

OBJECTS AND REASONS

This Bill would make provision for the establishment of a Transport Authority and for related matters.

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SCHEDULE

BARBADOS

A Bill entitled

An Act to provide for the establishment of a Transport Authority and for related matters.

ENACTED by the Parliament of Barbados as follows:

PART I

Preliminary

- Short title. 1. This Act may be cited as the *Transport Authority Act, 2007*.
- Interpreta- 2. In this Act,
tion. "Authority" means the Transport Authority established by section 3;

"Board" means Board of Directors of the Authority;

"bus stop" means a stopping place that has been fixed and appointed in or on any route for the purpose of picking up or setting down passengers;

"examiner" means a person appointed under section 12 for the purpose of weighing and examining public service vehicles;

"lay-by" means an area of road next to a bus stop that is

- (a) usually wider at a particular point to facilitate a public service vehicle driving into that area of the road; and
- (b) reserved exclusively for a public service vehicle to stop for the purpose of picking up and setting down passengers;

"public service vehicle" has the meaning assigned to it by section 2(1) of the *Road Traffic Act*;

Cap. 295.

"Director of Transport" means the person appointed as such by the Board under section 9.

PART II

Functions and Duties of the Authority

3. (1) There is established an Authority to be known as the Transport Authority.

Establishment of the Authority.

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

Cap. 1.

4. The functions of the Authority shall be to

Functions of the Authority.

- (a) undertake the planning of a public transport system;

- (b) monitor and regulate the operations of the public transport system;
- (c) publish current information on public transport services;
- (d) issue, cancel and suspend licences of drivers and conductors of motor omnibuses, minibuses and route taxis;
- (e) issue, suspend or revoke permits in respect of public service vehicles;
- (f) restrict the use of motor omnibuses, minibuses, and route taxis to specified routes;
- (g) regulate and restrict the number of motor omnibuses, minibuses and route taxis on specified routes;
- (h) publish current information on public transport services;
- (i) establish time-tables to be observed by drivers and conductors of motor omnibuses, minibuses and route taxis;
- (j) supervise the conduct of business in terminals or facilities;
- (k) determine the siting of lay-bys and the location of bus stops for the picking up and setting down of passengers using motor omnibuses, minibuses and route taxis;
- (l) acquire land to effect the business of the Authority;
- (m) advise the Minister on all matters relating to the transport system in Barbados;
- (n) report to the Minister at such times as he requires on matters to which this Act relates;
- (o) perform such acts relating to the public transport system as the Act and Regulations provide; and

- (p) generally carry out the functions of the Act and do all other things that in the opinion of the Board are necessary to facilitate the proper discharge of the business of the Authority.

5. Without prejudice to section 4, in the exercise of its functions under this Act, the Authority shall

Duties of
the
Authority.

- (a) promote the use of public transport;
- (b) develop standards in respect of public service vehicles;
- (c) prescribe and approve all routes;
- (d) approve all permits and licences issued under the *Transport Authority Regulations, 2007*;
- (e) if it determines appropriate, establish different classes of permits or licences for different classes of public service vehicles, and may limit the number of permits or licences of any class;
- (f) prepare and publish for distribution to the public, information on routes and schedules;
- (g) maintain a computerised public transport data-base;
- (h) determine the person, class, number of permits and the concessions to be granted in respect of public service vehicles and the conditions under which such permits are to be issued;
- (i) monitor the service provided by operators of public service vehicles; and
- (j) maintain bus stops and lay-bys.

