
CHAPTER 327A
STRAW MARKET AUTHORITY

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CHAPTER 327A

STRAW MARKET AUTHORITY

An Act to establish a Statutory Authority to maintain and manage the Straw Market or any other craft or Straw Market owned by the Government of The Bahamas and for matters connected thereto. *31 of 2011*

[Assent 18th October, 2011]

[Commencement 17th October, 2011]

1. This Act may be cited as the Straw Market Authority Act. Short title.

2. In this Act —

“Approved Goods” means products so branded and designated as Approved Goods by the Authority and in compliance with International Standards of Classifications and Rules of Origin; Interpretation.

“Authority” means the Straw Market Authority established under section 3;

“Minister” means Minister charged with responsibility for this Act;

“Market” means the Bay Street Straw Market or any other market or premises owned or leased by the Government of The Bahamas or any other Government entity for use as a craft and straw market and the sale of Bahamian made products or approved goods.

3. (1) There is hereby established an Authority to be known as the Straw Market Authority and which shall be a body corporate. Establishment of the Straw Market Authority.

(2) The Authority shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Act, have the power to enter into contracts and to do all things necessary for the purposes of its functions.

(3) The Authority may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Authority of any document of whatsoever kind must be made by delivering

the document to, or sending it by prepaid registered post addressed to, the secretary of the Authority at the office of the Authority.

(4) The seal of the Authority must be authenticated by the signature of the Chairman and one other Director authorised to act in that behalf, and the seal shall be officially and judicially noticed.

(5) The seal of the Authority must be kept in the custody of any officer of the Authority as the Authority may approve, and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairman or any other Director authorised to act in that behalf.

(6) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority, may be signified under the hand of the Chairman or any Director or officer authorised to act in that behalf.

First Schedule.

(7) The First Schedule shall have effect with respect to the Authority, its members and staff.

Purpose of the Authority.

4. The purpose of the Authority is to showcase in the Market all Bahamian made crafts and products or any other Approved Goods which shall not include counterfeit brand name items or products.

Functions of the Authority.

5. (1) The functions of the Authority shall be —

- (a) to manage, maintain and operate the Market or any other craft or straw market in The Bahamas and its facilities;
- (b) to issue, suspend or terminate licences for the use of stalls in the Market;
- (c) to encourage the production of Bahamian made products for sale in the Market and to develop training programmes related thereto;
- (d) to impose fines for the breach of any regulations under this Act;
- (e) to cause such improvements to the Market as the Authority sees fit;
- (f) to apply any disposable income in the promotion of the Market within the contemplation of section 11 of this Act.

(2) For the purposes of the carrying out of the responsibilities imposed upon it by subsection (1)(a) the

Authority may enter into such agreements as it deems necessary to facilitate or secure the discharge of the respective responsibilities by it or on its behalf.

6. The funds and resources of the Authority shall consist of—

Functions and resources of the Authority.

- (a) such moneys as may be provided by Parliament;
- (b) such moneys as may accrue to the Authority from its operations;
- (c) any moneys as may from time to time be borrowed by the Authority pursuant to section 8;
- (d) any moneys as may from time to time be advanced to the Authority pursuant to section 9;
- (e) such other moneys and property as may in any manner be lawfully paid to or vested in the Authority whether or not in respect of any matter incidental to its functions.

(2) Funds and revenues of the Authority shall be applied in the discharge of all expenditure properly incurred in the carrying out of the functions mentioned in section 5.

7. It is hereby declared that nothing in this Act exempts the Authority from liability for any tax, duty, rate, levy or other charge whatsoever.

Taxation.

8. (1) Subject to this section, the Authority may borrow sums required by it for meeting any of its obligations or discharging any of its functions and may, in respect of any such borrowing, issue debentures in such form as the Authority may determine.

Borrowing powers.

(2) Any borrowing by the Authority pursuant to section (1), shall be subject to the approval of the Minister, given with the consent of the Minister of Finance as to the amount to be borrowed, the source of the borrowing and the terms on which the borrowing may be effected.

