

ANTIGUA AND BARBUDA

STATUTORY INSTRUMENTS

1997, No. 42

The protocol on the Privileges and Immunities of the Caribbean Examinations Council, approved by Resolution of the House of Representatives pursuant to section 3 (1) (c) of the Ratification of Treaties Act Cap 364.

PROTOCOL ON THE PRIVILEGES AND  
IMMUNITIES OF THE  
CARIBBEAN EXAMINATIONS COUNCIL

*PREAMBLE*

WHEREAS paragraph 1 of Article VIII of the Agreement Establishing the Caribbean Examinations Council provides that the Council shall have full juridical personality; and

WHEREAS paragraph 2 of Article VIII of the aforementioned Agreement provides that the privileges and immunities to be recognized and granted by the Participating Governments in connection with the Council shall be laid out in a Protocol:

The Participating Governments of the Council agree as follows:

- (c) "The Council" means the Caribbean Examinations Council established by the Agreement and "Members of the Council" shall be construed accordingly;
- (d) "Official of the Council" means the Registrar, Pro Registrar and any senior member of staff of the Council;
- (e) "Participating Governments" means the governments which are parties to the Agreement;
- (f) "Premises" means the premises occupied by the Council for its official use;
- (g) "Property" means all forms of property including funds and assets belonging to or held or administered by the Council, and in general all income accruing to the Council;
- (h) "Pro-Registrar" means the Pro-Registrar appointed under paragraph (a) of Article IV of the Agreement;

- (i) "Registrar" means the Registrar appointed under paragraph (a) of Article IV of the Agreement.

## ARTICLE II

### Status of the Council

1. The Council shall possess full juridical personality and , in particular, full capacity to:

- (a) contract;
- (b) acquire and dispose of immovable and movable property;
- (c) institute legal proceedings.

In all legal proceedings, the Council shall be represented by the Registrar.

## PART II

## ARTICLE III

### Property, Funds and Assets

1. The Council, its property and assets, wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case it has expressly waived its immunity. No waiver of immunity shall extend to any measure of execution.

2. The property of the Council wherever located and by whomsoever held shall be immune from search, acquisition, confiscation, expropriation and any other form of interference, whether by legislative, executive, administrative or judicial action.

## ARTICLE IV

### Premises of the Council

1. The premises of the Council shall be inviolable.

2. The Council may make regulations relating to the premises for the purpose of establishing conditions necessary for the full execution of its functions.

3. Officials of a Participating Government shall not enter the premises to perform any official duties therein except with the consent of and under conditions agreed to by the Registrar. However, in the case of fire or other emergency requiring prompt protective action, or in the event that officials of a Participating Government have

reasonable cause to believe that such an emergency has occurred, the consent of the Registrar to entry on the premises by the officials of the Participating Government shall be presumed if the Registrar cannot be reached in time.

#### **ARTICLE V**

##### **Archives of the Council**

The archives of the council and in general all documents belonging to or held by it shall be inviolable wherever located.

#### **ARTICLE VI**

##### **Exemption from Foreign Exchange Controls**

1. Without being restricted by financial controls, regulations or moratoria of any kind, the Council shall be entitled for its official use only:

- (a) to purchase from authorised dealers, hold and make use of negotiable currencies, operate foreign currency and external accounts and purchase through authorised dealers, hold and make use of funds and securities;
- (b) freely transfer its funds, securities and foreign currencies to or from the territory of any Participating Government and to convert any currency held by it into other currency;

2. The Council, in exercising its rights under paragraph 1 of this Article, shall pay due regard to any representations made by any Participating Government, party to this Protocol, and shall give effect to such representation so far as this is possible, without detriment to the interest of the Council.

#### **ARTICLE VII**

##### **Exemptions From Taxes, Customs Duties and Import or Export Duties**

1. The Council shall be exempt from:

- (a) any form of direct or indirect taxation but the Council will not claim exemption from taxes which are, in fact, no more than charges for public utility services;
- (b) customs duties and from prohibitions and restrictions on imports in respect of articles imported or exported by the Council for its official use, subject to the condition that articles imported under such exemption shall not be sold within the territory of the Participating Government except under conditions agreed to with that Government;

- (c) customs duties and other levies and prohibitions and restrictions in respect of the import, sale and export of its publications.

2. For the purpose of this Article, indirect taxation means airport departure or travel tax, travel ticket tax, hotel and restaurant tax, customs and excise duties, consumption tax, stamp duties, withholding tax on interest, VAT, finance charges and imports with equivalent effect.

