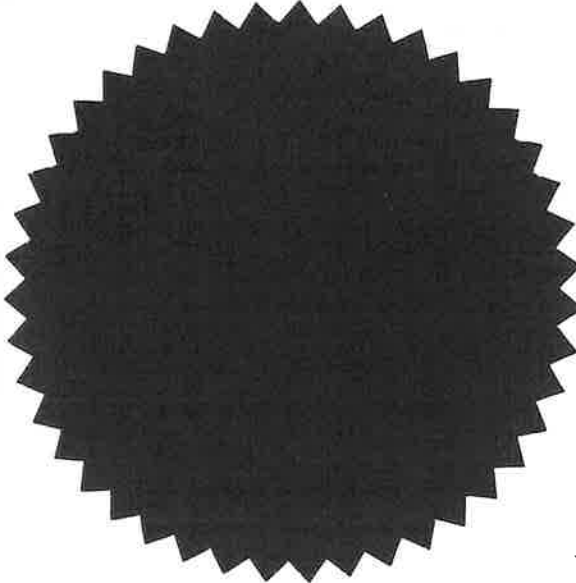


JAMAICA

No. 11 - 2019

ities to Authority.



I assent,

P. L. Allen

Governor-General.

30th day of August 2019

AN ACT to Establish a body to be called the Information and Communications Technology Authority to promote improvements in information and communications technology service management in all public bodies; to transfer the functions of eGov Jamaica Limited and the Office of the Chief Information Officer to the Information and Communications Technology Authority; and for connected matters.

[The date notified by the Minister
bringing the Act into operation]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Information and Communications Technology Authority Act, 2019, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title
and
commencement.

Interpreta-
tion.**2.** In this Act, unless the context otherwise requires—

“appointed day” means the day appointed by the Minister under section 1;

“asset” includes physical and intellectual property;

“Authority” means the Information and Communications Technology Authority established under section 4;

“Board” means the Board of Directors of the Authority established under section 9;

“chairperson” means a member of the Board appointed as its chairperson under this Act;

“Chief Information Officer” means the head of the Authority appointed under section 13;

“deputy chairperson” means a member of the Board appointed as its deputy chairperson under this Act;

“document” means, in addition to a document in writing, any thing or manner in which information of any description is recorded or stored;

“functions” includes duties and powers;

“ICT” or “information and communications technology” means any technology employed in the collection, storage, use or transmission of information, and includes any technology that involves the use of computers or any telecommunications system;

“ICT audit” means an audit carried out by the Authority under section 20;

“ICT service management” means the entirety of activities associated with the planning, designing, delivering, operating, maintaining and controlling of ICT services, in accordance with internationally accepted standards or frameworks;

“predecessor entities” means eGov Jamaica Limited and the Office of the Chief Information Officer;

“public body” means—

- (a) a Ministry, department, Executive Agency, or other agency of Government;
- (b) a statutory body or authority, over which the Government or an agency of the Government exercises control;
- (c) the council of a Local Authority, within the meaning of the Local Governance Act;
- (d) any company registered under the Companies Act, being a company in which the Government or an agency of the Government, by the holding of shares, is in a position to direct the policy of that company; or
- (e) any other body or organization which provides services of a public nature which are essential to the welfare of Jamaican society, or such aspects of their operations, as may be specified by the Minister by order published in the *Gazette*;

“telecommunications system” means any system for the transmission of intelligence by means of guided or unguided electromagnetic, electrochemical or other forms of energy, including but not limited to intelligence—

- (a) in the form of—
 - (i) speech, music or other sounds;
 - (ii) visual images, whether still or animated;
 - (iii) data or text;
 - (iv) any type of signals;
- (b) in any form other than those specified in paragraph (a);
- (c) in any combination of forms; and
- (d) transmitted between persons and persons, things and things or persons and things.

Objects of
the Act.

3. The principal object of this Act is to establish an entity with core responsibility for, among other things—

- (a) the streamlining and consolidation of the delivery and management of ICT services in all public bodies through a shared services model; and
- (b) supporting the implementation and realization of the Government's sustainable digital agenda, by promoting improvements in ICT service management, in all public bodies.

Establishment
of
Information
and
Communications
Technology
Authority.

4. There is established a body to be known as the Information and Communications Technology Authority, which shall be a body corporate to which section 28 of the Interpretation Act shall apply.

Functions of
the
Authority.