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

(4) A person lending money to the Authority shall not be bound to inquire whether the borrowing of the money is within the power of the Authority.

9. (1) Subject to subsection (3), the Minister of Finance shall, make an advance to the Authority of seven

Advances by the Government of The Bahamas.

hundred and fifty thousand dollars (\$750,000.00) for the purposes of enabling the Authority to defray expenditure properly chargeable to its capital account, including the provision of working capital.

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(2) No other advances shall be made under this section, except in accordance with the provisions of the Financial Administration and Audit Act.

(3) Any sums required by the Minister of Finance for making advances under this section shall be charged on and issued out of the Consolidated Fund.

Repayment of
and interest on
advances.

10. The Authority shall make to the Minister at such times and in such manner as the Minister may direct, payments of any amount as may be so directed in or towards the repayment of any sums issued in fulfilment of any advance given under section 9 and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respect to different periods.

(2) The Minister shall lay before the House of Assembly a statement of any payment due from the Authority under subsection (1) that is not duly paid to him as required thereunder.

Application of
disposable
income to public
objects.

11. (1) Any monies standing to the credit of the Authority that are not required to meet the expenditure referred to in section 6 (in this Act referred to as “disposable income”) shall be applied solely in the promotion and development of culture, development of craftsmen persons and the production of Bahamian made products, public tourism facilities, arts or sports as the Authority determines.

(2) Without prejudice to subsection (1) where the Authority determines to apply any moneys of its disposable income in measures for the promotion of any of the objects mentioned in that subsection the Authority shall in addition consult with the Minister within whose portfolio the subject matter of the objective of that measure falls.

Accounts and
audit.

12. (1) The Authority shall keep proper accounts of all transactions and other records in relation thereto, and shall prepare in respect of each financial year of the Authority, a statement of accounts in such form as the Minister may with the approval of the Minister of Finance

direct, being a form which shall conform with the best commercial standards.

(2) The Authority shall, with the Minister's approval, annually appoint an auditor to audit all of its proper accounts.

(3) Immediately after the accounts of the Authority have been audited, the Authority shall send the statement of the accounts referred to in subsection (1) to the Minister, together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

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

(5) The auditor shall be entitled, on the direction of the Minister, at all reasonable times, to examine the accounts and other records in relation to the business of the Authority, and the Authority shall provide the auditor with all necessary and proper facilities for such an examination.

(6) The members of the Board, officers and servants of the Authority shall grant to an auditor appointed pursuant to subsection (2), the powers to audit the Authority's proper accounts and exercise functions under subsection (5), as well as access to all books, documents, cash and securities of the Authority. Additionally, upon the auditor's request to the Authority, the members of the Board, officers and servants shall give to the auditor, all such information as may be within their knowledge in relation to its operations.

(7) Any person who fails without reasonable excuse to comply with the provisions of subsection (6), shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars or to a term of imprisonment not exceeding six months.

(8) The Minister shall lay a copy of every such statement before each House of Parliament, together with a copy of any report made by the auditors on the statement or on the accounts.

13. (1) The Authority shall, not later than four months after the end of each financial year, submit to the Minister a report containing —

Annual report.

- (a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct;

- (b) a statement of the accounts of the Authority audited in accordance with section 12; and
- (c) a report dealing with the activities of the Authority during the preceding financial year, and containing all information relating to the proceedings of the Authority.

(2) The Minister shall cause a copy of the report together with the annual statements of accounts and the auditor's report thereon to be laid on the table of both Houses of Parliament.

(3) Copies of the Authority's report together with the annual statement of accounts and the auditor's report on that statement or on the accounts of the Authority shall be published in such manner as the Minister may direct and shall be made available to the public by the Authority at a reasonable price.

Verifying false statements.

14. Any director, officer, employee or auditor of the Authority who verifies any statement, account or report required to be furnished to the Minister pursuant to this Act, or who is concerned with delivering or transmitting the same to the Minister, knowing the same to be false in a material particular, shall be guilty of an offence and shall be liable on summary conviction to a fine of five thousand dollars or to imprisonment for a term of two years.

