
CHAPTER 283**THE BAHAMAS MARITIME AUTHORITY**

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CHAPTER 283

THE BAHAMAS MARITIME AUTHORITY

An Act to provide for the establishment of a body corporate to be known as The Bahamas Maritime Authority, and for the functions relating to that Authority and to make provision in respect of matters connected therewith or ancillary thereto.

*16 cf 1995
32 cf 2000*

*[Assent 21st June, 1995]
[Commencement 22nd June, 1995]*

1. This Act may be cited as The Bahamas Maritime Authority Act. Short title
2. In this Act, unless the context otherwise requires — Interpretation
 - “Authority” means The Bahamas Maritime Authority established by section 3;
 - “Director” means the Director of Maritime Affairs appointed under section 4 and referred to in the Merchant Shipping Act and the Merchant Shipping (Oil Pollution) Act; Ch 268
Ch 275
 - “financial year” means the period of twelve months ending on the thirtieth day of June in any 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;

 - “Minister” means the Minister responsible for Maritime Affairs;
 - “officer” and “employee” in relation to the Authority includes a public officer transferred to the Authority.

PART I CONSTITUTION, COMPOSITION AND FUNCTIONS OF THE AUTHORITY

3. (1) There is hereby established a body, to be known as The Bahamas Maritime Authority which shall be a body corporate. Establishment of
The Bahamas
Maritime
Authority

(2) The provisions of the Schedule shall have effect with respect to the constitution of the Authority

Appointment of
Director and
Deputy Directors
of Maritime
Affairs.

4. (1) The Authority shall appoint and employ at such remuneration and on such terms and conditions as it thinks fit a Director who shall have general managing direction of the Authority, superintendence of ships registered in The Bahamas and responsibility for the enforcement and administration of the provisions of the Merchant Shipping Act or any other related law. The first Director shall be appointed by the Minister.

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(2) The Authority shall also appoint and employ at such remuneration and on such terms and conditions as it thinks fit Deputy Directors whose responsibilities shall include licensing and inspection, investigations, maritime affairs administration and registration.

(3) The Director and Deputy Directors shall be employees of the Authority.

Functions of the
Authority.

5. It shall be the function of the Authority on behalf of the government of the Commonwealth of The Bahamas —

- (a) to promote, facilitate and encourage the development of ship registration and maritime administration of The Bahamas;
- (b) to regulate control and administer all matters related to merchant shipping as provided for under the Merchant Shipping Act or any other law;
- (c) to collect all registration fees, annual fees and other moneys payable under the Merchant Shipping Act or any other related law;
- (d) to participate in international organizations and other meetings dealing with maritime-related matters;
- (e) to carry out; operate and participate in any maritime project;
- (f) to assist in the development of the maritime industry of The Bahamas;
- (g) to expand and create maritime employment opportunities for Bahamians;

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- (h) to advise Government on any matter relating to merchant shipping, marine pollution prevention and control and on any other matter relating to its functions and duties.

6. Without prejudice to the generality of the foregoing provisions of this Act, but subject to the provisions of this Act, the Authority shall have the power —

Powers of the Authority

- (a) to carry on such business and other activities, do all such things and enter into all such transactions as appear to the Authority to be necessary, or advantageous for it to carry on or perform or enter into, for or in connection with the discharge of its functions; and
- (b) to assist other persons to carry on any business which appears to the Authority to be needed for the performance of its functions.

7. In the exercise of the functions of the Authority, the Authority shall —

Relations between the Minister and the Authority

- (a) give effect to any direction which the Minister may, after consultation with the Authority, give to the Authority under his hand in relation to any matter that appears to him to affect the public interest on the policy to be followed by the Authority or any action to be taken in the discharge of its functions;
- (b) afford to the Minister facilities for obtaining information with respect to the property and activity of the Authority and shall furnish him with returns, accounts and other information with respect thereto and afford him facilities for the verification of any information furnished, in such manner and at such times as the Minister may require.

