now or late of Osbourne Brathwaite (Lot 6) on lands now or late of Ermento Callender (Lot 5) on lands now or late of Myrtle Callender (Lot 4) on lands now or late of Gregory Jackman (Lot 3) on the Lot 2 on lands now or late of Eric Hinds (Lot 1) on a road which leads to Seaview Drive in one direction and to Aerowoods Development in the other direction on (Lot 6) on lands now or formerly of Massy Properties (Barbados) Ltd. (Drainage Reserve) on lands now or late of Edmund Parris (Lot 8) on lands now or formerly of Grantley Adams International Airport

Resolution No. 32/2020 – *Cont'd*

Inc. (Grantley Adams International Airport) on a road on lands now or late of Janis Clarke (Lot 20) on lands now or late of Rhonda Rollins (Lot 19) on lands now or late of Marcus Brathwaite (Lot 18) on lands now or late of Uriel Clarke (Lot 17) on lands now or late of Albert Mapp (Lot 16) on lands now or late of Basil Clarke (Lot 21) on a public road known as Highway N which leads to Grantley Adams International Airport in one direction and to St. Martins in the other direction or however else the same may abut and bound as shown and delineated on a Plan certified on the 7th day of July, 2020 by Samuel N. Taylor, Land Surveyor and recorded in the Lands and Surveys Department on the 23rd day of July, 2020 as Plan No. 791/2020.

SECOND SCHEDULE

ALL THAT land the property of Balmoral Investments Limited situate at Gemswick in the parish of Saint Philip in this Island containing by admeasurement 5.667 hectares or thereabouts (inclusive of 0.171 hectares in Right of Way) Abutting and Bounding on lands now or formerly of other lands of Massy Properties (Barbados) Ltd. on lands now or late of Angela Howard (Lot A1) on lands now or late of Mary Forde (Lot A2) on lands now or formerly of Odrict Greaves on lands now or formerly of Milton Brathwaite on lands now or formerly of Paragon Holdings Ltd. on lands now or Grantley Adams International Airport Inc. (Grantley Adams International Airport) on lands now or late of Paula Gall (Lot 13) on a road which leads to Rock Hall and on lands now or late of Sasha Grant (Lot 14) or however else the same may abut and bound as shown and delineated on a Plan certified on the 7th day of July, 2020 by Samuel N. Taylor, Land Surveyor and recorded in the Land and Surveys Department on the 23rd day of July, 2020 as Plan No. 791/2020.



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Bill re Companies (Amendment) Act, 2020.

Act 2020-30: Central Bank of Barbados Act, 2020.

S.I. 2020 No. 83: Duties, Taxes and Other Payments (Exemption)
(Innotech Services Limited) Order, 2020.

BARBADOS HUMANITARIAN SERVICE AWARD ACT, 2020

OBJECTS AND REASONS

This Bill would provide for the conferment of an award, to be known as the “Barbados Humanitarian Service Award”, on persons who are deserving of recognition for their meritorious humanitarian service to Barbados and for related matters.

BARBADOS HUMANITARIAN SERVICE AWARD ACT, 2020

Arrangement of Sections

1. Short title
2. Interpretation
3. Establishment of Award
4. Conferment of Award
5. Eligibility for conferment of Award
6. Publication
7. Insignia
8. Regulations

BARBADOS

A Bill entitled

An Act to provide for the conferment of an award, to be known as the “Barbados Humanitarian Service Award”, on persons who are deserving of recognition for their meritorious humanitarian service to Barbados and for related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Barbados Humanitarian Service Award Act, 2020*.

Interpretation

2. In this Act, “Award” means the award established by section 3.

Establishment of Award

3. There is established an award entitled the “Barbados Humanitarian Service Award”.

Conferment of Award

- 4.(1) Subject to subsection (3), the Governor-General may by instrument under the Public Seal confer the Award upon a person referred to in section 5.
- (2) The power conferred on the Governor-General by subsection (1), shall be exercised by him on the advice of the Prime Minister.
- (3) The conferment of the Award shall take effect from the date of the affixing of the Public Seal or from such other date as may be specified in the instrument.
- (4) The Award may be conferred on an eligible person at a time determined by the Cabinet of Barbados.

Eligibility for conferment of Award

5. A person who renders outstanding humanitarian service to Barbados is eligible for the conferment of the Award.

Publication

6. The Prime Minister shall by order published in the *Official Gazette* publish the names of those persons upon whom the “Barbados Humanitarian Service Award” is conferred.

Insignia

7. A person referred to in section 5 upon whom the Award has been conferred is entitled to wear as a decoration the prescribed insignia of the Barbados Humanitarian Service Award.

Regulations

- 8.(1) The Governor-General may make regulations providing for
- (a) the insignia of the Award;
 - (b) investitures in relation to the Award;
 - (c) the wearing of insignia issued in relation to the Award;
 - (d) the prevention of abuses in the wearing of insignia issued in relation to the Award; and
 - (e) generally giving effect to the provisions of this Act.
- (2) All regulations made under this section shall be subject to affirmative resolution.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2020.

President

PARLIAMENT

**SECOND SESSION OF
2018-2023**

BILL

cited as the Barbados Humanitarian
Service Award Act, 2020

Government Printing Department

ANTI-CORRUPTION AND ANTI-TERRORISM AGENCY ACT, 2020

OBJECTS AND REASONS

This Bill would provide for the establishment of an Anti-Corruption and Anti-Terrorism Agency to investigate acts of corruption and terrorism and would provide for related matters.

ANTI-CORRUPTION AND ANTI-TERRORISM AGENCY ACT, 2020

Arrangement of Sections

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BARBADOS

A Bill entitled

An Act to provide for the establishment of an Anti-Corruption and Anti-Terrorism Agency to investigate acts of corruption and terrorism and to provide for related matters.

ENACTED by the Parliament of Barbados as follows:

PART 1

Preliminary

Short title

1. This Act may be cited as the *Anti-Corruption and Anti-Terrorism Agency Act, 2020*.

Definitions

2. In this Act,

“Agency” means the Anti-Corruption and Anti-Terrorism Agency established by section 4;

“annual plan” means the plan referred to in section 27;

“Committee” means the Anti-Corruption and Anti-Terrorism Agency Oversight Committee established by section 34;

“complaint” means a complaint made under section 37;

“corruption” means an offence under any enactment relating to corruption;

“Director-General” means the Director-General of the Agency appointed under section 14;

“document” includes

(a) anything on which there is writing;

(b) a map, plan, drawing or photograph; and

(c) any information recorded or stored by means of any tape recorder, computer or other device, and any material subsequently derived from the information so recorded or stored;

“foreign intelligence department” means the body in a country, other than Barbados, which performs in that country, functions similar to those of the Agency;

“functions” includes powers and duties;

“intelligence officer” means an officer who is involved in the collection, compilation, analysis, processing and dissemination of information relevant to activities to combat corruption and terrorism;

“law enforcement agency” means a person or authority with functions relating to the investigation and prosecution of offences of corruption and terrorism and includes a foreign intelligence department;

“officer” means an employee or agent of the Agency;

“positive vetting” means an investigation of the background and character of an applicant for a post in the public service where that post involves access to secret information;

“strategic partners” means

- (a) the Director of Public Prosecutions;
- (b) the Chief of Staff, Barbados Defence Force;
- (c) the Commissioner of Police;
- (d) the Revenue Commissioner;
- (e) the Comptroller of Customs;
- (f) the Chief Immigration Officer;
- (g) the Director of the Financial Intelligence Unit;
- (h) the Chairman of the Integrity Commission;
- (i) the Registrar of the Supreme Court; and
- (j) the Superintendent of Prisons; and

“terrorism” means any offence under the *Anti-Terrorism and Counter-Proliferation of Weapons of Mass Destruction Act*, Cap. 158.

PART II

Anti- Corruption and Anti-Terrorism Agency

Principal objects of Act

3. The principal objects of this Act are to
- (a) establish an Agency which will have sufficient operational independence and autonomy and be dedicated to combating corruption and terrorism in collaboration with strategic partners and law enforcement agencies, whether within or outside Barbados;
 - (b) promote and strengthen measures for the prevention, detection, investigation and prosecution of corruption and terrorism;
 - (c) enhance public confidence so that perpetrators of corruption and terrorism will be brought to justice without undue delay; and
 - (d) promote and protect public safety and national security.

Establishment of the Agency

- 4.(1) The Anti-Corruption and Anti-Terrorism Agency is hereby established.
- (2) The Agency shall be a body corporate to which section 21 of the *Interpretation Act*, Cap. 1 shall apply.

Functions of the Agency

5. Subject to the provisions of this Act, the functions of the Agency shall be to
- (a) carry out efficient and effective activities to combat corruption and terrorism whether by itself or in collaboration with strategic partners and law enforcement agencies, whether within or outside Barbados;

- (b) implement measures for the prevention, detection, reduction and mitigation of the consequences of corruption and terrorism;
- (c) receive complaints in relation to alleged or suspected acts involving corruption and terrorism;
- (d) investigate alleged or suspected acts involving corruption and terrorism;
- (e) prosecute offences relating to corruption and terrorism;
- (f) gather, store, process, analyse and disseminate information that is relevant to activities to combat corruption and terrorism;
- (g) collaborate, co-operate, and co-ordinate intelligence and other activities with any other person or authority, whether within or outside Barbados, in order to prevent, detect, reduce or investigate corruption and terrorism; and
- (h) carry out such other functions as may be conferred on the Agency by this Act or any other enactment.

Investigation and prosecution

6. The same individual shall not perform the functions of investigation and prosecution under this Act.

Acceptance of responsibility for investigation by Agency

7. Where, either before or after the commencement of an investigation, the Commissioner of Police or the head of a law enforcement agency, other than the Director-General, forms a view that the investigation should be conducted by the Agency, the Commissioner of Police or the head of that law enforcement agency may refer the investigation to the Agency and the Director-General shall determine whether to accept responsibility for the investigation and inform the Commissioner of Police or the head of the law enforcement agency, as the case may be, of his decision.

Agency's investigation powers

8.(1) The Agency may investigate any corruption and terrorism or any suspected offence which appears to the Agency on reasonable grounds to involve corruption or terrorism or to relate thereto where it appears to the Director-General

- (a) that the crime
 - (i) is transnational in nature; or
 - (ii) poses a significant threat to national security or public safety; or
- (b) that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of a person.

(2) The Director-General may, by notice in writing, require the person under investigation or any other person to produce at such place as may be specified in the notice

- (a) any specified documents; or
- (b) any documents of a specified description,

which appear to the Director-General to relate to any matter relevant to the investigation.

(3) Where documents referred to in subsection (2)

- (a) are produced, the Director-General may
 - (i) take copies or extracts from them; and
 - (ii) require the person who produced them to provide an explanation of any of them; or
- (b) are not produced, the Director-General may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

(4) A person who, without reasonable excuse, fails to comply with a requirement imposed on him under this section is guilty of an offence and liable on summary conviction to a fine of \$25 000 or to imprisonment for a term of 2 years or to both.

Search warrant: documents

9.(1) Where a magistrate is satisfied by information on oath, in relation to any documents, that there are reasonable grounds to believe

(a) that

- (i) a person has failed to comply with an obligation under this section to produce such documents;
- (ii) it is not practicable to serve a notice on the person under investigation; or
- (iii) the service of such a notice in relation to the documents would seriously prejudice the investigation; and

(b) that the documents are on premises specified in the information,

the magistrate may issue a warrant authorising any constable to enter any premises specified in the warrant, using such force as may be necessary for the purpose, and search such premises, and take possession of any documents appearing to be documents of the description specified in the information, or to take in relation to any documents so appearing, any other steps necessary for preserving, and for preventing interference with, the documents.

(2) Unless it is not practicable in the circumstances, a constable executing a warrant issued under subsection (1) shall be accompanied by an appropriate person.

(3) An appropriate person who accompanies a constable may, under supervision of the constable, exercise the powers conferred on the constable under subsection (1).

- (4) In this section “appropriate person” means
- (a) a member of the staff of the Agency; or
 - (b) some other person, not being a member of the staff of the Agency, authorised by the Director-General to accompany the constable.
- (5) A statement made by a person in response to a requirement imposed by virtue of this section may only be used in evidence against him
- (a) on a prosecution for an offence under subsection (14); or
 - (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.
- (6) The statement referred to in subsection (5) may not be used against that person by virtue of paragraph (b) of that subsection, unless
- (a) evidence relating to it is adduced; or
 - (b) a question relating to it is asked,
- by or on behalf of that person in the proceedings arising out of the prosecution.
- (7) Any evidence obtained by the Director-General for use by a foreign intelligence department shall be given to the Minister responsible for Foreign Affairs for forwarding to the foreign intelligence department.
- (8) Where any evidence obtained by the Director-General for use by a foreign intelligence department consists of
- (a) a document, the original or a copy shall be forwarded; and
 - (b) any other article, the article or a description, photograph or other representation of it, shall be forwarded,
- as may be necessary in order to comply with the request of the foreign intelligence department.
- (9) The references in subsections (7) and (8) to evidence obtained by the Director-General include references to evidence obtained by him by virtue of the

exercise by a constable, or by an appropriate person, in the course of a search authorised by a warrant issued under subsection (1).

