



[L.S.]

I Assent,

Joseph Myers,
Governor-General.

11th March, 1997.

ANTIGUA AND BARBUDA
1997, No. 6

AN ACT to provide for the establishment of a Tourism Development Corporation of Antigua and Barbuda for the functions of the Corporation and for matters connected therewith or incidental thereto.

[3rd July, 1997]

ENACTED by the Parliament of Antigua and Barbuda as follows —

1. This Act may be cited as the Tourism Development Corporation Act, 1997. Short title.

2. In this Act — Interpretation.

"Board" means the Board constituted under paragraph 1 of the First Schedule;

"Chairman" means chairman of the Corporation and any person for the time being performing the functions of chairman;

"the Corporation" means the Antigua and Barbuda Tourism Corporation established under section 3 of this Act;

"hotel" has the meaning assigned to it by the Hotel Aid Act;

"Minister" means the Minister responsible for Tourism. Cap. 204

PART II

Establishment, composition and functions of Corporation

Establishment of Corporation.

3. (1) There is established for the purpose of this Act a body corporate to be called the Tourism Development Corporation.

(2) The Corporation shall have power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatever kind and may sue and be sued in its corporate name and may for all purposes be described by such name.

Constitution and Procedure of Corporation.

4. (1) The provisions of the First Schedule shall have effect with respect to the Constitution and Proceedings of the Board and otherwise in relation thereto.

First Schedule.

Functions of the Corporation.

5. (1) Subject to the provisions of this Act, the Corporation may, for the purpose of performing any of its functions under this Act, do anything and enter into any transaction which, in the opinion of the Corporation, is necessary to ensure the proper performance of its functions.

(2) In particular and without prejudice to the generality of the provisions of subsection (1), the Corporation shall be empowered to —

- (a) market all aspects of the tourism industry of Antigua and Barbuda;
- (b) adopt all such measures as it considers necessary to advertise and publicize Antigua and Barbuda as a tourism resort;
- (c) promote and secure such increased shipping and airline facilities as will increase tourist arrivals in Antigua and Barbuda;
- (d) encourage the development of such amenities in Antigua and Barbuda that may be calculated to enhance the attractiveness of Antigua and Barbuda to tourists, with special reference to entertainment, conservation of local flora and fauna, deep sea fishing, handicrafts and development of historic sites;

- (e) undertake such research, experiments and operations as may appear to them to be necessary for the improvement of the tourism industry and to control or eliminate any undesirable factors that may affect the industry;
- (f) foster an understanding within Antigua and Barbuda of the importance and economic benefit of the tourism industry;
- (g) ensure that adequate training facilities are provided for all persons working in the tourism industry;
- (h) make all such enquiries and to collect all information as it may consider necessary for the purpose of carrying out its duties and functions;
- (i) regulate the tourism industry generally and those who provide goods and services thereunder.

6. (1) The Minister may, after consultation with the Chairman, give to the Board directions of a general character as to the policy to be followed in the performance of its functions in relation to matters appearing to him to concern the public interest and the Board shall give effect to any such directions. Ministerial directions.

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

7. (1) A member of the Board of the Corporation who is interested directly or indirectly in a contract made or proposed to be made by the Corporation — Disclosure of interest.

- (i) shall disclose the nature of his interest at a meeting of the Corporation;
- (ii) shall not take part in any deliberation or decision of the Corporation with respect to the contract.

(2) The appointment of any director who fails to disclose any such interest in accordance with subsection (1) shall be revoked forthwith by the Minister.

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Appointment of
General Manager
and staff of the
Corporation.

8. (1) For the purposes of carrying out its functions under this Act, the Board shall appoint a person with suitable qualifications and experience in management and in the tourism industry to be the General Manager of the Corporation.

(2) The **terms** and conditions of service of the General Manager shall be recommended by the Board and approved by Cabinet.

(3) Subject to the provisions of this Act and **to any** condition given by the Board, the duties of the General Manager include the general administration and management of the affairs of the Corporation.

Second Schedule.

(4) The provisions of the Second Schedule shall have effect **as** to the officers and employees of the Corporation for their appointment, dismissal, discipline and conditions of service and matters relating thereto.

(5) Except in cases in which the Cabinet otherwise directs, the persons who, immediately before the commencement of this Act held offices established for the purposes of the former Tourist Board **shall be** deemed, on the commencement of this Act, to be transferred to the service of the Corporation and to hold offices under the Corporation on the like terms and conditions of employment, **as** if they had been originally appointed to the service of **the Corporation.**

(6) For the purposes of **this** section "the former Tourist Board" means the Tourist Board in existence immediately prior to the commencement of this Act.