PART II FINANCIAL PROVISIONS

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

Authority to meet expenditure out of revenue

- (a) any moneys as from time to time are provided by Parliament;
- (b) any moneys as from time to time are borrowed by the Authority pursuant to section 9;

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- (c) any moneys as from time to time accrued to the Authority from its operations, including registration fees, annual fees, inspection fees or other payments prescribed by the Merchant Shipping Act or any other law relating to the powers and functions of the Authority;
- (d) any moneys as from time to time are advanced to the Authority pursuant to section 10;
- (e) any moneys and property as from time to time may in any manner be lawfully paid to or vested in the Authority

(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 paragraphs (a) to (h) of section 5, in the repayment of any sums borrowed under section 9 and for disbursements towards the remuneration and allowances to the officers, employees and members of the Authority.

Power to borrow capital

9. The Authority may, with the approval in writing of the Minister of Finance, borrow or raise money, in such manner, from such person, body or authority, under such terms and conditions and against such security as it may deem appropriate, for meeting any of its obligations or discharging any of its functions under this Act.

Advances of guarantee of borrowings by the Government of The Bahamas

10. (1) Subject to subsection 3, the Minister of Finance may at the request of the Minister make advances to the Authority to defray expenditure properly chargeable to its capital account including provision of working capital.

(2) Subject to subsection (3), the Minister of Finance may at the request of the Minister guarantee, in any such manner and on any conditions as he thinks fit, the repayment of the principal of, and the payment of interest and other charges on, any authorized borrowings of the Authority made under section 9.

(3) No guarantees shall be given under this section unless prior approval thereof has been signified by the House of Assembly in accordance with section 17 of the Financial Administration and Audit Act.

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(4) Where any sum is paid pursuant to a guarantee given under this section, the Minister of Finance shall as soon as possible after the end of each financial year

beginning with that in which the sum is issued and ending 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 of Assembly a statement relating to that sum.

(5) Any sums required by the Minister of Finance for making, advancing and discharging any guarantees under this section shall be charged on and issued out of the Consolidated Fund.

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

Repayment and interest on advances and sums issued to meet guarantee.

12. Any moneys standing to the credit of the Authority and not required for any current budgetary purpose shall be paid into the Consolidated Fund on a monthly basis.

Application of surplus funds.

13. The Authority shall make annual or periodic budget estimations in respect of its activities in such form as the Minister may with approval of the Minister of Finance direct. The Authority shall submit to the Minister its annual budget on or before the first day of April of each year.

Annual budget.

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.

Accounts and audit.

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

(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.

Annual Report

15. (1) The Authority shall, as soon as possible after the expiration of each financial year in and any event not later than the thirtieth day of September in any year submit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year.

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

PART III

TRANSFER OF CERTAIN ASSETS TO THE AUTHORITY

Transfer of assets
to the Authority

16. (1) The movable property and undertakings owned by the Government and used by it for the operation of the office of Maritime Affairs 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.

(2) The transfer and vesting aforesaid shall extend to the whole of such movable property and undertakings and shall include assets, powers, rights, and 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.

Construction of
laws, contracts,
etc relating to
transferred
assets

17. 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 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 Government the Authority has been named therein or had been a party thereto, and otherwise it substitution of the Government.

18. (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.

Transitional provisions

(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 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.

(3) Any reference in any other law to the Director of Maritime Affairs shall in each case be read and construed as a reference to the Director of Maritime Affairs appointed under this Act.

PART IV OFFICERS AND EMPLOYEES OF THE AUTHORITY

19. (1) Every pensionable officer of the Maritime Department shall, upon the commencement of this Act, be deemed to be transferred from the service of 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 20 or for a period of one year from the date of such commencement, whichever is the shorter.

Transfer of public officers

(2) Nothing in this subsection shall be deemed to preclude an officer, deemed to be transferred to the service of the Authority under this subsection, from applying at any time during such period as aforesaid, for a transfer to a Government Department 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 of 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 of the Government, but, for the purposes of the pension and gratuity, such period of service with the Authority shall be deemed to be service with the Government; the Authority shall pay to the Government such contributions in respect of the cost of pensions earned by such officers during such period as aforesaid as may be determined by the Treasurer.

Offer of
permanent
employment to
public officers

20. (1) Within the period of one year referred to in section 19, the Authority may, offer to any public officer transferred to the Authority under section 19 of this Act permanent employment with the Authority at a remuneration and on terms and conditions 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 of the Government.

