

**THE TAX ADMINISTRATION JAMAICA
ACT, 2013**

(Act 10 of 2013)

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JAMAICA

No. 10 – 2013

I assent,

[L.S.]

(sgd.) P. L. Allen
Governor-General.

28th day of March 2013

AN ACT to Establish a body, to be known as Tax Administration Jamaica, with sufficient autonomy in management to facilitate the efficient and effective administration and collection of domestic tax; 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:—

PART I. *Preliminary*

1. This Act may be cited as the Tax Administration Jamaica Act, 2013, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title and
commence-
ment.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Authority” means Tax Administration Jamaica established by section 4;

“Board” means the Board of the Authority established by section 6;

“chairman” means the chairman of the Board;

“commencement date” means the day appointed under section 1 for the coming into operation of this Act;

“Commissioner General” means the Commissioner General of the Authority appointed under section 10;

“domestic tax” means revenue that is payable to the Commissioner General;

“functions” includes duties and powers;

“Government company” means a company registered under the *Companies Act*, being a company wholly owned by the Government or an agency of Government or in which the Government or an agency of Government holds more than fifty per cent of the shares;

“local authority” means—

- (a) in relation to the parishes of Kingston and St. Andrew, the Council of the Kingston and St. Andrew Corporation as constituted under the *Kingston and St. Andrew Corporation Act*;
- (b) in relation to any other parish, the Parish Council of that Parish as constituted under the *Parish Councils Act*; or
- (c) in relation to a municipality, a Municipal Council established under the *Municipalities Act*;

“public body” means—

- (a) a Ministry, Department, Executive Agency or other agency of Government;
- (b) a local authority;
- (c) a statutory body or authority; or
- (d) a Government company;

“revenue department” means—

- (a) Tax Administration Jamaica;
- (b) the Customs Department;
- (c) the Land Valuation Department; or
- (d) the Revenue Protection Department;

“revenue laws” means laws relating to revenue;

“secretary” means the secretary of the Board appointed under section 15;

“Selection Panel” means the panel constituted under paragraph 1(5) of the Second Schedule;

Second
Schedule.

“tax” or “revenue” includes the duties, fees, levies, fines and other charges payable under the revenue laws;

“taxpayer” includes any person whose liability to make payment to a revenue department is in question, whether or not, in the event, the payment is waived or remitted or no amount is found to be payable.

3. The principal object of this Act is the establishment of the Authority as a body with sufficient autonomy in management to facilitate the efficient and effective administration and collection of domestic tax.

Principal
object of Act.

PART II. *Tax Administration Jamaica* *Establishment and Functions*

4. There is established, for the purposes of this Act, a body to be called Tax Administration Jamaica which shall be a body corporate to which section 28 of the *Interpretation Act* applies.

Establishment
of Tax
Administration
Jamaica.

Functions of
Authority.

5.—(1) Subject to the provisions of this Act and the revenue laws, the functions of the Authority are—

- (a) the administration and collection of domestic tax;
- (b) the collection of revenue, other than domestic tax, the collection of which is the responsibility of the Commissioner General;
- (c) the administration and enforcement of laws relating to domestic tax;
- (d) the registration, audit and assessment of taxpayers;
- (e) the development and implementation of internal policies, systems and procedures to ensure proper implementation of the revenue laws;
- (f) the negotiation, administration and enforcement of international agreements relating to tax;
- (g) the promotion of public awareness of the importance of the efficient and effective collection of tax and its importance to national development;
- (h) to advise the Minister on matters of general policy in relation to the administration and collection of tax; and
- (i) the performance of such other functions relating to the administration and collection of tax and revenue other than tax as may be assigned to it by the Minister, or by or under this Act or any other enactment.

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

- (a) provide legal services for the administration and enforcement of the revenue laws;
- (b) institute measures for the promotion of voluntary compliance with the revenue laws;
- (c) maintain taxpayer registries and databases for the better functioning of the tax system;

- (d) design and develop systems and procedures which allow for ease and convenience in the registration of taxpayers and the computation and payment of tax;
- (e) introduce cost recovery measures for services provided by or on behalf of the Authority;
- (f) establish procedures and develop, implement and monitor plans and programmes relating to the administration and collection of tax;
- (g) formulate standards, guidelines and codes of practice relating to the administration and collection of revenue and monitor compliance with such standards, guidelines and codes;
- (h) initiate, carry out or support, by financial means or otherwise, research which, in its opinion, is relevant to any of its functions;
- (i) conduct seminars and provide appropriate training programmes and consulting services and gather and disseminate information relating to the administration and collection of revenue; and
- (j) do anything or enter into any arrangement which, in the opinion of the Authority, is necessary to ensure the proper performance of its functions.

