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THE PUBLIC UTILITIES ACT

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FIRST SCHEDULE

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PUBLIC UTILITIES

(4th July, 1973.)

10/1973.
12/1973.
16/1976.
7/1979.
18/1989.

1. This Act may be cited as the Public Utilities Act. **Short title.**

PRELIMINARY

2. (1) In this Act—

Interpretation.

“accountant” means the person appointed by the authority as accountant under the provisions of the Second Schedule and includes any person for the time being performing the functions of the accountant;

“apparatus” means any appliance used or which may be used in connection with providing public utilities;

“Authority” means the Public Utilities Authority established under section 3;

“Chairman” means the Chairman of the Authority appointed by the Governor-General under the provisions of the First Schedule and includes any person for the time being performing the functions of the Chairman;

“customer” means any person supplied or provided or entitled to be supplied or provided with any public utility;

“customer's terminals” means the ends of the electric line situate upon any customer's premises and belonging to him, at which the supply of energy is delivered from the service line;

“distributing main” means the portion of any main which is used for the purpose of giving origin to the service lines for the purposes of general supply;

“electricity” or “electrical energy” or “energy” means energy involving the use of electricity, electric current or any like agency which may be produced either by mechanical or chemical means and which is generated, transmitted, supplied or used for any purpose except the transmission of a message;

“electric line” means a wire or wires, conductor or other means used for the purpose of conveying, transmitting, or distributing electricity with any casing, coating, covering, tube, pole or insulator enclosing, surrounding, or supporting the same or any part thereof, or any apparatus connected therewith, for the purpose of conveying, transmitting or distributing electricity;

“financial year” means such period of twelve months as the Authority with the approval of the Minister may determine to be its financial year, so, however, that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as may be fixed by the Authority with the approval of the Minister;

“functions” includes powers and duties;

“General Manager” means the person appointed by the Authority as General Manager under the provisions of the Second Schedule and includes any person for the time being performing the functions of the General Manager;

“general supply” means the general supply of energy to ordinary customers, but does not include the

supply of energy to any one or more particular customers under special agreement;

"land" means any land not being a street or portion thereof;

"main" means an electric line laid down or erected in, over, along, across or under any street, or public place and through which energy may be supplied or intended to be supplied, for the purposes of general supply;

"Minister" means the Minister responsible for public utilities;

"private purposes" includes any purposes whatever to which electricity may for the time being be applicable, not being public purposes;

"public officer" shall have the meaning assigned to it by the Constitution;

"public utilities" means services authorised under this Act for supplying electricity, providing and maintaining telephone services and telephones, and supplying water; and "public utility" means any one of such services;

"service line" means any electric line through which energy may be supplied, or intended to be supplied, to a customer's premises from any main or transformer;

"street" includes any highway, whether over any bridge or not, and any road, lane, footway, square, court, alley or passage, over which the public have a right of way; and the pavement of a street and all channels, drains and ditches at the side of a street shall be deemed to be part of the street;

"system" means an electrical system in which all the conductors and apparatus are electrically connected to a common source or sources of energy;

“water-course” means any pond, spring, stream, well, water and water rights whether held together with, or independently of, any land;

“water-works” includes, wells, beds, pumps, dams, reservoirs, cisterns, tanks, filters, catchments, aqueducts, tunnels, sluices, conduits, mains, pipes, stand-pipes, showers, valves, pumps, engines, culverts, desalination plants, water treatment plants and all machinery and appliances, lands, buildings and things used for or in connection with the supply of water constructed or maintained from public funds or which after the commencement of this Act shall be construed or maintained by the Authority;

“works” includes generating stations, sub-stations, buildings, machinery, engines, transmission lines, distributing mains, electric lines, poles, pillars, street boxes, lamps, water-works, wells, dams, pipelines, and any other works, apparatus, appliances, matters or things of whatever description required for the generation, transmission, transformation, distribution, supply or use of energy.

(2) A reference in this Act to a Part or section or Schedule shall, unless the contrary intention appears, be read as a reference to a Part or section or Schedule of this Act; and a reference in this Act to a subsection, paragraph or subparagraph shall, unless the contrary intention appears, be read as a reference to the subsection, paragraph or subparagraph, as the case may be, of the section in which the reference appears.

PART I

ESTABLISHMENT OF AUTHORITY AND VESTING OF PROPERTY

3. (1) There is hereby established a body to be called the Public Utilities 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 said name and to do all things necessary for the purposes of this Act.

(2) The provisions of the First Schedule shall have effect **First Schedule.** as to the constitution, members, committees, operation, procedure and meetings of the Authority and otherwise in relation thereto.

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

(4) The provisions of the Second Schedule shall have effect **Second Schedule.** as to the officers and employees of the Authority, their appointment, dismissal and conditions of service and otherwise in relation thereto.

4. (1) Upon the date of coming into operation of this Act all lands, buildings, installations, equipment and all other forms of property, whether real or personal, and all interests therein, of whatsoever nature, belonging to the Government in Antigua and Barbuda and used exclusively for the purposes of—

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

- (a) the Electricity Division;
- (b) the Telephone Department; and
- (c) the Water Division

shall become vested in the Authority

(2) Notwithstanding any of the provisions of this Act, except with the prior written permission—

(a) of the Governor-General acting in accordance with the advice of the Cabinet, the Authority shall not dispose of by sale, lease, sub-lease, mortgage, easement, or otherwise any land or interest in land vested in the Authority;

(b) of the Cabinet, the Authority shall not dispose of by sale, bailment, or otherwise, or turn to account, any personal property or interest therein vested in the Authority.

