OBJECTS AND REASONS

This Bill would amend the Barbados Water Authority Act, Cap. 274A

- (a) to make provision for water protection zones;
- (b) to provide for institutional strengthening of the Authority; and
- (c) to provide for related matters.

Arrangement of Sections

- **1.** Short title
- **2.** Amendment of section 2 of Cap. 274A
- **3.** Amendment of section 5 of Cap. 274A
- **4.** Repeal and replacement of section 9 of Cap. 274A
- 5. Repeal and replacement of section 13 of Cap. 274A
- 6. Repeal and replacement of section 14 of Cap. 274A
- 7. Insertion of Part IVA into Cap. 274A
- 8. Repeal and replacement of section 27 of Cap. 274A
- 9. Amendment of section 28 of Cap. 274A
- **10.** Amendment of section 29 of Cap. 274A
- **11.** Repeal of section 31 of Cap. 274A
- **12.** Insertion of section 33 into Cap. 274A
- **13.** Amendment of Schedules to Cap. 274A
- **14.** Consequential amendments

FIRST SCHEDULE

Insertion of New Second Schedule

SECOND SCHEDULE

Consequential Amendments

BARBADOS

A Bill entitled

An Act to amend the *Barbados Water Authority Act*. ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Barbados Water Authority (Amendment) Act, 2022.*

Amendment of section 2 of Cap. 274A

2. Section 2 of the Barbados Water Authority Act, Cap. 274A, in this Act referred to as the principal Act, is amended by inserting the following definitions in alphabetical order:

- ""adit" means an excavation on a horizontal or inclined plane extending from a well, bore-hole or shaft;
- "aquifer" means an underground layer of water-bearing permeable rock or unconsolidated materials such as gravel, sand, or silt from which groundwater can be extracted;
- "bore hole" means a shaft or bore-hole of any diameter constructed solely by a recognised method of boring;
- "groundwater" means the natural water that flows within the aquifers or which saturates geological formations of rock or soil beneath the surface of the earth which occur in sufficient quantities to be of beneficial use;
- "territorial waters" has the meaning assigned to it by section 2 of the *Barbados Territorial Waters Act*, Cap. 386;
- "water resources" means the springs, rivers, surface water in water zones, groundwater coastal waters and the territorial waters of Barbados;

"well" includes any bore-hole, adit, shaft or excavation.".

Amendment of section 5 of Cap. 274A

3. Section 5 of the principal Act is amended by deleting subsection (1) and substituting the following:

- "(1) The functions of the Authority are:
 - (a) to obtain and analyze information and maintain records of the total water resources of Barbados;
 - (b) to manage, allocate and monitor the surface and groundwater resources of Barbados with a view to ensuring development, conservation and protection of the groundwater resources in the public interest;
 - (c) to prepare and submit to the Minister from time to time, after consultation with such persons as the Minister may direct or otherwise, proposals for the establishment of efficient, coordinated and economical water supply and sewerage systems capable of meeting the need for water and sewerage services throughout Barbados;
 - (*d*) to prepare details of schemes for the development and protection of surface and groundwater resources and for the supply of water and sewerage services, and to construct, maintain and operate such schemes;
 - (e) to regulate and keep under constant review, the quality, reliability and availability of water supply and sewerage services in accordance with the requirements and standards issued to the Authority by the Environmental Protection Department in writing;
 - (f) to keep under review the rates to be charged for those services;
 - (g) to control and regulate the collection, production, treatment, storage, transmission, distribution and use of water for public purposes;
 - (h) to design, construct, acquire, provide, operate and maintain water works for the purposes of treating or supplying water for public purposes;

- (*j*) to control and regulate the disposal of sewage through sewerage plants or waste treatment plants that are not part of the Authority's systems;
- (*k*) to conduct research programmes and prepare statistics for its purposes;
- (*l*) to disseminate information and advice with respect to the management, collection, production, transmission, treatment, storage, supply and distribution of water and, where applicable, sewage;
- (m) to provide such facilities as may be necessary for training and educating its employees and to facilitate research by employees;
- (n) to advise the Minister on the matters referred to in paragraph
 (e) and on such other matters relating to water supply and sewerage services as the Minister refers to the Authority;
- (*o*) to monitor and ensure compliance with this Act and to ensure the conservation and protection of water resources in the public interest; and
- (*p*) to perform such other functions as the Minister assigns or as the Authority considers necessary or expedient for its purposes.".