(10) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court, except that an attorney-at-law may be required to furnish the name and address of his client.

(11) A person shall not under this section be required to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business, unless the person to whom the obligation of confidence is owed consents to the disclosure or production.

(12) Without prejudice to the power of the Director-General to assign functions to members of the staff of the Agency, the Director-General may authorise any competent investigator, other than a constable, who is not a member of the Agency to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.

(13) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (12) unless he has, if required to do so, produced evidence of his authority.

(14) A person who, in purported compliance with a requirement under this section,

- (a) makes a statement which he knows to be false or misleading in a material particular; or
- (b) recklessly makes a statement which is false or misleading in a material particular,

is guilty of an offence.

- (15) A person guilty of an offence under subsection (14) is liable
- (a) summary conviction, to a fine of \$50 000 or to imprisonment for a term of 3 years or to both; and
 - (b) on conviction on indictment, to a fine of \$150 000 or to imprisonment for a term of 5 years or to both.
- (16) Where a person
- (a) knows or suspects that an investigation by the Agency or by a law enforcement agency into corruption or terrorism is being or is likely to be carried out; and
 - (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,

he is guilty of an offence, unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.

- (17) A person guilty of an offence under subsection (16) is liable on conviction on indictment, to a fine of \$250 000 or to imprisonment for a term of 10 years or to both.

**Application of the *Proceeds and Instrumentalities of Crime Act, 2019*
(Act 2019-17)**

10. The *Proceeds and Instrumentalities of Crime Act, 2019* (Act 2019-17) shall apply to this Act with such modifications and adaptations as are necessary to give effect to this Act; and references in that Act to

- (a) “prosecutor” and “senior police officer” shall be construed as references to the “Director-General”;
- (b) “Recovery Agency” shall be construed as references to “the Agency”;
and

- (c) “money laundering” shall be construed as references to “corruption” or “terrorism” as the case may require.

Co-operation with other bodies

- 11.(1) A law enforcement agency in Barbados shall take reasonable steps to cooperate with the Agency in the exercise of its functions under this Act.
- (2) Subject to subsection (3), the Agency shall take reasonable steps to cooperate with any strategic partner or law enforcement agency in the exercise of any function conferred on the strategic partner or law enforcement agency under this Act or any other enactment.
- (3) Where, after consultation with the Director-General, it appears to the Minister that it is appropriate for the Agency to provide specified assistance to another law enforcement agency, the Minister may direct the Director-General to provide specified assistance to that law enforcement agency and the Director-General shall take reasonable steps to comply with the directions of the Minister.

Agency subject to oversight by Committee

- 12.(1) The Agency shall be subject to the authority and directions of the Committee.
- (2) The Committee shall have oversight of the Agency.

Ministerial direction

- 13.(1) Subject to the provisions of this Act, the Minister may, after consultation with the Director-General, give to the Director-General such policy directions relating to the exercise of his functions as appear to the Minister to be in the public interest, and the Director-General shall give effect to those directions.
- (2) Subject to subsection (3), the Minister shall approve the strategic plan for the Agency.

(3) In approving the strategic plan for the Agency, the Minister shall consult

- (a) the Committee;
- (b) the Director-General;
- (c) the strategic partners; and
- (d) any other person whom the Minister considers it appropriate to consult.

PART III

Administration

Appointment of Director-General

14.(1) The Director-General shall administer the Agency.

(2) The Director-General shall be appointed by the Governor-General by instrument in writing on the recommendation of the Prime Minister after consultation with the Leader of the Opposition.

(3) The Director-General shall be appointed for a period of three years and shall be eligible for reappointment.

Disqualification for appointment as Director-General

15.(1) Subject to section 22, a person is not qualified for appointment as Director-General if the person

- (a) is a member of
 - (i) the Senate; or
 - (ii) the House of Assembly;
- (b) is bankrupt; or

- (c) has been convicted of an offence involving dishonesty or moral turpitude.
- (2) A Director-General shall vacate his office if any circumstance arises that, if he were not Director-General, would, by virtue of subsection (1), cause him to be disqualified for appointment as Director-General.

Functions of the Director-General

- 16.(1) The Director-General
 - (a) is responsible for the day to day administration and operation of the Agency and shall have the sole operational command and superintendence of the Agency;
 - (b) shall determine the policy priorities of the Agency in accordance with the strategic plan and the annual plan;
 - (c) shall determine the operational priorities for the Agency and those priorities may relate to
 - (i) matters to which current strategic priorities also relate; or
 - (ii) other similar matters;
 - (d) shall establish and implement practices for internal disciplinary procedures.
- (2) The Director-General shall consider ,
 - (a) operational priorities referred to in subsection (1)(c);
 - (b) the strategic priorities referred to in sub-paragraph (i) of subsection (1)(c); and
 - (c) the strategic plan.
- (3) The Director-General may decide
 - (a) which operations are to be conducted by the Agency; and
 - (b) how the operations are to be conducted.

(4) When executing duties under this Act, the Director-General and any officer designated by him shall, for that limited purpose only, be vested with the powers, privileges and immunities of a member of the Royal Barbados Police Force.

(5) The Director-General shall not designate an officer under subsection (4), unless the Director-General is satisfied that the officer

- (a) is capable of effectively exercising the powers; and
- (b) has received adequate training in respect of the exercise of those powers.

(6) The Director-General may modify or withdraw a designation of an officer by giving notice in writing of the modification or withdrawal to the officer.

(7) For the purposes of the exercise of the powers conferred under subsection (4) on the Director-General or an officer designated by him, the Director-General may make arrangements for the Agency to use premises or facilities used in connection with those functions.

Delegation of functions

17.(1) The Director-General may delegate, in writing, the exercise of any function conferred upon him by or under this Act, other than the power of delegation, to such officer of the Agency, hereinafter called "the delegate", as he thinks fit.

(2) A delegation under subsection (1) shall not affect

- (a) the exercise of the delegated function by the Director-General; or
- (b) the responsibility of the Director-General in relation to acts of the delegate carried out in lawful exercise of the delegated function.

(3) Any act done by or in relation to the delegate pursuant to the delegated function shall have the same effect as if it were done by or in relation to the Director-General.

(4) For the avoidance of doubt, a delegation under subsection (1) shall, in addition to conferring authority to exercise the delegated function, also subject the delegate to the same obligations as would apply under this Act to the Director-General's exercise of such function, and accordingly, the delegate shall be liable for any wrongful act or omission of the delegate occurring in the exercise of that authority.

(5) The Director-General may, in writing, revoke a delegation made under subsection (1).

Removal of Director-General

18. The Director-General may be removed from office

- (a) for inability to discharge the functions of the office, whether arising from infirmity of body or mind;
- (b) for incompetence;
- (c) for misconduct;
- (d) if he becomes bankrupt;
- (e) if he is convicted of any offence involving dishonesty or moral turpitude;
- (f) if he fails,
 - (i) without reasonable excuse, to carry out any function conferred or imposed on him under this Act; or
 - (ii) breaches his contract of employment.

Resignation

19. The Director-General may at any time resign his office by notice in writing addressed to the Governor-General and transmitted through the Minister, and the resignation shall take effect from the date on which the Minister receives the instrument or the date specified in the instrument, whichever is earlier.

Filling of vacancy in office of Director-General

20.(1) Where a vacancy arises in the office of Director-General, a suitable person may be designated to act in that office during such vacancy until an appointment is made.

(2) Where, by reason of illness, absence from Barbados or other sufficient cause, the Director-General is unable to perform his functions under this Act, the Governor-General shall, on the recommendation of the Prime Minister after consultation with the Leader of the Opposition, appoint a person to act in the office of Director-General.

Appointment and remuneration of staff and persons contracted *ad hoc*

21.(1) The Director-General, shall appoint such staff as may be necessary for the efficient operation of the Agency.

(2) Staff appointed under subsection (1) shall include

- (a) investigating officers, who shall investigate, in the manner specified by or under this Act, any allegation that involves corruption or terrorism; and
- (b) prosecuting officers, who shall, subject to the powers conferred on the Director of Public Prosecutions by section 79 of the *Constitution*, institute, undertake and have the conduct of prosecutions in respect of corruption and terrorism.

(3) The Director-General may contract *ad hoc* such persons as may be necessary to provide technical services as the Agency may require from time to time.

(4) Except as provided in subsection (2)(b), any prosecuting officer appointed thereunder, shall not be subject to the direction or control of any person in relation to the conduct of his prosecutorial functions under this Act.

- (5) No salary in excess of the prescribed rate of salary shall be assigned to any post within the Agency without the prior approval of the Minister.
- (6) No appointment shall be made to any post within the Agency to which a salary in excess of the prescribed rate of salary is assigned without the prior approval of the Minister.
- (7) [For the purposes of subsections (5) and (6), the "prescribed rate" means such rate as the Minister responsible for the Public Service may, by order, prescribe.]
- (8) The Governor General may, subject to such conditions as he may impose, approve the appointment of any public officer to any office within the Agency and a public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Crown.
- (9) The Agency may, with the approval of the Minister,
 - (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
 - (b) make regulations, for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits relating to staff of the Agency, and

such arrangements or regulations may include provisions for the grant of benefits to the dependants of the staff.

Procedures relating to appointment

22.(1) The Director-General, officers of the Agency and members of the Committee shall be subject to positive vetting procedures before they are appointed.

- (2) A person shall not be eligible to be appointed to the office of Director-General or any other office under section 21 unless the person
- (a) has received adequate training in respect of the performance of the duties of the office;
 - (b) is capable of effectively performing the duties of the office; and
 - (c) is competent, diligent, of integrity, of sound judgment and impartial.

Oaths

23.(1) The Director-General shall, before assuming office, take and subscribe, before the Governor-General, the oath of office and oath of secrecy set out in Form 1 and Form 2, respectively, of the *First Schedule*.

(2) Every person, other than the Director-General having an official duty under this Act or being employed or otherwise connected with the administration of this Act shall, before assuming duty, take and subscribe before the Director-General the oath of office and oath of secrecy set out in Form 3 and Form 4, respectively of the *First Schedule*.

(3) Every person who had an official duty under this Act or was employed in the administration of this Act shall maintain, after such duty or employment is terminated, the confidentiality of all information or documents relating to the functions of the Agency.

(4) Any person to whom information is communicated pursuant to this Act shall regard and deal with the information as secret and confidential.

(5) Every person referred to in subsection (1), (2) or (3), having possession of or control over any information or document and who at any time communicates or attempts to communicate any such information or any thing contained in the document to any person, otherwise than pursuant to

- (a) his functions under this Act or any other enactment;
- (b) a court order; or

- (c) an arrangement entered into for the exchange of information under section 33,

is guilty of an offence.

- (6) For the purposes of this section, "information" includes information from which a person can be identified and which is acquired by the Agency in the course of carrying out its functions.

PART IV

Financial Provisions, Plans and Reports

Funds and resources of the Agency

- 24. The Funds and the resources of the Agency shall consist of such funds as may be appropriated for the purposes of the Agency by Parliament.

Accounts and audit

- 25.(1) The Agency shall keep proper records of its receipts, expenditure, assets and liabilities and its accounts shall be audited annually by an auditor appointed by the Director-General with the approval of the Minister and a statement of accounts so audited shall form part of the annual report submitted pursuant to section 29.

- (2) The Director-General shall, at such time within each year as the Minister may direct, submit to the Minister a statement of accounts of the Agency in accordance with the provisions of subsection (1).

Expenses and remuneration

- 26. The expenses of the Agency, including the remuneration of the Director-General, officers and members of the Committee, shall be paid out of the funds of the Agency.

Annual plan

27.(1) Before the beginning of each financial year, the Director-General shall submit an annual plan to the Minister setting out how the Director-General intends that the functions of the Agency are to be exercised during that year.

(2) The annual plan for a financial year shall include

- (a)* a statement of the strategic priorities for the Agency;
- (b)* a statement of the operational priorities for the Agency and in relation to each of the strategic and operational priorities, an explanation of how the Director-General intends that effect may be given to the priority;
- (c)* ways in which the Agency is to operate, including
 - (i)* arrangements for publishing information about the exercise of the functions of the Agency and other matters relating to the Agency, including requirements about the type of information that should not be published; and
 - (ii)* ways in which the Agency is to be administered, including with respect to governance and finance.