(3) If any question shall arise under subsection (1) whether any land, building, installation, equipment or other form of property was used exclusively for the purposes of the Electricity Division, the Telephone Department or the

Water Division, a certificate under the hand of the Minister shall be conclusive.

(4) Upon the date of coming into operation of this Act the benefits and burdens of any contract for or in connection with supplying or providing public utilities to which the Government is a party (including the rights to recover and receive all moneys due and payable to the Government) and which subsists or is in force immediately before such date of coming into operation, shall be deemed to have been transferred from the Government to the Authority.

(5) Upon the date of coming into operation of this Act every agreement as respects any public utility or related to or connected in any way whatsoever with any public utility (other than a contract referred to in subsection (4)) whether that agreement is in writing or not, and every deed, bond or other instrument as respects any public utility or related to or connected in any way whatsoever with any public utility; to which agreement, deed, bond or other instrument the Government was a party or which affected the Government, and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned, shall have effect as if the Authority were a party thereto or affected thereby instead of the Government and as if for every reference (however worded and whether express or implied) therein to the Government there were substituted in respect of anything to be done on or after such date of coming into operation a reference to the Authority.

(6) Any proceedings upon contract, agreement, deed, bond or other instrument to which reference is made in subsections (4) and (5) which are pending immediately before the date when this Act comes into operation and to which the Government was a party shall be continued as if the Authority was a party thereto in lieu of the Government.

PART II

RIGHTS POWERS AND DUTIES OF AUTHORITY

5. (1) Subject to subsection (2) the Authority shall have the exclusive right to generate, distribute, supply and sell electricity within Antigua and Barbuda and to perform services incidental thereto.

(2) The Authority may give written permission to any person to generate and supply electricity at any place within Antigua and Barbuda.

(3) Any person who generates, distributes, supplies or sells electricity without the prior written permission of the Authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding six months.

6. (1) The Authority shall have the exclusive right to establish, maintain and work telephone services, telephone lines and exchanges and telephones within Antigua and Barbuda and to perform services incidental thereto.

Right of Authority to provide telephone services.

(2) Any person who establishes, maintains or works any telephone services, telephone line or telephone without the prior written permission of the Authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding three months.

(3) A person shall not be guilty of an offence under subsection (2) if he installs, maintains or works a telephone line on and within premises occupied solely by himself:

Provided that such telephone line shall not be connected in any manner with any place or thing situate outside such premises or with any place or thing which, although situate on such premises, is not under the sole control and for the exclusive use of such person.

7. (1) The Authority shall have the exclusive right to supply, distribute, maintain and sell water within Antigua and Barbuda and to perform services incidental thereto.

Right of Authority to supply water.

(2) Any person who supplies, distributes, maintains or sells water with the intention of depriving the Authority of its income, or of its rights under subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding three months.

Powers of Authority.

8. (1) Subject to the provisions of this Act, the Authority shall, for the purpose of carrying out its functions under this Act, have power to do anything or to enter into any transaction which in its opinion is calculated to facilitate the proper discharge of its functions or is incidental or conducive thereto.

(2) Without prejudice to the generality of the provisions of subsection (1) the powers of the Authority shall include powers—

(a) to do all acts and things necessary for developing, controlling, generating, distributing and selling electricity for public and private purposes;

(b) to undertake electrical wiring installation and servicing of electrical equipment and to provide electricity to industrial, commercial and residential premises;

(c) subject to subsection (3), from time to time to cause standards together with fixtures and fittings and other apparatus to be erected or placed, and electric, telephone, and water lines to be laid and carried through, across, over or under any street or, after reasonable notice in that behalf to the owner or occupier, through, over or under any land whatsoever, enclosed or otherwise:

Provided that all such standards, fixtures, fittings and other apparatus and electric, telephone and water lines shall remain the sole property of the Authority and shall not be deemed to become part of any freehold by reason of being affixed thereto;

(d) subject to subsection (3), from time to time to cause such lamp irons, lamp posts, standards or other lighting apparatus to be put or fixed upon or against the walls or palisades of any building or enclosure or to be put up or erected in such other manner as shall be deemed proper, and also to cause such number of lamps of such sizes and kinds to be provided and affixed and put on such lamp irons, lamp posts and standards as are necessary for lighting the streets;

(e) subject to subsection (4), to cut and remove from any street and to enter upon and to cut and remove from any private or public lands any tree, or any branch,

bough or other part of a tree growing on such lands in such proximity to any main used for conducting electrical energy or to any telephone structure or water lines as to interfere with, endanger or otherwise prejudicially affect the working of the Authority;

(f) to set examinations for and issue licences to electricians and wiremen;

(g) to do all acts and things necessary for providing and maintaining telephone services and telephones for the use of the public in general;

(h) to disconnect a customer's telephone line from one exchange or group line and connect it with any other exchange or group line or party line;