Repeal and replacement of section 9 of Cap. 274A

4. The principal Act is amended by deleting section 9 and substituting the following:

disposing of sewage;

"Appointment of Chief Executive Officer

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

(2) The Chief Executive Officer is subject to the directions of the Board and is responsible to the Board for the execution and management of the affairs of the Authority.".

Repeal and replacement of section 13 of Cap. 274A

5. The principal Act is amended by deleting section 13 and substituting the following:

"Inspection of premises

13.(1) The Authority, its employees and agents may for the purposes of the Authority, at any time that is reasonable in the circumstances, enter onto any premises or into any road and

- (a) perform or carry out surveys;
- (b) perform or carry out examinations;
- (c) perform or carry out tests on water, soils, rock, plant or any other related material;
- (d) collect samples of water, soil, rock, plant or any related material;
- (e) perform investigations of premises and wells;
- (f) perform inspections of premises and wells; or

- (g) make any arrangements as it considers necessary for the Authority to effectively discharge its functions under paragraphs (a) to (f).
- (2) Subject to section 14(3), the Authority is liable for any damage occasioned in the performance of its functions under subsection (1).".

Repeal and replacement of section 14 of Cap. 274A

6. The principal Act is amended by deleting section 14 and substituting the following:

"Powers of Authority

14.(1) The Authority, its employees and agents may for any of the purposes of the Authority

- (*a*) enter upon premises for the purpose of laying pipes or for using the water of any stream, spring or pond thereon;
- (b) divert or impound the water from any stream, spring, aquifer, well or pond;
- (c) open and break up the surface soil of any road;
- (d) open and break up any sewer, drain or tunnel in or over any road;
- (e) perform or carry out surveys;
- (f) perform or carry out examinations;
- (g) perform or carry out tests on water, wells, groundwater, soils, rocks, plant or any other related material;
- (*h*) collect samples of water, groundwater, soil, rock, plant or any related material;
- (*i*) perform investigations pursuant to this Act;

- (j) perform inspections pursuant to this Act; or
- (k) do such other things as it considers necessary for its purposes.

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

(3) Compensation payable under this section and section 12 may be in such amount as is agreed upon between the owner or occupier and the Authority or as is assessed in accordance with the *Land Acquisition Act*, Cap. 228.".

Insertion of Part IVA into Cap. 274A

7. The principal Act is amended by inserting immediately after Part IV the following:

"PART IVA

WATER REVIEW MANAGEMENT COMMITTEE, WELLS AND RELATED MATTERS

Water Review Management Committee

18A.(1) There is hereby established a Water Review Management Committee.

(2) The provisions of the *Second Schedule* has effect in respect of the constitution of the Committee and otherwise in relation thereto.

Protection from personal liability

18B. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board,

Committee or employee of the Authority in respect of any act done *bona fide* in pursuance of their duties, functions or instructions given pursuant to this Act.

Application to use a well

18C.(1) No person shall

- (a) sink any well for agricultural, commercial or any other purpose;
- (b) deepen an existing well for the purpose of tapping, intercepting or abstracting groundwater therefrom;
- (c) convert or substantially alter a well into a well for the tapping, interception or abstraction of groundwater;
- (*d*) abstract groundwater from any well;
- (e) carry out any substantial alteration to a well or change the use of a well

unless he first obtains a licence from the Committee so to do.

(2) Any alteration which increases or is designed to increase or is capable of increasing the horizontal area or the depth of a well or the power utilised to raise water from a well or the discharge of water so raised shall be deemed to be a substantial alteration within the meaning of paragraph (d) of subsection (1).

(3) A person shall make an application in writing for a licence in such form as the Committee requires and the Committee shall notify the person of its determination with respect to the application in writing.

- (4) An employee of the Authority shall have the power
 - (a) to inspect the land, premises or well prior to granting a licence under subsection (3); and

(b) to inspect any well which is subject to a licence under this Act.

(5) Where an employee of the Authority acts under subsection (4) he shall submit a report to the Committee.

(6) Where the Committee determines to grant a licence, that licence shall be subject to such terms and conditions as the Committee sees fit, and shall be valid for the period stated therein unless it is revoked or cancelled under subsection (8).

(7) The Chairman of the Committee shall issue the licence on behalf of the Committee.