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PART III

Administration

- Establishment of the Board. 6. (1) There is established a Board of Directors of the Authority which shall be responsible for the execution of the policy of the Authority and for the general administration of the Authority.
- Schedule. (2) The *Schedule* has effect with respect to the constitution of the Board and otherwise in relation thereto.
- Directions on policy. 7. The Minister may give directions of a general or specific nature relating to the policy to be followed by the Board with respect to the performance of the functions of the Authority.
- Remuneration of Directors. 8. The Authority shall pay
 (a) to the Chairman in respect of the office of Chairman; and
 (b) to each director of the Authority, in respect of that office,
 such remuneration and allowances, if any, as the Minister determines.
- Appointment of the Director of Transport. 9. (1) The Board may with the approval of the Minister, appoint a Director of Transport.
 (2) The Director of Transport shall be subject to the directions of the Board and shall be responsible to the Board for the execution and management of the affairs of the Authority.
- Experts. 10. (1) The Authority may appoint or engage persons having special technical knowledge to assist the Authority in carrying out its functions.
 (2) A person engaged pursuant to subsection (1) shall receive such remuneration as the Minister approves.

Appoint-
ment of
officers.

11. (1) The Authority may, with the approval of the Minister, employ persons at such remuneration and on such terms and conditions as the Minister approves in writing, for the proper carrying into effect of the provisions of this Act.

(2) All persons employed by the Authority, shall act under the general superintendence and direction of the Authority in the performance of their duties.

(3) Notwithstanding subsection (1),

(a) no post shall be established without the prior approval of the Minister; and

(b) no salary in excess of an amount approved by the Minister shall be assigned to any post.

(4) Subject to this Act, those officers and other employees as are required by the Authority who, immediately before the date of the commencement of this Act, were members of the staff of the Licensing Authority and who have consented to be members of the staff of the Authority prior to the commencement of this Act, shall be employed by the Authority after the commencement of this Act.

(5) A person who

(a) is employed by the Authority after the commencement of this Act; and

(b) does not fall within the provisions of section 13,

Cap. 25. shall be subject to the provisions of the *Pensions Act*.

Cap. 295. (6) In this section "Licensing Authority" has the meaning assigned to it by section 2(2) of the *Road Traffic Act*.

Appoint-
ment of
examiners.

12. (1) The Authority may, with the approval of the Minister, appoint such number of persons as it thinks fit to be examiners to weigh and examine public service vehicles and issue examiners certificates in respect thereof.

(2) An examiner may at any time inspect any public service vehicle and for that purpose enter the vehicle or detain the vehicle.

(3) Where an examiner determines that a public service vehicle is unfit for service owing to any defect thereof, the examiner may prohibit the driving of that vehicle until the defect has been remedied and re-examined and declared fit to resume service by the examiner.

(4) Any person who intentionally obstructs an examiner in the conduct of his duties under this Act is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 6 months or to both.

Pension
rights and
service with
the
Authority.

13. (1) The officers and employees referred to in subsection (3) shall retain all rights in respect of pension, gratuity or other like benefit accruing to them immediately before the commencement of this Act.

Cap. 25.

(2) Where a public officer is seconded or temporarily transferred from a pensionable office within the meaning of section 2(1) of the *Pensions Act* to perform any service with the Authority, his service with the Authority shall, unless the Governor-General otherwise decides, count for pension under that Act as if the officer had not been so seconded or transferred.

LN 1947/
20.

(3) Where the services of a person employed by the Authority are on loan to the Government that person is entitled to such benefits and terms of employment as are applicable to the post which he occupies, and the service with the Authority shall be taken into account as continuous service with the Government and the *Pensions Act* and *Pensions Regulations, 1947* shall apply to him as if his service with the Authority were service within the meaning of that Act.

PART IV

Financial Resources

14. (1) The funds of the Authority shall comprise

Funds of
the
Authority.

- (a) amounts as may be voted for the purpose by Parliament;
- (b) amounts as may be borrowed by the Authority for its purposes;
and
- (c) such other amounts as may become available to the Authority
from any other source approved by the Minister.

(2) The funds of the Authority shall be applied towards

- (a) the administration of this Act;
- (b) the payment of salaries, wages, fees, allowances, pensions,
gratuities or similar benefits of persons employed by the Authority;
and
- (c) meeting the obligations and the performance of any of the
functions of the Authority and matters incidental thereto.