(i) to make any alteration in a customer's telephone line;

(j) to alter a customer's telephone number and the name of the exchange with which any customer's telephone line is connected;

(k) to provide and maintain coin or hire collection telephone instruments for the use of the public in general;

(l) to do all acts and things necessary for the production, distribution, supply and sale of water to the public in general for domestic and commercial use;

(m) to establish, operate and maintain a sewage system in Antigua and Barbuda;

(n) to control, manage, maintain, operate and supervise all watercourses, and waterworks in Antigua and Barbuda, and provide (so far as is practicable) an adequate supply of water for the use of the public in general;

(o) to construct or lay down any waterworks for improving or augmenting the water supply;

(p) whenever it may be expedient or necessary for the purpose of conserving the water supply or for extending, altering or repairing the waterworks or for the purpose of connecting or repairing water services or in the case of fire, to diminish, withhold, suspend

or divert (without prejudice to the payment of charges) the supply of water through the waterworks;

(q) to manufacture, import, export, buy, sell, collect and generally deal in and with electrical, telecommunications, water and sewage system equipment of every type.

(3) In the exercise of the powers given by paragraphs (c) and (d) of subsection (2), the Authority—

(a) shall not be deemed to acquire any right other than that of user only in or over the soil of any enclosed and other land whatsoever through, over or under which it places any of the works; and should any of the work so carried through, over or under any such land become a nuisance or the cause of loss to the owner of such land, the Authority shall remove or alter such work or shall give reasonable compensation as provided by paragraph (b) of this subsection; and

(b) shall do no more damage than is necessary in the circumstances and shall make full compensation to any person interested for all damage sustained by him by reason or in consequence of the exercise of such powers. In the event of disagreement, the amount of such compensation shall be determined by arbitration:

Provided that no compensation shall be payable in respect of any right of user acquired under the authority of paragraph (a) of subsection (3).

(4) In the exercise of the powers given by paragraph (e) of subsection (2), the Authority—

(a) shall not, except with the consent of the occupier, enter upon private lands until after the expiration of seven days notice of the intended entry to the occupier of such land; and

(b) shall make full compensation to the owner of any tree so cut and for any damage suffered by the owner or occupier in respect thereof and the amount of such compensation shall in the event of disagreement, be determined by arbitration.

9. It shall be lawful for the Authority, with the approval of the Minister, to delegate to any person or body of persons as its agents, any of the powers and duties conferred on the Authority by this Act in relation to the carrying out of any activity authorised under section 8.

Power to delegate.

10. Any officer, servant or agent of the Authority may, at all reasonable times, enter any premises to which any public utility is or has been supplied under this Act for the purpose of—

Powers of entry.

(a) inspecting the electric lines, telephone lines, telephones, accumulators, meters, pipes, fittings and other apparatus belonging to the Authority; or

(b) ascertaining the quantity of electrical energy or water consumed or supplied; or

(c) where the supply of any public utility is no longer required, or, where the Authority is authorised to discontinue, disconnect, stop the supply of any public utility from any premises, removing any electric lines, telephone lines, telephones, accumulators, meters, pipes fittings and other apparatus belonging to the Authority:

Provided that the Authority shall repair all damage caused by such entry, inspection or removal.

PART III

FINANCIAL PROVISIONS

11. (1) The Authority may from time to time, with the approval of the Minister responsible for finance, borrow, secure or raise money by the issue of debentures or debenture stock, or other security, for all or any of the following purposes—

Power to borrow or raise capital.

(a) the provision of working capital;

(b) the fulfilling of the functions of the Authority under this Act;

(c) the provision of capital for the expansion of and addition to, its fixed assets;

(d) the redemption of any debenture or debenture stock or other security that the Authority is required or entitled to redeem;

(e) any other expenditure properly chargeable to capital account.

(2) The Authority may, from time to time, borrow by way of overdraft or otherwise such sums as the Authority may require for meeting its obligations and discharging its functions under this Act.

Powers of the Authority to borrow from Government.

12. (1) The Authority may with the approval of the Minister responsible for finance, from time to time borrow by way of advances from the Government such sums as may be necessary for carrying out its functions under this Act.

(2) For the purpose of making advances to the Authority under this section, the Minister responsible for finance may authorise advances out of the proceeds of any loan raised for the purpose or out of the reserve fund, revenues or surplus balances of Antigua and Barbuda.

(3) Pending the raising of any such loan, the Minister responsible for finance by warrant under his hand may authorise the Accountant-General to make advances out of the revenues of Antigua and Barbuda to the Authority in such sums and on such terms and conditions as the Minister responsible for finance may think fit for the purposes authorised by this Act.

(4) The repayment of any such advances and the payment of interest thereon shall be made by the Authority in like manner and on like conditions as borrowings by the Authority, subject to any special terms and conditions which may be stipulated with respect to any such advance by the Minister responsible for finance upon the making thereof.

Application of revenue.

13. (1) The revenue of the Authority for any financial year shall be applied in defraying the following charges—

(a) the remuneration, fees and allowances of the members of the Authority or of any committee thereof;

(b) the salaries, fees, remuneration and gratuities, including payments for maintenance of the Provident Fund or Pension Fund authorised by this Act, of the officers, or agents and employees, and technical and other advisers, of the Authority.