5.—(1) The Authority shall perform the following functions—

- (a) advise and make recommendations to the Minister on matters relating to ICT and related systems and services in all public bodies;
- (b) provide, develop or implement ICT and related systems and services in all public bodies;
- (c) operate, direct or facilitate the provision, development, implementation or operation of ICT and related systems and services on a shared basis with other public bodies;
- (d) ensure the security, integrity, availability and reliability of ICT and related systems and services in all public bodies;
- (e) provide consulting services to all public bodies in ICT project management, manpower and facilities services and other general ICT and related services;
- (f) undertake or support the procurement of ICT hardware, systems and other related goods for—
 - (i) all public bodies; and

- (ii) any other organization as the Minister may, with the agreement of the organization, designate in writing to the Authority;
- (g) promote and support the development of competencies and professional standards in ICT and related matters in all public bodies;
- (h) promote or undertake research and development on matters relating to ICT and related systems and services in public bodies;
- (i) collaborate with other public bodies on the use of ICT in public bodies to promote and develop the sustainable digital agenda;
- (j) represent Jamaica as required, and advance the interest of Jamaica internationally, on matters in relation to ICT and related matters in all public bodies;
- (k) perform any other function, in relation to ICT and related matters in all public bodies, as the Minister may assign to the Authority by notice in writing to the Authority, or that may be conferred by any other enactment;
- (l) harness and deploy ICT services to facilitate efficiency and effectiveness in all public bodies; and
- (m) develop the requisite capabilities, including the capabilities of the officers and employees of all public bodies, to support the effective, secure and reliable delivery and management of ICT services for the purposes of this Act.

(2) In performing the functions specified in subsection (1), the Authority may—

- (a) develop and issue directives, codes, standards and guidelines for all public bodies, in consultation with the Minister, on matters relating to—
 - (i) ICT deployment, implementation and use;
 - (ii) the interoperability and standardization of ICT and related systems and services;

- (iii) the security, integrity, availability and reliability of ICT and related systems and services;
 - (iv) the plan, design, maintenance and management of any ICT infrastructure or architecture; and
 - (v) any other related matter for the purposes of this Act;
- (b) collaborate with other persons, in and outside of Jamaica, on matters relating to ICT and related systems and services in public bodies;
 - (c) organize, provide or collaborate with persons on training programmes, assessments and certifications, scholarships in the area of ICT and related systems and services;
 - (d) with the required prior written approval, enter into agreements, contracts and arrangements with third party suppliers on behalf of the Government, in relation to ICT and related systems and services;
 - (e) with the required prior written approval, assume legal responsibility under certain agreements, contracts or arrangements relating to ICT and related systems and services;
 - (f) access the documents relating to ICT of all public bodies for the purposes of this Act;
 - (g) with the required prior written approval from the Minister responsible for the public body concerned, execute and manage agreements on behalf of a public body, in relation to the procurement of ICT and related goods and services, including systems, hardware or software;
 - (h) charge fees for the provision of goods or services by or on behalf of the Authority;
 - (i) receive moneys assigned to a public body, for non-staff or non-capital ICT related expenditures, including the maintenance and licensing of existing ICT and related systems, services, including an ICT infrastructure;

- (j) waive or refund the whole or part of any fees or charges payable or paid, or any amounts transferred to the Authority under this Act or any other enactment administered by the Authority;
- (k) provide financial support, grant, aid or assistance to any person for the purposes of this Act; and
- (l) do all things the Authority considers necessary for the purposes of carrying out its functions.

(3) In exercise of its functions, the Authority shall co-operate with other entities exercising regulatory functions in relation to ICT, and every such entity shall co-operate with the Authority in the exercise of the functions conferred on the Authority.

6. All public bodies shall act in accordance with the directives, codes, standards and guidelines developed and issued under section 5 (2)(a).

Public bodies shall comply with directives, codes, etc.

7.—(1) The Authority may in writing delegate any of its functions under this Act, other than the power of delegation, to the Chief Information Officer or any other officer, employee or agent of the Authority.

Delegation of functions.

(2) The Authority may in writing revoke or amend the delegation under subsection (1) at any time.

(3) Notwithstanding subsection (1), the Authority may continue to exercise or perform any of the delegated functions.

(4) Any officer, employee or agent of the Authority to whom a delegation is made under subsection (1) shall furnish to the Authority such information as the Authority may require with respect to the exercise of that delegated function.

8. No person having authority over any matter in which the Authority has functions to perform under this Act shall determine or approve that matter before consulting the Authority.

Authority shall be consulted.