15. (1) The Authority may, with the approval in writing of the Minister responsible for Finance, borrow money from the Government of Barbados or any person by way of loan, overdraft or otherwise upon such terms with respect to the borrowing, issue, transfer and interest as the Minister responsible for Finance approves for

Borrowing
powers and
additional
working
capital.

- (a) the provision of working capital;
- (b) the provision of capital for the expansion of its fixed assets;
- (c) the repayment of any moneys borrowed or raised by the
Authority; or

(d) meeting any other expenditure properly chargeable to its capital account.

Guarantee. **16.** (1) The Minister of Finance may guarantee in a manner and on such conditions as Parliament thinks fit, the satisfaction of

(a) any loan to the Authority; and

(b) interest charges or any other charges in respect of a loan to the Authority.

(2) Subsection (1) does not apply to a sum borrowed from the Government.

Estimates. **17.** The Authority shall, not later than the 31st day of December of each year in the form directed by the Minister responsible for Finance, submit to that Minister for approval estimates of the income receivable by the Authority, its capital expenditure and the total of its recurrent expenditure for the following financial year.

Keeping of accounts and records. **18.** (1) The Board shall keep proper and separate accounts and records relating to the activities of the Authority in accordance with generally accepted accounting principles and those accounts and records shall be audited annually by an auditor appointed by the Authority with the approval of the Minister.

(2) The Auditor-General may at any time and shall, on the direction of the Minister responsible for Finance, carry out an investigation or audit of the accounts of the Authority.

Access by Auditor-General or auditor. **19.** A director, officer or employee of the Authority shall afford the Auditor-General or other auditor appointed under section 18(1), access to all books, documents, cash and securities of the Authority and, on request, give to the Auditor-General or auditor any information within the knowledge of that director, officer or employee that relates to the operation of the Authority.

Annual
report and
audited
statements.

20. (1) The Authority shall as soon as practicable after the end of each financial year but not later than 5 months after the end of that year, submit to the Minister a report containing

- (a) a detailed account of the performance of the activities and operations of the Authority during the preceding year; and
- (b) a statement of the audited accounts of the Authority.

(2) The Minister shall lay before Parliament a copy of the annual report referred to in subsection (1) as soon as practicable after receiving that report.

(3) A copy of the audited statements of accounts shall be published in the *Official Gazette*.

(4) The Authority shall ensure that copies of the annual report and audited statements are made available to the public at a reasonable fee.

Financial
year.

21. The financial year of the Authority shall be the period of 12 months beginning on 1st January and ending on 31st December.

PART V

Development Plan and Contracts for Tender

Develop-
ment plan
and
contracts
for tender.

22. The Authority

- (a) shall prepare a 5 year development plan for the public transport system every 4 years; and
- (b) may make contracts by way of tender with operators for the provision of public transport services.

PART VI

Miscellaneous

Permits and
licences for
operation
of public
service
vehicles.

23. (1) The Authority may

- (a) issue a permit authorising the use of a motor vehicle as a public service vehicle;
- (b) at any time review its decision to issue or refuse a permit;
- (c) suspend or revoke any permit it has issued; or
- (d) cancel or suspend a licence of a driver or a conductor issued under paragraph (d) of section 4.

(2) Whenever the Authority revokes a permit pursuant to subsection (1) the Authority may remove the registration number plates from the public service vehicle.

(3) A person aggrieved by the decision of the Authority to revoke a permit under subsection (1) may apply to a Judge in Chambers to have the decision considered by him, and the decision by the Judge is final.

(4) The Minister of Finance may by order, prescribe fees to be paid in respect of

- (a) permits issued under this section; or
- (b) licences issued under section 4;

and the order may contain different fees for different uses of vehicles or different licences, as the case may be.

Authority to hear and determine matters in respect of the suspension and the revocation of permits and licences.