(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) interest on any debenture and debenture stock or other security issued, and on any loan raised by the Authority;

(e) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or other security or the repayment of other borrowed money;

(f) such sums as it may be deemed appropriate to set aside in respect of depreciation on the property of the Authority having regard to the amount set aside out of the revenue under paragraph (e);

(g) 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 reserve funds to finance future modernisation and expansion.

14. Funds of the Authority not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Authority may be invested from time to time in securities approved by the Minister responsible for finance for investment by the Authority. **Authorised investments.**

15. (1) The price to be charged by the Authority for public utilities supplied or provided by it to customers shall be in accordance with such tariffs as may be fixed from time to time by Order of the Cabinet after consultation with the Authority. **Tariffs.**

(2) Such Order shall be published in the *Gazette*.

16. Notwithstanding the provisions of section 15, the Authority may make any agreement with a customer as to the price to be charged by it for supplying or providing any **Charges by agreement.**

public utility and the mode in which such amount is to be ascertained:

Provided that the amount so charged by the Authority shall not exceed the limits of price authorised by section 15.

**Accounting of
Authority.**

17. (1) All decisions, orders, rules and regulations relating to the financial operations of the Authority and authorised by this Act shall be made by resolution of the Authority at a meeting thereof and shall be recorded in the minutes of the Authority.

(2) The Authority shall keep proper accounts and other records in respect of its operations, and shall cause to be prepared a statement in respect of each financial year.

(3) The accounts of the Authority shall be audited by auditors to be appointed annually by the Authority.

(4) The Authority shall, before the commencement of each financial year, submit to the Minister for the information of the Parliament a copy of its income and expenditure budget, in relation to such year. The Minister shall cause copies of such budgets to be laid on the table of each Chamber of the Legislature.

(5) After the end of each financial year, the Authority 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, together with a copy of any report made by the auditors on that statement or on the accounts of the Authority. The Minister shall cause a copy of every statement and report to be laid on the table of each Chamber of the Legislature.

(6) Notwithstanding any power of the Authority conferred by this Act, where the Authority intends to embark upon any programme for expanding its facilities and services that will involve borrowing moneys upon the credit of Antigua and Barbuda or that will require a longer period than one year to complete, the Authority shall obtain the approval of the Minister responsible for finance thereto before incurring any liability in respect thereof.

18. (1) All moneys of the Authority accruing from **Cash deposits and payments.** its operations under this Act shall be paid into some bank or banks appointed by resolution of the Authority, and such moneys shall, as far as practicable be paid into the bank from day to day, except such sum as the accountant may be authorised by rules made under section 19 to retain in his hands to meet petty disbursements for immediate payments.

(2) All payments out of the funds of the Authority except petty disbursements not exceeding a sum to be fixed 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.

(3) Cheques against any banking account required to be kept or withdrawals from any savings bank account shall be signed by the accountant and countersigned by the General Manager or any member of the Authority or any officer of the Authority appointed by resolution of the Authority for the purpose, and any such resolution shall be certified by the chairman and forwarded to the bank or banks concerned.

19. The Authority shall by resolution make rules in **Rules.** respect of the following matters—

(a) the manner in which and the officers by whom payments are to be approved;

(b) the bank or banks 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 Authority or an officer of the Authority to countersign cheques on behalf of the General Manager or in the absence of the General Manager;

(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.

Annual report.

20. (1) The Authority shall as soon as practicable after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Authority during the preceding financial year and containing such information relating to the operations and policy of the Authority as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid on the table of each Chamber of the Legislature.

Exemption from
customs duty,
consumption tax,
income tax,
property tax and
land tax.

21. (1) Notwithstanding anything in any other Act contained, all plant, machinery, appliances, apparatus, equipment and materials of every kind whatsoever imported into Antigua and Barbuda by the Authority for the purpose of carrying out its function; under this Act shall be free of all customs duty and consumption tax or any other tax having a similar effect, whatsoever.

Cap. 212.

(2) Notwithstanding anything contained in the Income Tax Act the income of the Authority shall be wholly exempt from payment of income tax.

Cap. 348.

(3) Notwithstanding anything contained in the Property Tax Act the property of the Authority shall be wholly exempt from payment of property tax.

(4) Notwithstanding anything contained in the Land Tax Act all land vested in the Authority shall be wholly exempt from payment of land tax.

Service contracts
with
Government.

22. The Authority may enter into contracts with Government for the supply of water, telephones, electricity or sewerage.

PART IV

OFFENCES AND INJURIOUS ACTS

23. (1) Any person who—

**Injurious acts
with intent to
cut off supply.**

(a) maliciously cuts or injures any electric line or works of the Authority with intent to cut off any supply of electrical energy;

(b) maliciously causes any interruption to the supply of electricity supplied by the Authority; or

(c) incites any other person to do any of the acts mentioned in paragraphs (a) or (b),

shall be guilty of a misdemeanour and, on conviction on indictment, be liable to imprisonment for a term not exceeding two years.

(2) Nothing in this section shall exempt a person from any proceedings for any offence which is punishable under any other provision of this Act or under any other law:

Provided that no person shall be punished twice for the same offence.