9.—(1) There is established a Board of Directors of the Authority, who shall be the governing body of the Authority, responsible for the proper exercise and performance of the functions of the Authority under this Act.

Establishment of Board of Directors of Authority.

First
Schedule.

(2) The First Schedule shall have effect with respect to the constitution and proceedings of the Board of Directors and otherwise in relation thereto.

Functions of
Board of
Directors of
Authority.

10. The Board of Directors shall be responsible for the strategic direction and oversight of the Authority, including the performance of the following functions—

- (a) monitoring the administrative operations of the Authority;
- (b) ensuring that the Authority receives and manages its funds in a prudent manner; and
- (c) performing the necessary actions as the Board considers necessary for the purposes of carrying out its functions pursuant to this Act.

Ministerial
directions.

11. The Minister may, after consultation with the chairperson, give to the Board directions in writing of a general character, as to the policy to be followed by the Board in the performance of its functions, as it appears to the Minister to be necessary in the public interest, and the Board shall give effect to the directions.

Chief
Information
Officer.

12. There shall be a Chief Information Officer who shall be responsible for the proper day-to-day administration and management of the Authority.

Appointment
of Chief
Information
Officer.

13.—(1) The Board shall, with the approval of the Minister, appoint a Chief Information Officer of the Authority on such remuneration and on such terms and conditions, as the Board considers necessary for the purposes of the proper execution of the functions of the Chief Information Officer under this Act.

(2) A person appointed under this section to be the Chief Information Officer shall—

- (a) possess the requisite knowledge, skill, experience and expertise necessary for properly exercising the functions under this Act;
- (b) be able to exercise competence, diligence and sound judgment in fulfilling the mandate of the Authority; and

- (c) not have been convicted of any offence involving fraud, dishonesty or moral turpitude.

(3) Section 15(2), (3) and (4) shall apply to the post of Chief Information Officer, with the necessary modifications.

14. The Chief Information Officer shall perform the following functions—

Functions of
Chief
Information
Officer.

- (a) administer and manage the day-to-day operations of the Authority;
- (b) plan, organize, control, direct, supervise and coordinate the activities of the Authority to fulfil the mandate of the Authority;
- (c) develop and implement programmes, performance targets, service standards and any other standards of the Authority for approval by the Board;
- (d) prepare and submit, for the approval of the Board—
 - (i) a corporate plan, in accordance with section 7 of the Public Bodies Management and Accountability Act;
 - (ii) an operational plan; and
 - (iii) any other plan in relation to the activities or proposed activities of the Authority;
- (e) provide or facilitate the administrative support of the Board and the committees of the Board;
- (f) keep the Board informed of matters relevant to the administration and management of the Authority;
- (g) perform any other functions necessary for the proper administration and management of the Authority; and
- (h) perform any other functions that may be conferred on the Chief Information Officer by this Act or any other enactment.

15.—(1) The Authority may appoint and employ to any office or post in the Authority, such other officers or employees at such remuneration and on such terms and conditions as the Authority considers necessary for the purposes of this Act.

Appoint-
ment and
employment
of officers
and
employees of
Authority.

(2) Except with the prior written approval of the Minister responsible for the public service—

- (a) no salary in excess of the prescribed rate shall be assigned to any officer or employee; and
- (b) no appointment shall be made to any office or post to which a salary in excess of the prescribed rate is assigned.

(3) The prescribed rate under subsection (2) shall be such rate as the Minister responsible for the public service may prescribe, by order subject to affirmative resolution.

(4) The Governor-General may, subject to such conditions as the Governor-General may impose, approve the appointment of any officer in the service of the Government to any office or post with the Authority.

(5) For the purposes of subsection (4), any officer appointed or while employed shall be treated as continuing in the service of the Government.

(6) The Chief Information Officer shall consult with the Board in establishing the qualification for each office or post within the Authority.

Pensions,
gratuities and
other
retirement
benefits.

16. The Authority, with the approval of the Minister responsible for the public service, in consultation with the Minister—

- (a) may enter into arrangements or cause regulations to be made respecting schemes, whether by way of insurance policies or otherwise; and
- (b) shall make provisions for—
 - (i) medical benefits;
 - (ii) pensions;
 - (iii) gratuities; and
 - (iv) other retirement benefits or disability or death benefits,

relating to officers and employees of the Authority, and the arrangements, regulations or other provisions may include

the grant of benefits to the dependents and the personal legal representatives of the officers and employees.