Regulations.

15. The Minister may make regulations to —

- (a) regulate all stalls in the Market;
- (b) impose charges and fees in respect of the usage of stalls in the Market;
- (c) grant, suspend or terminate any permit or licence to operate a stall in the Market;
- (d) regulate the type of goods allowed in the Market;
- (e) generally for the proper carrying out of the provisions and purposes of this Act.

Damage to Market.

16. Any person who damages or causes damage to any property of the Market, shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars.

Transitional.

17. (1) Upon the commencement of this Act, every straw vendor or craft vendor who was the holder of a permit to operate a stall prior to August 2011 and any

person desiring to operate a stall in the Market shall apply to the Authority for a licence.

(2) If the Authority is not satisfied as to the eligibility of any person referred to in subsection (1) or if there is no available stall in the Market, the Authority may in writing, refuse such application.

(3) For the purposes of this section, a person is eligible to apply for a licence under subsection (1), if he meets the requirements prescribed in the Regulations under the Act.

FIRST SCHEDULE (Section 3(7))**PROVISIONS RELATING TO THE
CONSTITUTION OF THE AUTHORITY AND
MATTERS INCIDENTAL THERETO.**

Tenure of office
of Chairman and
Director.

1. The term of office of every Director, subject to the provisions of paragraphs five and six of this Schedule, shall be specified in the instrument appointing him and for —

- (a) the Chairman, shall not exceed five years;
- (b) every other Director, shall not exceed three years,

but any Director retiring on the expiration of his term of office shall, subject to paragraph two of this Schedule, be eligible for reappointment.

2. The Minister may, by statutory instrument, make regulations with respect to the appointment of the Directors, and their tenure and vacation of office.

Disqualification
of Directors.

3. A person who is a Member of Parliament may not be appointed as or remain a Director.

Temporary
members.

4. The Minister may by instrument in writing, appoint some suitable person as a Director to act temporarily in the place of any Director in the case of the absence of or inability of such member to act.

Resignation.

5. (1) Any Director, 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 instrument, such Director shall cease to be a Director of the Authority.

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

Removal.

6. The Minister by instrument in writing may at any time revoke the appointment of any Director if he thinks it expedient so to do.

Filling of
vacancies.

7. 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.

8. The names of all members of the Board as first constituted and every change in the membership thereof (appointment, removal, death or resignation) shall be published in the *Gazette*. Publication of membership.

9. There shall be paid to the Chairman and the other Directors of the Board, such remuneration, if any, as may be determined by the Minister with the consent of the Minister of Finance. Remuneration.

10. (1) The Board shall meet at such times as may be necessary or expedient for the due performance of its functions and of the functions of the Authority (but not less frequently than ten times in each year), and such meetings shall be held at such places and times and on such days as the Chairman may determine. Meetings.

(2) The Chairman, or in his absence or inability to act, the Deputy Chairman, or if they are both absent, a Director elected by the Directors present to act in that behalf, shall preside at a meeting of the Board.

(3) The Chairman, or in his absence, the presiding director, and three other members of the Board shall form a quorum.

(4) The decisions of the Board are by a majority of votes, and in addition to an original vote, in any case in which the voting is equal, and the Chairman or Director so presiding shall, where the voting is equal, have a casting vote.

(5) Minutes in proper form of each meeting are to be kept by the Secretary or any officer of the Board may appoint for the purpose, and confirmed by the Board at the next meeting and signed by the Chairman or any other Director authorised to act in that behalf as the case may be.

(6) The Authority may co-opt any one or more persons to attend any particular meeting of the Board for the purpose of assisting or advising the Board in any matter with which the Board is dealing, but no co-opted person has the right to vote.

(7) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the Directors, or by any defect in the appointment of a Director.

(8) The Chief Executive Officer, or any other officer who is charged with the daily responsibility of the Authority, shall be entitled to attend any meeting of the Board, to take part in discussion of any matter other than such as may concern him personally, but shall not be entitled to vote.

