

**ANTIGUA AND BARBUDA
AIRPORT AUTHORITY ACT
ARRANGEMENT OF SECTIONS**

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ANTIGUA AND BARBUDA

No. of 2006

BILL FOR

AN ACT to provide for the establishment of Airports Authority; to make provisions for the ownership, control, management and development of airports in Antigua and Barbuda; and for matters connected generally with management of airports.

ENACTED by the Parliament of Antigua and Barbuda as follows –

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| Short title. | 1. | This Act may be cited as the Airports Authority Act, 2006. |
| Interpretation. | 2. | <p>In this Act –</p> <p>“Aircraft” means any contrivance now known or hereafter designed, invented or used for navigation or flight in the air or space, except a parachute or other contrivance used primarily as safety equipment;</p> <p>“Airport means any defined area of land or water intended or designated to be used either wholly or partly for the landing, departure, movement and servicing of aircraft and any buildings, installations, equipment, roadways, car parks and open spaces on or adjacent to any such defined area used in connection with airports or airports administration;</p> <p>“Airport Facilities” include airport facilities of all kinds, landing fields, hangars, shops, hotels, restaurants and</p> |

catering facilities, terminals, buildings and parking facilities and all other facilities necessary or desirable for the landing, taking off, operating, servicing, repairing and parking of aircraft, the unloading and handling of mail, express and freights, and the accommodation, convenience and comfort of passengers, together with related transportation facilities, all necessary appurtenances, machinery and equipment and all lands properties, rights, easements and franchises relating thereto and considered necessary to convenient by the Authority in connection therewith;

“Authority” means the Airports Authority established under section 3;

“Board” means the Board referred to in section (3)(2);

“Chairman” means the Chairman of the Authority appointed by the Cabinet under the provisions of the First Schedule;

“Director” means a director appointed under the First Schedule;

“General Manager” means the officer appointed under section 7 by the Authority as General Manager of the Authority;

“financial year” means such period of twelve months as the Authority may determine to be its financial year, so, however, that the first financial year shall be the period

commencing on the date this Act comes into force and ending on such date as may be determined by the Authority;

“indebtedness” means the bonds, notes, debentures or debenture stock or other borrowings by the Authority pursuant to section 11 of this Act;

“Minister” means the Minister for the time being responsible for Airports;

“Public Accounts Committee” means the Public Accounts Committee appointed under section 98 of the Constitution of Antigua and Barbuda;

“Vehicle” includes a device in, upon or by which a person or property may be propelled, moved or drawn upon land or water, and a device moved by human or animal power except for aircraft or device moved exclusively upon stationary rails or tracks.

PART II

THE AUTHORITY

- Establishment and Constitution of Authority.**
- 3.** (1) There is established by this Act a body to be called the Airports Authority which shall be a body corporate with perpetual succession and a common seal with power to purchase, take hold and dispose of land and other property, to enter into contracts, to

sue and be sued in its corporate name and to do all things necessary for the purposes of this Act

(2) The Authority shall be governed by a Board of directors.

First Schedule.

(3) The provisions of the First Schedule shall have effect as to the constitution, members, committees, operations, procedure and meetings of the Board and otherwise in relation thereto.

(4) The seal of the Authority shall be authenticated in the manner prescribed in the First Schedule and shall be judicially and officially noticed.

Functions of Authority.

4. **(1)** The functions of the Authority are to manage and administer efficiently and in a business like manner airports vested in the Authority.

(2) Without prejudice to the generality of **subsection (1)** the Authority shall –

(a) construct, develop, upgrade and improve airports and such other aviation facilities **in Antigua and Barbuda;**

(b) operate airports services in accordance with this Act or regulations made thereunder;

(c) prescribe and collect the rates, fees and charges authorised by this Act or by any regulations made thereunder;

- (d) provide and maintain facilities for the landing and departing of aircraft, the embarkation and disembarkation of passengers, the loading, unloading, storage, carriage and warehousing of goods;
- (e) provide and maintain equipment for hoisting, lifting and transportation of goods;
- (f) **construct**, equip and maintain runways, passenger terminals, concourses, taxiways, aprons, baggage handling equipment, parking facilities, restaurants and other passenger convenience facilities;
- (g) provide and maintain hangars, overhaul and training facilities and machine shops;
- (h) provide safety equipment, lights and beacons, firefighting services, repair services, fueling equipment, catering and cleaning services and such other services as are ordinarily required by airlines.