Director-General to consult in preparing annual plan

28. In preparing an annual plan, the Director-General shall consult

- (a)* the strategic partners; and
- (b)* any other persons whom the Director-General considers it appropriate to consult.

Estimates and operating plan

29. The Agency shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval

- (a)* estimates of income and expenditure for the ensuing financial year; and

- (b) the annual plan required by section 27.

Returns

30. The Agency shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Agency, and shall afford him facilities for verifying the returns, accounts and other information in such manner and at such times as he may reasonably require.

Annual and other reports

31.(1) A copy of the annual report and audited financial statement of the Agency, approved by the Minister, shall be submitted to the Minister of Finance, no later than four months after the end of each financial year.

(2) The Minister of Finance shall cause a copy of the report together with the annual statement of accounts and the Auditor-General's report thereon to be laid in Parliament.

Report

32.(1) The Director-General shall, not later than 3 months after the end of each financial year, submit to the Minister a report relating generally to the execution of the functions of the Agency during the preceding financial year.

(2) The report referred to in subsection (1) shall contain the information set out in the *Second Schedule*.

(3) The Director-General may, at any time, submit to the Minister a report relating to any particular matter which in the opinion of the Director-General requires the special attention of the Minister.

(4) The report referred to in subsection (3) shall exclude any matter that would, if it were included, prejudice proceedings referred to therein.

(5) The Minister shall, not later than one month after receipt of a report submitted to him under subsection (1) or (3), lay the report in Parliament.

PART V

*Agreements and Arrangements***Agreements and arrangements with other agencies**

33.(1) Subject to the provisions of this Act, the Director-General may, with the approval of the Minister, enter into a contract, memorandum of understanding or other agreement or arrangement with a strategic partner or a law enforcement agency, whether within or outside Barbados, regarding the exchange of information with the agency relevant to the investigation or prosecution of offences relating to corruption or terrorism.

(2) Subject to subsection (1), the Director-General may exchange with a foreign intelligence department, information necessary to enable that department to exercise regulatory functions, including the conduct of civil, criminal or administrative investigations and proceedings to enforce laws administered by the department.

(3) The Director-General may decline to facilitate the exchange of information unless the strategic partner, foreign intelligence department, or the law enforcement agency, as the case may be, undertakes to make such contribution towards the costs of the exchange as the Director-General considers appropriate.

(4) Nothing in subsections (1) to (3) authorises a disclosure by the Director-General, unless he is satisfied that the

- (a) strategic partner, the foreign intelligence department, or law enforcement agency is subject to adequate legal restrictions on further disclosures, including the provision to the Director-General of an undertaking of confidentiality on the part of the strategic partner, the foreign intelligence department, or the law enforcement agency not to disclose the information provided without the consent of the Director-General; or

- (b) assistance requested by the strategic partner, the foreign intelligence department or the law enforcement agency is required for the purposes of the functions of the department or agency, including the conduct of civil, criminal or administrative investigations or proceedings to enforce laws administered by the department or the Agency.

(5) Where in the opinion of the Director-General, it appears necessary, in relation to any request for information received from a foreign intelligence department, a strategic partner or a law enforcement agency to obtain an order of the High Court, the Director-General shall

- (a) immediately notify the Attorney-General of the particulars of the request; and
- (b) send to the Attorney-General copies of all documents relating to the request

and the Attorney-General is entitled to appear or take part in any proceedings in Barbados, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(6) Where pursuant to a request for the exchange of information, the Director-General in accordance with this Act supplies information to a requesting party, the information shall be deemed to have been lawfully given under this Act.

(7) Subject to this Act the Government may enter into any agreement or arrangement in writing with

- (a) the Government of a foreign State;
- (b) an international organisation; or
- (c) a foreign intelligence department,

regarding the exchange of information relevant to the investigation or prosecution of an offence relating to corruption or terrorism.

(8) For the purpose of an agreement or arrangement under subsection (7), the Minister shall be satisfied, in relation to the entity or party to such agreement or

arrangement, as to the like matters as those of which the Director-General is required to be satisfied in relation to an agreement or arrangement with a foreign intelligence department under subsection (4).

(9) The Minister may make regulations concerning the exchange of information relevant to the investigation or prosecution of an offence relating to corruption or terrorism.

PART VI

Anti- Corruption and Anti-Terrorism Agency Oversight Committee

Establishment and objectives of Committee

34.(1) There is hereby established a Committee to be known as the Anti-Corruption and Anti-Terrorism Agency Oversight Committee.

(2) The objectives of the Committee are to

- (a) hold the Director-General and other officers of the Agency accountable to the public in the performance of their functions under this Act; and
- (b) provide independent oversight in relation to the handling of complaints made by any person pursuant to section 37.

(3) The *Third Schedule* shall have effect with respect to the constitution of the Committee and otherwise in relation thereto.

Functions of the Committee

35. The functions of the Committee are to

- (a) investigate any complaint relating to misconduct, abuse of power, breach of disciplinary procedures or unlawful conduct in respect of any act or omission by the Director-General or any other officer in relation to his functions under this Act;
- (b) monitor and investigate operations affecting members of the public;

- (c) review generally the performance by the Agency and its functions, and make recommendations to the Minister thereon;
- (d) cooperate with or seek assistance from other government institutions or entities on issues of intelligence oversight or on any matter under investigation; and
- (e) perform such other functions as may be necessary for promoting the objectives under section 34(2) for which the Committee is established.

Powers of the Committee

36.(1) The Committee

- (a) may investigate any aspect of the operations of the Agency or the conduct of the Director-General or any other officer of the Agency in relation to his functions under this Act;
 - (b) is entitled to have access to the records of the Agency and to make copies of such records;
 - (c) may require the Director-General to supply information or provide documents in respect of any matter relating to the operations of the Agency or the conduct of an officer.
- (2) Notwithstanding the provisions of any enactment to the contrary and subject to subsection (3), the Committee shall be the sole body responsible for receiving and investigating any complaint made pursuant to section 37 of this Act.
- (3) Without prejudice to subsection (2), the Minister acting on the advice of the Committee may, in such manner as he deems appropriate, seek the assistance of any law enforcement agency in the investigation of a complaint made pursuant to section 37 or any other matter which may be relevant to the investigation.

Complaint and conduct of investigation

37.(1) A person may make a complaint to the Committee in respect of any matter relating to the conduct of the Director-General or an officer carrying out functions under this Act.

(2) A complaint under subsection (1) may be made orally, subject to subsection (3), in writing, or in such form or manner as may be prescribed and shall be lodged with the Secretary of the Committee.

(3) Where a complaint is made orally it shall be reduced into writing by the Secretary not later than three days from the date on which the complaint was made.

(4) A complaint made under subsection (1) shall contain such particulars as may be prescribed.

(5) Upon receipt of a complaint the Committee shall forthwith

- (a) request information or reports regarding the complaint from the Agency within a specified period; or
- (b) without prejudice to paragraph (a), initiate such investigation as it may consider necessary, having regard to the nature of the complaint.

(6) For the purposes of an investigation under this section, the Committee shall have the powers, privileges and immunities conferred upon a Commissioner under the *Commissions of Enquiry Act*, Cap. 112 and the provisions of that Act shall apply to any person summoned by or appearing before the Committee as if the Committee were a commission of enquiry constituted under that Act.

(7) Where the Committee considers a complaint to be frivolous or vexatious, the Committee may refuse to conduct an investigation and shall, where practicable, state its refusal in writing to the complainant.

(8) The Committee may, upon receipt of new evidence, re-open any investigation which has been concluded, and may amend or withdraw any previous findings and recommendations.

Steps after conduct of investigation

38. After conducting an investigation into a complaint made under section 37, the Committee may,

- (a) where in its opinion the investigation discloses evidence of a criminal offence by any officer of the Agency, recommend the prosecution of the officer concerned to the Director of Public Prosecutions;
- (b) where the investigation, in the opinion of the Committee, discloses misconduct, malfeasance or negligence in the performance of a duty by an officer, proceed in accordance with the prescribed disciplinary procedures;
- (c) where the investigation discloses any shortcomings in the processes or procedures employed by the Agency, recommend improvement or rectification thereof to the Minister.

PART VII*Protection of Officers***Protection of intelligence officers**

39. The Director-General may take such action as may be necessary to ensure the security, secrecy, safety, accommodation and financial requirements of an intelligence officer.

Protection of other person exercising functions under this Act

40.(1) No civil or criminal action, suit or other proceedings for breach of confidentiality may be brought nor any professional sanction for such breach may be taken against any person who in good faith, under this Act or any other enactment, provides or transmits information requested by the Agency or submits a report to the Agency.

(2) No suit or other proceedings may be brought or instituted personally against any officer in respect of any lawful act done or omission made in good faith, in the course of carrying out the provisions of this Act.

(3) Subsection (2) applies to persons contracted in accordance with section 21(3).

PART VIII

Offences

Offences

- 41.** A person is guilty of an offence who,
- (a) wilfully threatens or assaults an officer or any other person performing any function under this Act;
 - (b) without lawful justification or excuse
 - (i) obstructs or hinders an officer or any other person performing any function under this Act; or
 - (ii) wilfully refuses or neglects to carry out any duty required to be performed by him under this Act;
 - (c) wilfully makes any false statement to mislead or attempts to mislead an officer or any other person performing any function under this Act;
 - (d) knowingly makes any false declaration or false statement of a material nature in any information provided to an officer or any other person performing any function under this Act;
 - (e) knowingly furnishes to any officer or any other person performing any function under this Act a document that contains information which is false or misleading in any material particular;

- (f) without reasonable excuse fails to keep any record or other document required under this Act;
- (g) with intent to deceive
 - (i) impersonates an officer;
 - (ii) makes any statement or does any act calculated falsely to suggest that the person is an officer;
 - (iii) makes any statement or does any act calculated falsely to suggest that the person has powers as an officer that exceed the powers the person actually has.

General penalty

42. A person guilty of an offence under section 23 or 41 is liable
- (a) in the case of an individual,
 - (i) on summary conviction to a fine of \$100 000 or to imprisonment for a term of 5 years or to both; and
 - (ii) on conviction on indictment to a fine of \$250 000 or to imprisonment for a term of 10 years or to both; and
 - (b) in the case of a body corporate,
 - (i) on summary conviction to a fine of \$150 000; and
 - (ii) on conviction on indictment to a fine of \$500 000.

Offences committed by a body corporate

43. Where an offence under this Act is committed by a body corporate and is proved
- (a) to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or any person who purported to act in that capacity; or

- (b) to be attributable to the failure of any such director, manager, secretary or other officer to exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions and all the circumstances,

such director, manager, secretary or other officer, as well as the body corporate, is guilty of that offence and is liable to be proceeded against and punished in accordance with paragraph (a) or (b) of section 42, as the case requires.

PART IX

General

Code of Conduct

44. The Director-General and other officers of the Agency shall comply with such Code of Conduct as may be prescribed and a person who fails to comply with the Code of Conduct shall be liable to such disciplinary proceedings as may be prescribed.

Records

45. The Director-General may require any person to keep such documents relating to the functions of the Agency as may be prescribed.

Minister may vary monetary fines

46. The Minister may by order, subject to negative resolution, vary any monetary fines specified in this Act.

Regulations

47.(1) The Minister may make regulations generally for the proper administration of and for giving effect to the provisions of this Act.

- (2) Without prejudice to the generality of subsection (1), regulations made under this section may make provision
- (a) requiring equipment used by the Agency to satisfy specifications as to design and performance;
 - (b) setting out the practices and procedures to be adopted in relation to the investigation or prosecution of corruption and terrorism under this Act;
 - (c) prescribing a Code of Conduct for officers; and
 - (d) prescribing such other matters as are required by this Act to be prescribed.
- (3) For the purposes of subsection (2)(a), "equipment" includes
- (a) vehicles; and
 - (b) headgear and any other protective clothing.
- (4) Regulations made under this section shall be subject to negative resolution.

Enactments not affected

48. Nothing in this Act shall affect
- (a) the provisions of the *Mutual Assistance in Criminal Matters Act*, Cap. 140A; or
 - (b) the *Official Secrets Act, 1911*, 1 & 2 Geo. 5, c. 28 and the *Official Secrets Act, 1920*, 10 & 11 Geo. 5, c. 75 of the United Kingdom Parliament in so far as they are applicable to Barbados.