Regulation of proceedings.

11. Subject to the provisions of this Schedule, the Board has the power to regulate its own proceedings.

12. The Minister may, by statutory instrument, make regulations with respect to the execution of instruments and the mode of entering into contracts by and on behalf of the Authority, and the proof of documents purporting to be executed, issued or signed by the Board or a member or officer thereof.

Remuneration.

13. The Authority shall —

- (a) pay to its officers, servants and agents such remuneration as the Authority may determine; and
- (b) as regards any officers, servants or agents in whose case it may be determined by the Authority with the approval of the Minister to make provision for the payment on their death, injury or retirement of pensions, gratuities or other like benefits, pay, or provide for the payment of such pensions, gratuities or other like benefits to them or to others by reference to their service as may be so determined.

Provisional transfer of certain public officers to the service of the Authority.

14. (1) Any public officer employed in a related statutory body may, upon the commencement of this Act, with his consent, be transferred from the public service to the Authority, for a period of twelve months from the date of such commencement.

(2) Where any public officer is transferred to the service of the Authority under subparagraph (1), he shall not by reason of such transfer cease to be a public officer and the provisions of section 9 of the Pensions Act shall continue to apply to him during the period of his transfer as if he were the holder of the office in the public service which he was holding immediately before the date of his transfer:

Provided that no such officer shall be entitled to any salary or allowances as a public officer during the period of his transfer.

(3) During the period of twelve months referred to in subparagraph (1), every such officer shall be so employed by the Authority that his remuneration and conditions of service are not less favourable than those which are attached to the appointment held by such officer at the commencement of this Act.

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Offer and refusal of permanent employment in the Authority.

15. (1) Within the period of twelve months referred to in paragraph 14(1), the Board shall determine in respect of each officer transferred to the service of the Authority under that paragraph, whether or not the Board will offer permanent

employment with the Authority to such officer, and shall forthwith give notice of its determination to each such officer.

(2) Every officer who accepts permanent employment with the Authority offered to him under subparagraph (1) shall be deemed to have ceased to be in the public service on the date of such acceptance.

(3) Every officer who —

- (a) having been offered permanent employment with the Authority under subparagraph (1), refuses to accept such employment; or
- (b) has not been offered permanent employment with the Authority under the said subparagraph, shall at the expiration of the period of twelve months referred to in paragraph 14(1) be transferred from the service of the Authority back to the public service.

16. (1) Where any public officer holding a pensionable office under the Government ceases to be the holder of such office by reason of his transfer with his consent to the service of the Authority and such person subsequently retires from the service of the Authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of the Pensions Act, then in any such case the following provisions of this paragraph shall have effect.

Pension of persons transferred from the public service to the Authority.

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(2) Any pension payable to any such person as is mentioned in subparagraph (1) by the Authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the Authority taken together and such service shall be reckoned as continuous for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Authority as contribution to every person paid in accordance with subparagraph (2), such amounts as would have been payable to the person concerned by way of pension under the applicable provisions of the Pensions Act, if such person had retired from the public service and if he had been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer.

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17. Appointed Board members, the officers and servants of the Authority shall be deemed to be public officers, for the purposes of Penal Code.

Public servants.

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18. (1) Except as provided in any contract of employment with the Authority, the Ministry may grant to any

Pension, et cetera.

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employee of the Authority, in respect of his service with the Authority, pensions, gratuities or other like allowances at the rate prescribed by and in accordance with the provisions of the Pensions Act as if reference in that Act to the Governor-General, the public service and a public officer were references to the Authority acting with the approval of the Minister, service in the Authority and such employee respectively.

(2) Provision for pensions, gratuities or other like benefits under this Schedule may be made either by contributory arrangements or partly by the one and partly by the other.

(3) For the purpose of subsection (1) reference to the service of an employee of the Authority includes any continuous period of service of that employee with an approved authority immediately prior to his service with the Authority.

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(4) In this section, the expression “approved authority” has the meaning assigned to it in the Pensions Act.