(3) In the performance of its functions, the Authority may engage the services of professionally qualified and experienced persons to carryout the management and other services necessary to operate and maintain the airport in an efficient and business like manner.

Vesting of certain
property, rights and
liabilities in the
Authority.

5. (1) **The Government shall not later than three months after the coming into force of this Act, transfer the properties specified in the Third Schedule to the Authority on terms and conditions that may be agreed between the Government and the Authority.**

THIRD SCHEDULE

Section 5

Properties referred to in section 5

- (a) the lands situate in Antigua and described in the Third Schedule to this Act; and
- (b) the lands situate in Barbuda and described in the Fourth Schedule;
- (c) the buildings, installation, equipment and all other forms of property, facilities belonging to the Government and collectively known as –
 - (i) V.C. Bird International Airport;
 - (ii) Barbuda Airport.**

- (2) Upon the date of coming into force of this Act, the benefits and liabilities of any contract for or in connection with the Airport and facilities to which the Government is a party (including any debts and debt servicing, the right to recover and receive all moneys due and payable to the Government) and which subsists or is in force immediately before the date of coming into force of this Act, are hereby transferred from the Government to the Authority.

(3) Any proceedings upon any contract, agreement, deed, bond or other instrument to which reference is made in subsection (2) which are pending immediately before the date when this Act comes into force and to which the Government was a party shall be continued as if the Authority was a party thereto in lieu of the Government.

**Disclosure of
Interest.**

6. (1) A director who has any interest in a company or concern with which the Board proposes to enter into a contract or has interest in a proposed contract, shall disclose the nature of his interest to the Board.

(2) Where a director discloses an interest in a company in accordance with subsection (1), the Secretary to the Board shall record the disclosure in the minutes of the meeting of the Board and the member making the disclosure is disqualified from participating in the deliberations or voting of the Board in relation to the proposed contract.

(3) The Cabinet shall forthwith revoke the appointment of a director who contravenes this section and the director shall pay back to the Authority any financial gain or other benefits obtained from the non-disclosure.

(4) Such financial gain or other benefits shall be recovered from such director as a debt to the Authority.

**Appointment of
manager and staff
of the Authority.**

7. (1) For the purposes of carrying out its functions under this Act, the Board shall appoint a person with suitable qualifications and experience in commerce to be the General Manager **of any Airport vested in the Authority.**

(2) The terms and conditions of service of the General Manager shall be determined by the Board.

(3) Subject to the provisions of this Act and to any direction given by the Board, the duties of the General Manager include the general administration and management of the affairs of airports in Antigua and Barbuda.

Second Schedule.

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

(5) This section shall not apply in any case where in pursuance to subsection 4(3) the Authority engages the services of professionally qualified and experienced persons to manage the Airports.

Power of Authority to delegate.

8.

Subject to the provisions of this Act, the Board may delegate to any director or committee of the Board the power and authority to carry out on its behalf such duties as the Authority may determine.

Power of Minister to give policy directions.

9.

(1) The Minister may, after consultation with the Chairman, give to the Authority directions of a general nature as to the policy to be followed by the Authority in the performance of its functions as appear to the Minister to be necessary in the interests of Antigua and Barbuda.

(2) Where the Minister gives directions in accordance with subsection (1), the Board shall, in so far as such directions are consistent with the Act, carry out the directions of the Minister.

PART III

FINANCIAL PROVISIONS

**Funds and
resources.**

- 10.** (1) The funds and resources of the Authority consist of the following –
- (a) moneys approved by Parliament as initial loan to the Authority during the first three years of its establishment;
 - (b) moneys borrowed by the Authority under section 11 for the purpose of carrying out its functions under the Act;
 - (c) fees, charges, rents, dividends, commissions and moneys received for services rendered to customers and users of airports;
 - (d) profits, dividends and endowments received by the Board on behalf of the Authority.
- (2) The moneys approved by Parliament under subsection (1) shall be on such terms and conditions as Parliament may determine.