(3) The Authority shall manage its human, material and financial resources in keeping with modern standards and practices of sound financial management and good corporate governance.

6.—(1) There is established, for the purposes of this Act, a Board of the Authority. Establishment of Board.

(2) The provisions of the First Schedule shall have effect as to the constitution of the Board and otherwise in relation thereto. First Schedule.

7.—(1) Subject to the provisions of this Act, the Board is responsible for overseeing the general administration of the Authority. Functions of Board.

(2) The Board shall—

- (a) ensure that the operations of the Authority are, where applicable, in conformity with—
 - (i) the *Financial Administration and Audit Act* and any Financial Instructions given under that Act;
 - (ii) the *Public Bodies Management and Accountability Act*;
 - (iii) any other law relevant to the management of public bodies; and
 - (iv) any directions given under section 14;
- (b) review, evaluate, approve and monitor the implementation by the Authority of its—
 - (i) corporate policies;
 - (ii) operational, strategic and other corporate plans;
 - (iii) annual budget proposals and submissions; and
- (c) review, evaluate and approve the financial statements and major expenditure proposals of the Authority.

(3) Subject to subsection (5), the Board may give directions to the Commissioner General with regard to the management of the Authority.

(4) In the performance of its functions, the Board shall operate in a manner that maximizes the effective and efficient operation of the Authority.

(5) The Board shall not—

- (a) involve itself in matters relating to the administration and collection of domestic tax or the implementation of tax policy;
- (b) participate in the making of any decision regarding the affairs of any particular taxpayer or the enforcement of any revenue law in relation to any particular taxpayer; or

- (c) have access to any information regarding the income or affairs of any particular taxpayer.
- (6) Subject to the provisions of this Act, the Board—
 - (a) may establish policies on—
 - (i) human resource management, including a code of conduct and a system of performance based evaluation;
 - (ii) financial management;
 - (iii) employee benefits;
 - (iv) property management; and
 - (v) enterprise risk management (other than risks associated with tax compliance);
 - (b) shall approve annual, quarterly and other reports of the Authority which are required by this or any other enactment to be submitted to the Minister or to Parliament;
 - (c) shall monitor the performance of the Authority in respect of its performance targets and service standards;
 - (d) may request and receive from the Commissioner General, periodic or special reports in written or oral form, in respect of the management of the human, material and financial resources of the Authority; and the Commissioner General shall give effect to the request;
 - (e) shall ensure, whether by way of meetings or otherwise, that the Minister and the Financial Secretary are kept abreast of matters relating to the administration and management of the Authority, including any need for financial, human, technological and other resource requirements necessary for the achievement of performance targets.

Ministerial
directions.

8. The Minister may, after consultation with the chairman, give to the Board directions of a general character as to the policy to be followed by the Board in the performance of its functions, as appear to the Minister to be necessary in the public interest; and the Board shall give effect to the directions.

Delegation of
functions of
Authority.

9.—(1) The Authority may, subject to the provisions of this Act and every other revenue law, delegate to any person the performance of such of its functions, other than the power of delegation, as it may, from time to time, consider to be necessary.

(2) A delegation of any function under subsection (1) is revocable by the Authority and the delegation shall not preclude the performance of that function by the Authority.

Administration

Appointment
of
Commissioner
General.

10.—(1) There shall be a Commissioner General who shall be the chief executive officer of the Authority and shall be responsible for its day-to-day administration and management.

(2) Subject to the provisions of this Act, the Commissioner General shall be appointed by the Governor-General on the recommendation of the Minister after consultation with the Selection Panel in the manner specified in paragraph 1 of the Second Schedule.

Second
Schedule.

(3) The Commissioner General shall be a citizen of Jamaica who the Selection Panel considers to be a fit and proper person for appointment.

