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CHAPTER 234

PUBLIC HOSPITALS AUTHORITY

An Act to provide for the establishment of a body corporate to be known as the Public Hospitals Authority and for the functions relating to that Authority and to make provision in respect of matters connected therewith or ancillary thereto. *32 of 1998*

*[Assent 6th August, 1998]
[Commencement 1st July, 1999]*

PART I PRELIMINARY

1. This Act may be cited as the Public Hospitals Authority Act, 1998. Short title
 2. In this Act — Interpretation
 - “Authority” means the Public Hospitals Authority established under section 3(1);
 - “Board” means the Board of Directors established under section 7;
 - “Chairman” means the Chairman of the Board;
 - “fees” includes any fees or charges prescribed to be paid by patients in the hospitals, (whether as in-patients or out-patients) for treatment, nursing, accommodation, attendance, food, dressings, drugs, medicines or other supplies, laboratory services, diagnostic and therapeutic services or services of whatsoever kind rendered to such patients by the hospitals, but does not include fees payable to members of the medical staff acting in their own private capacity;
 - “financial year” means the period of twelve months ending on the thirtieth day of June in every year:
- Provided that the first financial year shall consist of the period commencing on the date of the establishment of the Authority and ending on the thirtieth day of June of the following year;

“health care” includes dental care and optical care;

“hospital” means any health care institution mentioned in section 3(1);

“Minister” means the Minister responsible for Health;

“public officer” has the meaning assigned to it under the Pensions Act.

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PART II ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

Establishment of
Authority

3. (1) There is hereby established a body to be referred to as the Public Hospitals Authority which shall be responsible for the management of the hospitals known as the Princess Margaret Hospital, the Rand Memorial Hospital and the Sandilands Rehabilitation Centre.

(2) The Authority is a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatsoever kind.

(3) The Authority may sue and be sued in its corporate name and may for all purposes be described by such name.

(4) The Authority shall not —

(a) mortgage, charge or demise any of its immovable property without the approval of the Minister;

(b) sell or otherwise alienate the whole of its undertaking or any of its immovable property in fee simple; or

(c) sell or otherwise alienate any substantial part of its undertaking.

Common Seal of
the Authority

4. (1) The common seal of the Authority shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.

(2) The common seal of the Authority shall be authenticated by the signatures of the Chairman of the Board or any other member of the Board duly authorised by the Board in that behalf, and of the Secretary.

(3) The common seal of the Authority when affixed to any document and duly authenticated under this section shall be judicially and officially noticed, and, until the contrary is proved, any necessary order or authorisation of the Board under this section shall be presumed to have been duly given.

5. The functions of the Authority are —

Functions of the
Authority

- (a) to control, regulate and administer all matters related to the management of any hospital;
- (b) to ensure the application of efficient and appropriate techniques, systems and standards for the delivery of health care in its hospitals;
- (c) to appoint such employees as it considers necessary on such terms and conditions (including salaries, allowances, other remuneration and disciplinary control) as the Authority may determine;
- (d) to fix qualifications and terms and conditions of service relating to its employees;
- (e) to consult with the Minister on matters of national health policy and capital development programmes for hospitals;
- (f) to operate, construct, equip, furnish, maintain, manage, secure and repair all its property for use by the general public;
- (g) to facilitate the use of its hospitals for service, teaching and research;
- (h) to establish and develop relationships with national, regional and international bodies engaged in similar or ancillary pursuits;
- (i) to collaborate with educational institutions, such as the University of the West Indies and any other recognised training institution, in the education and training of persons and in research in medicine, nursing, dentistry, pharmacy and biomedical and health science fields, as well as any related ancillary and supportive fields.

6. (1) The powers of the Authority are —

Powers of the
Authority

- (a) to accept, deposit or act as trustees or managers of any legacy, endowment, bequest or gift for purposes of patient care, treatment or research

or otherwise in furtherance of the work of the Authority and to invest any funds representing such legacy, endowment, bequest or gift, if not immediately required;

- (b) to fix fees and charges for diagnosis and treatment of patients, the use of facilities, and other services provided by the Authority and to reduce, waive or refund fees and charges as fixed, generally or in a particular case or class of case having regard to the principle that no person should be prevented, through lack of means from obtaining adequate medical treatment; and
- (c) to make bye-laws —
 - (i) prescribing the organisation of the medical staff of a hospital and such committees as may be necessary; and
 - (ii) regulating the conduct of all persons employed in a hospital.