**Powers of the
Authority to borrow
money.**

- 11.** (1) The Authority may borrow moneys required by it for the purposes authorised by this Act
- (2) Notwithstanding the generality of subsection (1) the Authority may borrow money for the following purposes –
- (a) the performance of the functions assigned to the Authority under this Act;
 - (b) the provisions of capital for the **construction, development, improvement** and expansion of airports;
 - (c) any other expenditure properly chargeable to capital.
- (3) The Authority may, from time to time, borrow by way of overdraft or otherwise for period not exceeding one year such sums as the Authority may require for meeting its obligations and discharging its functions under this Act.
- (4) The powers of the Authority to borrow money for the purposes specified in subsection (2) shall be exercisable only with the prior approval of the Cabinet as to the amount, as to the Source of the borrowing and as to the terms on which the borrowing may be effected.
- (5) An approval given in any respect for the purposes of this section may be either general or limited to the particular borrowing or otherwise and may be either unconditional or subject to conditions.

(6) Where the Authority intends to borrow money on **the** guarantee of the Government for the **construction, development, improvement and** expansion of its facilities and services, the Minister shall, notwithstanding any power conferred upon the Authority under this Act, submit the proposal to the House of Representatives for prior approval.

**Application of the
funds and resources.**

12.

- (1) The funds of the Authority for any financial year shall be applied for the payment of –
- (a) the salaries, **management** fees, remuneration and gratuities of the officers or agents, employees, technical and other advisers of the Authority, including payments for the maintenance of the Provident Fund or Pension Fund authorised by this Act;
 - (b) the remuneration, fees and allowances of the **directors** of the **Board** or of any committee thereof;
 - (c) working expenses, and expenditures on, or provision for, the maintenance of the property and of any of the works of the Authority, and the insurance of the same and the discharge of the functions of the Authority properly chargeable to revenue account;
 - (d) loans approve by Parliament under section 10;

- (e) any indebtedness or interest on any indebtedness or charges for servicing any loans borrowed or incurred on any loan borrowed by the Authority;
- (f) any benefits and liabilities transferred to the Authority under section 5 (2);
- (g) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the payment or redemption of indebtedness incurred or the repayment of other borrowed money;
- (h) such sums as it may be deemed appropriate to set aside in respect of debt service reserved or depreciation on the property of the Authority having regard to the amount set aside out of the revenue under paragraph (e);
- (i) any other expenditures authorised by the Authority and properly chargeable to revenue account.

(2) The balance of the revenue of the Authority shall be applied to the creation of a reserve fund to finance future modernization and expansion of airports in Antigua and Barbuda.

**Authorised
investments.**

- 13.** The Authority may, from time to time, **invest the reserve funds created under section 12(2), and** not immediately required to be expended by the Authority, in securities approved by the Cabinet.

- Board to pay portion of profits to Consolidated fund.** **14.** The Board shall, at any time it declares a profit, pay forty per centum of such profit into the Consolidated Fund.
- Rates, etc. chargeable by the Authority.** **15.** (1) The fees, rates, and charges for licences and services to be levied by the Authority shall be determined by the Board
- (2) The Board may, after consultation with the Minister,** by order, prescribe such fees, rates and charges for licences and services.
- (3) No charges and fees determined by the Board are enforceable until the order prescribing the fees rates and charges are published in the Gazette.
- Accounts and audit** **16.** (1) All decisions, orders, rules and regulations relating to the financial operations of the Authority shall be made by resolution of the Authority at a meeting thereof and shall be recorded in the minutes book of the Authority.
- (2) The Authority shall keep proper accounts and records in respect of its transactions to the satisfaction of the Minister, and shall cause to be prepared a statement in respect of each financial year.
- (3) Notwithstanding any law to the contrary,** the accounts of the Authority shall be audited by independent auditors to be appointed by the Authority and approved by the **Director of Audit.**

(4) After the end of each financial year, the Board shall as soon as the accounts of the Authority have been audited, cause a copy of the statement of accounts to be transmitted to the Minister **and the Public Accounts Committee** together with a copy of any report made by the auditors on that statement or on the accounts of the Authority.