24. Any person who maliciously or fraudulently abstracts, causes to be wasted or diverted, or consumes or uses any electricity generated by the Authority shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

**Malicious or
fraudulent
dealings with
electricity.**

25. (1) Any person who—

**Wrongful and
fraudulent
practices.**

(a) without the consent of the Authority lays, erects, or installs or permits to be laid, erected or installed any conductor, and connects it with any conductor to which electrical energy is supplied under this Act;

(b) in case the value of the supply of such electrical energy is not ascertained by meter, uses any apparatus or lamp other than that he has contracted to pay for, or uses such apparatus or lamp at any time other than the time specified and for which he has contracted to pay; or

(c) improperly uses the supply of electrical energy or supplies any other person with any part of the electrical energy supplied to him,

shall forfeit to the Authority, a sum not exceeding three hundred dollars for every such default, and also a sum not exceeding three hundred dollars for every day such conductor shall so remain, or such apparatus or lamp shall be so used, or such supply continued to be so furnished, without prejudice to the right of the Authority to recover in addition the amount of any damage suffered by it.

(2) The Authority may discontinue the supply of electrical energy to the premises of any person who has committed any of the acts mentioned in subsection (1) until the matter complained of has been remedied, but no longer, notwithstanding any contract previously existing.

(3) The amount of any forfeit or damage to which the Authority is entitled under this section may be recovered by it as a civil debt.

Penalties in respect of other wrongful acts.

26. (1) Any person who wilfully, fraudulently, or by culpable negligence—

(a) injures or permits to be injured any works of the Authority;

(b) alters the index of any meter for ascertaining the consumption of electrical energy, or prevents any meter from duly registering the value of the supply of electrical energy; or

(c) abstracts, consumes, or uses the electrical energy of the Authority,

shall (without prejudice to any other right or remedy for the protection of the Authority or punishment of the offender) for every such offence or default forfeit and pay to the Authority a sum not exceeding seven hundred and fifty dollars, and the Authority may in addition thereto recover the amount of any damage sustained by it.

(2) The Authority may discontinue the supply of electrical energy to such person until the matter complained of has been remedied, but no longer, notwithstanding any contract previously existing.

(3) The existence of artificial or unlawful means for causing such alteration or prevention (when such meter is in the custody of the consumer) or for abstracting, consuming or using the electrical energy supplied by the Authority shall be *prima facie* evidence that such alteration, abstraction or consumption as the case may be, has been wilfully, fraudulently or negligently caused or permitted.

(4) The amount of any forfeit or damage to which the Authority is entitled under this section may be recoverable by it as a civil debt.

27. If at any time after the supply of electrical energy to any premises has been cut off by the Authority it be found that the supply has been renewed without the order of the Authority and that such electrical energy is being used by any person, the occupier of such premises shall be deemed (until the contrary is proved) to have authorised such user and shall be liable on summary conviction to a fine not exceeding three hundred dollars for each day the electrical energy has been so used.

Occupier liable for wrongful user of service.

28. (1) It shall not be lawful for any person to trim, cut, or fell any tree the trimming, cutting or felling of which is likely to constitute a danger to any works unless he shall have given to the Authority twenty-four hours previous notice of such trimming, cutting or felling.

Felling trees within fifty feet of works.

(2) Any person who contravenes subsection (1) shall be liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

29. Any person who—

(a) without authority interferes with any telephone line or apparatus provided, maintained or installed by the Authority;

(b) wilfully damages any such line or apparatus;

(c) prevents the transmission of, or causes delay to, any telephone message; or

(d) intercepts or attempts to intercept any telephone message,

Penalty for interfering etc. with telephone lines.

shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

30. Any person who uses a telephone—

(a) for the transmission of any message or communication, which is grossly offensive or of an indecent, obscene, or menacing character, whether addressed to an operator or any other person; or

(b) for the persistent making of telephone calls without reasonable cause and for the purpose of causing annoyance, inconvenience or needless anxiety to any other person,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

31. (1) A person employed by the Authority who performs duties in connection with telephone services shall regard and deal with all telephone messages and every information connected therewith as secret and confidential.

(2) Any such person who communicates or attempts to communicate any telephone message or any information connected therewith to any person—

(a) other than a person to whom he is by duty authorised to communicate such message; or

(b) otherwise than for the purposes of this Act, shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

32. (1) Every person who—

(a) bathes in any watercourse or any part of the waterworks; or

(b) drives or permits or suffers any animal to be driven into or to enter into any watercourse or into any waterworks; or

(c) washes in or throws into or causes or suffers to be washed in or thrown into any watercourse or water-

Indecent and
offensive message
not to be
transmitted.

Secrecy with
respect to
telephone
messages.