Commencement

49. This Act shall come into operation on a date to be fixed by Proclamation.

FIRST SCHEDULE

(Section 23(1) and (2))

FORM OF OATHS



Form 1

Anti-Corruption and Anti-Terrorism Agency Act, 2020
(Act 2020-)

OATH OF OFFICE

I _____ do swear/affirm that I will exercise the functions of
Director-General of the Anti-Corruption and Anti-Terrorism Agency without fear or favour,
affection or ill-will according to the Laws of Barbados. So Help Me God.

Dated this _____ day of _____, 20__ .

Signature

First Schedule - (Cont'd)



Form 2

Anti-Corruption and Anti-Terrorism Agency Act, 2020
(Act 2020-)

OATH OF SECRECY

I _____ Director-General of the Anti-Corruption and Anti-Terrorism Agency do swear/affirm that I will treat all documents, information and records of the Anti-Corruption and Anti-Terrorism Agency as secret and confidential and I shall not disclose or communicate to any unauthorised person or allow any unauthorised person to have access to any such documents, information or records. So Help Me God.

Dated this _____ day of _____, 20____.

Signature

First Schedule - (Cont'd)



Form 3

Anti-Corruption and Anti-Terrorism Agency Act, 2020
(Act 2020-)

OATH OF OFFICE

I _____ do swear/affirm that I will exercise my functions as an employee/a person performing functions for the Anti-Corruption and Anti-Terrorism Agency without fear or favour, affection or ill-will according to the Laws of Barbados. So Help Me God.

Dated this _____ day of _____, 20____.

Signature

First Schedule - (Concl'd)



Form 4

Anti-Corruption and Anti-Terrorism Agency Act, 2020
(Act 2020-)

OATH OF SECRECY

I _____ employee/person performing a function for the Anti-Corruption and Anti-Terrorism Agency do swear/affirm that I will treat all documents, information and records of the Anti-Corruption and Anti-Terrorism Agency as secret and confidential and I shall not disclose or communicate to any unauthorised person or allow any unauthorised person to have access to any such documents, information or records. So Help Me God.

Dated this _____ day of _____, 20__ .

Signature

SECOND SCHEDULE*(Section 32(2))**Contents of Report of Agency*

1. The information referred to in section 32
 - (a) is a general description of the matters referred to the Agency;
 - (b) is subject to section 32(2), a general description of the matters investigated by the Agency;
 - (c) contains the following details with respect to matters investigated by the Agency;
 - (i) the number of investigations commenced but not completed during the financial year in question;
 - (ii) the average time taken to deal with complaints and the actual time taken to investigate any matter in respect of which a report is made.
 - (d) contains any recommendations for changes in the laws of Barbados, or for administrative action that the Agency considers should be made as a result of the exercise of its functions;
 - (e) states the general nature and extent of any information submitted under this Act by the Agency during the year to any other public body;
 - (f) includes the number of matters investigated by the Agency which have resulted in prosecutions or disciplinary action in that year;
 - (g) lists a description of its activities during that year in relation to any of its functions;
 - (h) states the number of convictions and acquittals, and where a charge is laid, the time taken to dispose of each matter;
 - (i) contains such other information as the Agency thinks relevant.

2. Notwithstanding paragraph (1), no details shall be provided by the Agency in relation to any matter under investigation by the Agency, or for which criminal proceedings have been instituted.

THIRD SCHEDULE*(Section 34(3))**Constitution and Procedure of Committee***Appointment of members and tenure**

1.(1) The Governor-General shall on the recommendation of the Prime Minister after consultation with the Leader of the Opposition appoint 7 persons to be members of the Committee.

(2) The members of the Committee shall be appointed by instrument in writing and shall comprise

- (a)* a retired Judge;
- (b)* a retired officer of the Royal Barbados Police Force, not below the rank of Assistant Commissioner of Police;
- (c)* a retired officer of the Barbados Defence Force, not below the rank of Colonel; and
- (d)* a minister of religion

each of whom shall hold office for a term of 5 years; and

(e) 3 other members recommended by the Minister responsible for Defence and Security selected from persons with expertise in the following areas:

- (i)* financial matters;
- (ii)* anti-corruption matters; and
- (iii)* public procurement matters,

each of whom shall hold office for a term of 3 years.

(3) All members of the Committee are eligible for reappointment.

Appointment of Chairman

2.(1) The Governor-General shall appoint the Chairman from amongst the members of the Committee.

(2) Where the Chairman is absent or unable to act, the Governor-General may appoint another member to act temporarily as Chairman.

Removal of Chairman and members of the Committee

3. The Chairman and other members of the Committee shall be removed from office by the Governor-General upon the recommendation of the Prime Minister after consultation with the Leader of the Opposition, if any of them is absent from three consecutive meetings of the Committee

(a) without the leave of

(i) the Governor-General, in the case of the Chairman; or

(ii) the Chairman, in the case of any other member, or

without reasonable excuse; or

(b) becomes incapable of satisfactorily discharging the functions of his office whatever the cause.

Resignation of members of the Committee

4. A member may resign by giving written notice of resignation to the Chairman, and in the case of the Chairman, by giving written notice of resignation to the Governor-General.

Vacancy

5.(1) A vacancy in the membership of the Committee arises on

(a) the death or resignation of a member; or

(b) the removal from office of a member.

(2) Where a vacancy is created pursuant to sub-paragraph (1) a person may be appointed in accordance with paragraph 1(1) to fill the vacancy and the person so appointed shall hold office only for the unexpired portion of the term of the former member.

Gazetting of appointment etc.

6. The appointment, resignation, death or removal from office of a member shall be published in the *Official Gazette*.

Appointment of secretary and staff

7.(1) The Committee shall appoint a secretary whose duties shall be

- (a) to receive complaints made pursuant to section 37 of the Act;
- (b) to attend the meetings of the Committee;
- (c) to record the proceedings of the Committee and keep the minutes of such meetings in proper form;
- (d) generally to perform such duties connected with the work of the Committee as the Committee may require.

(2) The Committee may arrange for the use of the services of any officer or facilities of the Agency as it deems necessary for the performance of its functions.

Procedure

8.(1) The Committee shall meet as often as it considers necessary for the proper conduct of the affairs of the Committee, but shall meet not less than once per month.

(2) The Chairman or any other person appointed to act temporarily as Chairman shall preside at a sitting of the Committee.

(3) A quorum of the Committee shall be three members.

- (4) Decisions of the Committee shall be by a majority of votes of the members and the Chairman shall have an original vote and a casting vote in any case in which the voting is equal.
- (5) The Committee is not bound by rules of evidence and may inform itself in any way it considers appropriate but shall observe the rules of natural justice.
- (6) Proper records of all proceedings of the Committee shall be kept.
- (7) The Committee shall regulate its procedure.

Protection of members

9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Committee in respect of an act done *bona fide* in pursuance, or execution, or intended execution of the provisions of this Act.

Disclosure of interest

10. Any member of the Committee who has any interest, directly or indirectly, in any matter brought before the Committee shall

- (a) as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a sitting of the Committee; and
- (b) not be present during the deliberations of the Committee on the matter or take part in the decision of the Committee with respect thereto.

Authentication of documents

11. All documents made by, and all decisions of the Committee, may be signed under the hand of the Chairman or any member of the Committee authorised to act in that behalf.

Remuneration

12. There shall be paid from the funds of the Agency to the Chairman and other members of the Committee, such remuneration, whether by way of honorarium, salary or fees and such allowances as the Minister with responsibility for the Public Service may determine.

Read three times and passed the House of Assembly this
day of , 2020.

Speaker

Read three times and passed the Senate this day of
, 2020.

President

PARLIAMENT

**SECOND SESSION OF
2018-2023**

BILL

cited as the Anti-Corruption and
Anti-Terrorism Agency Act, 2020

Government Printing Department

GOLD AWARD OF ACHIEVEMENT (AMENDMENT) ACT, 2020

OBJECTS AND REASONS

This Bill would amend the *Gold Award of Achievement Act, Cap. 401* to make better provision for the conferment of the Award and other related matters.

GOLD AWARD OF ACHIEVEMENT (AMENDMENT) ACT, 2020

Arrangement of Sections

1. Short title
2. Amendment of section 4 of Cap. 401
3. Repeal and replacement of section 5 of Cap. 401

BARBADOS

A Bill entitled

An Act to amend the *Gold Award of Achievement Act* to make better provision for the conferment of the Award and other related matters.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Gold Award of Achievement (Amendment) Act, 2020*.

Amendment of section 4 of Cap. 401

2. *Section 4 of the Gold Award of Achievement Act, Cap. 401, in this Act referred to as the principal Act, is amended by deleting subsection (2) and substituting the following:*

“(2) The Award may be conferred on an eligible person at a time determined by the Cabinet of Barbados.”.

Repeal and replacement of section 5 of Cap. 401

3. *Section 5 of the principal Act is deleted and the following is substituted:*

“Eligibility for conferment of Award

5. A person who, through diligence, sacrifice, dedication to service and commitment to excellence has made an outstanding contribution to

(a) community life in Barbados; or

(b) the improvement of the economic and social conditions of Barbados,

is eligible for the conferment of the Award.”.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2020.

President

PARLIAMENT

**SECOND SESSION OF
2018-2023**

BILL

cited as the Gold Award of
Achievement (Amendment) Act,
2020

Government Printing Department

COMPANIES (AMENDMENT) ACT, 2020

OBJECTS AND REASONS

This Bill would amend the *Companies Act*, Cap. 308.

COMPANIES (AMENDMENT) ACT, 2020

Arrangement of Sections

1. Short title
2. Amendment of section 175 of Cap. 308
3. Insertion of section 448A into Cap. 308

BARBADOS

A Bill entitled

An Act to amend the *Companies Act*, Cap. 308.

ENACTED by the Parliament of Barbados as follows:

Short title

- 1.** This Act may be cited as the *Companies (Amendment) Act, 2020*.

Amendment of section 175 of Cap. 308

2. *Section 175 of the Companies Act, Cap. 308, in this Act referred to as the principal Act, is amended by inserting immediately after subsection (4), the following new subsections:*

- “(5) The Registrar may require a company to produce
- (a) any books, records or other documents required to be kept by the company under any provision of this Act; and
 - (b) such other information as the Registrar may require for the proper administration and enforcement of this Act.
- (6) Notwithstanding subsection (4), the Registrar may examine, or by instrument in writing, appoint, at the expense of a company, a person to examine, any books, records and other documents required to be kept by the company under any provision of this Act
- (a) in order to ascertain whether the company is in compliance with this Act;
 - (b) where the Registrar has reasonable grounds to suspect that the company may be in contravention of this Act; or
 - (c) where the examination is otherwise necessary for the proper administration and enforcement of this Act.
- (7) For the purposes of subsection (6), the Registrar or the person appointed by the Registrar may, in connection with an examination, require an auditor, director, officer or affiliate of a company or a person who, whether alone or in association with others, owns or controls the company to
- (a) furnish such information as the Registrar or the person appointed by him may consider necessary for the purpose of the examination; and

(b) produce for examination any books, records or other documents relating to the business of the company that are in his possession and contain, or are likely to contain, such information.

(8) The Registrar may require a company to pay the expenses of any examination carried out by or on behalf of the Registrar under this section.

(9) A person who is required to make a disclosure to the Registrar or to a person appointed by the Registrar under subsection (6) shall not, by reason of making the disclosure, be regarded as being in breach of a duty to the company.

(10) The Registrar may give directions to a company for the purpose of compliance with this section.

(11) Where a company fails to pay the expenses referred to in subsection (8), the expenses may be recovered as a debt due to the Crown before a magistrate for District 'A'.

(12) A person who, without reasonable cause, is in default in complying with a requirement under subsection (5), (6) or (7) or a direction given under subsection (10)

(a) is liable to a penalty of \$5,000 payable to the Registrar; and

(b) if the penalty is not paid on the due date, is liable to an additional penalty of \$500 for everyday during which the default continues not exceeding \$15 000.

(13) A person who, without reasonable cause, continues to be in default in complying with a requirement or a direction referred to in subsection (12) after the maximum additional penalty referred to in that subsection becomes payable, is guilty of an offence and liable, on summary conviction, to a fine of \$100,000 or to imprisonment for a term of 5 years or to both.

(14) When an offence under subsection (13) is committed by a body corporate and a director or officer of that body corporate knowingly authorised, permitted or acquiesced in the commission of the offence, the director or officer is also guilty of the offence and liable on summary conviction, to a fine of \$100,000 or to imprisonment for a term of 5 years or to both.”.

Insertion of section 448A into Cap. 308

3. *The principal Act is amended by inserting immediately after section 448 the following new section:*

“Guidelines on beneficial ownership etc.