(5) The **Public Accounts Committee** shall, as soon as practicable but not later than **three months** after receipt of every statement and report, **by resolution**, introduce such statement and report in the House of Representatives for ratification.

**Authority to operate
a bank account. 17.**

(1) The Board shall by resolution open and operate an account with a bank appointed by the Board.

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

(3) All payments out of the funds of the Authority except petty disbursements not exceeding a sum to be determined by rules made under section 19, shall be made by the accountant, or on his behalf by any other officer appointed by the Authority, in accordance with any 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 countersigned by the Chairman of the **Board** 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.

Rules.

- 18.** The authority shall, by resolution, make rules in respect of the following matters –
- (a) the manner in which and the officers by whom payments are to be approved;
 - (b) the bank into which the moneys of the Authority are to be paid, the title of any account with any such bank, and the transfer of one fund from one account to another;
 - (c) the appointment of a member of the Board or an officer of the Authority to countersign cheques on behalf of the Chairman or in the absence of the Chairman;
 - (d) the sum to be retained by the accountant to meet petty disbursements and immediate payments and the Maximum sum that may be so disbursed for any one payment;
 - (e) the method to be adopted in making payments out of the funds of the Authority; and
 - (f) generally as to all matters necessary for the proper keeping and control of the accounts and books and the control of the finance of the Authority.

PART IV

GENERAL

- Tariff book etc.** **21.** The Authority shall cause to be prepared and published in such manner as it may think fit –
- (a) a “Tariff Book” containing all matters which under this Act or any Regulations made thereunder are required to be contained therein, together with such other matters as the Minister may think fit; and
 - (b) such other books and other documents as under this Act or any regulations made thereunder are required to be kept.

PART V

ACCIDENTS

- Accidents to be reported.** **22.** Where an accident occurs at any airport, and that accident –
- (a) is attended, or is of a kind usually attended, with loss of human life or with serious injury to person or property;
 - (b) involves any collision between aircraft of which one is carrying passengers; or
 - (c) is of such other kind as the Minister may specify, the **General Manager or other person** in charge of

that airport shall, as soon as practicable, give notice of the occurrence of the accident to the Authority and the Authority shall forthwith report the accident to the Minister.

- Inquiries into accidents.** **23.** The Authority shall make to the Minister a report, in such form and at such intervals as the Minister may direct, of all accidents occurring at the Airport, whether or not any such accident is attended with injury to any person.

PART VI

OFFENCES

- Damaging property or interfering with airport operations in a manner likely to endanger life.** **24.** Any person who unlawfully damages any navigational, safety or fuel storage facilities in or about any airport or interferes with the landing or take-off of aircraft at any airport in such manner as to endanger, or as might endanger the life of any person, **commits** an offence and liable on conviction on indictment to imprisonment for a term of ten years.
- False returns.** **25.** Any person who makes, either knowingly or recklessly, any statement which is false in any material particular in any return, claim or other document, which is required or authorised to be made under this Act or any Regulations made thereunder **commits** an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of two years, or to both such fine and imprisonment.
- Person endangering safety of operations.** **26.** Any person who, while on duty or lawfully employed on any premises of the Authority, or on any aircraft or vehicle used by or

for the purposes of the Authority, endangers the safety of any other person –

- (a) by contravening of the provisions of this Act, or any regulations made thereunder; or
- (b) by contravening any lawful order, direction or rule given in writing to such person, or made in respect of his service; or
- (c) by being under the influence of alcohol; or
- (d) by any rash or negligent act,

commits an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of six months or to both such fine and imprisonment.