(4) In determining whether an individual is a fit and proper person to be appointed as the Commissioner General, regard shall be had by the Selection Panel to whether the person—

- (a) has adequate academic qualifications and technical, managerial and leadership competencies and experience;
- (b) is of good repute, having regard to his character, honesty and integrity;
- (c) is of sound and stable financial background; and

- (d) has any business association with any person who, in the opinion of the Selection Panel, is not of good repute having regard to his character, honesty and integrity.

11. In carrying out the administration and management of the Authority, the Commissioner General shall—

Functions of
Commissioner
General.

- (a) plan, direct, supervise and coordinate the activities of the Authority;
- (b) manage the assets and property of the Authority;
- (c) ensure that revenue targets and performance targets are met;
- (d) maintain systems to promote and support voluntary tax compliance with the revenue laws;
- (e) ensure proper and efficient performance of all functions relating to taxpayer audit;
- (f) ensure accurate, efficient and lawful assessment of domestic tax;
- (g) ensure proper and efficient collection of domestic tax and other revenue;
- (h) ensure that adequate legal services for the administration and enforcement of the revenue laws are maintained;
- (i) ensure that the best interests of Jamaica are safeguarded in the negotiation of international taxation agreements;
- (j) submit annual and other budgets for approval by the Board;
- (k) submit strategic, corporate and other plans for approval by the Board;
- (l) submit internal regulations and policies for approval by the Board;
- (m) submit annual, quarterly and other reports for approval by the Board;
- (n) ensure that the Board is kept abreast of matters relevant to the administration and management of the Authority;

- (o) ensure that the Financial Secretary is kept abreast of the activities and achievements of the Authority;
- (p) determine the administrative and operational costs and related benefits of different tax types and revenue measures and provide general advice thereon to the Financial Secretary;
- (q) provide general advice to the Financial Secretary with regard to tax matters; and
- (r) perform such other functions as may be assigned to him by the Minister or the Board under this Act or any other enactment.

Practice notes. **12.**—(1) To achieve consistency in the administration of the laws relating to domestic tax and to provide guidance to persons affected by those laws and to the officers of the Authority, the Commissioner General may issue practice notes setting out the Commissioner General's interpretation of those laws.

(2) A practice note is binding on the Commissioner General and officers of the Authority until revoked.

(3) A practice note is not binding on persons affected by the revenue laws.

Private rulings. **13.**—(1) The Commissioner General may, upon the application in writing by a person, issue to that person a private ruling setting out the Commissioner General's position regarding the application of a law relating to domestic tax to that person with respect to a transaction proposed or entered into by that person.

(2) Where a person issued with a ruling under subsection (1) makes, prior to the issue of the ruling—

- (a) a full and true disclosure to the Commissioner General of all aspects of the transaction relevant to the ruling; and
- (b) the transaction proceeds in all material respects as described in that person's application for the ruling.

the ruling shall be binding on the Commissioner General and officers of the Authority with respect to the application of the relevant revenue law (as in force at the time of the ruling) to that person concerning the transaction.

(3) Where there is an inconsistency between a practice note and a private ruling, priority shall be given to the provisions of the private ruling and the Commissioner General may, if he thinks fit, issue or reissue a practice note on the subject matter.

14. The Financial Secretary may give directions in writing to the Commissioner General with regard to the administration and collection of revenue and the implementation of tax policy; and the Commissioner General shall give effect to the directions.

Directions by
Financial
Secretary.

15.—(1) Subject to the provisions of this section, the Board, after consultation with the Minister and the Commissioner General shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, such number of Deputy Commissioners General (not being less than three) as the Board considers necessary, a secretary of the Board and such other officers and employees as the Commissioner General deems necessary for the proper carrying out of the functions of the Authority.

Appointment
of Deputy
Commissioners
General,
officers and
other
employees.

(2) Each Deputy Commissioner General shall be under the direction and supervision of the Commissioner General and shall perform such functions as may be assigned to him by the Commissioner General or as may be conferred upon him or delegated to him under any enactment and the provisions of the Second Schedule shall otherwise apply in relation to the appointment and tenure of Deputy Commissioners General.

Second
Schedule.

(3) No salary in excess of the prescribed rate shall be assigned to any post within the Authority without the prior approval of the Minister.

(4) No appointment shall be made to any post within the Authority to which salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(5) For the purposes of subsections (3) and (4), the “prescribed rate” means such rate as the Minister responsible for the public service may, by order, prescribe.