(2) Notwithstanding subsection (1), no fees or charges referred to in paragraph (b) of subsection (1) shall be increased without the prior approval of the Minister.

Constitution and
procedure of
Board.

7. (1) There shall be a Board of Directors of the Authority.

(2) The Board shall be the governing body of the Authority and shall perform the functions and exercise the powers of the Authority.

Schedule.

(3) The Schedule has effect with respect to the constitution and procedure of the Board.

Schedule.

(4) The Minister may by Order amend the Schedule.

PART III FINANCIAL PROVISIONS

Financial
provisions.

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

- (a) such sums as may be voted for the purposes of the Authority by Parliament;
- (b) sums arising from grants, covenants, donations and other receipts from persons, including national and international bodies;

- (c) all sums received by, and falling due to the Authority as fees or payments for services rendered and facilities provided;
- (d) sums borrowed by the Authority in accordance with section 12;
- (e) 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.

9. (1) The funds of the Authority shall be applied in defraying the following expenditure —

Application of funds

- (a) the remuneration of the members of the Board;
- (b) the remuneration, advances, loans, gratuities, and pensions of, and other payments to the staff of the Authority;
- (c) the capital and operating expenses, including maintenance and insurance of the property of the Authority;
- (d) the making and maintenance of investments by the Authority in the discharge of its functions;
- (e) any other expenditure authorized by the Authority for the discharge of its functions.

(2) The Minister shall approve any funds expended for the purposes of paragraphs (a) and (b) of subsection (1).

10. Where any gift, grant or other property is offered to the Board on behalf of the Authority, the Authority shall consult with the Minister with respect to such offer and that gift, grant or other property shall be utilised in such manner as the Board may determine.

Gifts

11. (1) The Authority shall establish a pension scheme for the payment of pensions and gratuities to officers and servants of the Authority who retire from the employment of the Authority.

Pension scheme

(2) Except as provided in any contract of employment, the Authority may grant to any employee in respect of service with the Authority, pensions, gratuities and other like allowance payable from the pension scheme, which shall be no less than the rate prescribed by and in accordance with the provisions of the Pensions Act.

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Borrowing
powers

12. (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 such borrowing, issue debentures in such form as the Authority may determine.

(2) The power of the Authority to borrow shall be exercisable only with the approval of the Minister, given with the consent 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 this subsection 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.

Annual Budget

13. Not later than two months prior to the commencement of a financial year, the Authority shall prepare for the financial year an annual budget of revenue and expenditure for the Minister's information.

Accounts and
audit

14. (1) The Authority shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Authority for each financial year shall be audited by an auditor appointed by the Minister after consultation with the Authority.

(3) Three months after the end of each financial year, the Authority shall submit a copy of the audited accounts to the Minister, together with a copy of any report made by the auditor.

(4) The Minister shall lay a copy of such audited accounts before each House of Parliament, together with a copy of any report made by the auditor on the accounts.

PART IV TRANSFER OF CERTAIN ASSETS TO THE AUTHORITY

Transfer of assets
to the Authority

15. (1) There shall by virtue of this section and without further assurance vest in the Authority in fee simple free of all trusts and encumbrances, all such land,

which immediately before the commencement of this Act vested in the Treasurer for or on behalf of any hospital referred to in section 3.

(2) The movable property and undertakings owned by the Government and used for the operation of any hospital referred to in section 3 immediately before the date of the coming into force of this Act shall by virtue of this Act be transferred to and vested in the Authority for the same purpose as they were held by the Government immediately before the said date.

(3) The transfer and vesting aforesaid shall extend to the whole of such movable property and undertakings and shall include assets, powers, rights, privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid movable property or undertakings or other things included therein as aforesaid.

16. Subject to the provisions of this Act, all laws, rules, regulations, orders, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements subsisting immediately before the date of the coming into force of this Act affecting or relating to any of the movable properties or undertakings transferred to the Authority by or under this Act shall have full force and effect against or in favour of the Authority and shall be enforceable fully and effectually, as if instead of the party named therein the Authority has been named therein or had been a party thereto.

Construction of laws, contracts, etc relating to transferred assets

PART V

OFFICERS AND EMPLOYEES OF THE AUTHORITY

17. (1) Every pensionable officer of a hospital shall, upon the commencement of this Act, be deemed to be transferred from the service under the Government to the service of the Authority for a period extending from the date of such commencement to the date on which the officer accepts permanent employment with the Authority under the provisions of section 18 or for a period of two years from the date of such commencement, whichever is the shorter.