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| Person demanding improper amount. | 27. | Any person who, with intent to defraud, demands or receives from any other person delivering goods for carriage or warehousing by means of the Authority or from any other person making use of the facilities provided by means of the Authority, and greater or less amount than he should demand or receive, commits an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for a term of two years or to both such fine and imprisonment. |
| Miscellaneous summary offences. | 28. | Any person who – |

- (a) being a trespasser on any premises of the Authority, or upon any aircraft or vehicle used by or for the purposes of the Authority, refuses to leave such premises, aircraft or vehicle after being requested to do so by an authorised employee or a member of the Police Force;
- (b) being on any premises of the Authority, or upon any aircraft or vehicle used by or for the purposes of the Authority –
 - (i) refuses when called upon by an authorised employee or a member of the Police Force to give his name and address, or give a false name or address, for the purpose of avoiding prosecution; or
 - (ii) is in a state of intoxication or behaves in a violent or offensive manner to the annoyance of any other person; or
 - (iii) discharges any firearm or does anything which may cause injury to any person on such premises or upon such aircraft or vehicle; or
 - (iv) commits any nuisance or act of indecency, or uses abusive or bad language; or
 - (v) without lawful excuse, contravenes any lawful direction given by any authorised

employee or member of the Police Force; or

- (vi) save with the express permission of the Board, hawks, sells or exposes for sale any article or touts, applies for or solicits customers of any description; or
 - (vii) smokes in any part of such premises, aircraft or vehicle bearing a notice that smoking is not permitted in that part;
- (c) writes, draws, or affixes any profane, obscene, indecent or abusive word, matter, representation or character upon any premises of the Authority or upon any aircraft or vehicle used by or for the purposes of the Authority;
- (d) defaces the writings on any board or any notice authorised to be maintained upon any premises of the Authority or upon any aircraft or vehicle used by or for the purpose of the Authority;
- (e) damages or without lawful excuse interferes with any property of the Authority;
- (f) being a driver or conductor of any vehicle, disobeys which upon premises of the Authority, any reasonable directions given by any authorised employee or member of the Police Force;

- (g) fails to deliver at the earliest possible opportunity to any authorised employee any property, which there is reason to believe has been lost or forgotten or found on any premises of the Authority, or on any aircraft or vehicle used by or for the purposes of the Authority;
- (h) willfully obstructs or impedes any other person in the discharge of his duties arising out of his employment in or for the purposes of the Authority;
- (i) gives or offers to any other person money or money's worth for the purpose of avoiding payment of any sum due to the Authority; or
- (j) unlawfully removes any property of the Authority,

commits an offence and liable on summary conviction to a fine, **not exceeding** five thousand dollars and to imprisonment for a term **not exceeding** six months, or to both such fine and imprisonment.

Power of arrest or removal.

29.

- (1) Any person who commits any offence mentioned in section 24, section 25, section 26, or section 27 may be arrested without warrant by any authorised employee or member of the Police Force.
- (2) Any person who commits any offence against this Act or any regulations made thereunder, other than an offence mentioned in subsection (1), may be arrested without warrant by any member

of the Police Force if –

- (a) there is reason to believe that such person will abscond;
- (b) he refuses on demand to give his name and address;
or
- (c) there is reason to believe that the name and address given by him are incorrect;

Provided that, save where there is reason to believe that such person will abscond, he shall, if his true name and address are ascertained, be released on his executing a bond without sureties for his appearance before a Magistrate when required.

(3) Any person who commits any of the offences set out in section 28 may be required by an authorised employee or a member of the Police Force to leave the premises, aircraft or vehicle, as the case may be, in which such person is at the time of the commission of the offence; and if such person fails to comply with such requirement he may be removed therefrom with such force as may be reasonably necessary in the circumstances.

**Authorised
employees to have
powers of Police.**

30. (1) The Board may, by writing authorize any person to maintain order upon any premises of the Authority, or in any aircraft, or vehicle used by or for the purposes of the Authority, or carry out any other duty under this Act or Regulation, and any such person shall, in the performance of such duty, have all the powers, rights, privileges, and protection of a member of the Police Force.

(2) For the purpose of this Act an authorised employee includes, a special constable appointed by the Police Service Commission and an employee of a private security organization.