(8) The Committee may revoke or suspend a licence and accordingly the use of the well attached to the licence where

- (a) the person issued the licence contravenes any term or condition contained in the licence; or
- (b) the existence or use of that well negatively affects the water supply, water resources, groundwater or the marine environment in Barbados.
- (9) For the purposes of this section,

"inspect" means

- (a) investigating and checking the structure of the wellhead protection to ensure that a proper wellhead protection is provided to stop surface water and foreign objects falling into the well;
- (b) performing soil tests, water quality tests or such other required tests on the land or premises with the well;
- (c) taking water or soil samples for testing;
- (*d*) taking copies of documents, taking photographs and taking videos or voice recordings; or

(e) anything related to or necessary to effect the requirement of paragraphs (a) to (d).

Power of general suspension

- **18D.**(1) The Committee may
 - (a) by order, suspend the extraction of water from wells in respect of which a licence is issued under this Act or saved under section 18G, where there is a drought or where natural changes cause a shortage of water for any purpose, which in the opinion of the Committee makes it necessary to suspend the extraction of water for the period stated in the order;
 - (b) by an instrument in writing, revise or alter the quantity of water which a person who has been granted a licence under section 18C is authorised to abstract from a well, in such manner as appears to the Committee to be equitable and appropriate in light of the environmental conditions which are impacting the water supply; or
 - (c) by an instrument in writing, revise or alter the quantity of water which a person to whom section 18G applies is authorised to abstract from a well, in such manner as it appears to the Committee to be equitable and appropriate taking into consideration the environmental conditions which are impacting the water supply.

(2) Where an order made under subsection (1)(a) creates an offence, the order may provide for the offence to be tried summarily and the order may prescribe a fine of \$25 000 or imprisonment for a term of 5 years or both.

Misuse of a well

18E.(1) The Committee may where any well

- (a) is used or caused or permitted to be used in contravention of any of the provisions of this Act; or
- (b) though not situate in any prohibited area or zone as defined pursuant to section 27, is used or caused or permitted to be used for the disposal of sewage water or other waste in a manner which, in the opinion of the Committee, constitutes or may constitute a danger to health or leads or may lead to the contamination of any source of water whatever

by notice in writing served on the owner of the land on which the well is situate, require the owner to plug or fill the well, or use such other means as the Committee may approve.

(2) Where the owner of the land fails to comply with any requirement of subsection (1), the Committee may require an employee of the Authority to enter on the land and plug or fill the well and do such other works as may be required to provide some other satisfactory method of disposing of the sewage water or other waste.

(3) The expenses of the Authority reasonably incurred in the exercise of the powers conferred by subsection (2) shall be a debt due by the owner of the land in question to the State and, without prejudice to any other lawful means of recovery, may be recovered on complaint before a magistrate by the Authority.

Offence

18F. A person who knowingly makes an application under this Part that is false in any material particular, is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for 12 months or to both.

Savings

18G.(1) A licence issued to a person to construct or use a well under the *Underground Water Control Act*, Cap. 283 shall remain valid for a period of 12 months from the commencement of the *Barbados Water Authority (Amendment) Act, 2022* (Act 2022-), and thereafter that licence shall be deemed to be expired.

(2) A person to whom subsection (1) refers shall apply to the Committee for a licence in accordance with this Part on or before the expiration of the period specified in subsection (1).".

Repeal and replacement of section 27 of Cap. 274A

8. The principal Act is amended by deleting section 27 and substituting the following:

"Defining areas of public water supply

- **27.**(1) The Board may by order
 - (a) define, zone, restrict or prohibit the use of areas across Barbados which contribute to the water resources of Barbados and which contribute to the public water supply in Barbados; and
 - (b) define and regulate the permissible uses of the areas referred to in paragraph (a).
- (2) Any person who
 - (a) swims or bathes in a source of public water supply contrary to subsection (1);
 - (b) places, deposits, discharges or allows to remain therein any material of any kind that is likely to impair the quality of

water in a source of public water supply defined, zoned, regulated or prohibited under subsection (1);

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

is guilty of an offence and is liable on summary conviction to a fine of \$10 000 or imprisonment for 12 months or both and to a further fine of \$100 for each day or part thereof during which the offence continues after a conviction is obtained.

(3) The Board shall receive reports with respect to an infringement of subsection (2) from any Minister, authority, company, agency, person or public officer required to ensure or monitor compliance with the *Barbados Water Authority (Water Protection Zones) Order*, 2022 (S.I. 2022 No.).