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

Protection of
officers
32 cf 2000, s 2

21. Every officer and employee appointed under this Act, and every person appointed or authorized under this Act for any purpose of this Act, shall have immunity from suit in respect of anything done by him in good faith or omitted to be done in good faith in exercise or performance, or in the purported exercise or performance, or any power, authority or duty conferred or imposed on him under this Act.

SCHEDULE (Section 3)**PROVISION RELATING TO THE INCORPORATION AND
OTHER RELATED MATTERS OF THE BAHAMAS
MARITIME AUTHORITY***A Body Corporate*

1. (1) 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. Incorporation.

(2) 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.

2. (1) 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 a member of the Authority designated by the Chairman and one other member. Seal.

(2) The seal of the Authority must be authenticated by the signature of the Chairman and one other member, and the 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 Authority may be signified under the hand of the Chairman or a member of the Authority designated by the Chairman.

Chairman and Members

3. The Authority shall consist of a Chairman, a Deputy Chairman, and five other members appointed by the Minister from persons appearing to him to be qualified as having had experience of or having shown capacity in matters relating to maritime affairs, industry, commerce, transportation, finance, government, administration or organization of workers and from members of the general public. The Director shall be an *ex officio* member of the Authority. Constitution of the Authority.

4. A member of the Authority shall hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member; but such member shall be eligible for reappointment. Tenure of office.

Resignation. **5.** Any member of the Authority other than an *ex officio* member may at any time resign his office by instrument in writing addressed to the Governor-General and from the date of receipt by the Governor-General of such instrument such member shall cease to be a member of the Authority.

Removal.. **6.** The Minister by instrument in writing, may at any time revoke the appointment of the Chairman, the Deputy Chairman or any other appointed member of the Authority if he thinks it expedient so to do.

Publication. **7.** The appointment, removal, death or resignation of any member of the Authority shall be notified in the *Gazette*.

Remuneration. **8.** There shall be paid from the funds of the Authority to the Chairman and other members of the Authority such remuneration, if any, whether by way of honorarium, salary or fees, and such allowances, if any, as the Minister may determine.

Proceedings

Meetings. **9.** (1) The Authority 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 Chairman may determine.

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

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

(4) The decisions of the Authority are by a majority of votes and in addition to an original vote, in any case in which the voting is equal, the Chairman or the Deputy Chairman presiding at the meeting has a casting vote.

(5) Minutes of each meeting in proper form are to be kept by the secretary or any officer the Authority may appoint for that purpose, and confirmed by the Authority at the next meeting and signed by the Chairman or a member of the Authority designated by the Chairman as the case may be.

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

(7) Provided a quorum is present, the validity of any proceeding of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

10. Subject to the provisions of this Schedule, the Authority has the power to regulate its own proceedings.

Authority to regulate own proceedings

Stc, f

11. The Authority may appoint and employ on such terms and conditions a Secretary and any officers, servants or agents as it considers necessary for the proper carrying out of the provisions of this Act.

Appointment of staff

12. (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 Pensions Act, then in any such case subsections (2) and (3) of this section shall have effect.

Pension of persons transferred from public service to the Authority

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(2) Any pension payable to any such person as is mentioned in subsection (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 a contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act, if such person had retired from the public service and if he has been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer.

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13. (1) Except as provided in any contract of employment with the Authority, the Minister may grant to any officer, servant or agent 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 officer, servant or agent, respectively.

Pensions, etc
32 cf 2000, s 3

Ch 43

(2) For the purposes of subparagraph (1) reference to the service of an officer, servant or agent of the Authority includes any continuous period of service of that officer, servant or agent with an approved authority or the public service immediately prior to his service with the Authority.

(3) In this paragraph the expression “approved authority” has the meaning assigned to it in the Pensions Act.

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(4) The pensions, gratuities or other like allowances which are payable under subparagraph (1) shall be charged on and paid out of the Consolidated Fund.

Protection
against actions,
etc
Ch 83

14. The Limitation Act shall apply to any action, suit, prosecution or other proceeding against the Authority or against any member, officer or servant of the Authority in respect of any act, neglect or default done or committed by him in such capacity.