

BARBADOS REVENUE AUTHORITY ACT, 2014—1

Arrangement of Sections

PART I

PRELIMINARY

1. Short title
2. Interpretation

PART II

ESTABLISHMENT, FUNCTIONS AND ADMINISTRATION OF
AUTHORITY

3. Establishment of Authority
4. Functions of Authority
5. Board to manage Authority
6. Board may delegate functions
7. Revenue Commissioner
8. Functions of Commissioner
9. Appointment of other staff and establishment of divisions
10. Transfer and secondment of employees

11. Limitation on powers of Authority concerning staff etc.
12. Appeal to Privy Council
13. Private pension plan
14. Appointment of experts

PART III

FINANCIAL PROVISIONS

15. Fund
16. Borrowing power
17. Guarantee of loans
18. Exemption from taxes
19. Accounts
20. Monthly statements
21. Audit
22. Financial Management and Audit Act to apply
23. Reports

PART IV

BARBADOS REVENUE APPEALS TRIBUNAL

24. Establishment of Tribunal

25. Appeal to Tribunal

26. Appeal to Court

PART V

MISCELLANEOUS

27. Remuneration of directors and members

28. Directors and members to declare interest

29. Certain information not to be disclosed to Board

30. Protection from personal liability

31. Corporate business plan

32. Ministerial directions

33. Minister may amend certain Schedules

34. Regulations

35. Act binds Crown

36. Transitional provisions relating to appeals

37. Transitional provisions relating to the Crown

38. Transitional provisions relating to civil proceedings

39. Proclamation

FIRST SCHEDULE
SPECIFIED ENACTMENTS

SECOND SCHEDULE
BARBADOS REVENUE AUTHORITY BOARD

THIRD SCHEDULE
APPEALS TO PRIVY COUNCIL

FOURTH SCHEDULE
BARBADOS REVENUE APPEALS TRIBUNAL

BARBADOS

I assent
ELLIOTT F. BELGRAVE
Governor-General
27th February, 2014.

2014–1

An Act to establish the Barbados Revenue Authority and to provide for its structure, management and functions, for appeals against its decisions and for related matters.

[Commencement: by Proclamation]

ENACTED by the Parliament of Barbados as follows:

PART I
PRELIMINARY

Short title

1. This Act may be cited as the *Barbados Revenue Authority Act, 2014*.

Interpretation

2. In this Act,

“appeal” includes an application or reference;

“Authority” means the Barbados Revenue Authority established by section 3;

“Board” means the Barbados Revenue Authority Board provided for in section 5;

“Commissioner” means the Revenue Commissioner appointed pursuant to section 7;

“director” means a director of the Board;

“Fund” means the Barbados Revenue Authority Fund established by section 15;

“member” means a member of the Tribunal;

“Minister” means the Minister responsible for Finance;

“Privy Council” means the body established under section 76 of the *Constitution*;

“public officer” has the meaning assigned to it by section 2 of the *Public Service Act*, Cap. 29;

“regulatory authority” means an authority which, prior to the commencement of this Act, administered a specified enactment and includes a Minister;

“specified enactments” means

- (a) the Acts specified in the *First Schedule* and any subsidiary legislation made thereunder; and
- (b) the *Road Traffic Act*, Cap. 295 and the subsidiary legislation made thereunder in so far as these enactments relate to the collection of taxes, fees and other sums;

“Tribunal” means the Barbados Revenue Appeals Tribunal established by section 24.

PART II

ESTABLISHMENT, FUNCTIONS AND ADMINISTRATION OF AUTHORITY

Establishment of Authority

3.(1) There is established a body to be known as the Barbados Revenue Authority.

(2) The Authority is a body corporate to which, subject to this Act, section 21 of the *Interpretation Act*, Cap. 1 applies.

Functions of Authority

4.(1) The functions of the Authority are to:

- (a) administer the specified enactments and in particular, to assess, collect and enforce the payment of taxes, duties, interest, penalties, fees and other sums payable under the specified enactments;
- (b) advise the Government and other public authorities on matters relating to this Act and the specified enactments and generally, to taxation;
- (c) represent Barbados in respect of matters relating to taxation; and
- (d) do such other things as are necessary to give effect to this Act.