17.—(1) Any person who has an official duty or is employed in the administration of this Act shall regard and deal with as secret and confidential all documents and information relating to the functions of the Authority obtained by that person in the course of the performance of that person's duties or otherwise. Obligations of secrecy.

(2) A person to whom any information is communicated, including information contained in documents, by a person under subsection (1) shall regard and deal with the information as secret and confidential, except to the extent otherwise provided in any other law.

(3) The obligation as to secrecy and confidentiality imposed under this section, in relation to any document or information under this Act, continues to apply to a person notwithstanding the person having ceased to have an official duty, ceased to be employed or otherwise concerned in the administration of this Act.

(4) A person who contravenes subsection (1), (2) or (3) commits an offence, and is liable on summary conviction before a Judge of a Parish Court to a fine not exceeding five million dollars or to imprisonment for a term not exceeding five years.

(5) The Minister may by order, subject to a firmative resolution, amend the monetary penalty specified under subsection (4).

18.—(1) The funds of the Authority shall include—

- (a) such moneys as may be placed at the disposal of the Authority by Parliament from time to time;
- (b) such moneys paid to the Authority by way of grants, subsidies, donations and contributions for the purposes of this Act;
- (c) all moneys paid to, and other moneys and property lawfully received by, the Authority for the purposes of this Act;
- (d) all fees, charges and other sums paid to the Authority under this Act or any other enactment administered by the Authority;
- (e) all sums received by the Authority pursuant to section 5(2)
 - (i) from monies assigned to a public body; and

Funds of Authority.

- (f) all accumulations of income derived from any money or property referred to in paragraphs (a) to (e).

(2) The funds under subsection (1) shall be used exclusively for the payment of authorized expenses incurred by the Authority in the discharge of its functions, obligations and liabilities, and in making payments the Authority is authorized or required to make, including the remuneration of its officers and employees.

Second
Schedule.

(3) The Second Schedule shall have effect as to the financial provisions and accountability of the Authority and otherwise in relation thereto.

Monitoring
of compli-
ance with
directives,
codes, *etc.*

19. In exercise of its functions, the Authority shall monitor the level of compliance of a public body with the directives, codes, policies, standards or guidelines developed and issued by the Authority under section 5(2)(a).

ICT audit.

20.—(1) Where the Authority considers it necessary for the purposes of this Act, the Authority may carry out, or authorize duly qualified persons to carry out, an ICT audit of the ICT infrastructure, architecture, policies and operations of a public body, including the use of any ICT or related system or service.

(2) An ICT audit shall be carried out in conformance with internationally recognized and accepted best practices, standards and guidelines.

(3) For the purposes of an ICT audit carried out under subsection (1), a public body shall grant access, or make the necessary arrangements for access to be granted, to the Authority, or persons authorized by the Authority, in respect of—

- (a) any document relating to any ICT or related system or service;
- (b) any ICT or related system or service; or
- (c) any matter referred to in paragraph (a) or (b).

Report on
compliance
with
directives,
codes, *etc.*

21.—(1) Upon the completion of an ICT audit, the Authority shall report on the compliance of a public body with any directive, code, policy, standard or guideline developed and issued by the Authority under section 5(2)(a).

(2) The report referred to under subsection (1) shall include—

- (a) the period of the ICT audit;
- (b) the name of the public body concerned;
- (c) the areas of focus of the ICT audit;
- (d) the material findings from the ICT audit, including any risks or vulnerabilities identified in the ICT infrastructure, architecture, policies or operations of the public body;
- (e) any measures required to safeguard or restore the security, integrity, availability and reliability of any ICT or related system or service.

(3) The Authority shall transmit the report referred to under subsection (1) to—

- (a) the Minister;
- (b) the public body concerned; and
- (c) the Minister responsible for the public body concerned.

22. Where the Authority has identified any risks or vulnerabilities in a public body and is of the opinion that remedial measures are required to safeguard or restore the security, integrity, availability or reliability of any ICT or related system or service in a public body, the Authority shall—

Remedial measures for public body.

- (a) implement, or direct the public body to implement, appropriate security, remediation or other measures; or
- (b) direct the deployment of appropriate resources, including personnel, to the public body.

23.—(1) The Minister after consultation with the Authority may make regulations for the better administration of this Act.

Regulations.

(2) Any regulations made under subsection (1) shall be subject to affirmative resolution.

24.—(1) With effect from the appointed day—

- (a) all of the functions of the predecessor entities shall be transferred to the Authority;

Replacement of predecessor entities with Authority.