PART VII

REGULATIONS

Regulations.

- 31.** (1) The Minister may, **on the recommendation of** the Board, make regulations for the management of airports and generally for carrying out the purposes of this Act.
- (2) Without prejudice to the generality of subsection (1) the Minister may make regulations –
- (a) prescribing the fees, charges and rates for services and of facilities provided by the Authority;
 - (b) controlling the parking of motor vehicles at airports;
 - (c) controlling, restricting or prohibiting vehicular traffic on roads, car parks or any part of an airport;
 - (d) immobilising and removing vehicles which are parked without authority in places not permitted for the parking of vehicles;
 - (e) prohibiting, restricting or regulating the carrying on of any trade or business within any airport;
 - (f) granting licences to carry on any trade business at

any airport;

- (g) prescribing fixed penalties to be paid by offenders in lieu of proceedings before the courts.

Commencement. 32. The Minister may by Notice published in the Gazette appoint a day on which this Act comes into force.

FIRST SCHEDULE

Section 3(2) and (3)

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| Appointment of Directors. | 1. | The Authority shall be governed by a Board of directors consisting of a chairman and four other persons to be appointed by a resolution of the Cabinet from amongst persons appearing to the Cabinet to be qualified by reason of having had experience of and shown capacity in matters relating to trade, law, finance, science, administration, tourism, labour relations, transportation, or such other experience that may be applicable and useful in the management of the Authority. |
| Temporary appointments. | 2. | The Cabinet may appoint any person appearing to it to have the qualifications necessary for appointment under the provisions of paragraph 1, to act temporarily in the place of any director in the case of the absence or inability to act of such director. |
| Chairman. | 3. | In the absence or inability of the Chairman to perform the functions assigned to him under this Act, the Cabinet may appoint one of the remaining directors to perform the functions of the Chairman. |
| Tenure of office. | 4. | (1) A Director shall, subject to the provisions of this Act, hold |

office for a period of three years and at the expiration of such term may be eligible for re-appointment.

(2) The Cabinet may at any time revoke the appointment of any director if it thinks it expedient so to do.

5. (1) Any Director, other than the Chairman, may at any time resign his office by instrument in writing addressed to the Cabinet and transmitted through the Chairman, and from the date of the receipt by the Cabinet 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 Cabinet and such resignation shall take effect as from the date of the receipt of such instrument by the Cabinet.

Publication of membership.

6. The names of all directors as first constituted and every change in the membership of directors shall be published in the Gazette.

Authentication of seal and document.

7. (1) The seal of the Authority shall be authenticated by the signatures of the Chairman or one of the directors authorised by the Board to act in that behalf.

(2) 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 authorised by the Board to act in that behalf.

Procedure and meetings.

8. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, but shall meet at least

once every month. Such meetings shall be held at such places and times and on such days as the Board may determined.

(2) The Chairman may at any time call a special meeting of the Authority and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any three directors.

(3) The Chairman shall preside at all meetings of the Board of Directors and in his absence the deputy chairman shall preside at any such meeting of the Board.

(4) Where the chairman is absent the remaining members of the Board shall elect one of their number to preside at such meeting.

(5) The decisions of the Board shall be by majority vote.

(6) Minutes in proper form for each meeting shall be kept and shall be confirmed by the Board, as soon as practicable thereafter at a subsequent meeting. Certified copies of such minutes when so confirmed shall be forwarded to the Minister.

(7) The Board 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, but no such co-opted person shall have any right to vote.

(8) Subject to the provisions of this Act the Board may regulate its own procedure.

(9) The validity of any proceeding of the Board shall not be affected on the ground –

- (a) of the existence of any vacancy in the membership, or of any defect in the constitution of the Board; or
- (b) of the contravention by a director of the provisions of section 6; or
- (c) of any omission, defect or irregularity not affecting the merits of the case.

**Power of Board to
appoint committees**

9.

(1) The Board may appoint a committee to examine and report to it on any matter whatsoever arising out of or connected with any of its powers and duties under this Act.

