



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

10th November, 1994.

ANTIGUA AND BARBUDA

No. 11 of 1994.

AN ACT to establish a Board of Education for the execution of certain education policies of the Government provided in the Act; to raise moneys required for the execution of such policies and to make provisions for other matters connected therewith.

[24th November, 1994.]

ENACTED by the Parliament of Antigua and Barbuda as follows—

1. This Act may be cited as the Board of Education Act, 1994. **short title.**

2. In this Act— **Interpretation.**

"annual income" means the total salary or wages including overtime payment.

"Board" means the Board of Education established under section 3.

"Commissioner" the Commissioner of Inland Revenue or any person acting for the time being as Commissioner.

"Fund" means the Education Fund established under section 22.

"House" means the House of Representatives.

"levy" means the education levy imposed under section 13.

"Minister" means the Minister of Government responsible for education.

**Establishment of
the Board.**

3. (1) For the purposes of this Act there is established a Board to be known as the Board of Education in which the Funds established under this Act shall be vested and which shall subject to the provisions of this Act be responsible for administering the Fund.

(2) The Board shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of suing and being sued, and subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(3) The seal of the Board shall be kept in the custody of the Executive Secretary and shall not be affixed to any instrument except by authority of a resolution of the Board, and sealing of any instrument shall be authenticated by the signature of the chairman and of such other person as the Board may appoint for the purpose.

**Composition of
the Board.**

4. (1) The Board shall consist of such number of persons, not being less than seven, as the Cabinet may from time to time determine.

(2) The members of the Board shall, subject to the approval of the Cabinet, be appointed by the Minister by instrument in writing and shall hold office for a period of three years.

(3) The Minister shall appoint one of the members of the Board to be chairman and another to be deputy chairman.

(4) If the chairman, deputy chairman or any other member is unable to act, the Minister may appoint any person to act in the place of such chairman, deputy chairman or other member.

**Resignations and
revocations.**

5. (1) Any member of the Board, 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 Minister of such instrument such member shall cease to be a member of the Board.

(2) The **Chairman** may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

(3) The Minister may at any time and with the approval of the Cabinet revoke the appointment of any member if he thinks it expedient to do so.

6. A member of the Board who is directly or indirectly interested in a transaction made or proposed to be made by the Board—

Disclosure.

- (a) shall disclose the nature of his interest at a meeting of the Board; and
- (b) shall not take part in any deliberation or decision of the Board with respect to that transaction.

7. (1) The Board shall meet from time to time, but shall meet at least once every month.

Meetings of the Board.

(2) Minutes of each meeting shall be kept in proper form by such officer of the Board as the Board may appoint for the purpose, and shall be confirmed by the Board at its next meeting and signed by the **Chairman** or deputy chairman as the case may be.

8. The quorum for any meeting of the Board shall be five including the **chairman** or deputy chairman, one of whom shall preside at all meetings; and the Board may act notwithstanding a vacancy in its membership.

Quorum.

9. (1) The Ministers shall at the beginning of each financial year forward to the Board **Government** policies relating to matters provided under this Act, including—

Functions of the Board.

- (a) priorities for the purposes of utilizing the sums provided by the Fund.
- (b) the areas of studies and training for the award of bursaries, financial assistance and scholarships;
- (c) guidelines for administering and managing the text-book assistance scheme; and

(d) directives on any other matter that the Minister may see fit.

(2) The Board may do such other things as may promote and further the purposes of this Act.

Board to prepare report and estimates.

10. (1) The Board shall in respect of each financial year prepare—

(a) a comprehensive report in respect of all transactions of the Board. The report shall include the state of progress on all programmes executed by the Board, the achievement and failures on any of the programmes on which sums of money have been expended by the Board;

(b) estimates of the resources in the Fund that are available to the Board and the expenditure to be spent on programmes for the next financial year.

(2) The report prepared under subsection (1) together with the auditors report of the accounts of the previous year shall be submitted to the House by the Minister at least thirty days before the commencement of the Budget Session of Parliament.

(3) The House shall consider the reports specified in section 10 and with reference to the estimates approve the total amount which it may authorise to be spent on projects authorised by this Act.

Appointment and function of Executive Secretary.

11. (1) There shall be an Executive Secretary of the Board who shall be appointed by the Cabinet.

(2) The Executive Secretary shall be the Chief Administrative Officer of the Board and shall, subject to the provisions of this Act and the general directions of the Board, be responsible for the direction of the staff and for the management of the Board.

staff of the Board.

12. (1) The Executive Secretary may, from time to time, acting upon the advice of the Board, appoint persons to be officers or employees of the Board.

(2) The term and conditions of employment of officers and employees of the Board shall be prescribed from time to time by the Minister and shall be no less favourable than those prescribed for public servants of similar grades.

13. For the financial years 1994, 1995 and 1996 there shall be charged, levied and collected on the income of every person to whom this Act applies a levy at the rates specified in section 14.

Charge of
education levy.

14. (1) The first six thousand, five hundred dollars (\$6,500.00) of the annual income of every person to whom this Act applies shall be exempted from the payment of the levy.

Rates of levy and
exemption.

(2) The levy charged under this section shall be paid monthly or weekly as the case may be.

(3) Subject to subsection (1) the following rates shall be levied on the remainder of all salaries and wages after deduction of the first six thousand and five hundred dollar —

(a) two and a half per centum (2.5%) of any annual income between six thousand, five hundred dollars (\$6,500.00) to sixty thousand dollars (\$60,000.00).