(2) The Authority shall have power to do all things necessary or convenient to be done in connection with the performance of its functions.

(3) The Authority shall, in the exercise of its functions pursuant to subsection (1), administer the specified enactments with such modifications, adaptations, qualifications and exceptions as may be necessary to bring them into conformity with this Act.

(4) Where there is a conflict between this Act and any of the specified enactments, this Act prevails.

Board to manage Authority

5.(1) There shall be established a board, to be known as the Barbados Revenue Authority Board, which shall be responsible for the policy, organisation and administration of the Authority, and in particular for

- (a) the appointment of staff to the Authority and the management thereof;
- (b) the management of the other resources and contracts of the Authority;
- (c) the development of policies for the prudent and efficient management of the Authority; and
- (d) the monitoring of the performance of the Authority in respect of the discharge of its functions.

(2) The *Second Schedule* has effect with respect to the constitution of the Board and otherwise in relation thereto.

Board may delegate functions

6.(1) The Board may delegate such of its functions as it thinks expedient for the purpose of effectively transacting the business of the Board to the Chairman, a committee of the Board or the chief executive officer of the Authority.

(2) A delegation of a function under subsection (1)

- (a) does not prevent the discharge by the Board of the function; and

(b) may, at any time, be revoked by the Board.

Revenue Commissioner

7.(1) The Authority shall, with the approval of the Minister, appoint a person, to be known as the Revenue Commissioner, to be the chief executive officer of the Authority.

(2) The Commissioner

- (a) shall hold office for a term not exceeding 4 years but is eligible for reappointment;
- (b) is entitled to such remuneration and allowances as the Authority determines; and
- (c) shall not be removed from office without the approval of the Minister.

Functions of Commissioner

8.(1) The functions of the Commissioner are to

- (a) discharge, on behalf of the Authority, the functions of the Authority;
- (b) execute the policy and manage the affairs of the Authority;
- (c) inform the Minister of any matter that may affect public policy or materially affect public finances; and
- (d) perform such functions as may be stipulated by the Board.

(2) The Commissioner is, in the exercise of his functions, subject to the directions of the Board.

(3) Notwithstanding subsection (2), the Board shall not direct the Commissioner or any other person with respect to the administration of any of the specified enactments and, in particular, in the exercise of a function conferred or delegated under any of the specified enactments.

Appointment of other staff and establishment of divisions

9. The Authority may

- (a) separate its operations into divisions; and
- (b) appoint such number of staff, including officers to manage any divisions that it establishes, as it considers necessary for giving effect to this Act.

Transfer and secondment of employees

10.(1) Where a public officer is seconded to a post in the Authority from a pensionable office within the meaning of section 2 of the *Pensions Act*, Cap. 25, the period of service with the Authority, unless the Governor-General otherwise determines, counts for pension under that Act as if the officer had not been so seconded.

(2) Where a public officer accepts employment with the Authority, the public officer shall

- (a) be employed on terms and conditions that are no less favourable than those enjoyed by a public officer of proximate rank or a public officer performing comparable duties; and
- (b) retain any right to pension, gratuity or other allowance for which he would have been eligible had he remained in the public service; and any such right is preserved.

Limitation on powers of Authority concerning staff etc.

11. Notwithstanding the powers conferred on the Authority by sections 7 and 9, the Authority shall not, without the prior approval of the Minister

- (a) assign to a post established by the Authority a salary in excess of such amount per annum as the Minister may determine and notify the Authority in writing;

- (b) appoint a person to a post established by the Authority to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned; or
- (c) provide for the payment of a pension, gratuity or similar benefit to the directors of the Board or the employees of the Authority in respect of service to the Authority.

Appeal to Privy Council

12.(1) An employee of the Authority has a right of appeal to the Privy Council in respect of any decision by the Board that would render him liable to the penalty of demotion or dismissal.