(2) Any such committee shall consist of at least one member of the Board together with such other person, whether members of the Board or not, whose assistance or advice the Board may desire.

(3) Where persons, not being members of the Board, are members of a committee appointed under this paragraph, or where any person is co-opted under the provisions of subparagraph (7) of paragraph 8 the Board may with the approval of the Minister by resolution declare the remuneration and allowances of such persons, and such sums shall be payable out of the funds and resources of the Authority.

(4) The Board may by resolution reject the report of any such committee or adopt it either wholly or with such modifications,

additions or adaptations as the Board may think fit.

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| Remuneration of directors. | 10. | There shall be paid to the Chairman and other directors such remuneration, if any, as the Cabinet may determine. |
| Protection of directors. | 11. | <p>(1) No action, suit, prosecution, or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done <i>bona fide</i> in or execution or intended execution of this Act.</p> <p>(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if the said member was a servant or agent of the Authority.</p> |

SECOND SCHEDULE

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| Appointment of employees and establishment and maintenance of superannuation schemes. | 1. | <p>(1) Subject to the provisions of this Act, the Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit an airport superintendent, an accountant and such other employees as may be necessary and proper for the due and efficient administration, management and performance by the Board of its functions under this Act.</p> <p>(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 Pension Scheme or a Provident Fund Scheme for the benefit of employees of the Authority, and in every such scheme different provisions may be made by different classes of employees.</p> |
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Payment by Authority to government in respect of emoluments and pensions, etc.

Cap. 408.

2. (1) The emoluments of any public officer who is in the service of the Authority shall, at the end of every month after the commencement of this Act, be paid into the Consolidated Fund by the Authority 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 by paid into the Consolidated Fund by the Authority and such sums shall be paid by Government into the Social Security Fund established under the Social Security Act.

Cap. 311.

(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 Authority.

Passed the House of Representatives

this day of 2006

Speaker

Clerk to the House of Representatives

Passed the Senate

this day of 2006

President

Clerk to the Senate

EXPLANATORY MEMORANDUM

This Bill proposes the establishment of a body corporate to manage the operations and affairs of airports in Antigua and Barbuda. The name of the proposed corporate body is Airports Authority.

It is intended that the Authority should take over the present administration of airports in Antigua and Barbuda. The arrangements proposed in this Bill are intended to create an autonomous body, free from direct ministerial and civil service control. The powers vested in the Authority will enable it to manage and administer airports under its control in a more business like and efficient manner. The consequential effect of the proposal is to eliminate Government financing of the cost of administering and managing the affairs of the Authority.

Clause 2 of the Bill defines certain words and expressions used in the Bill. The definition of “airport” is clearly spelt out with a view to describing the area of direct control of the Authority. The airport as defined includes the aerodrome, thus giving the definition an extended jurisdiction beyond the aerodrome. “indebtedness” is defined for purposes of identifying the financial liabilities incurred by the Government for projects relating to development and improvement of Airports.

Clause 3 proposes the establishment of an Authority as the operating agent of airports in Antigua and Barbuda. The Bill also proposes the establishment a Board of directors to be the governing body of the Authority and conferred upon the Authority the capacity to own property and dispose of such property. As a corporate body the Authority would be vested with the judicial status to sue and be sued in its corporate name. Provision would also be made to enable the parcels of land, machinery and other equipment held by the Government and applied for the use of the airports to be transferred to the Authority on such terms and conditions as the Government may determine. It is proposed that such transfer should be effected within three months of the coming into force of the Act.

The functions of the Authority as prescribed in clause 4 are designed to promote development that will improve and enhance the V.C. Bird International Airport to meet the demands of the growing number of aircraft and visitors to the island. It is envisaged that **any proposed development and upgrading of the V. C. Bird International Airport would** serve as a transit centre for travelers transiting to Europe, Central and South America.

Clause 4 would make provision for the Authority, either to operate and manage the airports by itself or by entering into contractual arrangements with qualified and experienced professionals to do so on its behalf.