Transfer of public officers

(2) Nothing in subsection (1) shall be deemed to preclude an officer, deemed to be transferred to the service of the Authority under subsection (1), from applying at any time during such period as aforesaid, for a transfer to service under the Government in accordance with the terms and conditions of service attached to the appointment held by such officer at the commencement of this Act and, on such application being made, the same consideration shall be given thereto as if the applicant had continued to be in the service under the Government.

(3) During such period as aforesaid 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 under the Government held by such officer at the commencement of this Act or which would have become attached to such appointment, during such period as aforesaid, had such officer continued in the service under the Government but, for the purposes of pension and gratuity, such period of service with the Authority shall be deemed to be service under the Government; and the Authority shall pay to the Government such contributions in respect of the cost of pensions earned by such officer during such period as aforesaid as may be determined by the Treasurer.

Offer of
permanent
employment to
public officer

18. (1) Within the period of two years referred to in section 17, the Authority may offer to any public officer transferred to the Authority under that section permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those which are attached to the service under the Government held by such officer at the commencement of this Act or which would have become attached to such appointment, during such period as aforesaid, had such officer continued in the service of the Government.

(2) Every public officer who accepts permanent employment with the Authority offered to him under subsection (1) shall, for all purposes be deemed to have ceased to be in the service under the Government and to have entered into service with the Authority on the date of his acceptance.

- (3) Every public officer who —
- (a) having been offered permanent employment with the Authority under subsection (1), refuses to accept such employment; or

- (b) has not been offered permanent employment with the Authority under subsection (1);

may at the expiration of the two year period referred to in section 17 be transferred from the service of the Authority back to the service under the Government.

PART VI REGULATIONS

19. The Authority, subject to the approval of the Minister, may make regulations — Regulations

- (a) for the admission, treatment, care, conduct, control and discharge of patients in a hospital;
- (b) for the inspection, control, government, management, conduct, operation and use of a hospital;
- (c) regulating the conduct of patients and visitors in a hospital and maintaining discipline therein;
- (d) for the rendering of pathological, diagnostic and other services to private practitioners or other members of the public and prescribing scales of fees therefor;
- (e) for the establishment, construction, alteration, safety, maintenance and repair of a hospital;
- (f) fixing the fees payable by patients in or attending a hospital; and
- (g) generally for the better execution and carrying out of the objects of this Act.

PART VII MISCELLANEOUS

20. (1) The Minister may give to the Authority directions of a general or of a specific nature as to the policy to be followed by the Authority in the carrying out or pursuit of its functions as appear to the Minister requisite in the public interest and the Authority shall give effect to any such directions. Minister may give directions to the Authority

(2) Notwithstanding subsection (1) the Minister shall not give directions relating to the appointment, termination of appointment, promotion or disciplining of any employee of the Authority.

Board to furnish
information to
Minister.

21. (1) The Board shall afford to the Minister facilities for obtaining information regarding the property and activities of the Board, and shall furnish him with minutes of all meetings, returns, accounts of the Authority and all such information of whatsoever kind, which he may request.

(2) The Minister may require and the Board shall afford him facilities for the verification of information furnished in such manner and at such times as he may require.

(3) The Board shall provide the Minister with an annual report on the activities of the Authority, no later than six months after the end of each financial year.

(4) The Minister shall cause a copy of every such report to be laid on the table of both Houses of Parliament.

Transitional
provisions.

22. (1) Where anything has been commenced by or under the authority of the Government prior to the date of the coming into force of this Act and such thing relates to any of the movable properties or undertakings or any right or liability transferred to the Authority by or under this Act, such thing may be carried on and completed by or as authorized, by the Authority.

(2) Where immediately before the coming into force of this Act, any legal proceedings are pending to which the Government is or is entitled to be a party, and such proceedings are related to any of the movable properties or undertakings, or any right or liability transferred to the Authority by or under this Act, the Authority shall, as from the date aforesaid, be substituted in such proceedings for the Government or shall be made a party thereto in like manner as the Government could have become, and such proceedings shall not abate by reason of the substitution.

Saving of
Hospital Rules.
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23. The Hospital Rules including the fees payable by the patients in or attending hospital made pursuant to section 29 of the Health Services Act and in force or valid at the commencement of this Act shall be deemed to have been made under this Act and shall continue in force until any other provision is made under this Act.