- 24. (1) The Authority shall have power to**
- (a)* enquire into, hear and determine matters in respect of the suspension or revocation of permits and licences issued under this Act; and
 - (b)* hear and determine any matter that is required to be done under this Act.
- (2) At any hearing before the Authority an applicant is entitled to be
- (i)* heard in person; or
 - (ii)* represented by an agent or an attorney-at-law.
- (3) Notice of all hearings before the Authority shall be given in such manner as the Authority may prescribe.
- (4) The decision of any hearing conducted under subsection (2) shall be given in writing within 60 days after the receipt of the documents that form the basis of the hearing, unless the parties agree to an extension of time.
- (5) The findings or determinations of the Authority on a question of fact within the jurisdiction of the Authority shall be binding and conclusive.
- (6) The Authority may review, rescind or vary any decision made by it and may re-hear any application where it is of the opinion that there has been a change in the facts or circumstances pertaining to its decision.
- (7) An appeal from a decision of the Authority on a question of law or jurisdiction shall lie to a Judge in Chambers and shall be made within one month of the date of the decision.

Special
permits.

25. (1) The Authority may, in respect of a public service vehicle referred to in section 23(1), issue a special permit subject to such restrictions and conditions as the Authority may specify therein authorising the operation of that vehicle on a route other than a route named in the permit issued under section 23 for the following purposes:

- (a) for carrying school children and such number of teachers as may be specified in the special permit to and from school;
- (b) for carrying persons to and from cinemas, theatres and other places of public entertainment and recreation; or
- (c) for carrying passengers to and from any place if, in the opinion of the Authority, there are exceptional circumstances that render the issue of a special permit desirable.

(2) The owner of any vehicle in respect of which a special permit is issued under this section shall pay to the Authority such fee as the Minister of Finance may by order prescribe.

(3) The Authority may at any time, revoke, vary or amend a special permit issued under this section, and shall revoke that permit if the person to whom it is issued fails to comply with any of the restrictions or conditions set out in the permit.

(4) A person aggrieved by the decision of the Authority to revoke a permit issued under subsection (1) may apply to a magistrate for District 'A' Traffic Court to have the decision considered by him; and the decision of the magistrate is final.

(5) Any person who uses a vehicle or causes or permits a vehicle to be used in contravention of any of the restrictions or conditions specified in a special permit issued under this section is guilty of an offence; and, in addition to having the special permit revoked, is liable on summary conviction to a fine of \$ 5 000 or to imprisonment for a term of 12 months, or both, unless the court is satisfied that the accused did not know that he was acting in contravention of the restrictions or conditions specified in the permit.

26. The fees payable in respect of public service vehicles pursuant to section 23(4) are debts due to the Crown and are recoverable in civil proceedings before a magistrate for District 'A', notwithstanding that the amount sought to be recovered exceeds the normal monetary limit of the jurisdiction of the magistrates' court.

Recovery of fees payable for public service vehicles.

27. (1) Any person who drives or conducts a public service vehicle in respect of which there is not in existence a valid permit issued under this Act, is guilty of an offence and is liable on summary conviction,

Special offences in respect of public service vehicles.

(a) in the case of a first conviction, to a fine of \$1 000 or to imprisonment for a term of 6 months; and

(b) in the case of a second or subsequent conviction, to a fine of \$2 000 or to imprisonment for a term of 2 years.

(2) Any owner or operator of a vehicle who uses or permits a vehicle to be used as a public service vehicle on a road in contravention of this Act or the regulations is guilty of an offence and is liable on summary conviction,

(a) in the case of a first conviction, to a fine of \$1 000 or to imprisonment for a term of 6 months; and

(b) in the case of a second or subsequent conviction, to a fine of \$2 000 or to imprisonment for a term of 2 years.

28. Notwithstanding section 25(1), where the driver of a public service vehicle drives that public service vehicle on a route other than a route in respect of which he is authorised to drive

Driving on a route not authorised by permit.