Delegation of
powers.

9. Subject to the **provisions** of this Act, the Board may delegate to **any member or committee** of the **Board** the power to **carry out** on its behalf such functions as the Board may determine, **subject** to the approval of the Minister.

PART III

FINANCIAL

Funds and resources
of the Corporation.

10. (1) The funds and resources of the Corporation shall consist of —

- (a) such moneys **as** may be provided annually for the purpose by Parliament;

- (b) taxes, fees and charges imposed by statute and authorised to be paid to the Tourism Corporation Fund;
- (c) such moneys as may from time to time accrue to the Corporation from its operations;
- (d) such moneys as may from time to time be borrowed by the Corporation pursuant to section 11; and
- (e) such other moneys and property as may in any manner be lawfully paid to or vested in the Corporation in respect of any matter incidental to its functions.

(2) All of the moneys referred to in subsection (1) shall be deposited into a special Fund which is to be called the Tourism Corporation Fund and which shall be used for the functions of the Corporation as provided by this Act.

11. (1) Subject to subsection (2), the Corporation may borrow sums required by them for meeting any of their obligations or discharging any of their duties or functions and may in respect of any such borrowing issue debentures in such form as the Minister of Finance may determine. **Borrowing powers.**

(2) The power of the Corporation to borrow shall be exercisable only with the approval of the Minister of Finance as to the amount, as to the sources of the borrowing and as to the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

12. (1) to subsection (3), for the of the Corporation to defray expenditure properly chargeable to its account, the Minister of Finance may make advances to the Corporation. **Advances and guarantee of borrowing.**

(2) Subject to subsection (3) the Minister of Finance may guarantee, in such manner and on such conditions as he may think fit, the repayment of the principal of, and the payment of interest and other charges on, any authorised borrowings of the Corporation made otherwise than by way of advance under the foregoing subsection.

(3) No advances shall be **made** and no guarantees shall be given under this section except in accordance with this Act.

(4) Where any sum is issued for fulfilling a guarantee under this section, the Minister of Finance shall, **as soon as** possible after the end of each financial year beginning with that in which all liability in respect of the principal of the sum and in respect of interest thereon is finally discharged, lay before the House a statement relating to that sum.

Repayments of
interest, advances,
etc.

13. (1) The Corporation shall make to the Minister of Finance at **such** times and in such manner as he may direct, any payments of such amounts in or towards repayment of advances made to the Corporation under section **12** and of any sums issued in fulfillment of any **guarantee** given thereunder, and payments of interest on what is outstanding for the time being in respect of such advances and of any sums so issued in **fulfillment** of any guarantee given thereunder, and payments of interest of such advances and of any sums so issued at such rate **as** he may so direct and different rate of interest may be directed **as** respects different advances or sums and **as** respects interest for different periods.

(2) The Minister of Finance shall lay before the House a statement of **any** payment due from **the Corporation** under subsection (1) of this section which is not duly paid to him **as** required thereunder.

Remuneration of
members.

14. There **shall** be paid to the chairman and other directors such remuneration, if any **as** the Cabinet may determine.

Reserve Fund.

15. (1) The Corporation may establish a Reserve Fund.

(2) Subject to subsection (3), in the management of the Reserve Fund, the sums to be carried from time to time to the **credit** thereof, shall be **as** the Board may determine, provided that no part of the Reserve Fund shall be **applied** otherwise than for the purpose of the Corporation.

(3) The Minister of Finance may at any time direct that any part of the Reserve Fund established under subsection (1) **shall** be paid into the Consolidated Fund for the purpose of **repaying** any advances, **fulfilling** any guarantees or paying any accrued interest owed by the Corporation pursuant to section **12**.

16. (1) It shall be the duty of the Corporation so to exercise and perform its functions as to secure that its revenues are not less than sufficient to meet all sums properly chargeable to its revenue accounts (including without prejudice to the generality of that expression, provisions in respect of its obligations under the two last foregoing sections), taking one year with another.

Balancing of account and surplus revenue.

(2) Any excess of the revenue of the Corporation for any financial year thereof over the sums properly chargeable to its revenue account for that year shall be applied by the Corporation for such proper purposes as it may determine.

17. Any moneys standing to the credit of the Corporation and not required for any current purpose may from time to time either be carried to the reserve fund established under section 15 or be invested by the Corporation in securities approved either generally or specifically by the Minister of Finance; and the Corporation may from time to time, with like approval, sell any or all of any such securities.

surplus Fund.