(6) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office within the Authority, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

Pensions,
gratuities and
other retiring
benefits.

16. The Authority may, with the approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
- (b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Authority and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

Obligation of
secrecy.

17.—(1) Every person having an official duty, or being employed, in the administration of this Act shall—

- (a) regard and deal with as secret and confidential all documents, information and records obtained by him, in the course of the performance of his duties or otherwise, which relate to the income or affairs of any person; and
- (b) make and subscribe a declaration to that effect before a Justice of the Peace.

(2) Every person referred to in subsection (1) having possession of or control over any documents, information or records, who at any time communicates or attempts to communicate such information or anything contained in such documents or records to any person—

- (a) other than a Commissioner or an officer of a revenue department or any other person to whom he is authorized by the Minister to communicate it pursuant to any other law; or
- (b) otherwise than for the purposes of this Act,

commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(3) Any person to whom information is communicated pursuant to an authority of the Minister under subsection (2)(a) in that behalf shall regard and deal with such information as secret and confidential and shall make and subscribe a declaration to that effect before a Justice of the Peace.

(4) Any person referred to in subsection (3), who at any time, communicates or attempts to communicate any information referred to in that subsection to any person otherwise than for the purposes of this Act, or any other revenue law, commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

(5) Every person having an official duty, or being employed, in the administration of this Act shall be bound by the provisions of the *Official Secrets Act*.

18.—(1) Notwithstanding section 17, the Authority may disclose information in any of the following circumstances—

Disclosure of information in certain circumstances.

- (a) if ordered by a court for the purposes of any civil proceedings;
- (b) on the prior written request of the Minister to—
 - (i) the Assets Recovery Agency established under section 3 of the *Proceeds of Crime Act*, to facilitate the investigation of any criminal offence; or
 - (ii) any one or more of the authorities prescribed pursuant to subsection (2) and specified in the request to facilitate the investigation of any criminal offence.

(2) The Minister may, by order subject to affirmative resolution, prescribe the authorities to which information may be disclosed for the purposes of subsection (1)(b)(ii).

Protection of Board, employees of Authority.

19. No member of the Board or of any committee of the Board, or any employee of the Authority, shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the exercise of any power, or in the performance of any function, conferred or imposed by or under this Act.

Financial Provisions

Funds and resources of the Authority.

20.—(1) The funds and resources of the Authority shall consist of—

- (a) such sums as may, from time to time, be placed at the disposal of the Authority by Parliament;
- (b) sums received from charges imposed by the Authority for use of any facility or for any service provided by it; and
- (c) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions.

(2) The expenses of the Authority, including the remuneration of Board members and employees, shall be paid out of the funds of the Authority.

Application of revenues.

21. The revenues of the Authority shall be applied for the purposes authorized by this or any other law in relation to the functions of the Authority.

Power to invest moneys.

22. All monies of the Authority not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Authority may be invested in such securities as may be approved, either generally or specifically, by the Minister and the Authority may, with the approval of the Minister, sell all or any of such securities.

23.—(1) The Commissioner General, under the direction of the Board, shall be responsible for the preparation, control and management of the capital and recurrent budgets of the Authority. Budget of Authority.

(2) The capital and recurrent budgets of the Authority shall be prepared in respect of periods of three years and funds shall be committed by the Minister for allocation to the Authority, in respect of such periods.

(3) The annual allocation of funds in respect of the capital and recurrent budgets of the Authority shall each take the form of a single sum committed for each financial year.

(4) The Commissioner General, in consultation with the Deputy Commissioners General, shall identify the capital and recurrent expenditure priorities of the Authority, from time to time, and allocate the available funds in accordance with such priorities.

24.—(1) The Authority shall establish a sinking fund to be used for expenditure in connection with infrastructure and capital projects exclusively. Sinking fund.

(2) Subject to subsection (3), the Financial Secretary may, at the end of each financial year, determine, at the request of the Authority, the amount by which domestic tax collections for that year exceeds the targets set by the Government of Jamaica.

(3) The Commissioner General shall submit a written request to the Minister for the payment into the sinking fund of the amount of two *per centum*, or such other percentage as the Minister may, by order, prescribe, of the amount referred to in subsection (2).