(2) An appeal to the Privy Council pursuant to subsection (1) shall be in accordance with the procedure set out in the *Third Schedule*.

Private pension plan

13. The Authority shall, within 2 years of the commencement of this Act, provide for the establishment and maintenance of a pension plan for the benefit of the staff of the Authority.

Appointment of experts

14. The Authority may appoint, on such terms and conditions as the Minister approves, such experts as it considers necessary to assist it in such manner as it determines.

PART III
FINANCIAL PROVISIONS

Fund

15.(1) There is established a fund to be known as the Barbados Revenue Authority Fund, the resources of which shall comprise such moneys as may

- (a) be vested in the Authority by this Act;
- (b) be voted for the purpose by Parliament;
- (c) be borrowed by the Authority for its purposes;
- (d) be realized from investment proceeds; and
- (e) become available to the Authority from any other source approved by the Minister.

(2) The resources of the Fund shall be applied in payment or discharge of the expenses, obligations and liabilities of the Authority and the Tribunal and towards the performance of any function of the Authority or the Tribunal under this Act.

(3) The Authority

- (a) shall develop an investment policy in relation to the Fund; and
- (b) may invest any sums not required for the purposes of subsection (2) in such low-risk securities as it considers appropriate.

Borrowing power

16.(1) The Authority may, with the approval of the Minister, borrow any money it requires for meeting any of its obligations or performing any of its functions and shall, in such a case, inform the Minister of

- (a) the amount and source of the loan; and
- (b) the terms and conditions on which the loan may be obtained.

(2) The approval of the Minister under subsection (1) may be general or limited to a particular borrowing.

Guarantee of loans

17. The Government may, with the approval of Parliament, in such manner and on such terms and conditions as may be specified, guarantee a loan to the Authority together with any interest or other charges payable thereon.

Exemption from taxes

18. The Authority is exempt from the payment of corporation tax and land tax.

Accounts

19.(1) The Authority shall, in respect of its affairs and functions

- (a) keep proper accounts and adequate financial and other records; and
- (b) prepare financial statements in respect of each financial year,

in conformity with generally accepted accounting practice.

(2) In subsection (1) “generally accepted accounting practice” means

- (a) the International Public Sector Accounting Standards issued by the International Federation of Accountants;
- (b) where no guidance is provided by the Standards mentioned in paragraph (a), the Accounting Standards issued by the International Accounting Standards Board; or
- (c) where no guidance is provided by the Standards specified in paragraph (a) or (b), accounting practice that is generally accepted within the accounting profession in Barbados as appropriate for reporting by the public sector including statutory bodies.

Monthly statements

20. Every month the Commissioner shall prepare and submit to the Accountant-General within such time as the Accountant-General may determine

- (a) a statement of revenue showing, under such headings the Accountant-General may determine, the total revenue earned;
- (b) a statement of cash flows; and
- (c) a statement of refunds, remittances and waivers made,

during the preceding month.

Audit

21.(1) The Auditor-General shall be the auditor of the Authority.

(2) The Auditor-General shall

- (a) audit annually, the accounts of the Authority and report to the Authority and the Minister on the financial statements of the Authority;
- (b) periodically assess, on such basis as the Auditor-General may determine to be reasonable, the fairness and reliability of the information submitted to him by the Authority; and
- (c) provide the Minister and the Authority with copies of reports of audits and assessments carried out under this section.

Financial Management and Audit Act to apply

22. The *Financial Management and Audit Act*, Cap. 5 applies to the Authority with such modifications and adaptations as may be necessary.

Reports

23. The Authority shall, not later than 3 months after the end of a financial year, submit to the Minister a report containing
- (a) an account of the activities and transactions of the Authority throughout the financial year in such detail as the Minister may direct; and
 - (b) a detailed statement of all sums remitted in accordance with section 21(2) of the *Financial Management and Audit Act*, Cap. 5.