In addition, to the general functions prescribed in clause 4, the Authority has particular powers to borrow money for the purposes of carrying out its functions. The borrowing powers of the Authority are exercisable only with the prior approval of the Cabinet. It is proposed that the Cabinet should approve the amount to be borrowed, the source of the borrowing and the terms under which the moneys are to be lent.

Clause 5 vests in the Authority the existing properties of the Government which are used for the operations of airport. Other rights, obligations and liabilities of the Government are also transferred to the Authority. The Effect of this provision is to reduce the indebtedness of the Government and to pass over liabilities incurred by the Government for past developments of airports to the Authority. This provision makes the Authority directly and fully responsible for the payment of all debts and other financial obligations incurred by the Government in relation to airports. Similarly, all legal proceedings pending in any court or tribunal in relation to airports and of which the Government is a party will be taken over and continued by the Authority.

In clause 6, provision is made for full disclosure of a directors' interest in any proposed contractor agreement which the Authority intends to make. It is proposed that failure to disclose should be punished by instantly revoking the appointment of the director. It is further proposed that a director who contravenes this provision should not be allowed to benefit from the non disclosure and the Authority is empowered to recover any gain which a director receives as a result of the non disclosure as a debt owed to the Authority.

This Bill proposes to make the Authority financial independent of moneys derived from Government sources. Consequently, the financial provisions are designed to make the Authority financially self reliant. Accordingly, the Bill proposes that, Parliament approves moneys for the Authority to carry out its functions. These Parliamentary appropriations are treated as loans and are intended to subsist for a period of three years. The conditions under which such moneys are provided to the Authority are to be determined by Parliament.

It is proposed in clause 11 that the Authority be authorised to borrow money form other sources for the performance of its functions. Cabinet is authorised to approve borrowings for purposes specified under clause 11(2). It is suggested that moneys so borrowed by the Authority shall be expended for the performance of functions assigned to the Authority under the Act, and includes provision for capital expenditure. Other sources of funds of the Authority include fees, charges, rents, dividends and moneys received for services provided. It is proposed in clause 11(6) that moneys intended to be borrowed by the Authority on the guarantee of the Government should be submitted to the House of Representatives for prior approval.

Clause 12 spells out the purposes for which the funds are to be applied. These purposes include payment of remuneration, fees and allowances of members of the authority, salaries and gratuities of officers, working expenditures, maintenance of works undertaken by the Authority, loans approved by Parliament and other legitimate proposes. Other purposes include payment of the benefits and liabilities transferred under section 5(2) to the Authority. Provision is also made in the Act to enable the Authority to invest its surplus funds not immediately needed in securities approved by Cabinet.

Clause 13 empowers the Authority to invest surplus funds not immediately needed for use by the Authority in securities to be approved by Cabinet.

It is proposed that the Authority should pay part of its profits to the Government. Thus Clause 14 **would** require the Authority to pay **forty** percentum (**40%**) of all profits **declared by it** into the Consolidated Fund.

The Bill provides the Authority with the power to determine the fees, rates and charges which may be levied for its services. These fees, charges and rates become enforceable only after being prescribed by the Minister and published in the Gazette.

The addresses the question of accountability in clauses 16-19. Proposals for financial accountability require that the audited accounts and the report of the auditors are submitted to the **Minister and the Public Accounts Committee and ultimately to the** House of Representatives for approval. Furthermore, the Authority is made accountable to Parliament for its activities. For this purpose, the Authority is required to submit an annual report to Parliament. The report should include activities of the Authority during the previous year and proposals for intended projects for the succeeding year.

Clause 20 **envisages the payment taxes and duties by the Authority. However, the Bill would** exempt the Authority from payment of corporate tax, customs and other taxes for a period of five years. Thereafter, the tax holiday granted to the Authority will cease unless it is extended by Cabinet for **a further** period of not more than twelve months.

Part VI addressed the question of activities which constitute offences under the Act. The objection of the penalty provisions is to ensure the safety of travelers and users of the airports. The Bill accordingly prescribes very sever penalties for offences committed under sections 24 and 26.

Justin L. Simon Q.C.,
Attorney General and Minister of
Legal Affairs