General offences
with respect to
water.

works any animal or the carcase or part of the carcase of any dead animal; or

(d) puts or throws or causes or suffers to be put or thrown into any watercourses or waterworks any rubbish, dirt or filth, or any foul or offensive or obnoxious matter, whether solid or liquid; or

(e) washes or cleanses or suffers or causes to be washed or cleansed in any watercourse or waterworks any cloth, wool, leather or skin of any animal or any clothes; or

(f) causes or suffers the water from any sink, privy, sewer, drain, engine or boiler or any foul or filthy water being and lying upon any land or premises, which is under his management and control or under the management and control of his servants or agents, to run or flow into any watercourse or waterworks; or

(g) does or commits any other act or thing whatsoever whereby any water flowing to or from any watercourse or waterworks is fouled or polluted or the flow thereof impeded or interrupted or the water improperly abstracted or wasted; or

(h) without the consent of the Authority, diverts or takes the water supplying or flowing into any waterworks; or

(i) without the consent of the Authority, constructs, alters or extends the service in his premises or connects any tap on his premises with the distributory pipes of the waterworks; or

(j) without the consent of the Authority, does any act whereby the water from any watercourse or waterworks is drawn off or diminished in quantity or wasted; or

(k) wilfully moves, breaks or injures any lock, cock, valve, tap, pipe or other appliance forming part of or used in connection with the waterworks,

shall be guilty of an offence and liable on summary conviction to a fine not exceeding fifteen hundred dollars or to imprisonment for a term not exceeding six months.

(2) In proving interference with the due flow of water from the waterworks or of any watercourse or the pollution thereof, evidence may be given of repeated acts which together caused such interference or pollution, although each act taken by itself may not be sufficient for that purpose.

Selling water an offence.

33. If any person whose premises are supplied with water by the Authority sells to any other person any such water he shall be guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding two months.

Neglect to give notice of want of repair an offence.

34. Any person whose premises are supplied with water by the Authority who suffers any stop-cock, pipe or other waterworks on his premises to be out of repair, without giving notice to the Authority, so that the water supplied to him shall be wasted, shall be guilty of an offence and liable on summary conviction to a fine not exceeding three hundred dollars or to imprisonment for a term not exceeding two months.

Resisting or obstructing etc., an offence.

35. Any person who obstructs, resists, molests or assaults or who assists any person in obstructing, resisting, molesting or assaulting any employee of the Authority or any other person acting under the provisions of this Act shall be liable on summary conviction to a fine not exceeding seven hundred and fifty dollars or to imprisonment for a term not exceeding three months.

Offences by corporations.

36. Where an offence against any of the provisions of this Act or any regulations made thereunder has been committed by a body corporate, every person who at the time of the commission of the offence was a director, general manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised, having regard to the nature of his functions in that capacity and to all the circumstances.

PART V

MISCELLANEOUS

37. (1) The Minister may give to the Authority such directions 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 and the Authority shall give effect to such directions.

Power of Minister to give policy directions.

(2) The Authority shall furnish the Minister with returns, accounts and other information as he may require with respect to the property and activities of the Authority and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

38. (1) Notwithstanding any other provision of this Act, where the Cabinet is satisfied—

Power of Cabinet to act in interest of Antigua and Barbuda.

(a) that there has been failure by the Authority to comply with or to give effect to any direction or requirement of the Minister pursuant to section 37; or

(b) that with respect to any public utility, the Authority is for any reason unable or unwilling to act and that such conduct on the part of the Authority is contrary to the interest of Antigua and Barbuda,

the Cabinet may assume the control and management of such public utility for such period as the Cabinet may deem necessary and may perform all the functions and exercise all the rights, powers and duties appertaining thereto as are vested in the Authority under and by virtue of this Act.

(2) In the exercise of its functions under subsection (1) of this section, Cabinet may delegate any of its rights, powers or duties or issue directions to such public authority, public officer, committee or person as to Cabinet may seem fit in the interests of Antigua and Barbuda.

(3) A notice published in the *Gazette* stating that the Cabinet has acted in pursuance of subsection (1) of this section shall be conclusive evidence of the assumption by the Cabinet of the functions, rights, powers and duties mentioned in that subsection and of the date of such assumption stated

in the notice; and the Cabinet may in like manner by notice published in the *Gazette* specify the termination of any such assumption of control and management and the date thereof.

(4) For the avoidance of doubt, it is hereby expressly declared that the assumption of control and management by the Cabinet as provided for in this section shall be to the exclusion of any other Authority, body or person whatsoever, or their agents; and such exclusion shall continue until the publication of a notice of termination of control and management as provided for in subsection (3) of this section.

(5) This Act shall, for the purposes of this section, be construed with such modifications, adaptations, qualifications and exceptions as may be necessary to bring it into conformity with this section.

Power to bring watercourses within. and to remove watercourses and waterworks from the provisions of this Act and to declare area to be a watershed.

39. The Authority may with the approval of the Minister from time to time by Order published in the *Gazette* and in at least one newspaper circulating in Antigua and Barbuda—

(a) declare that any watercourse shall be subject to the provisions of this Act and thereupon the said provisions shall apply accordingly;

(b) declare that the provisions of this Act shall cease to apply to any watercourse or waterworks and thereupon the said provisions shall cease to apply accordingly;

(c) where in their opinion the drainage or water from any area flows or is conveyed to a watercourse or waterworks, declare that area or any part of that area to be a watershed.

Regulations by Minister.