PART IV

BARBADOS REVENUE APPEALS TRIBUNAL

Establishment of Tribunal

- 24.(1) There is established a tribunal, to be known as the Barbados Revenue Appeals Tribunal, which shall hear appeals in accordance with this Act.
- (2) The Tribunal shall have a separate existence apart from its members.
 - (3) The *Fourth Schedule* has effect with respect to the constitution of the Tribunal and otherwise in relation thereto.
 - (4) The Tribunal may be divided into such number of divisions as may be required for the efficient hearing of various appeals.
 - (5) An appeal to the Tribunal shall be heard and determined by the division to which it is assigned by the direction of the Chairman of the Tribunal.

Appeal to Tribunal

25. Where, under any of the specified enactments, an appeal lies to a tribunal or another body or to the Minister or another authority, other than a court, from a decision of a regulatory authority, upon the commencement of this Act
- (a) the appeal shall lie to the Tribunal; and

- (b) the Tribunal may make any order or take any action which, before the commencement of this Act, it would have been within the power of the tribunal or other body or of the Minister or other authority to make under the specified enactment upon an appeal.

Appeal to Court

26.(1) A party to an appeal determined by the Tribunal who is dissatisfied with the determination may, within 30 days after the party is notified of the decision, appeal to the High Court against the decision in accordance with rules of court.

(2) On an appeal under subsection (1), the High Court may make any order or give any decision which might have been made or given by the Tribunal, and may, if it thinks fit, remit the case to the Tribunal with directions as to its determination by the Tribunal.

PART V

MISCELLANEOUS

Remuneration of directors and members

27. Directors and members, other than the Commissioner, are entitled to such remuneration and allowances as the Minister determines.

Directors and members to declare interest

28.(1) A director who is in any way, whether directly or indirectly, interested in a matter before the Board shall declare his interest to the Board.

(2) The Board, excluding the director whose interest was declared, shall determine whether the interest is sufficiently material as to constitute a conflict of interest.

(3) Where the Board determines that the interest is such as to constitute a conflict of interest, the director shall not

- (a) participate in deliberations on the matter concerned; and
- (b) be present during the deliberations.

(4) For the purpose of this section, a director shall be deemed to have a direct interest in a matter where the director or the nominee or immediate relative of the director is

- (a) a shareholder or a partner in; or
- (b) an officer of,

a company or other body of persons having an interest in or involved in a matter before the Board.

(5) For the purpose of subsection (4), “immediate relative” means the spouse, child, parent, brother or sister of a director.

(6) A person who fails to comply with subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$25 000, unless he proves that he did not know that he had an interest in the matter which was the subject of consideration by the Board.

(7) A person convicted of an offence under this section is no longer eligible to sit on the Board.

(8) This section applies to a member in respect of a matter before the Tribunal as it relates to a director in respect of a matter before the Board.

Certain information not to be disclosed to Board

29. No person shall disclose to the Board information obtained under any of the specified enactments or prepared from information so obtained, that directly or indirectly reveals the identity of the person, organisation or business to which the information relates.

Protection from personal liability

30. No action or other legal proceedings shall lie personally against an employee of, or other person acting under the direction of, the Authority or against a director or member for anything which is in good faith done or intended to be done in the execution or purported execution of this Act.

Corporate business plan

31.(1) The Authority shall, every year, prepare and submit to the Minister, a corporate business plan for the following year beginning on April 1st and ending on March 31st.

(2) The plan must include

- (a)* the objectives of the Authority;
- (b)* the strategies that the Authority intends to use to achieve its objectives, including
 - (i)* operational and financial strategies; and
 - (ii)* human resource strategies,
- and their impact on overall salaries and benefits;
- (c)* the expected performance of the Authority;
- (d)* the operating and capital budgets of the Authority, including grants and contributions and revenues from the conduct of the operations of the Authority; and
- (e)* any other strategic information that the Minister may require.

Ministerial directions

32.(1) The Minister may, in writing, give to the Authority directions of a general nature as to the policy to be followed by the Authority in the performance of its functions; and the Authority shall comply with the directions.