(4) The moneys deposited to the sinking fund shall be invested exclusively in government securities held in the name of the Accountant-General in trust for the Authority.

25. All tax collected by, or due to, the Authority shall be paid into the Consolidated Fund. Tax to be paid into Consolidated Fund.

Accounts of
the Authority.

26.—(1) The Authority shall keep proper accounts and other records in relation to its business, and shall prepare statements of account in a form satisfactory to the Minister, being a form which shall conform with established accounting principles and with the requirements of any enactment governing the accounts of public bodies.

(2) Notwithstanding the requirements of the *Public Bodies Management and Accountability Act*, the external audit of the accounts of the Authority shall be conducted by the Auditor-General.

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

- (a) grant to the Auditor-General, access to all books, documents, cash and securities of the Authority; and
- (b) give to the Auditor-General, on request, all such information as may be within their knowledge in relation to the operations of the Authority.

(4) The Auditor General shall be entitled at all reasonable times to examine the accounts and other records in relation to the business of the Authority.

Estimates and
operating plan.

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

- (a) estimates of income and expenditure for the ensuing financial year; and
- (b) an operating plan for that year as to the projects to be promoted or sponsored, or both, by the Authority, the operational framework within which the Authority shall carry out its functions, and such other matters as the Minister may require.

Returns.

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

29.—(1) Annual and other reports shall be prepared by the Authority in accordance with the provisions of the *Public Bodies Management and Accountability Act*. Annual and other reports.

(2) A copy of the annual report and audited financial statements of the Authority, approved by the Board, shall be submitted, no later than four months after the end of each financial year, to the Minister.

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

30.—(1) The income of the Authority shall be exempt from income tax. Exemption from income tax, stamp duty, transfer tax and customs duty.

(2) The Authority shall be exempt from stamp duty on instruments executed by it or on its behalf.

(3) The Authority shall be exempt from taxation under the *Transfer Tax Act* on any transfer by or to the Authority of any property or of any right or interest created in, over or otherwise with respect to any such property.

(4) No customs duty or other similar impost shall be payable upon any article imported into Jamaica, or taken out of bond in Jamaica, by the Authority, and shown to the satisfaction of the Commissioner of Customs to be required for the use of the Authority in the performance of its functions under this Act.

PART III. *General*

31.—(1) The Minister may, after consultation with the Authority, make regulations generally for the better carrying out of the purposes or provisions of this Act. Minister may make regulations.

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

(3) Notwithstanding section 29(b) of the *Interpretation Act*, regulations made under section (1) may provide in respect of a breach of any provision thereof for the imposition of penalties on summary conviction in a Resident Magistrate's Court of a fine not

exceeding one million dollars or imprisonment for a term not exceeding one year or of both such fine and imprisonment.

Minister may amend monetary penalties and Schedules.

32. The Minister may, by order published in the *Gazette*, subject to affirmative resolution—

(a) amend or vary any monetary penalty prescribed in this Act; or

First and Second Schedules.

(b) amend the First or Second Schedule to this Act.

Consequential amendments to other Acts.

33.—(1) The Minister may, by order published in the *Gazette*, with effect from any date specified in the order, not being earlier than the commencement date, alter any law if he considers such alteration to be necessary on account of anything contained in this Act.

(2) An order made pursuant to subsection (1) shall be subject to affirmative resolution.

(3) In this section—

“alter” includes adapt or amend;

“law” includes any instrument having the force of law, but does not include this Act.

Review of Act by Parliamentary Committee.

34.—(1) This Act shall be reviewed from time to time by a committee of both Houses of Parliament appointed for the purpose.

(2) The first such review shall be conducted not later than three years after the appointed day.

Amendment of Revenue Administration Act.

35. The *Revenue Administration Act* is amended—

(a) in section 2, by inserting next after the definition of “Commissioner” the following definition—

“Commissioner General” means the Commissioner General of Tax Administration Jamaica appointed under the *Tax Administration Jamaica Act*; and

(b) by repealing Part II.

PART IV. *Transitional*

36. In this Part “former department” means the department which immediately before the commencement date had been established under the *Revenue Administration Act* as Tax Administration Jamaica. Interpretation
of Part.

37.—(1) With effect from the commencement date, there shall be vested and transferred, respectively, in the Authority, any assets, rights and liabilities of the former department. Transitional
provisions,
general.