## **ARTICLE VIII**

### **Facilities in Respect of Communications**

1. The Council shall enjoy in the territory of each Participating Government party to this Protocol, for its official communications, treatment not less favorable than that accorded by that Government to any international organization.

2. The Council shall be immune from censorship of its official correspondence and other official communications.

3. The Council shall have the right to use codes and to despatch and receive correspondence by courier in sealed bags, which shall have the same immunities and privileges as diplomatic couriers and bags.

4. Nothing in this Article shall be construed so as to preclude the adoption of appropriate security measures in the interest of the Participating Governments concerned.

## **PART III**

### **ARTICLE IX**

#### **Members of the Council**

Members of the Council, when engaged on the business of the Council in the territory of a Participating Government, party to this Protocol, shall enjoy:

- (a) immunity from legal process in respect of words spoken or written and all acts performed by them in their official capacity; such immunity shall continue notwithstanding that the persons concerned may have ceased to exercise their functions with the Council;
- (b) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (c) inviolability of all papers, documents and materials related to the work of the Council;

- (d) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (e) the same protection and repatriation facilities in times of international crisis as are accorded representatives of foreign Governments on temporary official missions;
- (f) the right, for purposes of all communications with the Council, to use codes to despatch or receive papers, correspondence or other official material by courier or in sealed bags;
- (g) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (h) immunity from inspection and seizure of personal and official baggage, except in cases of flagrante delicto. In such cases, the competent authorities shall immediately inform the Registrar. Inspection of personal baggage shall be conducted in the presence of the member concerned or his authorised representative and, in the case of official baggage, in the presence of a duly authorised representative of the Registrar.

## ARTICLE X

### Officials of the Council

Officials of the Council of the specified classes engaged on the work of the Council in the territory of a Participating Government, party to this Protocol, shall enjoy:

- (a) immunity from legal process in respect of words spoken or written and all acts done by them in the course of the performance of official duties. The immunity shall continue although the person concerned has ceased to be an official of the Council;
- (b) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (c) inviolability of all papers and documents relating to the work on which they are engaged for the Council;
- (d) for the purposes of their communications with the Council, the right to despatch and receive papers and correspondence by courier in sealed bags;
- (e) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;

- (f) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;
- (g) the same repatriation facilities in time of international crisis as are accorded to members of diplomatic missions of comparable rank.

## ARTICLE XI

### Experts on Missions on Behalf of the Council

1. Experts employed on missions on behalf of the Council, including members of Committees of the Council other than members of the Council, while present in the territory of a Participating Government, party to this Protocol, shall in the discharge of their duties enjoy:

- (a) inviolability of all papers and documents relating to the work on which they are engaged for the Council;
- (b) for the purposes of their communications with the Council, the right to despatch and receive papers and correspondence by courier in sealed bags;
- (c) immunity from personal arrest or detention in relation to acts performed by them in their official capacity;
- (d) exemption from immigration restrictions, alien registration requirements and national service obligations;
- (e) the same privileges and facilities in respect of currency and exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions.

2. Such experts shall enjoy, in respect of words spoken or written and all acts done by them in the course of the performance of official duties, immunity from legal process in respect of works spoken or written and all acts done by them in the course of the performance of official duties. The Immunity shall continue although the person concerned has ceased to be an expert employed on missions on behalf of the council.

## PART IV

### ARTICLE XII

#### Cooperation with Competent Authorities

1. Privileges and immunities are recognised and granted by this Protocol in the interest of the Council and not for the personal benefit of the persons entitled thereto.

The Council and the Registrar, as the case may be, shall have the right and duty to waive the immunities whenever, in their opinion, such immunity would impede the course of justice and can be waived without prejudice to the interests of the Council

2. The Council and the Registrar, as the case may be, shall cooperate at all times with the competent authorities of the territories of Participating Governments, parties to this Protocol, to facilitate the proper administration of justice, secure the observance of their laws and regulations, and avoid the occurrence of any abuse in connection with the privileges and immunities mentioned in this Protocol.

3. Without prejudice to the privileges and immunities accorded by this Protocol, it is the duty of all persons enjoying such privileges and immunities to respect the law and regulations of Participating Governments parties to this Protocol and not to interfere in the internal affairs of the territories concerned.

## PART VI

### ARTICLE XIV

#### Settlement of Disputes

1. The Council shall make appropriate provisions for the settlement of:

- (a) disputes arising out of contracts and other disputes of a private law character to which the Council is a party;
- (b) disputes involving any Member or Official of the Council or an Expert on missions on behalf of the Council who, by reason of his official position, enjoys immunity, if such immunity has not been waived by the Council or the Registrar, as the case may be.