(2) The Minister may, at any time, require the Authority to provide him with information concerning any aspect of its administration under this Act; and the Authority shall provide the information.

Minister may amend certain Schedules

33. The Minister may by Order amend the *Second, Third and Fourth Schedules*.

Regulations

34. The Authority may, with the approval of the Minister, make regulations to give better effect to this Act and generally for the proper administration of this Act.

Act binds Crown

35. This Act binds the Crown.

Transitional provisions relating to appeals

36.(1) Where, at the commencement of this Act,

- (a) a tribunal or another body or the Minister or another authority is in the process of hearing an appeal under any of the specified enactments, the tribunal or other body or the Minister or other authority shall continue to hear and determine the appeal;
- (b) an appeal under any of the specified enactments is awaiting hearing by a tribunal or another body or the Minister or another authority, the appeal shall be heard and determined by the Tribunal.

(2) Subject to subsection (1), upon the commencement of this Act, a tribunal or similar body which was established under any of the specified enactments to hear appeals shall cease to exist.

(3) For the avoidance of doubt, subsection (2) does not apply to the Relief Board established under the *Land Tax Act*, Cap. 78A.

Transitional provisions relating to the Crown

37. Upon the commencement of this Act

- (a) all funds appropriated for the administration of any of the specified enactments shall vest, by virtue of this Act, in the Authority;
- (b) all rights, powers, privileges and authorities relating to the administration of any of the specified enactments, that immediately before the commencement of this Act were vested in and exercisable by the Crown, are vested in and exercisable by the Authority;
- (c) all liabilities incurred by the Crown in respect of the administration of any of the specified enactments and subsisting immediately before the commencement of this Act shall have effect as if they had been incurred by or on behalf of the Authority; and
- (d) without affecting paragraph (c), all contracts made by or on behalf of the Crown in respect of the administration of any of the specified enactments and subsisting immediately before the commencement of this Act shall be deemed to have been made by or on behalf of the Authority and shall be construed with such modifications and adaptations as may be necessary to give effect to them.

Transitional provisions relating to civil proceedings

38. All civil proceedings commenced before the commencement of this Act in any court of competent jurisdiction by or against the Crown in connection with the administration of any of the specified enactments may be continued by or against the Authority; and the process in those proceedings may be amended accordingly.

Proclamation

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

FIRST SCHEDULE

(Section 2)

SPECIFIED ENACTMENTS

1. *Income Tax Act, Cap. 73*
2. *Value Added Tax Act, Cap. 87*
3. *Land Development Duty Act, Cap. 78*
4. *Land Tax Act, Cap. 78A*
5. *Land Valuation Act, Cap. 229A*
6. *Offshore Petroleum (Taxation) Act, Cap. 80*
7. *Petroleum Winnings Taxation Act, Cap. 82*
8. *Public Entertainment Act, Cap. 85A*
9. *Betting and Gaming Duties Act, Cap. 60*
10. *Excise Tax Act, Cap. 69*

SECOND SCHEDULE*(Section 5)***BARBADOS REVENUE AUTHORITY BOARD****Appointment of directors**

- 1.(1) The Board shall comprise 9 directors as follows:
- (a) 6 persons appointed by the Minister by instrument in writing in accordance with sub-paragraph (2); and
 - (b) *ex officio*
 - (i) the Commissioner;
 - (ii) the Director of Finance and Economic Affairs; and
 - (iii) the Chief Technical Officer in the Ministry of Transport and Works or his nominee.
- (2) The Minister shall appoint as directors
- (a) 5 persons who appear to the Minister to be qualified and experienced in economics, accounts, finance, tax, law, public administration or business or such other area as, in the opinion of the Minister, is required for the discharge of the functions of the Board; and
 - (b) a person nominated by the most representative organisation of employees from among its members.
- (3) A director, other than an *ex officio* director, shall, subject to the provisions of this Schedule
- (a) hold office for a term not exceeding 3 years; and
 - (b) be eligible for reappointment.