- (b) all assets, rights, privileges, liabilities and obligations of the predecessor entities shall be transferred to and vested in the Authority, without transfer, conveyance, assignment or other assurance; and
- (c) all documents of the predecessor entities shall be transferred to the Authority.

(2) The Authority shall, in relation to the assets, rights, privileges, liabilities and obligations transferred and vested, have every right, power, privilege, immunity or duty which, immediately before the appointed day, was capable of being enjoyed or performed by the predecessor entities.

(3) Any investigation, legal or other proceedings, or remedy instituted, continued or enforced by or against the predecessor entities, immediately before the appointed day, may be instituted, continued or enforced by or against the Authority as if the Authority was a party to that investigation, legal or other proceedings, or remedy, and all claims and defences that were available to the predecessor entities shall be available to the Authority.

(4) All contracts, agreements and undertakings made by the predecessor entities, and all securities lawfully given to or by the predecessor entities shall have effect as the contracts, agreements and undertakings by and with the Authority and may be enforced by and against the Authority.

(5) The predecessor entities shall transmit to the Minister, a report on all the activities of the predecessor entities and statement of accounts, for an accounting period ending immediately before the appointed day.

(6) Any reference to the predecessor entities in any enactment, agreement or contract, in operation, valid and in force immediately before the appointed day shall be taken to be or include the Authority.

(7) Nothing in this section shall—

- (a) constitute a breach or default under any enactment or any agreement, or otherwise constitute a civil wrong or criminal wrong;

- (b) constitute a breach of—
 - (i) a duty of confidence;
 - (ii) any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights, privileges, liabilities and obligations, or the disclosure of any information;
- (c) constitute a termination of any contract, agreement or undertaking, fulfil any condition that allows a person to terminate, or release a person from any contract, agreement or undertaking, or give rise to any right or remedy in respect of any contract, agreement or undertaking;
- (d) constitute frustration of any contract, agreement or undertaking, or cause any contract, agreement or undertaking to be void or unenforceable; or
- (e) require an attornment to the Authority by a lessee of the predecessor entities.

25.—(1) With effect from the appointed day, an officer or employee of the predecessor entities shall be an officer or employee of the Authority on such terms and conditions of employment that are no less favourable than the terms and conditions of employment enjoyed by the officer or employee at the predecessor entities, immediately before the appointed day.

Transfer of officers and employees of predecessor entities to Authority.

(2) There shall be no break in the employment or service of an officer or employee whose employment is transferred from the predecessor entities to the Authority.

(3) Notwithstanding any provision in this section—

- (a) an officer or employee of the predecessor entities may elect not to transfer to the Authority;
- (b) any terms and conditions of employment of any officer or employee transferred to the Authority may be altered by any enactment, award or agreement with effect from any date after the appointed day;

- (c) an officer or employee transferred to the Authority may resign from the service or employment at any time after the appointed day, subject to the terms and conditions of that officer or employee's employment.

Transitional
provisions.

26.—(1) Any policy, standard or guideline issued by the predecessor entities and valid and in force immediately before the appointed day shall remain valid and in force as if issued by the Authority, to the extent that it is not inconsistent with the purposes of this Act.

(2) Every valid or lawful act done by or on behalf of the predecessor entities shall have effect as if the act was done by or on behalf of the Authority, and shall remain in force until the Authority invalidates, revokes, cancels or otherwise determines that act.

(3) Where any valid or lawful act has commenced by or on behalf of the predecessor entities immediately before the appointed day, the Authority may carry on and complete that act.

FIRST SCHEDULE (Section 9)

*Board of Directors of the Authority
Constitution and Proceedings of Meetings*

1.—(1) Subject to paragraphs 2 and 8, the Board shall consist of nine members, of whom— Constitution of Board.

- (a) eight members are appointed by the Minister (hereinafter referred to as the “appointed members”); and
- (b) the Chief Information Officer of the Authority shall be the *ex-officio* member.

(2) The members of the Board shall be persons who have not been convicted of any offence involving fraud, dishonesty or moral turpitude.

2. The appointed members of the Board shall, at a minimum, include— Appointment.

- (a) a senior officer or employee of the Ministry responsible for ICT nominated by the Permanent Secretary of that Ministry, being a person who is knowledgeable and experienced in ICT or ICT service management;
- (b) a person who is knowledgeable and experienced in ICT or ICT service management;
- (c) A person with a disability (within the meaning of the Disabilities Act) who is knowledgeable in and experienced in ICT or ICT service management;
- (d) an attorney-at-law who is admitted to practice in Jamaica and is in good standing;
- (e) a person who is knowledgeable and experienced in finance, accounts or audit;
- (f) a person who is knowledgeable and experienced in human resource management.