18. (1) The Corporation shall keep proper accounts of all its transactions, receipts, payments, assets and liabilities in a form which shall conform with the best commercial standards and shall submit them from time to time with vouchers to be audited, such audit to be performed at least once every twelve months by the Director of Audit or a duly qualified auditor.

Accounts and audit.

(2) The members, officers, agents and servants of the Corporation shall grant the Director of Audit or the auditor appointed to audit the accounts of the Corporation under subsection (1) access to all books, documents, cash and securities of the Corporation and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Corporation.

19. (1) The Board shall in each year prepare and present on or before the 1st of July to the Minister a report of its proceedings including its audited financial statements during the twelve months ending on the 31st December of the preceding year.

Annual report and estimates.

(2) A copy of the report shall be laid before the House.

(3) The Board shall, as soon as practicable after the 1st of June each year, submit through the Minister to the Cabinet for approval, its estimates of revenue and expenditure in respect of its next succeeding financial year, and a copy of the estimates as approved, shall be published in the Gazette and in a newspaper circulating in Antigua and Barbuda.

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(4) In this section “**financial year**” means the year commencing on the 1st January and ending on the 31st of December.

PART IV

General

Authority to operate
a bank account.

20. (1) The Board shall by resolution open and operate account with a bank appointed by the Board and approved by the Minister of Finance.

(2) The funds and ~~all~~ moneys received by the Corporation shall be paid into the bank account approved by the Board, except such moneys as the Board may by rules, determine to be retained by the accountant of ~~the Corporation~~ for the disbursement of ~~petty~~ expenses.

(3) All payments out of the funds of the Corporation, except petty disbursement not ~~exceeding~~ a sum to be determined by rules made under by the Board shall be made by the accountant, or on his behalf by any other officer appointed by the Corporation in accordance with such rules.

(4) Cheques against any bank account required to be kept or withdrawals from any savings bank account shall be signed by the accountant and counter signed by the chairman of the Corporation or any member of the Board or any officer of the authority appointed by resolution of the Board which shall be certified by the ~~Chairman~~ and forwarded to the Bank or banks concerned.

Protection of
Board.

21. No act done or proceeding taken under this Act shall be questioned on the ground —

- (a) of the existence of any vacancy in the membership, or any defect in the constitution, of the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

Liability of
members of
Corporation.

22. No member of the Corporation shall be personally liable for any act of default of the Corporation done or omitted to be done on good faith in the course of the operations of the Corporation.

23. (1) No **stamp duty** shall be ~~in respect of any instrument by or on behalf of or in fact of the Corporation in case's~~ ^{Exemption from stamp duty and other taxes.} ~~it~~ but ~~he~~ ^{the Corporation} ~~is~~ ^{be} liable to pay the duty chargeable ~~in~~ ⁱⁿ respect of ~~such~~ instrument.

(2) ~~The Corporation~~ shall ~~not be~~ liable for the payment of income tax.

(3) ~~The~~ Corporation is exempt from the payment of all customs duties, customs taxes that would otherwise be payable on goods required by the Corporation for the performance of its functions under this Act.

24. (1) The Board may, with the approval of the Minister, make regulations generally for the better carrying out the purposes of this Act and in particular but without prejudice to the generality the foregoing may make regulations **providing** for — ^{Regulations.}

- (a) the measures and methods to be adopted for the regulation and improvement of the tourism industry in Antigua and Barbuda;
- (b) the **registration** and grading of hotels catering for tourists;
- (c) the keeping of **proper** and reliable records, accounts and **data necessary** for the tourism industry of Antigua and Barbuda;
- (d) the disclosure in **full** or in part of such **record**, accounts and **data** referred to in paragraph (c);
- (e) the **imposition** of fees or charges in such cases **as** may **be determined by the Board for services rendered by the Corporation.**

(2) Regulations made under this section may —

- (a) empower any **person** or body with the appropriate authority **as** may be necessary for **securing** compliance with or carrying out the purposes of this Act or any regulations made thereunder; and
- (b) prescribe in respect of any contravention thereof or failure to comply therewith or with any direction

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issued thereunder a penalty not exceeding ten thousand dollars (\$10,000.00) on summary conviction.

FIRST SCHEDULE (Section 4)

Constitution and procedure of the Corporation

Constitution of the Board and terms of appointment.

1. The Corporation shall be governed by a Board consisting of—

- (a) a **Chairman** appointed by the Minister by an instrument in writing;
- (b) eight other members appointed by the Minister by **instrument** in writing, of whom —
 - (i) two **shall be** nominated by the Antigua and Barbuda Hotels and Tourist Association;
 - (ii) one shall be nominated by the Antigua and Barbuda Chamber of Commerce and Industry Limited; and
 - (iii) **five other persons all of whom shall have relevant experience in matters relating to tourism, taxi operation, management, air travel, public relations, vendors, accountancy or banking or who are engaged in the business of travel agencies.**

Terms of appointment.