(4) Where an order made under subsection (1) creates an offence, the order may provide for the offence to be tried summarily and the order may prescribe a fine of \$25 000 or imprisonment for a term of 5 years or both.".

Amendment of section 28 of Cap. 274A

- 9.
 - Section 28 of the principal Act is amended by
 - (a) deleting paragraphs (n) and (o) of subsection (2) and substituting the following:
 - "(*n*) prescribing matters related to water zones and groundwater and prescribing standards and matters for the protection of water zones and groundwater;

- (*p*) prescribing the security to be furnished by persons applying for the supply of water or sewerage services; and
- (q) prescribing the conditions for discontinuing the supply of water or sewerage services.";
- (b) deleting subsection (4) and substituting the following:

"(4) Where regulations made under subsection (2) create an offence, those regulations may provide for the offence to be tried summarily and the order may prescribe a fine of \$25 000 or imprisonment for a term of 5 years or both.";

(c) deleting subsection (5).

Amendment of section 29 of Cap. 274A

10. The principal Act is amended by deleting section 29 and substituting the following:

"Directions of Minister

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

(2) The Minister may give directions of a general or specific nature relating to the policy to be followed with respect to matters relating to the functions of the Committee or Garbage and Sewage Contribution Relief Board; and the Committee or Garbage and Sewage Contribution Relief Board shall give effect to the directions.".

Repeal of section 31 of Cap. 274A

11. Section 31 of the principal Act is repealed.

Insertion of section 33 into Cap. 274A

12. The principal Act is amended by inserting immediately after section 32 the following section:

"Application to the Planning and Development Act, 2019

33.(1) The Minister and the Director of Planning and Development shall have regard to an order made under section 27 and any regulations made under section 28 in the application of the provisions of the *Planning and Development Act, 2019* (Act 2019-5).

(2) The Director of Planning and Development shall have regard to the *Barbados Water Authority (Water Protection Zones) Order*, 2022 (S.I. 2022 No.) and to any other order or regulations made under the *Barbados Water Authority Act*, Cap. 274A, which affect the distribution and use of land in Barbados in the preparation of the physical development plan.

(3) The Director of Planning and Development shall have regard to the *Barbados Water Authority (Water Protection Zones) Order,* 2022 (S.I. 2022 No.) and to any other order or regulations made under the *Barbados Water Authority Act*, Cap. 274A, in the application of the provisions of the *Planning and Development Act, 2019* (Act 2019-5) to

- (*a*) the grant of permission to develop land or to sub-divide land for agricultural, housing, or commercial development; or
- (b) the grant of permission to improve, alter, change or demolish an existing structure.".

Amendment of Schedules to Cap. 274A

- **13.** The principal Act is amended
 - (a) in paragraph 8 of the *First Schedule* by deleting the words "General Manager" wherever they appear and substituting the words "Chief Executive Officer";
 - (b) by renumbering the Second Schedule to that Act as the Third Scheduleto that Act; and
 - (c) by inserting the *Second Schedule* set out in the *First Schedule* to this Act as the *Second Schedule* to the principal Act.

Consequential amendments

14. The enactments specified in the first column of the Second Schedule are amended in the manner specified in the second column.

FIRST SCHEDULE

(Section 13)

Insertion of New Second Schedule

"SECOND SCHEDULE

(Section 18A)

Water Review Management Committee

Constitution

- **1.** The Water Review Management Committee shall consist of
 - (*a*) the Permanent Secretary, Ministry of Transport, Works and Water Resources *ex officio* or his nominee;
 - (*b*) the Chief Executive Officer of the Barbados Water Authority or his nominee;
 - (c) the Director of the Environmental Protection Department, ex officio or his nominee;
 - (d) the Permanent Secretary, Ministry of Agriculture, *ex officio* or his nominee;
 - (e) the Chief Medical Officer, ex officio or his nominee;
 - (f) the Permanent Secretary, Ministry of Environment and National Beautification, *ex officio* or his nominee; and
 - (g) Chief Executive Officer of the Barbados Agriculture Development Marketing Corporation or his nominee.

Chairman

2. The Minister shall by an instrument in writing appoint a member to be Chairman and a member to be Deputy Chairman.

Resignation

3.(1) The member appointed as Chairman or Deputy Chairman may resign the post of Chairman or Deputy Chairman by instrument in writing addressed to the Minister.

(2) 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 a leave of absence to a member.

Temporary appointment

5. Where a member 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 or reason, the Minister may appoint a person to act in the place of the member.