(2) The Authority shall, in relation to any assets, rights and liabilities so transferred and vested, have every right, power, privilege, immunity or duty which immediately before the commencement date was capable of being enjoyed or performed by the former department.

(3) All pending legal proceedings and claims which, before the commencement date, were to be enforced or brought by or against the former department shall be enforced, continued or brought by or against the Authority in the same manner as they would have been enforced, continued or brought before the commencement date.

(4) On the commencement date—

- (a) all references to the Commissioner General of Tax Administration Jamaica in the revenue laws or in any other enactment shall be construed as references to the Commissioner General appointed under this Act;
- (b) any reference to the revenue departments in the revenue laws or in any other enactment shall be deemed to include a reference to the Authority; and
- (c) except as provided in paragraph (a), any reference in the revenue laws or in any other enactment, to an officer of the revenue departments, shall be deemed to include a reference to an officer of the Authority.

Transitional
provisions,
permanent
staff.

38.—(1) Subject to the provisions of this section, on the commencement date, all persons holding permanent appointments to offices under the former department shall be transferred on secondment to the services of the Authority for a period of six months or such longer period as the Board may, in special circumstances, determine.

(2) During the period of secondment to the Authority pursuant to subsection (1) an officer shall be employed on such terms and conditions (as may be determined by the Board), being terms and conditions that are not less favourable than those enjoyed by such person in his substantive position, at the commencement date.

(3) An officer who is transferred on secondment pursuant to subsection (1) may be deployed in the public service on or before the expiration of the period referred to in subsection (1) on terms and conditions that are not less favourable than those enjoyed by the officer in his substantive position or be retired on the ground that his substantive position has been abolished by virtue of this section.

Transitional
provisions,
contract
officers.

39. All persons who, at the commencement date, held offices under the former department under a contractual arrangement, shall, from that date be deemed to continue to hold under the Authority the like or similar respective offices or employment, on the same or no less favourable terms as they held those or similar offices under the former department.

FIRST SCHEDULE (Sections 6 and 32)

Board of Management

1.—(1) The Board shall consist of nine members appointed by the Minister by instrument in writing, namely— Constitution of the Board.

- (a) the Commissioner General who shall be a member *ex officio*;
- (b) five senior public officers in the Ministry responsible for finance or other public body, designated by the Financial Secretary, being persons who appear to the Financial Secretary to have appropriate experience and expertise;
- (c) three persons drawn from the private sector who shall be, respectively—
 - (i) a person with expertise in the financial management of large entities;
 - (ii) a person with expertise in human resource management and practice of industrial relations; and
 - (iii) an attorney-at-law having wide ranging expertise in law.

(2) The members appointed under sub-paragraph (1) (b) and (c) shall be known as “appointed members”.

(3) The appointments under sub-paragraph (1) (c) shall be made by the Minister after consultation with the members of an advisory committee constituted under sub-paragraph (4) by the Minister for the purpose of making recommendations for such appointments.

(4) The advisory committee shall consist of at least one authorized representative of each of the following bodies—

- (a) the Jamaica Confederation of Trade Unions;
- (b) the Jamaica Chamber of Commerce;
- (c) the Private Sector Organization of Jamaica;
- (d) the Jamaica Manufacturers Association; and
- (e) a body appearing to the Minister to represent micro, small and medium-size business enterprises.

(5) The Commissioner General may designate a Deputy Commissioner General as a nominee, in the case of his temporary absence or inability to act on the occasion of any meeting.

(6) The chairman may invite such other officers of Government or the Authority as he thinks fit to attend a meeting of the Board and to participate in its deliberations, but such officers shall not be involved in the making of any decision by the Board.

(7) A board member shall—

- (a) be a fit and proper person having regard to the criteria specified in section 10(4);
- (b) before accepting appointment to the Board, disclose to the Minister any potential conflict of interest.

Disqualifi-
cation for
membership
of Board.

3. A Board member shall be a citizen of Jamaica and shall not be a person who is—

- (a) a parliamentarian or other public official who holds any appointed or elected office of Government including local government;
- (b) the holder of any office in a political party;
- (c) with the exception of the Commissioner General, and the persons appointed under paragraph 1(b), a public officer.

Selection of
chairman.