2. ~~The appointment of all members of the Board of the Corporation shall be~~ for a period of two years, and any such member shall be eligible for reappointment, but shall not serve for more than two consecutive ~~terms~~.

Acting appointments.

3. If the Chairman or any other member of the **Board** other than a **member** appointed under paragraph (b) (i) and (b) (ii) is absent or unable to act, the Minister may appoint any person to act in place of the Chairman or such other member.

Resignation.

4. (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** the receipt by the **Minister** of such instruments 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 receipt of **such instrument** by the Minister.

5. The Cabinet may at any time revoke the appointment of any member of **the Board** if it thinks it expedient so to **do**. Revocation of appointment.

6. If any vacancy occurs in the **membership** of the Board **such 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. So, however, that **the appointment** was made in the same **manner** and from the same category of persons, if any, as the appointment of **the** previous member. Filling of vacancies.

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

8. (1) The seal of the **Corporation** shall be kept in the custody of **the Chairman** or the secretary and shall be **affixed** to instruments pursuant to a resolution of the Board in the presence of the Chairman or any other member of the Board and the secretary. Seal

(2) The seal of the Corporation shall be authenticated by the signature of the Chairman or a **member** of the Board **authorized** to act in that behalf and the secretary and such seal shall be officially and judicially noticed.

(3) **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 other member **duly** authorized to act **as** Chairman or by the hand of the secretary.

9. Any summons, notice or other document required or authorized to be served upon the **Corporation** under the provisions of this Act or any other law may, unless in any case there is express provision to the contrary, be **served** by delivering the same to the Chairman or secretary, **or** by sending **it by** registered post **addressed** to the **secretary** at the principal office of the Corporation. Service of summons etc.

10. (1) The **Board** shall meet at such times **as** may be necessary **or expedient for the transaction** of business, **and** such meetings shall be held at such places and times and on such days **as the Board may determine**; but the Board shall hold not less than twelve meetings in **each financial** year. Meeting.

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(2) Minutes in **the** proper form of each meeting of the Board shall be kept.

(3) The **Chairman** may at any time call a special meeting of the Board **and** shall cause a special meeting to be held seven days **from** the receipt of the written request for the purpose addressed to him by any three members of the Board.

(4) The **Chairman** of the Board shall preside at **all** meetings of **the** Board at which he is present, **and** *in* the case of the Chairman's absence or in the absence of a person *appointed* by the Minister to *act as Chairman* under paragraph 3 of this Schedule from any **meeting**, the members present **and** constituting a **quorum** shall elect a **Chairman** **from** among their number at that meeting only.

(5) The quorum of the Board shall be five members.

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

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

SECOND SCHEDULE

Appointment of employees, establishment and maintenance of superannuation schemes.

1. (1) Subject to the provisions of this Act, the **Board** may appoint and employ at such remuneration and on such terms and conditions as cabinet approves, an accountant and such other employees as may be necessary and **proper** for the due and efficient **administration** and management of the Corporation.

(2) The Board may, with the **approval** of and subject to such terms and conditions **as may be imposed** by the Cabinet, provide for the establishment and maintenance of a **contributory** Pension Scheme or a **Thrift** Fund for the benefit of employees of the Corporation, and in every such scheme different provisions may be made by different classes of employees.

Payment by Corporation to Government in respect of emoluments and pensions, etc.

2. (1) **The** emoluments of any public officer who is in the service of **the** Corporation shall, at the end of every month after the commencement of this Act, be paid into the Consolidated Fund by the Corporation for the benefit of such public officers.

(2) The sums payable as contributions by Government under the Social Security Act in respect of such public officers shall at the end of every month after the commencement of this Act be paid into the Consolidated Fund by the Corporation and such sums shall be paid by Government into the Social Security Fund established under the Social Security Act. *Cap. 408.*

(3) The Board shall, within three months after the end of each financial year, pay to the Government in respect of such public officers as a contribution to the pension and other rights of such public officers under the Pension Act such sum or sums of money as would have been due by Government in respect of the accruing pension and other rights of such public officers under the Pensions Act had such public officers not been in the service of the Corporation. *cap. 311.*

Passed the House of Representatives this
25th day of February, 1997.

Passed the Senate this 4th day of
March, 1997.

B. Harris,
Speaker.

M. Percival,
President.

S. Walker,
Clerk of the House of Representatives.

S. Walker,
Clerk of the Senate.

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