3. The appointment of a member of the Board shall be evidenced by instrument in writing and the appointment shall be for a period not exceeding three years. Tenure.

4.—(1) The Minister shall appoint a chairperson and a deputy chairperson from among the members of the Board. Chairperson and deputy chairperson.

(2) In the case of the chairperson being absent from or unable to act at any meeting, the deputy chairperson shall exercise the functions of the chairperson, if the deputy chairperson is present at the meeting and is able to so act.

(3) In the case of the chairperson and the deputy chairperson being absent from or unable to act at any meeting, the members of the Board present at the meeting shall elect one of their number to act as chairperson at that meeting.

Temporary appointments. 5. Except in the case of the chairperson, the Minister may appoint any person to act temporarily in the place of any appointed member of the Board, where that appointed member—

- (a) is absent from duty or Jamaica; or
- (b) is unable to perform the duties of the office for any reason.

Publication in *Gazette* of appointment, resignation, etc. 6. A notice of appointment, resignation, revocation of appointment or death of a member of the Board shall be published in the *Gazette*.

Vacancies. 7.—(1) The office of a member of the Board shall become vacant, if—

- (a) that member resigns that office; or
- (b) that member's appointment is revoked in accordance with paragraph 9.

(2) Subject to sub-paragraph (3), where any vacancy occurs in the membership of the Board, that vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(3) The appointment of another member under sub-paragraph (2) shall be made in the same manner and from the same category of persons as the appointment of the previous member.

Disqualification of members. 8. A person shall be disqualified from being or becoming a member of the Board, if that person—

- (a) is a judge or judicial officer;
- (b) is of unsound mind or becomes permanently unable to perform the functions of that member by reason of ill-health;
- (c) is being managed by the Government Trustee or becomes bankrupt or compounds with, or suspends payment to, that member's creditors;
- (d) is convicted of any offence involving fraud, dishonesty, or moral turpitude;

- (e) has engaged or is engaging in conduct which, in the opinion of the Minister, disqualifies that member from holding office on the Board;
- (f) has engaged or is engaging in such activities as are reasonably considered prejudicial to the interest of the Authority;
- (g) fails to attend three consecutive meetings of the Board without reasonable excuse or explanation; or
- (h) fails to carry out the functions of the office as specified by or under this Act.

9.—(1) The Minister may, at any time, revoke the appointment of a member of the Board on the basis of that member being disqualified under paragraph 8.

Revocation of appointment of members.

(2) A revocation of an appointment under sub-paragraph (1) shall be made in writing and the revocation shall be effective on the date of receipt of that revocation by the member or a later date specified in writing by the Minister.

10.—(1) On the application of any member of the Board, the Minister may grant a leave of absence to the member.

Leave of absence.

(2) The Minister may direct a member to proceed on a leave of absence if the member has been charged with an offence involving fraud, dishonesty or moral turpitude, an offence listed in the Second Schedule to the Proceeds of Crime Act, or an offence that is similar to any such offence in another jurisdiction.

11. Subject to paragraphs 2 and 8, every member of the Board shall be eligible for reappointment.

Re-appointment.

12. There shall be paid to the chairperson and other members of the Board such remuneration (whether by way of *honoraria* or allowances) as the Minister responsible for finance may determine.

Remuneration of members.

13.—(1) The chairperson may, at any time, resign the chairperson's office by instrument in writing addressed to the Minister.

Resignations.

(2) The resignation shall take effect as from the date of receipt of the instrument by the Minister.

(3) A member of the Board other than the chairperson may, at any time, resign that member's office by instrument in writing addressed to the Minister and transmitted through the chairperson.

(4) From the date of receipt by the Minister of the resignation, the member shall cease to be a member of the Board.

Disclosure of
interest.

14.—(1) A member shall forthwith disclose that member's interest to the other members where that member is directly or indirectly interested in or connected with—

- (a) any contract or other matter which falls to be considered by the Board; or
- (b) any contract or other matter made or proposed to be made by the Board.

(2) The disclosure made under sub-paragraph (1) shall be recorded in the minutes of the next meeting of the Board, and the member shall not take part in any deliberation or decision of the Board with respect thereto.