448A.(1) The Registrar may, in furtherance of paragraphs (e) and (e.1) of section 448, issue guidelines on the application or interpretation of the term “beneficial ownership” and the identification of beneficial owners whether by reference to thresholds in respect of ownership or control or otherwise.

(2) Any person who fails to comply with a guideline issued under subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$100,000 or to imprisonment of a term of 5 years or to both.”.

Read three times and passed the House of Assembly this
day of _____, 2020.

Speaker

Read three times and passed the Senate this _____ day of
_____, 2020.

President

PARLIAMENT

**SECOND SESSION OF
2018-2023**

BILL

cited as the Companies
(Amendment) Act, 2020

Government Printing Department



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BARBADOS

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Consequential Amendment

BARBADOS

I assent
S. MASON
Governor-General
11th December, 2020.

2020-30

An Act to revise the *Central Bank of Barbados Act*, Cap. 323C to strengthen the Central Bank's governance and independence while maintaining accountability, to ensure the compliance of the Central Bank with internationally recognised accounting standards and for other related matters.

[Commencement: 14th December, 2020]

ENACTED by the Parliament of Barbados as follows:

PART I

PRELIMINARY

Short title

1. This Act may be cited as the *Central Bank of Barbados Act, 2020*.

Interpretation

- 2.(1) For the purposes of this Act,

“auditor” means a person who

- (a) is a member of the Institute of Chartered Accountants of Barbados;
- (b) holds a practising certificate from the Institute; and
- (c) is in good standing with the Institute;

“Bank” means the Central Bank of Barbados established under the former Act;

“Board” means the Board of Directors established under Part IV;

“capital account” means an account where the capital of the Bank and any transactions which affect that capital is recorded;

“Chief Internal Auditor” means the person appointed in accordance with section 65;

“Corporation” means the Deposit Insurance Corporation established under the *Deposit Insurance Act*, Cap. 323;

“currency” means notes and coins issued by the Bank, whether in fiat, digital or other formats that are legal tender in Barbados;

“Deputy Governor” means a Deputy Governor of the Bank;

“Director” means a member of the Board;

“Director of Finance” has the meaning assigned to it in section 2 of the *Public Finance Management Act, 2019* (Act 2019-1);

“employee” includes a person engaged in employment with the Bank under a contract of service;

“enterprise” means a body corporate or an unincorporated body that is wholly or majority owned by the Government;

“Executive Committee” means the Executive Committee established under Part IV;

“financial institution” includes

- (a) an entity which is registered under the *Financial Institutions Act*, Cap. 324A; or
- (b) a similar institution that the Minister prescribes as a financial institution for the purposes of this Act;

“former Act” means the former *Central Bank of Barbados Act*, Cap. 323C;

“Governor” means the Governor of the Bank;

“illiquid financial institution” means a financial institution that is unable to fund increases in assets or meet its financial obligations as the obligations become due without incurring losses which may negatively impact its ability to operate;

“Institute” means the Institute of Chartered Accountants of Barbados created by the *Institute of Chartered Accountants of Barbados Act*, Cap. 369A;

“monetary liabilities” means currency in circulation, deposits of financial institutions lodged at the Bank and securities issued by the Bank;

“non-executive Director” means a Director of the Board other than the Governor or the Director of Finance;

“Pension Fund” means the Fund that was established by the *Central Bank of Barbados (Pensions) Regulations, 1982* in respect of which the Bank is the

trustee as declared by the Trust Deed made by the Bank and dated the 31st day of August, 1983;

“primary market” means the market in which new Government securities are issued;

“public officer” has the meaning assigned to it in the *Public Service Act*, Cap. 29;

“recapitalization plan” means the process and procedure by which any deficit in the capital of the Bank is restored to the amount stated in section 7;

“systemically important financial institution” means a financial institution whose failure may lead to a financial crisis.

(2) Notwithstanding section 39(8) of the *Interpretation Act*, Cap. 1, for the purposes of this Act financial year means the calendar year.

PART II

CONSTITUTION

Business of the Bank

3. The Bank shall continue in existence under this Act and shall carry on business in accordance with this Act.

Status and powers

4.(1) The Bank shall be a body corporate.

(2) Subject to the limitations of this Act, section 21 of the *Interpretation Act*, Cap. 1 applies to the Bank.

Offices, branches, agents and correspondents

5.(1) The Bank shall have its head office at such location in Bridgetown as the Minister, acting on advice of the Board, may from time to time determine.

- (2) Notwithstanding subsection (1), the Bank may
- (a) establish branches within Barbados;
 - (b) appoint agents and correspondents within Barbados and abroad; and
 - (c) with the approval of the Minister, establish offices abroad.

Objectives and functions

6.(1) The primary objective of the Bank is to maintain the value of the currency.

(2) The secondary objective of the Bank is to promote financial stability which is conducive to the orderly and sustained economic development of Barbados.

(3) The functions to be exercised by the Bank pursuant to the objectives referred to in subsections (1) and (2) are to

- (a) determine and implement monetary policy;
- (b) implement policies for the management of the exchange rate;
- (c) hold and manage all the official international reserves of Barbados;
- (d) issue and manage currency;
- (e) act as a lender of last resort to financial institutions;
- (f) collect and produce economic and financial statistics;
- (g) regulate and promote a safe, sound and efficient payment and clearing system;
- (h) adopt and implement macro-prudential policy measures to promote financial stability;
- (i) act as a prudential regulator in accordance with the *Financial Institutions Act*, Cap. 324A;
- (j) act as a fiscal agent and financial advisor to the Government; and

- (k) carry out any ancillary activities which are related to the exercise of its functions under this Act.

PART III

CAPITAL, PROFITS AND RESERVES

Capital

- 7.(1) The authorized capital of the Bank shall be \$25 000 000 which shall be fully paid up.
- (2) Notwithstanding subsection (1), the authorized capital may be increased by amounts proposed by the Bank and approved by the Minister.
- (3) The capital of the Bank shall be for the sole account of the Government.
- (4) The capital shall not be transferable or subject to encumbrance and the reduction of capital shall not be effected except by an amendment of this Act.
- (5) Notwithstanding any other provision of this Act, the Minister shall cause to be transferred to the ownership of the Bank negotiable and interest-bearing securities that are issued by the Government for an amount that is necessary for the purpose of preserving the paid-up capital from any impairment whenever, in the judgment of the Board, the assets of the Bank are less than the sum of its liabilities and paid-up capital.
- (6) Subsection (5) shall come into force after the Government develops and completes a recapitalization plan.

Reserve accounts

- 8.(1) The Bank shall establish and maintain a general reserve account.
- (2) The general reserve account shall not be used except for the purpose of covering losses sustained by the Bank.

- (3) The Bank may, with the approval of the Minister, establish special reserve accounts.

Profits, losses and distributable earnings

9.(1) The net profits or losses of the Bank shall be determined in accordance with internationally recognised accounting standards.

- (2) The earnings available for distribution under section 10 shall be determined by deducting from the distributable profits the total amount of all unrealised gains, if any.

Allocation of distributable earnings

10.(1) Where the Board approves financial statements that have been validated by an external auditor, the Bank shall allocate the distributable earnings in the following order:

- (a) where the paid-up capital of the Bank does not equal its authorized capital, the paid-up capital shall be increased by the net profits of the Bank for every financial year until the paid-up capital of the Bank is equal to its authorized capital;
- (b) where the sum of capital and general reserves do not equal 7.5 per cent of the total monetary liabilities of the Bank, 100 per cent of distributable earnings shall be credited to the general reserve account after provision is made for the matters set out in paragraph (a) of this subsection;
- (c) payment of any amounts necessary to liquidate notes issued by the Government pursuant to section 43(3)(a);
- (d) credit to special reserve accounts established pursuant to section 8(3);
- (e) credit to or satisfaction of any claims of the Bank on the Government where such claims remain unpaid;

- (f) transfer to the Consolidated Fund after the matters in paragraph (a) to (e) have been satisfied.
- (2) The Bank shall not pay or distribute interim dividends.
- (3) No distribution shall be made out of the net profits of the Bank or its reserves except in accordance with subsection (1).
- (4) No distribution of profits shall be made where, in the determination of the Board, the assets of the Bank would be less than the sum of the liabilities and capital after such distribution is made.
- (5) Where in a financial year the Bank incurs a net loss, the loss shall first be charged to the general reserve account and subsequently applied against the capital account.

PART IV

ADMINISTRATION

Governing bodies

11. The decision making bodies of the Bank shall be the Board of Directors and the Executive Committee.

Board

12.(1) The Board shall comprise of the Governor, 5 non-executive Directors and the Director of Finance.

(2) Notwithstanding subsection (1), at least one of the non-executive Directors must have not less than 6 years of recognised experience in accounting matters.

(3) The Governor shall chair the meetings of the Board and, in the case of the absence of the Governor, one of the Deputy Governors, as directed by the Governor, shall chair the meeting.

Functions and powers of the Board

13.(1) The Board shall be responsible for the oversight of the executive management of the Bank as exercised by the Executive Committee.

(2) Notwithstanding subsection (1), the Board shall have the following functions and powers:

- (a) to approve the budget of the Bank and oversee its execution;
- (b) to approve the allocation of profits to special reserves;
- (c) to consider and approve the annual audited accounts and the financial statements of the Bank;
- (d) to define the organisation of the Bank and the general policy which regulates the powers and duties of its employees, including the framework for recruitments, promotions and the exercise of disciplinary control;
- (e) to appoint and dismiss the Chief Internal Auditor of the Bank;
- (f) to adopt the external auditor selection and rotation policy and appoint and dismiss the external auditor of the Bank upon the recommendation of the Audit Committee;
- (g) to oversee the system of financial reporting, risk management and internal controls of the Bank;
- (h) to carry out any ancillary powers which relate to its oversight role;
- (i) to request to be furnished with information of the Bank which it requires to carry out its oversight functions;
- (j) to adopt the accounting policies of the Bank and procedures which are in accordance with the internationally recognised accounting standards;
- (k) to make by-laws which regulate the conduct of the business of the Bank;

- (l) to make regulations and issue orders for the purpose of giving effect to the provisions of this Act.

Power to establish committees

14.(1) Where the Board is empowered or required to perform a function pursuant to this Act, the Board may appoint a committee for the purpose of doing anything required or deemed expedient or necessary for the purpose of performing the function.

(2) Where a committee performs a function in accordance with subsection (1), it is deemed to have been performed by the Board.

(3) Where the Board appoints a committee pursuant to subsection (1), the committee shall, on completion of the function, submit a report in writing as soon as practicable to the Board.

Executive Committee and delegation of powers and functions

15.(1) The Executive Committee shall consist of the Governor and 2 Deputy Governors.

(2) The Governor shall chair the Executive Committee.

(3) The Executive Committee shall be responsible for

- (a) the executive management of the Bank;
- (b) the formulation, adoption and implementation of the policies of the Bank including the monetary policy and the financial stability policy of the Bank;
- (c) the formulation and implementation of the policies which the Board adopts;
- (d) the management of the international reserves in accordance with the risk management and internal control framework as approved by the Board;

- (e) the rules for the reproduction of legal tender banknotes and the details of the exchange of legal tender banknotes, including the rules for the replacement of damaged legal tender banknotes;
 - (f) the requirements and conditions for the management and access to the clearing and payment system;
 - (g) making regulations in relation to the functions and powers which it exercises under this Act;
 - (h) such other powers and duties as stated within the Act which are not explicitly allocated to the Board.
- (4) The Executive Committee may delegate its functions and powers where such delegation is not inconsistent with the provisions of this Act.

Audit Committee

- 16.(1)** There shall be an Audit Committee of the Bank which the Board shall select.
- (2) The Audit Committee shall comprise of 3 members from among the non-executive Directors.
- (3) At least one member of the Audit Committee shall be an accounting or auditing expert.
- (4) The responsibilities of the Audit Committee shall include the following:
- (a) the evaluation of the overall effectiveness of internal control systems of the Bank;
 - (b) the oversight of the financial statements and the financial reporting processes;
 - (c) making recommendations to the Board with respect to the external auditor selection and rotation policy;
 - (d) proposing to the Board the scope of any special audits and other relevant services;

- (e) reviewing the performance of external auditors;
 - (f) monitoring the implementation of recommendations made by the Chief Internal Auditor and external auditors;
 - (g) reporting to the Board not less than 4 times a year;
 - (h) preparing and submitting to the Board an annual written report of the activities of the Audit Committee.
- (5) Notwithstanding subsection (4), the Board shall approve the charters, rules, procedures and responsibilities of the Audit Committee.
- (6) At the invitation by the Audit Committee, the members of the Board, the members of the Executive Committee or employees of the Bank may attend the meetings of the Audit Committee but shall not have the right to vote.
- (7) The Audit Committee may seek the advice of external experts with respect to matters which are within its remit under this Act.