SCHEDULE (Section 7(3), (4))**CONSTITUTION AND PROCEDURE OF THE BOARD OF THE HOSPITAL AUTHORITY**

1. (1) The Board of Directors of the Authority shall consist of — Composition and tenure of the Board.

- (a) the Chairman and a Deputy Chairman appointed by the Minister;
- (b) the Managing Director of the Authority *ex officio*;
- (c) a representative of the Ministry of Health appointed by the Minister; and
- (d) not more than seven but not less than three other persons representing trade unions, financial, industrial, commercial, or other institutions and professional organisations and members of the general public appointed by the Minister and referred to in this Schedule as “appointed members”.

(2) All members other than *ex officio* members of the Authority shall hold office for a period, not exceeding three years, and not less than one year, but shall be eligible for reappointment.

2. (1) Where membership of the Board is by virtue of an office and the holder of the office is absent or unable to act, then, the person acting in the office shall be a member of the Board for as long as he so acts. Temporary membership.

(2) If any member by reason of illness or other incapacity or absence from The Bahamas, is unable at any time to perform the duties of his position, or if the position of a member is at any time vacant, the Minister may make a temporary appointment of a qualified person to act in his place or in such position upon such terms and conditions and for such time as the Minister may prescribe.

3. (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. Resignation.

(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 by the Minister of such instrument.

4. The Minister may by Order revoke the appointment of any appointed member if he is satisfied that the appointed member — Removal.

- (a) has been absent for more than three consecutive months without the permission of the Board;
- (b) has become bankrupt;

- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unable or unfit to discharge the functions of a member of the Board.

Publication of appointments.

5. The appointment or resignation of members of the Board shall be published in the *Gazette*.

Remuneration.

6. There shall be paid from the funds of the Authority to the Chairman and other members of the Board such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances, if any, as the Minister may determine.

Meetings.

7. (1) The Board shall meet at least once each month or at such other times as may be necessary or expedient for the transaction of business, and its meetings shall be held at such places and times and on such days as the Board may determine.

(2) The Chairman, or in his absence, the Deputy Chairman, shall preside at all meetings of the Board.

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

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

(5) The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

(6) Subject to this Schedule, the Board may regulate its own proceedings.

Power of the Board to invite persons to attend meetings.

8. (1) The Board may invite any person who, in the opinion of the Board, has expert knowledge concerning any of the functions of the Board, which is likely to be of assistance to attend any meeting of the Board and to take part in the proceedings.

Managing Directors.

9. (1) There shall be a Managing Director of the Authority who shall be appointed by the Board with the prior approval in writing of the Minister.

(2) The Managing Director shall be the Chief Executive of the Authority and shall be responsible to the Board for —

- (a) the day to day administration of the affairs of the Authority and
- (b) the provision of technical advice and guidance in matters of policy.

(3) The Minister shall determine the salary and any other benefits to be paid to the Managing Director of the Authority.

(4) The Managing Director may, with the prior approval of the Minister, be removed from office on the grounds of misconduct, inefficiency or other good cause.

(5) Whenever the Managing Director is absent from The Bahamas or is for any reason unable to perform the functions of his office, the Board may appoint a person to act as Managing Director during such absence or inability.

10. Save for the appointment of the Managing Director, the Board shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a secretary and such other officers, servants and agents as it thinks necessary for the proper discharge of its functions.

Appointment of officers and servants.

11. A member of the Board, who is in any way, whether directly or indirectly, interested in a contract or a proposed contract with the Authority, that is the subject of consideration by the Board, shall declare the nature of his interest at the first meeting of the Board at which it is practicable for him to do so.

Declaration of interest.

12. (1) Minutes in the proper form of each meeting shall be kept by the Secretary.

Minutes.

(2) All decisions, resolutions and rules made by the Board with respect to the operation of the Authority shall be recorded in the Minutes.

(3) The Minutes of a meeting of the Board shall be confirmed by the Board at its next meeting.

13. (1) Subject to subparagraph (2), no action, prosecution or other proceedings shall be brought or instituted personally against the Chairman or any other member in respect of any act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Protection of Directors of the Authority.

(2) Where any director is exempt from liability by reason only of subparagraph (1), the Authority shall be liable to the extent that it would be if that member were a servant or agent of the Authority, however, if in any case, the Authority is not liable for any of the above mentioned acts, then subparagraph (1) does not operate to exempt such member as therein stated.