(4) The Minister shall, pursuant to sub-paragraph (3), determine the term of office of a director in such a manner that in any one year the respective terms of office of no more than 3 directors expire.

Chairman and Deputy Chairman

2. The Minister shall appoint a director to be Chairman, and another to be Deputy Chairman, of the Board.

Resignation

3.(1) The Chairman may resign his office by instrument in writing addressed to the Minister.

(2) A director, other than the Chairman, may resign his office by instrument in writing addressed to the Chairman, who shall forthwith forward the instrument to the Minister.

(3) A resignation takes effect from the date on which the Minister receives the instrument.

Temporary leave of absence

4. The Minister may, in writing, grant leave of absence to a director.

Temporary appointment

5. Where a director is, or is likely to be, unable to perform the functions of his office for more than 30 days, whether as a result of absence from Barbados, illness or other cause, the Minister may appoint a person to act in the place of the director.

Revocation of appointment

6. The Minister shall revoke the appointment of a director who
(a) fails to carry out any of his functions under this Act;

- (b) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (c) is convicted of an offence involving fraud or dishonesty or, in the case of any other offence, is sentenced to a term of imprisonment;
- (d) is guilty of serious misconduct in relation to his functions;
- (e) is bankrupt or compounds with or suspends payment to his creditors;
or
- (f) fails to declare his interest in a matter before the Board as required by section 28.

Vacancies

7.(1) A vacancy in the membership of the Board arises on

- (a) the death or resignation of a director;
- (b) the revocation of the appointment of a director; or
- (c) the absence of a director from 4 consecutive meetings of the Board without the approval of the Minister.

(2) A person who is appointed to fill a vacancy referred to in sub-paragraph (1) shall hold office only for the unexpired portion of the term of the former director concerned.

Disqualification to be director

8. A person who

- (a) is a member of Parliament;
- (b) other than a person specified in paragraph 1(b)(ii) or (iii), is a public officer within the meaning of the *Public Service Act*, Cap. 29; or
- (c) were he a director, would have to be removed from office pursuant to paragraph 6,

is not eligible to be a director.

Gazetting of appointments

9. The appointment, resignation, death or removal from office of a director shall be notified in the *Official Gazette*.

Seal and execution of documents

10.(1) The seal of the Authority shall be

- (a) kept in the custody of the Chairman, the Deputy Chairman, the Commissioner or the person performing the functions of secretary to the Board and may be affixed to documents or instruments pursuant to a resolution of the Board, in the presence of any 2 of the persons referred to in this sub-paragraph; and
- (b) authenticated by the signature of the Chairman or the Deputy Chairman and of the Commissioner or the person performing the functions of secretary to the Board.

(2) All documents or instruments made by the Board, other than those required by law to be under seal, and all decisions of the Board shall be signified under the hand of the Chairman or the Deputy Chairman, the Commissioner or the person performing the functions of secretary to the Board.

Committees

11.(1) The Board may appoint committees of its members or other persons to assist it with the proper discharge of its functions.

(2) Where a person who is not a member of the Board is appointed to a committee, the Board may, with the approval of the Minister, determine the remuneration and allowances to be paid to the person.

Meetings

12.(1) The Board shall meet as often as may be necessary or expedient for the transaction of its business; and such meetings shall be held at such places and times and on such days as the Board may determine.

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

(3) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Board.

(4) Where the Chairman and the Deputy Chairman are absent from a meeting, the directors present shall elect a director from among their number to preside at the meeting.

(5) Five directors shall constitute a quorum.

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

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

Attendance of non-members at meetings

13. The Board may invite any person to attend any of its meetings to assist or advise it with respect to any matter under its consideration, but a person so invited does not have a right to vote.

Board may regulate proceedings

14. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

THIRD SCHEDULE*(Section 12)***APPEALS TO PRIVY COUNCIL**

1. Where, upon an application for a review by an officer, the Board confirms the decision in respect of the officer, an application may be made in writing to the Governor-General to have the matter referred to the Privy Council.
2. The application shall be
 - (a) made within 14 days of the date on which the officer was advised in writing of the decision of the Board; and
 - (b) transmitted to the Governor-General by the Commissioner pursuant to paragraph 3.
3. The Commissioner shall, together with the application referred to in paragraph 2, transmit a complete report of all the proceedings in the matter.