Committees

6.(1) The Committee 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 Committee is appointed to a committee, the Committee may, with the approval of the Minister, determine the remuneration and allowances to be paid to the person.

Meetings

7.(1) The Committee 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 Committee may determine.

(2) The Chairman, may at any time call a special meeting of the Committee 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 members.

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

(4) Five members shall constitute a quorum.

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

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

Attendance of non-members at meetings

8. The Committee 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.

Committee may regulate proceedings

9. Subject to the provisions of this *Schedule*, the Committee may regulate its own proceedings.".

SECOND SCHEDULE

(Section 14)

CONSEQUENTIAL AMENDMENTS

Enactment

Amendments

1. Health Services (Building Regulations, 1969 (S.I. 1969 No. 233) Regulation 4 is deleted and the following is substituted:

"4.(1) The Minister may, in respect of an application made under these Regulations

- (a) deny the application and where he denies the application he shall, within forty-two days after receipt of such application, give to the applicant notice of his refusal; or
- (b) approve the application and where he determines it is required, attach such conditions to the approval of the application as he thinks fit; or
- (c) give conditional approval and any notice of approval shall specify the conditions which must be satisfied before the application is approved.

(2) Where the Minister approves an application under paragraph (1)(b) and attaches conditions thereto such conditions shall include a requirement to comply with the provisions of the *Barbados Water Authority* (*Water Protection Zones*) Order, 2022 (S.I. 2022 No.).".

Second Schedule - (Cont'd)

Homes and Maternity

Homes) Regulations,

2005 (S.I. 2005 No. 58)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Enactment	Amendments
2. Health Services (Hotels) Regulations, 1969 (S.I. 1969 No. 231)	Regulation 4 is amended by inserting the following new paragraph immediately after paragraph (3):
	"(4) Where a licence is granted under this section, the licence shall be subject to the condition that the licensee shall comply with the provisions of the <i>Barbados Water Authority (Water Protection Zones) Order, 2022</i> (S.I. 2022 No.).".
3. Health Services (Lodging House and Barracks) Regulations, 1970 (S.I. 1970 No. 74)	Regulation 4 is amended in paragraph (2) by deleting the full stop at the end of sub-paragraph (<i>e</i>) and inserting the following after that paragraph:
,	"(f) that the licensee shall comply with the provisions of the Barbados Water Authority (Water Protection Zones) Order, 2022 (S.I. 2022 No.).".
4. Health Services (Private Hospitals, Nursing Homes, Senior Citizen'	Regulation 6 is amended by inserting the following new paragraph immediately after paragraph (4):

"(5) Where a licence is granted under these Regulations, the licence shall be subject to the condition that the licensee shall comply with the provisions of the *Barbados Water Authority (Water Protection Zones) Order, 2022* (S.I. 2022 No.).".

Second Schedule - (Cont'd)

CONSEQUENTIAL AMENDMENTS - (Cont'd)

Amendments
Regulation 4 is amended by inserting the following as paragraph (8):
"(8) Where a licence is granted under these Regulations, the licence shall be subject to the condition that the licensee shall comply with the provisions of the <i>Barbados Water Authority (Water Protection Zones) Order, 2022</i> (S.I. 2022 No.).".
 Section 5 is amended by inserting the following new subsection immediately after subsection (2):
"(3) A marine pollution control inspector discharging the functions set out in this Act, shall also monitor compliance with the provisions of the <i>Barbados</i> <i>Water Authority (Water Protection Zones) Order,</i> 2022 (S.I. 2022 No.) and report any infringement thereof to the Barbados Water Authority or to the police, as the case may be.".
 Section 7 is amended in subsection (2) by deleting paragraphs (a) and (b) and substituting the following:
"(<i>a</i>) prohibiting, wholly or partly the release of the pollutant;
(b) requiring the diminution or cessation of the release of the pollutant; or

(c) monitoring compliance with the provisions of the *Barbados Water Authority (Water Protection Zones) Order, 2022* (S.I. 2022 No.).". Second Schedule - (Concl'd)

CONSEQUENTIAL AMENDMENTS - (Concl'd)

Enactment

Amendments

- 7. Town and Country Planning Development Order, 1972 (S.I. 1972 No. 75)
- 8. Underground Water This Act is repealed. Control Act, Cap. 283

Read three times and passed the House of Assembly this day of , 2022.

Speaker

Read three times and passed the Senate this day of , 2022.

President