(b) five per centum (5%) of any portion of any annual income over sixty thousand dollars (\$60,000.00).

(5) In respect of each weekly or monthly period for which an employee is paid wages, the employer shall deduct for such weekly or monthly period the prescribed percentage in relation to the salary or wages paid to the employee.

15. Any person in Antigua and Barbuda who—

Liability to pay
levy.

(a) is sixteen (16) years old or more and is gainfully employed or is self employed; and

(b) receives an annual income of six thousand, five hundred dollars (\$6,500) or more

is liable to pay the levy chargeable under section 13.

16. The Commissioner shall, on application by any person to whom section 14 applies, exempt such person from the payment of the levy if such person satisfies him that, his annual income is less than the annual income exempted under section 14.

Application for
exemption.

17. (1) Every employer shall deduct the levy at the rate prescribed in Section 14 from the monthly or weekly wages of every person employed by him.

Employer to
deduct levy from
employees wages.

(2) Any levy deducted by an employer under this section shall be paid to the Commissioner on or before the seventh day of each month.

Payment by self employed persons.

18. (1) Every self employed person shall pay the levy prescribed in section 14 to the Commissioner on or before the seventh day of each month.

(2) Any person who fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars (\$20,000) or to a term of imprisonment for twelve (12) months.

Payment of penalty for default.

19. Any person who fails to pay all or any portion of the levy on the due date prescribed under sections 17 and 18 shall pay a penalty of six per centum per month of the amount of levy in arrear in addition to the sum due, from the date prescribed to the date of payment.

Commissioner of Inland Revenue to collect levy.

20. (1) The Commissioner shall be responsible for the computation, collection and recovery of the levy.

(2) The functions conferred upon the Commissioner by this Act shall be exercised by him or by an officer authorised by him in writing.

(3) The provisions of the Inland Revenue Administration Act apply to this Act in the same manner as it applies to the levying, collection and recovery of taxes and revenues of the Government.

Employer to submit list of employees.

21. (1) On or before the 30th January of each year, every employer shall submit to the Commissioner, a complete list of the names and annual income paid by him to each employee on the list.

(2) Every self-employed person shall submit to the Commissioner on the 30th day of January of each year the annual income received by him as salary.

(3) The Commissioner shall, after the 30th January of each year, and not later than the 14th February, publish in the *Gazette*, a notice requesting all employers and self-employed persons who have not complied with subsection (1) or subsection (2) to forward the required particulars within fourteen (14) days of the publication of the notice.

(4) Any employer or self-employed person who fails to comply with the request in the notice is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars (\$10,000) or to imprisonment for six (6) months.

22. (1) There is established for the purposes of this Act a **Fund** to be known as the Education Fund which shall be administered by the Board. **Education Fund.**

(2) There shall be paid into the **Fund**—

- (a) all proceeds of the levy raised and collected under section 13;
- (b) all moneys which may from time to time be appropriated by Parliament for the purposes provided by this Act;
- (c) donations and endowments given to the Board for the purposes of the Act;
- (d) such other moneys as the Board may, from time to time, raise through its activities.

23. (1) **All** moneys raised and collected under this Act or received for the purposes of this Act shall be paid into a general deposit account in a bank, approved by the Minister of Finance, called the "Board of Education Fund. **Moneys collected and raised under the Act to be paid into the Fund.**

(2) Disbursement from this account shall be made only upon the written instructions of the Minister responsible for education.

(3) There shall also be an account at a bank approved by the Minister of Finance called the "Board of Education Project and Services Accounts" into which funds shall be placed from the general account and from which expenses relating to supplies purchased and services rendered for the Board shall be met,

(4) There shall be a third account at a Bank, approved by the Minister of Finance called the "Board of Education Administration Accounts" into which funds shall be placed from the general accounts and from which expenses relating to the **administration** of the Board shall be met.

Audit of accounts.

24. (1) The Board shall cause to be kept proper books of accounts, and other books and records in relation thereto, in which shall be recorded all financial transactions of the Board.

(2) The accounts of the Board shall be prepared in such form and at such times as the Minister may direct, and shall be audited annually by such person as the Board, with the approval of the Minister of Finance may appoint.

(3) The Director of Audit, or such person as the Director of Audit may nominate, shall at all times have the right to inspect the accounts of the Board and to report thereon.

(4) The Board shall submit to the Minister every account, certified by the appointed auditor in accordance with subsection (2) within thirty days of the date of such certificate.

(5) The Minister shall as soon as possible after receiving of an account in accordance with subsection 4, lay a copy thereof before Parliament.

Offences and penalties.

25. (1) Any person who in compliance with section 17 deducts the levy imposed under section 13 from the wages of any employee and fails to pay the same to the Commissioner on the prescribed date is guilty of an offence and is liable on summary conviction to a fine of twenty thousand dollars (\$20,000) or to imprisonment for twelve (12) months.

(2) Any person who fails to comply with any provisions of the Act for which no penalty is prescribed is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars (\$10,000) or to imprisonment for six (6) months.

Regulations.

26. The Cabinet may make Regulations for giving effect to this Act, and in particular make regulations—

- (a) for the management and control of the Fund;
- (b) for keeping records of accounts, books and forms to be used;
- (c) for prescribing anything required to be prescribed by this Act.

Passed the House of Representatives this
16th day of August, 1994.

B. Harris,
Speaker.

S. Walker,
Acting Clerk to the House of Representatives.

Passed the Senate this 4th
day of October, 1994.

M. Percival,
President.

S. Walker,
Acting Clerk to the Senate.

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