2. Any difference between a Participating Government and the Council arising out of the interpretation or application of this Protocol and which is not settled by negotiation or other agreed mode of settlement, shall be referred for final decision to a tribunal of three arbitrators at the instance of either party: one to be appointed by the Participating Government, one to be appointed by the Registrar and the third, who shall be Chairman of the Tribunal, to be chosen by the first two arbitrators. If either party fails to appoint an arbitrator within six weeks of the decision to resort to arbitration, an arbitrator or arbitrators, as the case may be shall be appointed for such purposes by the Secretary-General of the Caribbean Community. If the first two arbitrators within three weeks of their appointment fail to agree upon the third, the Participating Government or the Council shall request the Secretary-General of the Caribbean Community to choose the third arbitrator. The arbitral tribunal shall make a determination within six months from the date of its constitution. A majority vote of the arbitrators shall be sufficient

to reach a decision which shall be final and binding. The Chairman shall be empowered to settle all questions of procedure in any case where there is disagreement between the other arbitrators in respect thereto.

**PART VII**

**ARTICLE XV**

**Signature and Ratification**

1. This Protocol shall be open for signature and ratification by Participating Governments.

2. Instruments of ratification shall be deposited with the Secretariat of the Caribbean Community which shall notify all Participating Governments.

**ARTICLE XVI**

**Entry Into Force**

This Protocol shall come into force upon the deposit of the instruments of ratification with the Depository by three-quarters of the Participating Governments.

**ARTICLE XVII**

**Accession**

1. Any Participating Government which has not signed and ratified the Protocol may accede thereto.

2. The instrument of accession shall be deposited with the Secretariat of the Caribbean Community which shall notify all the Participating Governments.

**ARTICLE XVIII**

**Implementation**

Each Participating Government shall promptly inform the Council of the action which it has taken to make effective the provision of this Protocol in its territory.

**ARTICLE XIX**

**Termination of Membership**

A Government shall cease to be a party to this Protocol if it ceases to be a Participating Government of the Council.



**ARTICLE XX**  
**Provisional Application**

1. Participating Governments may, upon signature of this Protocol, or at any later date before it enters into force, declare their intention to apply it provisionally.

2. Upon such declaration, the provisions of this Protocol shall be applied provisionally pending its entry into force in accordance with Article XVI.

IN WITNESS WHERE OF the representatives of the Participating Governments duly authorised in that behalf have executed this Protocol and hereby declare their intention to apply it provisionally.

DONE at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 19.....

*Signed by*  
for the Government of Antigua and Barbuda on the 4th day of July, 1997 at Montego Bay Jamaica

*Signed by*  
for the Government of the Commonwealth of The Bahamas on the \_\_\_\_\_ day of \_\_\_\_\_ 19 at \_\_\_\_\_

*Signed by*  
for the Government of Barbados on the \_\_\_\_\_ day of \_\_\_\_\_ 19 at \_\_\_\_\_

*Signed by*  
for the Government of Belize on the \_\_\_\_\_ day of \_\_\_\_\_ 19 at \_\_\_\_\_

*Signed by*  
for the Government of the British Virgin Islands on the \_\_\_\_\_ day of \_\_\_\_\_ 19 at \_\_\_\_\_

*Signed by*  
for the Government of the Cayman Islands on the      day of                      19 at

*Signed by*  
for the Government of the Commonwealth of Dominica on the      day of  
19 at

*Signed by*  
for the Government of Grenada on the 17th day of June 1997 at Georgetown,  
Guyana

*Signed by*  
for the Government of the Co-operative Republic of Guyana on the 4th day of July  
1997 at Montego Bay

*Signed by*  
for the Government of Jamaica on the      day of                      19 at

*Signed by*  
for the Government of Montserrat on the      day of                      19 at

*Signed by*  
for the Government of St. Kitts and Nevis on the 4th day of July 1997 at Montego  
Bay

*Signed by*  
for the Government of Saint Lucia on the      day of                      19 at

*Signed by*  
for the Government of St. Vincent and the Grenadines on the 17th day of June 1997  
at Georgetown, Guyana

*Signed by*  
for the Government of The Republic of Suriname on the      day of  
19 at

*Signed by*

for the Government of The Republic of Trinidad and Tobago on the 17th day of June  
1997 at Georgetown, Guyana

*Signed by*

for the Government of The Turks and Caicos Islands on the      day of  
19 at

Passed by Resolution of the House of Representatives this 6th day of October, 1997.

**Bridget Harris (Mrs.)**  
*Speaker*

**Sylvia Walker (Mrs.)**  
*Clerk to the House of Representatives*

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