(a) the driver of the public service vehicle at the time of the commission of the offence; and

(b) the owner of the public service vehicle

both commit an offence and are both liable on summary conviction to a fine of \$ 2 000 each.

Offences. **29.** (1) Any person who interferes with, obstructs or assaults any officer, agent or servant of the Authority in the exercise of any of his powers or duties under this Act or any Regulations made thereunder, is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for a term of 12 months or to both.

(2) Any person who contravenes any regulations made under this Act is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of 6 months or to both.

Judicial notice. **30.** Judicial notice shall be taken of any document issued by the Authority under its seal without proof of the signature of the official signing it.

Regulations. **31.** The Authority may, with the approval of the Minister, make Regulations for

- (a) prescribing the criteria for the approval or rejection of an application for a permit;
- (b) specifying the procedure for reviewing complaints made by the public;
- (c) specifying the rates at which public service vehicle operators will be charged for
 - (i) the preparation and publication of schedules;
 - (ii) rental of the office space within the terminals;
- (d) specifying the badges and uniforms to be worn by drivers and conductors while operating public service vehicles, and the standard of conduct required of drivers, conductors and passengers while on such vehicles;
- (e) determining the criteria for the review of passenger fares and the adjustment of fares;

- (f) issuing drivers permits in respect of public service vehicles;
- (g) issuing permits in respect of the operation of motor omnibuses, minibuses and route taxis; and
- (h) generally for giving effect to the provisions of this Act.

32. (1) The *Limitation (Public Authorities) Act* shall apply in respect of an act, neglect or default done or committed by the Authority or by any servant or agent of the Authority in his capacity as a servant or agent. Limitation.
Cap. 206.

(2) Where an action has commenced in respect of the use of a public service vehicle prior to the commencement of this Act and is pending at the commencement of this Act, that action shall be continued to its final determination in accordance with the law in force immediately before the commencement of this Act.

33. Notwithstanding the repeal of sections 104 and 104A of the *Road Traffic Act*, any Savings.
Cap. 295.

- (a) permits and licences granted in Barbados in respect of public service vehicles before the commencement of this Act; and
- (b) applications for permits and licences in respect of public service vehicles that were filed in Barbados before the commencement of this Act

shall be renewed and issued respectively pursuant to this Act.

- (2) Nothing in this Act applies to or affects
 - (a) any proceeding for the suspension or revocation of a permit or licence in respect of a public service vehicle that has commenced before the coming into operation of this Act;
 - (b) any existing permit or licence or any application for a permit or licence made before the commencement of this Act in respect of a public service vehicle.

S.I. 1984/
144. (3) Regulations 6, 8, 9, 11, 12, 13, 14, 29, 31, 48, 53, 54, 55, 57 to 62, 64, 67, 71 to 74 and the Third Schedule of the *Road Traffic Regulations, 1984* shall remain in force and shall apply in so far as they are not inconsistent with this Act until revoked by regulations made under this Act.

Act to bind
the Crown. **34.** This Act binds the Crown.

Commence-
ment. **35.** This Act shall come into force on a date to be fixed by Proclamation.

SCHEDULE

Transport Authority

(Section 6(2))

Constitution of the Board of Directors

1. The Minister shall appoint by instrument in writing Constitution of Board.
- (a) a Chairman and Deputy Chairman from the designated directors; and
 - (b) a minimum of 7 and a maximum of 12 persons of recognised standing, knowledge and experience in the public transport industry to serve as directors on the Board.

2. (1) Subject to paragraphs 3, 4 and 5 a director shall serve for a term of 3 years and is eligible for re-appointment. Tenure.

(2) Where a vacancy is created by the death, resignation or removal from office of a director, a person may be appointed in accordance with paragraph (1) to fill that vacancy and shall serve for the unexpired term of the former director.