(3) A disclosure made by a member under sub-paragraph (1) to the effect that the member—

- (a) is a director or shareholder of a specific company, firm or other entity;
- (b) has a significant economic relationship with a specific company, firm or other entity; or
- (c) is to be regarded as interested in any contract which is made with a specific company, firm or other entity,

shall, for the purposes of sub-paragraph (1), be a sufficient disclosure of that member's interest in relation to any contract or other matter so made.

(4) A member need not attend in person at a meeting of the Board in order to make a disclosure that the member is required to make under this paragraph, if—

- (a) that member takes reasonable steps to ensure that the disclosure is made by notice; and
- (b) the disclosure is taken into consideration and read at the next meeting held after that disclosure is made.

Meetings.

15.—(1) The Board shall hold one meeting each month and shall otherwise meet as often as may be necessary for the transaction of its business.

(2) A meeting shall be held at such places and times and on such days as the Board may determine.

(3) A meeting may be held in person or virtually using suitable electronic means.

(4) Where a meeting is being held virtually—

- (a) all members shall have access to any suitable technology required to access or attend that virtual meeting; and
- (b) a quorum of members shall be able to synchronously communicate with each other throughout the entire meeting.

(5) Five members shall constitute a quorum of the Board.

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

16. The chairperson may at any time call a special meeting to be held within seven days of a written request for the purpose addressed to the chairperson by at least five members of the Board. Special meetings.

17. Minutes in the proper form of each meeting of the Board shall be kept and shall be confirmed as soon as is practicable at a subsequent meeting. Minutes of meetings.

18. Subject to any provisions of this Act to the contrary, the Board may regulate its own proceedings. Board may regulate its own proceedings.

19. The validity of any proceedings of the Board shall not be affected by— Validity of proceedings.

- (a) any vacancy among the members of the Board;
- (b) any defect in the appointment of a member thereof;
- (c) any failure on the part of any member to disclose that member's interest in a relevant matter;
- (d) any failure on the part of the Board to submit a report to the Minister; or
- (e) any irregularity in the Board's decision making procedure in so far as that irregularity did not affect the merits of the decision made.

20.—(1) The Board may appoint committees for specified purposes connected with the functions of the Authority as the Board considers necessary. Committees.

(2) The Board may elect or nominate a person who is not a member of the Board to serve on a committee on the basis of that person's qualifications and competence.

(3) The chairperson of a committee shall be a member of the Board.

(4) Minutes in the proper form of each meeting of a committee shall be kept and shall be confirmed as soon as practicable at a subsequent meeting.

(5) The validity of the proceedings of a committee shall not be affected by any vacancy among the members of the Board or any defect in the appointment of a member thereof.

Reports.

21.—(1) The Board may, at any time, be required by the Minister to transmit a report to the Minister in respect of any matter or activity in which the Authority is involved under this Act.

(2) The Board shall transmit to the Minister an annual report relating generally to the execution of its functions and may, at any time, transmit a report relating to any particular matter or matters which, in the Board's opinion, require the special attention of the Minister.

(3) Subject to the Public Bodies Management and Accountability Act and any other enactment, a report transmitted to the Minister under this paragraph may be laid on the Table of the House of Representatives and the Senate, respectively.

(4) The Board may, in the public interest from time to time, publish in such manner as it thinks fit, reports relating to matters mentioned in sub-paragraph (2), but no such report shall be published until after it has been laid pursuant to sub-paragraph (3).

Indemnity.

22.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board or its committee in respect of any act done, in good faith, in pursuance of or intended execution of this Act.

(2) Where any member of the Board or its committee is exempt from liability by reason only of the provisions of this paragraph, the Authority shall be liable to the extent that it would be if the member were an officer, employee or agent of the Authority.

Seal and authentication of documents.

23.—(1) The Authority shall have a common seal which shall be kept in the custody of the chairperson or the secretary of the Board, and may be affixed to instruments pursuant to resolutions of the Board and in the presence of the chairperson and the secretary of the Board.

(2) The seal of the Authority shall be authenticated by the signature of the chairperson or the secretary of the Board, and shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, which are made by, and all decisions of the Board, may be signified under the hand of the chairperson or the secretary of the Board.

24. The office of the chairperson or any other member of the Board shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica. **Membership of Board not public office.**

SECOND SCHEDULE

(Section 18)

*Financial Provisions and Accountability*Financial
year.

1. Section 42 of the Financial Administration and Audit Act shall apply in respect of the financial year, except in the first instance where the financial year shall commence on the date of the coming into operation of this Act, and shall end on the date which coincides with the end of the financial year.

Financial
duties as to
conduct of
activities.