Governor

- 17.(1)** There shall be a Governor of the Bank who shall perform the functions conferred on him by this Act.
- (2) Subject to section 77, the Board shall, with the approval of the Minister, appoint a Governor by instrument in writing for a period not exceeding 6 years and who shall be eligible for re-appointment.
- (3) No person shall be appointed Governor unless that person has
- (a) a postgraduate degree in Economics, Finance or Law or a relevant professional qualification; and
 - (b) not less than 10 years recognised experience in a senior position in financial, monetary or banking matters.
- (4) The instrument of appointment of the Governor shall contain the terms of the appointment and the terms shall not be altered to the disadvantage of the appointed Governor during his tenure of office.

(5) The Governor shall be removed from office only in accordance with the provisions of section 25.

Deputy Governors

18.(1) There shall be 2 Deputy Governors of the Bank.

(2) Subject to section 77, the Board shall, with the approval of the Minister, appoint the Deputy Governors.

(3) Subject to subsection (2), section 17(3) shall apply to the appointment procedure of Deputy Governors with such modification and adaptation as is necessary.

(4) The Deputy Governors shall perform

(a) the functions stipulated by this Act; and

(b) under the supervision of the Governor, such other functions as the Board may confer on them.

(5) Where a person is appointed as a Deputy Governor, the instrument of appointment shall contain the terms of the appointment and the terms shall not be altered to the disadvantage of the appointed Deputy Governor during his tenure of office.

Duties of the Governor and the Deputy Governor

19.(1) The Governor or, in the case of his absence, a Deputy Governor who the Governor designates

(a) shall serve as chief executive officer of the Bank responsible to the Board for the execution of the policy of the Bank and the management of the Bank;

(b) shall have the power to act, contract and sign instruments and documents on behalf of the Bank except as may be otherwise provided by this Act, by-laws of the Bank or resolutions of the Board;

- (c) may delegate the power under paragraph (b) to other officers of the Bank pursuant to resolutions of the Board.

(2) The Board with the approval of the Minister, shall, in the case of a disability of the Governor, designate a Deputy Governor to perform the role of Governor.

Service to the Bank

20.(1) The Governor and the Deputy Governors, while holding office, shall devote their professional services to the Bank.

(2) The Governor and the Deputy Governors, while holding office, shall not, without the approval of the Board,

- (a) receive a salary or supplementation from a source other than the Bank; or
- (b) occupy another office or have other employment, whether remunerated or not.

(3) Notwithstanding subsection (2), the Governor may

- (a) act as a member of a board, committee or commission established by Government;
- (b) become a governor, director or member of a board of an international bank or an international financial institution of which Barbados is a member; or
- (c) become a director of a corporation in which the Bank is a participant.

Non-executive Directors

21.(1) Subject to section 77, the Minister shall, by instrument in writing and on the recommendation of the Board, appoint 5 non-executive Directors.

- (2) A person shall not be appointed as a non-executive Director unless that person has
- (a) a degree in Economics, Business, Finance or Law or a relevant professional qualification; or
 - (b) not less than 10 years recognised experience in a senior position in financial, monetary, banking or business matters.
- (3) Subject to section 77, the Minister shall appoint non-Executive Directors for a term of 6 years.
- (4) A person who the Minister appoints as a non-Executive Director shall be eligible for re-appointment.

Fees and allowances of Directors

22. A Director is entitled to such fees and allowances as the Board prescribes and the Minister approves.

Immunity of Directors

- 23.(1) Acts done by a person acting in good faith as a Director shall be valid as if he were a Director notwithstanding that some defect in his appointment or qualification be afterwards discovered.
- (2) A Director shall not be liable for anything done or omitted in the discharge or purported discharge of his functions under this Act unless it is shown that the act or omission was done in bad faith.

Vacancy of Director

- 24.(1) Where a Director dies, resigns or otherwise vacates his office before the expiry of the term for which he is appointed, another person shall be appointed in his place in accordance with section 21(1) and section 21(2) for the unexpired period of his term.
- (2) The Minister, upon being advised by the Board of the temporary absence or incapacity of a Director, may appoint a person to serve as a substitute for the

Director until the expiry of the term of the Director or until a determination that the absence or incapacity of the Director has ceased, whichever is earlier.

Disqualification and removal

25.(1) No person shall be appointed as or remain a Deputy Governor or a Director where

- (a) he is or becomes a director, an officer, an employee or a shareholder of a body corporate which is
 - (i) licensed under the *Financial Institutions Act*, Cap. 324A; or
 - (ii) specified as a financial institution in accordance with section 53;
- (b) he is or becomes a member of either House of Parliament;
- (c) he has been convicted by a court of an arrestable offence or other offence involving dishonesty;
- (d) he has been adjudged or otherwise declared bankrupt under a law in force in Barbados;
- (e) he is certified to be suffering from a mental disorder or otherwise adjudged to be of unsound mind under a law in force in Barbados; or
- (f) the Minister, on the recommendation of the Board, finds that he
 - (i) is unfit or otherwise incapable of carrying out his duties;
 - (ii) is guilty of serious misconduct in relation to his duties or approved policies of the Board; or
 - (iii) has contravened section 27(1), 27(3) or 27(4).

(2) Notwithstanding paragraph (f) of subsection (1), no person shall remain a Governor where the Governor-General, on the recommendation of the Minister, finds that he

- (a) is unfit or otherwise incapable of carrying out his duties;

- (b) is guilty of serious misconduct in relation to his duties or approved policies of the Board;
 - (c) has contravened section 27(1), 27(3) or 27(4); or
 - (d) has acted contrary to the objectives and functions of the Bank set out in section 6 of this Act.
- (3) A person shall not remain a Director if he is absent without leave of the Board for 3 or more consecutive meetings of the Board.

Resignation

- 26.(1) The Governor may resign from his office by not less than 3 months' written notice to the Minister.
- (2) A non-executive Director may resign by not less than one month's written notice to the Minister.
- (3) The Minister may waive the period of notice required by subsection (1) or (2).
- (4) A Deputy Governor may resign from his office by not less than 3 months' written notice to the Board.

Conflict of interest

- 27.(1) A Director or a Deputy Governor shall
- (a) fully disclose to the Board any commercial, agricultural, industrial or other interests that he may at any time directly or indirectly be connected with; and
 - (b) refrain from voting on a matter that relates to interests which become the subject of action to be taken by the Board.
- (2) Where the Director discloses any interests in accordance with subsection (1), he shall not be disqualified from constituting a quorum at a meeting of the Board.

(3) A Director or Deputy Governor shall not act as a delegate of any commercial, financial, agricultural, industrial or other interests or receive or accept directions from such interests in respect of duties he is to perform under this Act.

(4) A Director, a Deputy Governor or any other employee or a public officer acting in an office of the Bank shall not accept a gift or an advantage for himself or on behalf of persons with whom he may have family, business or financial connections, if the acceptance would result or give the appearance of resulting in a diminution of his impartial performance of his duties under this Act.

(5) Where a person to whom this section applies does not act in good faith and contravenes this section, he is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000.

Secrecy

28.(1) A Director, an employee or a public officer acting in an office of the Bank, except for the purpose of the performance of his duties or exercise of his functions under this Act or when lawfully required to do so by a court or under the provisions of a law, shall not disclose

- (a) any material information regarding the affairs of the Bank which he has acquired in the performance of his duties or the exercise of his functions; or
- (b) any statement, return or information that a person, over whom the Bank exercises supervisory jurisdiction in respect of its business, submits or furnishes to the Bank.

(2) A person who contravenes subsection (1) is guilty of an offence and is liable on conviction on indictment to a fine of \$25 000 or to imprisonment for 5 years or to both.

Remuneration

29. The Bank shall not compute a salary, a fee, a wage, an allowance or other remuneration that it pays to a person by reference to the net or other profits of the Bank.

Secondment and transfer of employees and public officers

30.(1) The Bank and the Corporation may make appropriate arrangements for the secondment or transfer of an employee in the service of the

(a) Bank to the service of the Corporation; or

(b) Corporation to the service of the Bank.

(2) The Bank may make appropriate arrangements for the secondment or transfer of

(a) a public officer to an office in the service of the Bank; or

(b) an employee to an office in the public service.

(3) Where a transfer or secondment is effected pursuant to subsection (1), the Bank or the Corporation shall make such arrangements as may be necessary to preserve the pension rights of the employee that it seconds or transfers as well as any gratuity or other allowance to which the employee would have been eligible had that employee remained in the service of the Bank or Corporation, respectively.

Pension Fund

31.(1) The Bank shall establish a pension fund for the benefit of the employees of the Bank.

(2) The Board shall prescribe the rules and regulations that govern the pension fund and the pension fund shall be administered in accordance with those rules and regulations.

(3) Notwithstanding subsections (1) and (2), the Pension Fund that is in existence on the date of commencement of this Act and the rules and regulations made to govern that Fund shall remain in force until expressly revoked.

Pensions

32.(1) Where the public service permits the secondment of a public officer to an office in the Bank from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, Cap. 25, the period in which the public officer serves in the Bank shall, unless the Governor-General decides otherwise, count for pension under that Act as if the public officer had not been seconded.

(2) Where a transfer of a public officer to an office in the service of the Bank or an employee of the Bank to an office in the public service is effected in accordance with section 30, the

(a) *Pensions Act* shall apply to him as if his service with the Bank is other public service within the meaning of that Act; and

(b) *Pensions Regulations, 1947* (Act 1947-20) shall apply to him accordingly as if the Bank were a Scheduled Government within the meaning of regulations 8 and 9(1) of those Regulations.

(3) Where a public officer or an employee of a statutory corporation is appointed or transferred to a pensionable office in the Bank from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, the period during which he served as a public officer or an employee of the statutory corporation may, at the discretion of the Board, count for pensionable service under this Act as if his tenure was spent in the employment of the Bank.

(4) Where the service of a public officer or an employee of a statutory corporation is counted as a pensionable service pursuant to subsection (3), there shall be paid to the Bank out of the Consolidated Fund a sum equal to the sum that would have accrued to the public officer or employee, as pension at the date of his appointment or transfer to the Bank had the appointment or transfer not occurred.

PART V

CURRENCY

Currency of Barbados

33. The unit of currency of Barbados is the Barbados dollar divided into 100 cents.

Parity of Barbados dollar

34.(1) The par value of the Barbados dollar shall be \$1 Barbados to \$0.50 in the currency of the United States of America and any change thereof shall be determined by the Minister by order after consultation with the Bank.

(2) The Minister shall, in the determination of any change of the par value, have regard to the obligations which Barbados has assumed in accordance with the provisions of an international monetary agreement to which it is a party or to which it adheres.

(3) Any change in the par value prescribed under subsection (1) shall be

- (a) subject to negative resolution; and
- (b) published in the *Official Gazette*.

Sole right to issue and recall currency notes and coins

35.(1) The Bank shall have the sole right to issue currency whether on its own account or as an agent of an international financial authority.

(2) Neither the Government nor any person shall issue the following:

- (a) currency; or
- (b) documents or tokens payable to bearer on demand, being documents or tokens that have the appearance of or purporting to be currency notes or coins.

- (3) Currency notes that the Bank issues shall be legal tender in Barbados, at their face value, for the payment of any amount.
- (4) Coins that the Bank issues on its own account in denominations of
- (a) \$10 or more shall be legal tender in Barbados, at their face value, for the payment of any amount; and
 - (b) less than \$10 shall be legal tender in Barbados at their face value for the payment of any amount that the Bank may from time to time determine.
- (5) The Bank may, on giving not less than 3 months' notice in the *Official Gazette* and, notwithstanding any enactment to the contrary, in at least one daily newspaper circulated in Barbados, call in any currency that the Bank has issued on payment of their face value.
- (6) Subject to subsection (5), the currency shall, on the expiration of the notice, cease to be legal tender, but the holders of the currency shall be entitled thereafter to claim payment from the Bank in accordance with such regulations as it may issue.

Denominations and other aspects of currency

- 36.(1)** Currency issued by the Bank shall be in such denominations and in such forms and designs as shall be determined by the Bank, with the approval of the Minister.
- (2) The production of such currency shall be the duty of the Bank, which shall be responsible for the security and safe keeping of unissued stocks of currency and for the custody and destruction, as necessary, of plates, dies and retired currency.
- (3) The Bank shall, with the approval of the Minister, determine the standard weight, composition and other features and formats of coins that it issues and the amount of remedy and variation of the coins.

Re-issuance and exchange

37.(1) The Bank shall, on demand, re-issue and exchange currency notes and coins which it has issued.