3. The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister and upon the date of the receipt by the Minister of the instrument, ceases to be Chairman or Deputy Chairman, and if the instrument so specifies, also ceases to be a director. Resignation of Chairperson and Deputy Chairperson.

4. A director, other than the Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister and transmit the instrument through the Chairman and, from the date of the receipt by the Minister of the instrument, the director ceases to be a director. Resignation of director.

5. A vacancy in the membership of the Authority occurs on Vacancy.
- (a) the death or resignation of a director;

(b) the revocation by the Minister of the appointment of a director; or

(c) the absence of a director from 3 consecutive meetings of the Authority without the Minister's approval.

Notice in
Official
Gazette.

6. The Chairman shall cause to be published in the *Official Gazette* the appointment, removal, resignation or death of every director.

Seal.

7. (1) The seal of the Authority shall be kept in the custody of the Chairman, Deputy Chairman, Director of Transport or Secretary of the Authority and may be affixed to documents or instruments pursuant to a resolution of the Authority in the presence of the Chairman or Deputy Chairman and the Secretary.

(2) The seal of the Authority is authenticated by the signature of the Chairman or Deputy Chairman, Director of Transport or Secretary to the Authority.

(3) All documents other than those required by law to be made under seal, and all decisions of the Authority, may be signified under the hand of the Chairman, Deputy Chairman, Director of Transport or the Secretary of the Authority.

Meetings.

8. The Authority shall meet at least once a month and at such other times as the Authority considers necessary or expedient for the transaction of the business of the Authority.

Special
meetings.

9. (1) 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 Authority and shall call that meeting within 7 days of

(a) the receipt by him of a request for that purpose addressed to him in writing and signed by not less than 3 directors; or

(b) receiving a direction to that effect addressed to him in writing and signed by the Minister.

(2) Subject to sub-paragraph (3), the Chairman or in his absence the Deputy Chairman shall preside at the meetings of the Authority.

(3) In the absence of both the Chairman and the Deputy Chairman, the directors present and constituting a quorum shall elect a temporary Chairman from among their number to preside at that meeting.

10. A majority of the directors of the Authority shall constitute a quorum. **Quorum.**

11. The decisions of the Authority shall be by a majority of votes and in any case in which the voting is equal, the Chairman or other person presiding at the meeting shall have, in addition to having an original vote, a casting vote. **Decisions.**

12. (1) Minutes of each meeting shall be kept in proper form by the Secretary or by such other officer as the Authority appoints for that purpose, and shall be confirmed in writing at the next meeting of the Authority by the Chairman or Deputy Chairman. **Minutes.**

(2) Certified copies of the confirmed minutes of each meeting shall be forwarded to the Minister within one month of the date of that meeting.

13. (1) The Authority may appoint committees to assist with the proper discharge of its functions subject to such conditions or restrictions as the Authority imposes. **Appointment of committees.**

(2) The number of members of a committee appointed by the Authority and the terms of office of the members shall be fixed by the Authority.

(3) A committee appointed by the Authority under this paragraph may include persons who are not directors but those persons shall not comprise more than one-third of the membership of the committee.

14. Where a person other than a director is appointed to a committee under paragraph 13, the Authority may, with the approval of the Minister, determine the remuneration and allowances to be paid to that person. **Remuneration.**

15. Any act done or proceeding taken by the Authority under this Act or the regulations, may not be questioned on the grounds of **Validity of decisions of the Board.**

(a) the existence of a vacancy in the membership of, or of any defect in the constitution of the Authority; or

(b) any omission, defect or irregularity that does not affect the merits of the case.

Declaration
of interest.

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

(2) A member of the Authority may not participate in any proceedings or discussions nor vote in respect of any contract in which he is interested and in the event that he votes, that vote is not to be counted.

(3) A director who fails to comply with sub-paragraph (1) shall have his appointment as a director revoked by the Minister.

Procedure.

17. The Authority may regulate its own procedure and may make rules for dealing with any business before it.