4.—(1) The Minister shall recommend, for the approval of the Cabinet, a chairman from among the appointed members.

(2) The Minister shall appoint the chairman, upon receiving the Cabinet approval of his recommendation.

(3) In the case of the absence or inability to act at any meeting of the chairman, the remaining members of the Board shall elect one of their number to chair the meeting.

Temporary
appointment.

5. The Minister, after consultation with the Financial Secretary, may appoint any person to act temporarily in the place of any appointed member, in the case of the absence or inability to act of such member.

Tenure of
office.

6.—(1) Subject to the provisions of this Schedule, an appointed member shall hold office for such period, not exceeding three years, as may be specified in the instrument of appointment.

(2) Every appointed member shall be eligible for reappointment.

(3) If any vacancy occurs in the appointed membership of the Board, the Minister may appoint any person to act in place of that member, so, however, that such appointment shall be made in the same manner and from among the same category of persons as would be required in the case of an original appointment under paragraph 1(b) or (c), and subject to the provisions of this Schedule, the newly appointed member shall hold office for the remainder of the period for which the previous appointed member was appointed.

7. The Minister may, on the application of any appointed member, grant to the member leave of absence for any period not exceeding six months and may appoint some other person to act as a member during the period of leave of absence so granted.

Leave of absence.

8.—(1) An appointed member other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and, from the date of receipt by the chairman of the instrument, the member shall cease to be a member of the Board.

Resignation.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and, from the date of receipt by the Minister of the instrument, the chairman shall cease to be a member of the Board.

9. Notwithstanding anything to the contrary, the Minister may, by notice in writing, at any time, revoke the appointment of the chairman or any appointed member of the Board if he thinks it expedient so to do and shall state the grounds for revocation in the notice.

Revocation of appointment of Board Member.

10. The names of all members of the Board as first constituted and every change in the appointed membership thereof shall be published in the *Gazette*.

Publication of membership.

11.—(1) The Board shall meet at least six times in each year for the transaction of its business.

Meetings of Board.

(2) The Chairman may convene an ordinary meeting of the Board by giving not less than seven days written notice to the members.

(3) The Chairman may, at his discretion, or at the request of three or more members of the Board, convene an extraordinary meeting of the Board at shorter notice than the period referred to in sub-paragraph (2), at such place and time as he may appoint.

(4) Subject to this Schedule, the quorum at any meeting of the Board shall be the Commissioner General and five other members at least one of whom shall be a person appointed under paragraph 1(1)(c).

(5) The chairman shall preside at meetings of the Board and in the case of the absence of the chairman from a meeting, the members present shall elect one of their number to preside as chairman at that meeting.

(6) The decisions of the Board shall be by a majority of votes of the members and, in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

(7) The validity of any act, decision or proceedings of the Board shall not be affected by any vacancy among the members or by any defect, subsequently discovered, in the appointment of a member.

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

(9) Subject to this Act, the Board may regulate its own proceedings and business as well as that of any of its committees and may make standing orders for that purpose and may vary, suspend or revoke any such standing orders.

Authentication
of seal and
documents.

12.—(1) The seal of the Authority shall be authenticated by the signatures of the chairman or a member of the Board authorized to act in that behalf and an officer of the Authority so authorized.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or any member of the Board authorized to act in that behalf or the secretary of the Board.

Committees
of Board.

13.—(1) The Board may appoint committees of a general or special nature, consisting of such number of members, with such qualifications, as the Board may determine.

(2) The Board shall appoint the chairman of each committee from among the members of that committee.

(3) An officer of the Authority duly appointed in writing by the Commissioner General, shall be secretary to any committee of the Board, and shall, on the instructions of the chairman of the committee, convene meetings of the committee.

(4) The Board may delegate any of its functions under this Act to a committee appointed under sub-paragraph (1).

(5) Any act done pursuant to a function delegated under sub-paragraph (1) shall have the same effect as if done by the Board.

(6) A delegation under sub-paragraph (1) shall not prevent the exercise of the function by the Board.

(7) A committee appointed under this paragraph may regulate its own proceedings.

14.—(1) The Board may, in its discretion, invite any person to attend any meeting of the Board for the purpose of assisting the Board in respect of any matter under its consideration. Invitees to meetings.