- (2) The Bank may, with the approval of the Minister,
- (a) prescribe by notice published in the *Official Gazette* the fees that may be charged for services of the Bank referred to in subsection (1); and
 - (b) forward a written notice of the fees to each financial institution at its principal place of business in Barbados.
- (3) Where a person requests a denomination that is temporarily unavailable, the Bank may discharge its obligation by delivering currency of available denominations which most nearly approximate to those that the person requested.

Refunds

38.(1) No person shall be entitled to recover from the Bank as of right the value of any lost, stolen, damaged or mutilated currency note or coin.

- (2) Where a currency note or coin is damaged or mutilated, the Bank shall determine the circumstances in respect of which it may refund the value of the damaged or mutilated currency note or coin to the person.

Offences in relation to currency

39.(1) No person shall obstruct or hinder in any way the circulation of legal tender or the proper use of currency issued under this Part.

- (2) No person shall
- (a) mutilate, cut, tear or perforate with holes or otherwise alter any currency note which is legal tender in Barbados;
 - (b) in any way deface or alter a currency note, whether by writing, printing, drawing or stamping thereon or by attaching or affixing anything

thereto, whether electronically or otherwise, in the nature or form of an advertisement;

(c) mutilate or alter a coin which is legal tender in Barbados; or

(d) photograph or reproduce a currency note or a coin in any form without the written permission of the Bank.

(3) A person who contravenes subsection (1) or (2) is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or to imprisonment for 12 months or to both.

(4) The Bank shall assist in the enforcement of any law relating to forgery or counterfeiting of currency which is legal tender in Barbados.

(5) Subject to subsection (4), a certificate of a duly authorized employee or a duly authorized agent of the Bank that an item in question is or is not genuine shall be *prima facie* evidence of that fact as being certified by the Bank in any legal proceeding in Barbados.

(6) No person shall make or cause to be made, use for any purpose whatsoever or utter a document that purports to be in any way to resemble or so nearly resemble a currency note or part thereof as to be calculated to deceive another person.

(7) A person who contravenes subsection (6) is guilty of an offence and is liable on conviction on indictment to a fine of \$20 000 or to imprisonment for 2 years or to both.

PART VI

RESERVE OF EXTERNAL ASSETS

Maintenance of a Reserve of External Assets

40.(1) Subject to the objectives set out in section 6, the Bank shall conduct transactions in international reserves and manage such reserves in accordance

with international best practices for the purposes of achieving the exchange rate policy target.

(2) Notwithstanding subsection (1), the transactions referred to in subsection (1) shall be conducted for the following reasons and in such order as may be determined by the Bank:

- (a) preservation of capital;
- (b) liquidity; and
- (c) profitability.

(3) Subject to subsections (1) and (2), the Bank may

- (a) open and maintain accounts in Barbados and abroad; and
- (b) act as an agent or a correspondent for a foreign financial institution, a foreign government, a foreign government institution or an international financial institution.

(4) The Bank may maintain in the portfolio of external reserve assets all or any of the following instruments:

- (a) monetary gold or other precious metals;
- (b) foreign currency in the form of banknotes or in a digital or other format, coins or money deposited with other central banks or international investment-grade financial institutions;
- (c) an internationally recognized reserve asset including the
 - (i) ability of Barbados to make a gold tranche purchase in the General Account of the International Monetary Fund; and
 - (ii) holding of a special drawings right in the International Monetary Fund by Barbados;
- (d) investment-grade securities denominated in foreign currency issued by foreign governments; and

- (e) such other internationally recognised financial instruments and investment grade securities consistent with the principles of safety and liquidity as the Board approves.

(5) The Bank shall use its best endeavours to maintain the Reserves of External Assets at a level adequate for the international transactions of Barbados.

(6) Where the reserves of external assets decline and in the judgment of the Executive Committee, appear to be in danger of declining so as to jeopardize the fixed exchange rate regime, the Executive Committee shall submit to the Minister the following:

- (a) a report on the Reserve position and the causes which have led or may lead to the decline; and
- (b) its recommendations and measures that it considers necessary to forestall or otherwise remedy the situation.

PART VII

FOREIGN EXCHANGE OPERATIONS

Limitation on operations of foreign exchange

41.(1) The Bank may, in connection with the operations enumerated at section 40, deal only with such institutions as determined by the Board as part of the risk management policy of the Bank.

(2) Notwithstanding subsection (1), the Bank, with the approval of the Minister, may deal with other persons under such terms as the Board deems appropriate.

Determination of buying and selling rates of gold and foreign exchange

42. The Bank shall determine and make public rates at which it will buy, sell or deal in gold and foreign currencies.

Changes in parity

43.(1) Where gains or losses arise from changes in parity of the Barbados currency, the Bank shall recognize the gains or losses in a Statement of Changes in Equity.

(2) Subject to subsection (1), the Bank shall, where applicable, transfer the gains to income over a period of not less than 5 years or such other period as the Board determines.

(3) Subject to subsection (1), the Government shall, where applicable,

(a) absorb the losses and issue an interest bearing redeemable note to the Bank; and

(b) redeem the note from the future profits of the Bank in accordance with paragraph (c) of section 10(1).

(4) For the purposes of this section, "parity" means a fixed rate system.

PART VIII**RELATIONS WITH BANKS AND OTHER FINANCIAL INSTITUTIONS****Opening accounts for specified financial institutions**

44. The Bank may open accounts for and accept deposits from banks and other institutions as determined by the Executive Committee.

Operations

45.(1) The Bank may conduct the following operations to carry out its functions established in section 6:

(a) operate in financial markets by outright spot and forward buying and selling or repurchase agreements and instruments and swap or other hedging transactions, whether in domestic or foreign currencies;

- (b) provide to solvent banks and other solvent deposit taking institutions loans, advances and overdrafts in domestic currency which are secured by adequate collateral and modalities;
 - (c) subject to terms and conditions that the Bank establishes, provide to solvent but temporarily illiquid financial institutions or systemically important financial institutions, loans in domestic or foreign currency for periods not exceeding 180 days, which are renewable only once at the discretion of the Bank and secured by collateral;
 - (d) with the consent of the Minister, provide to banks, deposit taking institutions or systemically financial important institutions, that are insolvent or of doubtful insolvency, loans or other forms of financial support where such financial support is to be secured by collateral or unconditional government guarantee;
 - (e) issue its own debt securities;
 - (f) lend to the Corporation on a short term basis under such conditions and amounts as the Bank determines that the Corporation may require to meet its obligations under the *Deposit Insurance Act*, Cap. 323 where such loans are for the purpose of addressing urgent situations which may negatively impact financial stability.
- (2) The Bank shall obtain the approval of the Minister before it effects a hedging transaction where that transaction relates to the borrowings made by the Government.

Determination of rates

- 46.(1)** The Bank may determine its rates for discounts, re-discounts, advances, loans or overdrafts.
- (2) Where the Bank makes a determination pursuant to subsection (1), it shall publicly announce the rates for discounts, re-discounts, advances, loans or overdrafts.

- (3) The Bank may establish different rates and ceilings for various classes of transactions or maturities.

Foreign working balances

47. The Bank may prescribe the maximum amount of the working balances which a financial institution may hold in foreign currencies or in any specified currency.

Macro-prudential powers

48. The Bank shall monitor the financial stability of the financial system and where there is a perceived threat to the financial system, the Bank shall have the power to manage and control that risk by taking any steps that it deems suitable.

Bank as prudential regulator and supervisor

49. The Bank shall be the regulator and supervisor of financial institutions and other entities as specified in the *Financial Institutions Act*, Cap. 324A and any other relevant enactment.

Reserves of financial institutions

- 50.(1) The Bank may require banks or other deposit taking institutions to hold a minimum reserve on accounts at the Bank or in cash.

- (2) For the purpose of subsection (1), the Bank may establish regulations concerning the calculation and determination of minimum reserves and shall determine the basis on which the requirements of this section may be met including the basis of averages of holdings over a period as the Bank prescribes.

- (3) The Bank shall

- (a) advise of any changes to regulations established pursuant to subsection (2) by giving written notice to each financial institution, at its principal place of business in Barbados, of the changes; and

- (b) give the written notice not less than 15 days prior to the change.
- (4) The Bank shall not require banks or other deposit taking institutions to hold a total amount of reserves in excess of 20 per cent of the total deposit and other similar liabilities to which reserve ratios have been made applicable.
- (5) Notwithstanding subsection (4), the Bank may prescribe higher ratios appropriate to the circumstances.

Penalties for failure to maintain reserves

- 51.(1) The Bank may impose on a financial institution which fails to maintain cash reserves in accordance with section 50 a charge at an annual rate that does not exceed twice the highest discount rate fixed by the Bank in accordance with section 46 at the time of the failure.
- (2) The Bank may impose the charge on the amount of deficiency for each reporting period or part thereof during which the deficiency continues.

Payments systems

- 52.(1) The Bank shall have the sole authority for the supervision, operation and administration of the national payments system and clearing house facilities.
- (2) The Bank may, pursuant to any enactment governing the national payments system, issue guidelines and directives to govern the operation and regulation of the national payments system and clearing house facilities as the Bank deems fit.
- (3) The Bank may participate in the ownership of local clearing house facilities.

Authority of the Bank to extend specified financial institutions

- 53.(1) On the recommendation of the Bank, the Minister may, by notice published in the *Official Gazette*, prescribe that any authority that this Part confers on the Bank may be exercised by the Bank in relation to any entity that is not a licensee under the *Financial Institutions Act*, Cap. 324A.

(2) The name of an entity to which subsection (1) applies shall be specified in the notice.

Prohibited activities

54. Unless explicitly stated by this Act, the Bank shall not conduct any financial activity that should be undertaken by the Government or any other agency to stimulate economic growth including

- (a) the provision of financial grants to persons;
- (b) the speculative purchase or sale of moveable or immovable property for profit;
- (c) taking deposits from persons or granting or providing transaction services to persons;
- (d) making investments, including the purchase of shares in enterprises owned by the Government or private companies or the purchase of securities or bonds issued by such enterprises or companies;
- (e) issuing loans, payment or bank guarantees for persons who conduct balance sheet and off-balance sheet transactions which create economic or commercial advantages for persons or specific economic sectors.

Management by the Bank of special purpose vehicles

55.(1) The Bank may establish and manage entities or special purpose vehicles as may be required from time to time.

(2) For the purpose of this section "special purpose vehicle" means an entity in which the Bank participates or manages and is set up for a special financial purpose connected with the overall objectives of the Bank.

PART IX

RELATIONS WITH THE GOVERNMENT

Interpretation

56. For the purposes of this Act, reference to “fiscal year” with respect to the Government means the twelve-month period ending on March 31 in each year.

Bank to be banker, fiscal agent and depositary to Government

57.(1) The Bank shall be the banker and fiscal agent of the Government and the depositary of Government funds.

(2) Subject to subsection (1), the Bank may act in such capacities to institutions and agencies of the Government, statutory corporations and statutory boards on such terms and for such periods of time as the Bank and the Minister may agree.

(3) Subject to subsection (1), the Government may maintain working balances with other financial institutions and the use of the services of other financial institutions on terms and for periods of time as the Bank and the Minister may agree.

(4) The Government may, through the Minister, request the Bank to render advice and to furnish reports on matters that relate to the purposes of the Bank.

(5) The Bank shall, through the Minister, inform and advise the Government of any matter which in the view of the Bank shall affect the achievement of the purposes of the Bank.

Depository of securities and other instruments

58.(1) The Bank shall establish and operate a depository of Government securities or other instruments.

- (2) For the purposes of subsection (1), the Bank may
- (a) enter into agreements with depositories of securities or of other instruments and carry out transactions under the terms of those agreements as may be necessary for the settlement of transactions between members of those depositories and the members of any depository operated by the Bank; and
 - (b) make rules and guidelines for the operation of the depositories.

Depository and fiscal agency of international financial institutions

59. The Minister may designate the Bank to serve as the depository and fiscal agent of and the institution through which dealings shall be conducted with international financial institutions of which Barbados is a member.

Consultation on budget and credit operations

60.(1) The Minister shall consult the Bank on the total amount of credit to be extended by the Bank to the Government during any fiscal year of the Government.

(2) The Government, institutions and agencies of the Government and statutory boards shall consult the Bank when they contemplate domestic credit operations or foreign credit operations.

(3) Subject to subsection (2), where the Bank is of the view that the domestic credit operations or the foreign credit operations appear to be of a magnitude that is inappropriate to prevailing economic conditions, the Bank shall

- (a) report such to the Minister to draw attention to the situation; and
- (b) recommend to the Minister measures to remedy the situation.