2. The Authority shall exercise sound management and control of the funds of the Authority to ensure that—

- (a) all payments made by the Authority are accurate and duly authorized; and
- (b) proper accounting control is maintained over—
 - (i) the funds and property of the Authority or the funds and property in the custody of the Authority; and
 - (ii) the expenditure incurred by the Authority.

Investment
and holding
of accounts
by the
Authority.

3.—(1) Subject to sub-paragraph (2), all moneys of the Authority not immediately required to be expended for the purpose of—

- (a) meeting any of its obligations; or
- (b) discharging any of the other functions of the Authority,

may be invested in such securities or held in such accounts as may be approved by the Minister responsible for finance, and the Authority may, with the approval of that Minister, sell all or any of such securities.

(2) All funds of the Authority which are invested in securities or held in accounts under sub-paragraph (1) shall be kept, sold or used by the Authority for the furtherance of the advancement of the Authority's functions under this Act.

Accounts and
other
documents.

4. The Authority shall—

- (a) keep proper accounts and other documents in relation to its functions; and
- (b) prepare annually a statement of accounts in a form, which conforms to internationally recognized accounting principles, the Financial Administration and Audit Act, the Public Bodies Management and Accountability Act and any other financial enactments that govern public bodies.

5. The Authority shall make and transmit to the Minister, a report dealing generally with the activities of the Authority during a financial year—

Reports of activities.

- (a) within four months after the end of that financial year; or
- (b) within such longer period as the Minister may in special circumstances approve.

6.—(1) In furtherance of the Public Bodies Management and Accountability Act, the Authority shall submit to the Minister for approval, estimates of revenue and expenditure, with respect to the ensuing financial year, containing—

Estimates of revenue and expenditure.

- (a) a summary of the corporate plan;
- (b) the information necessary for the compilation of the Fiscal Policy Paper; and
- (c) any other data and information as the Minister considers appropriate.

(2) The estimates of revenue and expenditure submitted under sub-paragraph (1) shall be transmitted to the Minister no later than the 30th day of November of each year.

7. The Authority shall—

Returns, accounts and other information.

- (a) furnish the Minister with such returns, accounts and other documents or information as the Minister may require for the purposes of this Act; and
- (b) afford the Minister the facilities for verifying the returns, accounts and other documents or information, in such manner and at such times, as the Minister may reasonably require for the purposes of this Act.

8.—(1) The accounts of the Authority shall be audited annually by an auditor.

Audits.

(2) An auditor shall be appointed by the Authority and shall be a registered public accountant within the meaning of section 2 of the Public Accountancy Act.

(3) The members of the Board, the officers and employees of the Authority shall—

- (a) grant to the auditor appointed under sub-paragraph (2), access to all documents of the Authority; and

(b) give to the auditor, upon request, all such information as may be within their knowledge in relation to the business of the Authority.

(4) The auditor's fees and any expenses of the audit shall be paid by the Authority.

Special
Audits.

9.—(1) The Board may appoint an auditor or a firm of auditors where the Board has reasonable cause for believing that a special audit of the Authority should be concluded by audit other than by the Authority's auditor.

(2) The expenses, as approved by the Board, of any audit or examination carried out pursuant to sub-paragraph (1) shall be paid by the Authority.

Reports on
audit.

10.—(1) Where an audit is conducted under paragraph 8 or 9, the Authority shall, as soon as is practicable, transmit to the Minister, either or both of the following—

(a) a copy of the financial statements under the signature of the chairperson;

(b) a copy of the auditor's report.

(2) The Minister shall cause all financial statements and reports transmitted under this paragraph to be laid on the Table of the House of Representatives and the Senate, respectively.

Auditor-
General.

11. The Auditor-General may examine the accounts of the Authority at any time.

Recovery of
debts.

12. Notwithstanding any limitation as to the amount recoverable under the Judicature (Parish Courts) Act, and without prejudice to any other method of recovery, all debts due to the Authority may be recovered in a Parish Court as a civil debt.

Passed in the House of Representatives this 11th day of June, 2019.

PEARNEL P. CHARLES, CD, MP, JP
Speaker.

Passed in the Senate this 26th day of July, 2019 with one (1) amendment.

SENATOR AUBYN HILL
Deputy President.

The Information and Communications Technology [No.] 27
Authority Act, 2019

On the 31st day of July, 2019 the House of Representatives agreed to the amendments made by the Senate.

PEARNEL CHARLES, CD, MP, JP
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

Sgd. Heather E. Cooke
Clerk to the Houses of Parliament.