(2) A person invited pursuant to sub-paragraph (1) may take part in the deliberations of the Board on that matter, but shall not be entitled to vote at any meeting of the Board.

15. There shall be paid to the chairman and other members of the Board, out of the funds of the Authority such remuneration (whether by way of salaries, honoraria or fees) and such allowances, as the Minister with responsibility for the public service may determine. Remuneration of members.

16. A member of the Board who is, directly or indirectly, interested in any matter which is being dealt with by the Board— Disclosure of interest.

(a) shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board; and

(b) shall not be present during the deliberation of the Board on the matter or take part in the decision of the Board with respect thereto.

17. The office of chairman or member of the Board shall not be a public office for the purposes of Chapter V of the *Constitution of Jamaica*. Office of chairman or member not a public office.

SECOND SCHEDULE (Sections 2, 10
and 32)

*Commissioner General and Deputy
Commissioners General*

Selection of
Commissioner
General.

1.—(1) Where the occasion arises for the appointment of a Commissioner General, the Board shall invite the submission to the Authority of applications for the position, by way of advertisements or announcements appearing in or publicized by—

- (a) daily newspapers circulated throughout Jamaica or electronically;
- (b) periodicals and professional publications available in Jamaica or outside of Jamaica;
- (c) on-line professional job banks;
- (d) professional recruiters; or
- (e) any other method considered suitable by the Chief Personnel Officer.

(2) The Board shall approve the content of such advertisement or announcement.

(3) The secretary shall—

- (a) receive and examine all applications;
- (b) draw up a shortlist of no fewer than three suitable applicants for submission to the Board.

(4) A Selection Panel as constituted in sub-paragraph (5) shall select a Commissioner General from among the short listed candidates using the assessment tools and methods considered suitable by selection.

(5) The selection Panel shall comprise—

- (a) the Chairman of the Authority;
- (b) the Financial Secretary;
- (c) the Chairman of the Public Service Commission;
- (d) the President of the Jamaica Civil Service Association; and
- (e) the Governor of the Bank of Jamaica.

Tenure of
Commissioner
General.

2. The Commissioner General shall hold office for a period of five years and shall be eligible for reappointment.

3.—(1) Where the Board is satisfied that any circumstance specified in sub-paragraph (4) exists in relation to the Commissioner General, the Board may recommend to the Minister that the appointment of the Commissioner General be terminated.

Termination of appointment of Commissioner General, Deputy Commissioner General.

(2) Where the Commissioner General is satisfied that any circumstance specified in sub-paragraph (4) exists in relation to a Deputy Commissioner General, the Commissioner General may recommend to the Board that the appointment of the Deputy Commissioner General be terminated.

(3) The Minister may, where he is satisfied that any circumstance specified in sub-paragraph (4) exists, recommend to the Governor-General the termination of the appointment of the Commissioner General or a Deputy Commissioner General, whether or not the Board or the Commissioner General, as the case may be, has recommended such termination.

(4) The circumstances are that the Commissioner General or, as the case may be a Deputy Commissioner General—

- (a) is suffering from a mental disorder within the meaning of the *Mental Health Act*, becomes of unsound mind or permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of an offence involving fraud, dishonesty or moral turpitude;
- (e) fails to fulfill his tax obligations;
- (f) fails to carry out any of the functions conferred or imposed on him by virtue of this Act or any other revenue laws;
- (g) fails to fulfill contracted performance targets; or
- (h) engages in action or behaviour reasonably likely to bring the Authority into disrepute.

(5) Where the Board is satisfied that the Commissioner General or, as the case may be, a Deputy Commissioner General

engages in action or behaviour which, in the opinion of the Board constitutes sufficient cause for removal, the Board may so advise the Minister who shall recommend to the Governor-General that the appointment be terminated.

(6) The Board or the Minister, as the case may be, shall, before taking any action under this paragraph, notify the Commissioner General or Deputy Commissioner General, in writing, of the right to apply to be heard on the matter of the proposed termination, within such time as may be specified in the notice.

Passed in the Honourable House of Representatives this 19th day of March 2013 with seven (7) amendments.

MICHAEL A. PEART
Speaker.

Passed in the Senate this 22nd day of March 2013.

STANLEY ST. J. REDWOOD
President.

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.) H.F. Cooke.
Clerk to the Houses of Parliament.