FOURTH SCHEDULE

(Section 24)

BARBADOS REVENUE APPEALS TRIBUNAL

Appointment of members

1.(1) The Minister shall by instrument in writing, subject to sub-paragraph (2), appoint as members of the Tribunal, such number of persons, being not less than 5, who appear to the Minister to be qualified and experienced in law, tax, accounts, public administration or such other area as, in the opinion of the Minister, is required for the discharge of the functions of the Tribunal.

(2) The Minister shall appoint as Chairman of the Tribunal a member who has been such a judge as is described in section 7(1)(b) or (c) of the *Supreme Court of Judicature Act*, Cap. 117A.

(3) Notwithstanding sub-paragraph (2), where the Minister is satisfied that there is no suitable person who has been such a judge as is mentioned in that sub-paragraph available and willing to be appointed, the Minister shall appoint as Chairman a person who is qualified for appointment as a judge pursuant to section 7(1)(a) of the *Supreme Court of Judicature Act*, Cap. 117A but who is not in active practice in Barbados as an attorney-at-law.

(4) A member shall

- (a) hold office for a term not exceeding 3 years; and
- (b) be eligible for reappointment.

Resignation, temporary absence and appointments, removal, vacancies and disqualification

2. Paragraphs 3 to 9 of the *Second Schedule* apply to a member as those paragraphs apply to a director.

Institution of appeal

3.(1) An appeal to the Tribunal shall be instituted by filing with the Tribunal, within such time as may be stipulated in the relevant specified enactment, a notice of appeal together with such copies thereof as the Tribunal may require, and such notice shall state the precise grounds of appeal.

(2) The Chairman of the Tribunal shall set the place, date and time for the hearing of the appeal and shall notify the parties of the place, date and time at least 7 days before the date set for the hearing.

Procedure on appeal

4.(1) An appeal shall be heard and determined by the Chairman and not less than 2 members selected by the Chairman, and the Chairman and the members so selected shall have all the powers of the Tribunal in relation to the appeal.

(2) The appeal shall be held *in camera* and

(a) the parties may appear in person or may be represented by an attorney-at-law or an agent; and

(b) the onus of proof is on the appellant.

(3) An appeal may be heard in the absence of a party who has been given reasonable notice in writing to attend.

(4) In determining the appeal, the Tribunal may review the whole case in respect of law and fact, and the exercise of any discretion, and shall determine the case in accordance with its own judgment.

(5) In the case of a difference of opinion among members sitting together, the opinion of the majority shall prevail, and in case of an equality of numbers, the opinion of the Chairman shall prevail.

(6) Notwithstanding sub-paragraph (5), where the question to be determined is one of law, account shall not be taken of the opinion of a member who is not an attorney-at-law.

Powers of Tribunal

5.(1) The Tribunal

- (a) may issue subpoenas, make orders and give directions to such persons and in such manner as it thinks fit for the purpose of summoning witnesses, requiring the disclosure of documents or other evidence, requiring parties or witnesses to answer questions, and for the purpose of conducting its proceedings in a proper and orderly manner;
- (b) may, where it determines it to be necessary in any particular case, consult any person having experience in any relevant field to assist it in dealing with a matter; and
- (c) shall, with respect to the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, have all such powers as are vested in a magistrate's court in an action in that court.

(2) In the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*, Cap. 121; but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

(3) Subject to this Schedule, the Tribunal may regulate its own procedure and may make rules for the purpose.

Decisions of Tribunal

6.(1) The decision of the Tribunal shall be in writing and shall include reasons for the decision, a statement of its findings on material questions of fact and a reference to the evidence or other material on which the findings are based.

(2) The Tribunal shall ensure that the decision is served on each party to the proceedings.