Reports and recommendations on Bank credit to Government

61. Where the total amount of credit that the Bank extends to the Government pursuant to this Act or any other enactment threatens to

- (a) exceed the amount agreed under section 60; or
- (b) endanger the par value of the Barbados dollar,

the Bank shall submit a report to the Minister that draws attention to the situation, analyses the causes which led to the situation and recommends measures that it considers necessary to forestall or remedy the situation.

Prohibition on monetary financing

62.(1) The Bank, except otherwise provided in this Act, shall not provide any direct or indirect financing to the Government or Government owned enterprises including the

- (a) grant by the Bank of direct or indirect loans or short term advances;
- (b) issuance of guarantees by the Bank for financial transactions.

(2) Subsection (1) does not apply to the banks that are owned by the Government.

(3) The Bank shall not purchase securities issued by the Government or any Government owned enterprise on the primary market.

(4) Notwithstanding subsection (3), the Bank may acquire securities transferred to it by the Government in accordance with section 7 and section 43.

(5) Notwithstanding subsections (3) and (4), where by an enactment it is declared that a public emergency has arisen in Barbados, the Bank may purchase marketable securities issued by the Government or any publicly owned institution on the primary market where

- (a) the total amount of Government debt acquired by the Bank pursuant to this section does not exceed 3 per cent of gross domestic product;

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- (b) securities issued pursuant to this subsection shall
- (i) have a specified maturity of a maximum of up to 5 years;
 - (ii) be issued at prevailing market rates;
 - (iii) be repaid in cash only; and
 - (iv) not been rolled over or renewed.
- (6) Notwithstanding any other provision to the contrary, the Bank may make temporary advances to the Government to permit the Government to manage its cash flow.
- (7) Where the Bank makes temporary advances pursuant to subsection (6), the temporary advances shall be subject to the followings conditions:
- (a) the total aggregate amount cannot exceed at any time 7.5 per cent of the annual average of the ordinary revenue of the Government for the 3 fiscal years of the Government immediately preceding for which accounts are available;
 - (b) repayment in cash only within 3 months of the end of the fiscal year of the Government;
 - (c) bear interest at a prevailing market rate.
- (8) Where subsection (5) is invoked and the ordinary revenues of the Government declines below that in the fiscal year of the Government immediately preceding the public emergency, the Bank may exclude such reduced revenue in the computation of the annual average in paragraph (a) of subsection (7).
- (9) Notwithstanding subsections (6) and (7), the Bank may make advances to the Government upon terms to which the Bank and the Government agree in respect of the following:
- (a) subscriptions and other payments that result from or are incidental to the membership or participation of Barbados in an international financial institution;

- (b) participation of Barbados in transactions and operations it undertakes in respect of an international financial institution.

(10) Subsection (7) shall not come into force until the beginning of the fiscal year of the Government immediately following the day this Act comes into operation.

Orders

63.(1) Where the Minister consults with the Bank on the macroeconomic policies of the Bank and the Minister is of the view that the macroeconomic policies of the Bank are not adequate for or conducive to the achievement of the purposes of the Bank as set out at sections 6(1) and 6(2), the Minister may issue an order to the Bank that states a macroeconomic policy is to be adopted by the Bank in respect of the purposes.

(2) Where the Minister issues an order in accordance with subsection (1), the order shall

- (a) acknowledge that the Government is responsible for the macroeconomic policy; and
- (b) be published in the *Official Gazette* forthwith.

(3) Notwithstanding subsection (2), the Minister shall

- (a) inform the Bank of the macroeconomic policy; and
- (b) as soon as practicable after he informs the Bank of the macroeconomic policy, cause to be laid before Parliament
 - (i) a copy of the order determining the policy which shall be subject to an affirmative resolution of Parliament; and
 - (ii) his statements and statements of the Bank which occasioned the order.

(4) Upon the fulfilment of the conditions set out in subsections (2) and (3), the Bank shall give effect to the macroeconomic policy pursuant to the order.

PART X

ACCOUNTS AND AUDITS

Internal audit functions

64. The Board shall, upon the advice of the Audit Committee, develop written policies and procedures which are necessary for the efficient discharge of the internal audit functions of the Bank.

Chief Internal Auditor

65.(1) The Board shall, on the recommendation of the Audit Committee, appoint a Chief Internal Auditor of the Bank.

(2) The Chief Internal Auditor shall have not less than 6 years experience in the field of accounting or audit.

(3) The Chief Internal Auditor shall be removed from office where the Board concludes that conditions referred to in section 25 apply to the Chief Internal Auditor.

Duties of the Chief Internal Auditor

66. The duties of the Chief Internal Auditor shall include the following:

- (a) proposing to the Audit Committee an annual audit plan;
- (b) making recommendations to the Audit Committee on procedures and practices for strengthening internal controls and following up and reviewing their effectiveness on a continuous basis;
- (c) performing audits in accordance with the annual audit plan and in compliance with international standards on internal audit;
- (d) preparing and delivering to the Audit Committee and the Board where the Audit Committee or the Board deems appropriate, but not less than

once a quarter, a report summarizing its activities, findings and status of audit recommendations;

- (e) liaising with the external auditors of the Bank; and
- (f) any other assignment that may be given by the Audit Committee or the Board where such assignments do not interfere with the principal duties set out in this section.

External audit

67.(1) The accounts, records and financial statements of the Bank shall, at least once a year, be audited in accordance with the international standards on auditing by an external auditor who is of good repute and has recognised experience in the auditing of major financial institutions.

(2) The Board shall, after a competitive bidding process, appoint an external auditor for a period of 5 years.

(3) Where the Board appoints an external auditor pursuant to this section, the external auditor is eligible for re-appointment for a cumulative audit period which shall not exceed 10 years.

(4) The external auditor shall report to the Audit Committee and the Board on matters which arise from the audit and in particular on material weaknesses in internal controls which relate to the financial reporting process.

(5) The external auditor shall have the authority to examine all records and accounts of the Bank and to obtain all information on its transactions.

Accounts and operations

68.(1) The Bank shall

- (a) as soon as practicable after the end of each month, make a financial statement of the condition of the Bank at the close of business on the last day of each month; and
- (b) submit a copy of the statement to the Minister.

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- (2) The Minister shall, on receipt of the statement referred to in subsection (1), cause the statement to be published in the *Official Gazette*.
- (3) The Board shall, within 3 months of the close of each financial year, submit to the Minister
- (a) a copy of the financial statements which have been approved by the Board and certified by an external auditor; and
 - (b) a report on the operations of the Bank during the financial year.
- (4) The Bank shall within 60 days following the external audit certification of the financial statements, publish the audited financial statements and the related external audit opinion in respect of such statements in the *Official Gazette*.
- (5) Where the Minister receives a copy of the financial statements of the Bank or the report of the operation of the Bank for the financial year in respect of which the financial statements have been prepared, the Minister shall lay the financial statements or the report, respectively,
- (a) before Parliament within 60 days of receipt of the financial statements or the report; or
 - (b) at the first sitting of Parliament after the expiration of the 60 days.

PART XI

MISCELLANEOUS

Reports and announcements

- 69.(1)** The Bank may issue reports and publications as the Board considers to be of public interest.
- (2) The Bank may require persons to furnish to the Bank any information and data that is necessary to enable the Bank to perform its functions under the Act.
- (3) The Bank may publish the information and data in any form it determines.

(4) Notwithstanding subsection (3), the Bank shall not identify individual transactions in the publication.

(5) Any person who

- (a) intentionally or without justification fails to comply with a request for information under subsection (2);
- (b) intentionally or without justification fails to furnish, within the time specified by the Bank, any information or date requested by the Bank under subsection (2); or
- (c) knowingly supplies any information pursuant to a request made under subsection (2) which is incomplete or false in material particular,

is guilty of an offence and shall be liable on summary conviction to a fine of \$10 000.

Advances to employees

70. The Bank may, subject to terms that the Board specifies, grant advances to an employee of the Bank for

- (a) the purchase, construction or repair of one residential property or the purchase of land for his personal use against the security of the property or for land; or
- (b) any other purposes in an amount that does not exceed the annual remuneration that the employee receives from the Bank during the time the advances are repayable.

Restricted titles

71. Except with the written consent of the Minister, on the recommendation of the Bank, a financial institution shall not be licensed under the *Financial Institutions Act*, Cap. 324A by a name that includes the words "Central", "National", "Barbados", "Reserve", "State" or their equivalent in any other language.

Exemptions

72. Notwithstanding any other enactment, the Bank is exempt from the
- (a) payment of income tax and any other tax imposed on the income or profits of persons;
 - (b) payment of stamp duty on any document resulting from transactions with persons resident outside Barbados; and
 - (c) requirements of the *Financial Institutions Act*, Cap. 324A.

Liquidation of Bank

73. The Bank shall not be liquidated except by an Act of Parliament.

Immunity of employees

74. The Governor or an employee of the Bank shall not be liable in damages for anything done or omitted in the discharge or purported discharge of his functions under this Act unless it is shown that the act or omission was done in bad faith.

Residence

- 75.(1) The Governor is entitled to occupy a fully furnished residence without the payment of rent.
- (2) The Bank shall provide the residence.
 - (3) The value of the residence shall not be included in calculating the assessable income of the Governor for the purposes of the *Income Tax Act*, Cap. 73.

Savings

76. Subject to section 77, all acts done under the former Act, except in so far as they are not inconsistent with this Act, shall continue to have effect as though done under this Act.

Transitional provisions

77.(1) The Governor and the Directors who are appointed under the provisions of the former Act and who are in office on the day this Act comes into operation, shall remain in office until the expiration of the terms of their respective appointments.

(2) Subject to subsection (1), where the respective terms of appointments expire, the Governor and non-executive Directors shall be appointed in accordance with this Act, except for the initial term of their mandates which shall be as follows:

- (a) the Governor shall be appointed for 6 years;
- (b) in respect of the non-executive Directors,
 - (i) one shall be appointed for one year;
 - (ii) another shall be appointed for 2 years;
 - (iii) another shall be appointed for 3 years;
 - (iv) another shall be appointed for 4 years; and
 - (v) another shall be appointed for 5 years.

(3) Where on the day this Act comes into operation there are vacancies for the position of non-executive Director, any person appointed to the position of non-executive Director on that day or thereafter shall be appointed in accordance with this Act.

(4) The Deputy Governors appointed under the provisions of the former Act who are in office on the day this Act comes into operation are deemed to have been appointed in accordance with this Act.

(5) On the day this Act comes into operation

- (a) the Bank is prohibited from conducting any new financial activities to stimulate economic growth that should ordinarily be undertaken by the Government or any other agency of Government; and

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- (b) the Bank shall, within a two-year period of the Act coming into operation, divest ownership of any scheme which involves the carrying out financial activities to stimulate economic growth which should ordinarily be undertaken by the Government or any other agency of Government.
- (6) Notwithstanding paragraph (b) of section 62(7), for the 2 fiscal years of the Government after this Act comes into operation, temporary advances from the Bank to the Government shall be repaid within 6 months of the end of those fiscal years.
- (7) External auditors appointed under the former Act shall remain in office until the expiration of their audit period.
- (8) Where the audit period referred to in subsection (7) expires, external auditors shall be appointed in accordance with this Act.

Consequential amendment

78. The enactment set out in the first column of the *Schedule* is amended to the extent specified opposite thereto in the second column.

Repeal of Cap. 323C

79. The *Central Bank of Barbados Act, Cap. 323C*, is repealed.

SCHEDULE*(Section 78)*

CONSEQUENTIAL AMENDMENT

Column 1	Column 2
Enactment	Amendment
<i>Public Finance Management Act, 2019</i> (Act 2019-1)	Subsection (2) of section 59 is repealed.



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BARBADOS

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Statutory Instrument

S.I. 2020 No. 83

Duties, Taxes and Other Payments (Exemption) Act

CAP. 67B

**DUTIES, TAXES AND OTHER PAYMENTS (EXEMPTION)
(INNOTECH SERVICES LIMITED) ORDER, 2020**

The Minister, in exercise of the powers conferred on him by section 3 of the *Duties, Taxes and Other Payments (Exemption) Act*, makes the following Order:

1. This Order may be cited as the *Duties, Taxes and Other Payments (Exemption) (Innotech Services Limited) Order, 2020*.
2. Innotech Services Limited, a company incorporated under the *Companies Act*, Cap. 308, is exempt from the payment of \$330,228.50 being interest owed as of the 15th day of September, 2020 in respect of outstanding national insurance contributions for the periods June 2017 to January 2018 and June 2018 to February, 2020.

Made by the Minister this 14th day of December, 2020.

MIA AMOR MOTTLEY

Minister Responsible for Finance