40. (1) The Minister after consultation with the Authority may make regulations generally for giving effect to the provisions of this Act and, without prejudice to the generality of such power, may make regulations in respect to all or any of the following matters, that is to say—

(a) the methods of determining the charges payable by customers for the consumption or use of public utilities;

(b) the provision and hiring of meters and the charges therefor;

(c) the conditions under which a supply of public utilities may be discontinued, disconnected or stopped;

(d) the inspection of the property, both real and personal, of the Authority;

(e) the charges to be made for connecting to, or installing on, premises public utilities or appliances used or to be used in connection with public utilities;

(f) the system and mode of supply of electricity;

(g) the terms and conditions upon which telephone services and telephones may be used by the public;

(h) the proper working of telephone services, telephone lines, telephones or telephone exchanges or the inspection of premises where telephones exist or may exist;

(i) the erection and use of coin or hire collection telephone instruments;

(j) the cleaning, maintenance, protection and prevention of obstruction of watercourses and watersheds; and

(k) generally for securing the safety of persons and property from injury from shock or fire or otherwise, and the prevention of accidents.

(2) Regulations made under paragraph (j) of subsection (1) may—

(a) authorise any employee of the Authority to cut, fell, or burn any tree or underwood whatsoever growing or that shall grow within a distance of thirty feet of any watercourse or watershed; and

(b) prohibit within a distance of thirty feet from any watercourse or watershed the cultivation of any land or the depasturing or grazing thereon of any livestock.

(3) Any breach of regulations made under this section shall be punishable on summary conviction by a fine not

exceeding one thousand dollars or to imprisonment for a term not exceeding three months.

(4) Regulations made under this section shall be subject to negative resolution of the House of Representatives.

**Regulations by
the Authority.**

41. (1) The Authority may make regulations relating to the following matters—

(a) the methods of making application for a supply of public utilities;

(b) the time, place and manner for the payment of moneys payable under this Act or any regulations made thereunder and the mode of collection;

(c) the fixing and testing of meters;

(d) the protection of the property, both real and personal, of the Authority;

(e) the prevention of the misuse or waste of electrical energy or water and the misuse of telephones;

(f) the conditions under which electrical fixtures and fittings may be installed;

(g) the wiring of buildings and other structures supplied or intended to be supplied with electricity;

(h) the qualifications to be required and the examination and licensing of electricians and wiremen;

(i) the forms of licences to be issued to electricians and wiremen;

(j) the fees to be charged in respect of the examination and licensing of electricians and wiremen;

(k) the prohibition of the installation of any apparatus for the supply of electricity except by licenced electricians and wiremen;

(l) regulating the supply of water to customers;

(m) the prevention of waste, misuse and pollution of water and the securing of the waterworks from injury of any kind;

(n) the sanitary control of watersheds.

(2) Any breach of regulations made under this section shall be punishable on summary conviction by a fine not exceeding three hundred dollars.

(3) Regulations made under this section shall have no force or effect until they have been approved by the House of Representatives and published in the *Gazette*.

42. Notices to be given under this Act or regulations made thereunder shall be in writing. **Notices to be in writing.**

43. (1) A notice or other document required or permitted by this Act or regulations made thereunder to be given to or served on any person may be given to or served on such person personally, or by leaving the same at his usual or last known place of abode or business with some adult person therein, or may be posted in a prepaid letter addressed to such person at his usual last known place of abode or business. **Service of notices and documents.**

(2) Any notice or other document which is to be given to any person as the owner or occupier of any land or other premises may be addressed to him as the "owner" or "occupier", as the case may be, of the land or other premises (naming them) and may be posted in some conspicuous place on the land or other premises or, where the premises are a building, may be left with some adult person in the building:

Provided that service shall not be effected in the manner provided in this subsection if it would be practicable after reasonable inquiry to effect service in any manner provided in subsection (1).

44. Where any matter is by this Act or regulations thereunder directed to be determined by arbitration, such matter shall be determined by a fit and competent person as arbitrator, to be agreed to by the parties to the arbitration, or failing such agreement by the parties, by arbitration in accordance with the provisions of the Arbitration Act. **Arbitration. Cap. 33.**

45. All acts, matters and things whatsoever done or omitted to be done, in good faith, by the Government, the Cabinet, the Public Service Commission, the Minister, any public officer, or any person acting by and with the authority **Validation and Indemnity.**

of the same (hereinafter collectively called the said persons and authorities) between the second day of January 1979 and the twenty-second day of June, 1979, (both days inclusive) affecting, concerning or relating to public utilities or to the Authority or to the officers and employees of the Authority, their appointments, dismissal, conditions of service and otherwise, are hereby declared to be valid for all intents and purposes whatsoever and each and every one of the said persons and authorities liable to be legally proceeded against in respect of or in connection with all or any of the aforesaid acts, matters and things, unlawfully or improperly done or omitted to have been done, are hereby freed, acquitted, discharged and indemnified as well against the Queen's Most Excellent Majesty, Her Heirs and Successors as against all persons whatever, from such liability.

FIRST SCHEDULE Section 3 (2)
& 3 (3).

Appointment of Commissioners.

1. The Authority shall consist of nine persons to be designated Commissioners, appointed by the Governor-General from amongst persons appearing to him to be qualified by reason of having had experience of and shown capacity in matters relating to trade, law, finance, science, administration or labour relations.

Temporary appointments.

2. The Governor-General may appoint any person appearing to him to have the qualifications necessary for appointment under the provisions of paragraph 1, to act temporarily in the place of any Commissioner in the case of the absence or inability to act of such Commissioner.

Chairman.

3. (1) The Governor-General shall appoint one of the Commissioners to be the Chairman of the Authority.

(2) The Chairman shall keep the Minister fully informed concerning the activities and business of the Authority and shall furnish the Minister with such information as the Minister, acting in his discretion, may request with respect to any particular matter relating to the activities and business of the Authority.

(3) The Authority may by instrument in writing direct that subject to such conditions as may be specified in that instrument, such of the functions of the Authority as may be so specified shall

(without prejudice to the performance of those functions by the Authority) be performed by the Chairman.

(4) The Governor-General shall appoint one of the Commissioners to be the Deputy Chairman of the Authority.

(5) In the case of the absence or inability to act of the Chairman the Deputy Chairman shall perform the functions of the Chairman.

(6) In the case of the absence or inability to act of the Chairman and the Deputy Chairman the Governor-General may appoint one of the remaining Commissioners to perform the functions of the Chairman.

(7) In the case of the absence or inability to act at any meeting of both the Chairman and the Deputy Chairman the remaining Commissioners shall elect one of their number to act as Chairman at that meeting.

4. (1) A Commissioner shall, subject to the provisions of **Tenure of office.** this Schedule, hold office for such period being not less than two nor more than five years as may be specified in the instrument appointing him, and shall be eligible for reappointment.

(2) The Governor-General may at any time revoke the appointment of any Commissioners if he thinks it expedient so to do.

5. (1) Any Commissioner, other than the Chairman, may **Resignation.** at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman, and from the date of the receipt by the Governor-General of such instrument such Commissioner shall cease to be a Commissioner of the Authority.

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

6. The names of all Commissioners as first constituted and every change in the membership thereof shall be published in the **Publication of membership.** *Gazette*.

7. Each Commissioner shall make and subscribe an oath **Oath of Commissioner.** before the Governor-General that he will faithfully and to the best

of his ability, discharge the trust and perform the duties devolving upon him as such Commissioner.

**Authentication of
seal and
documents.**

8. (1) The seal of the Authority shall be authenticated by the signatures of the Chairman or one of the Commissioners authorised 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 member authorised to act in that behalf or the General Manager.

**Procedure and
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 Authority shall determine.

(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 two Commissioners.

(3) The Chairman or, in the case of the absence or inability to act of the Chairman, the Deputy Chairman or the Commissioner elected to act as Chairman in accordance with the provisions of sub-paragraph (6) of paragraph 3 shall preside at the meetings of the Authority, and when so presiding the Chairman, Deputy Chairman or the Commissioner elected as aforesaid to act as Chairman, as the case may be, shall have a casting vote only.

(4) The quorum of the Authority shall be five including the Chairman or the Deputy Chairman or the Commissioner elected to act as the Chairman as aforesaid.

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

(6) Minutes in proper form for each meeting shall be kept and shall be confirmed by the Chairman or Deputy Chairman, as the case may be, 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 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, but no such co-opted person shall have any right to vote.

(8) Subject to the provisions of this Schedule the Authority may regulate its own proceedings.

(9) The validity of any proceeding of the Authority 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 Authority or;

(b) of the contravention by a Commissioner of the provisions of paragraph 14; or

(c) of any omission, defect or irregularity not affecting the merits of the case.

10. (1) The Authority may appoint a committee of the Authority 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. **Power of Authority to appoint committees.**

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

(3) Where persons, not being members of the Authority are members of a committee appointed under this paragraph, or where any person is co-opted under the provisions of sub-paragraph (7) of paragraph 9 the Authority 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 Authority may by resolution reject the report of any such committee or adopt it either wholly or with such modifications additions or adaptations as the Authority may think fit.

11. There shall be paid to the Chairman and other Commissioners such remuneration, if any (whether by way of salaries or travelling or other allowances) as the Governor-General may determine. **Remuneration of Commissioners.**

12. The funds of the Authority shall consist of such moneys as may from time to time be placed at its disposition for the purposes of this Act by Parliament and such other moneys as may lawfully be paid to or raised or borrowed by the Authority. **Funds of the Authority.**

Protection of Commissioners.

13. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said member was a servant or agent of the Authority.

Declaration of interest of Commissioner.

14. (1) It is the duty of a Commissioner who is in any way directly or indirectly, interested in any contract or proposed contract with the Authority to declare the nature of his interest at the first meeting of the Authority at which it is practicable for him to do so.

(2) A Commissioner shall not vote in respect of any contract or proposed contract with the Authority in which he is in any way interested, whether directly or indirectly.

Officer of member of Authority not public office for the purposes of Chapter VII of the Constitution.

15. The office of Commissioner shall not be a public office for the purposes of Chapter VII of the Constitution.

SECOND SCHEDULE

Section 3 (4)

Appointment of employees and establishment and maintenance of superannuation schemes.

1. (1) Subject to the provisions of this Act, the Authority may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a General Manager, an accountant and such other employees as may be necessary and proper for the due and efficient administration, management and performance by the Authority of its functions under this Act.

(2) The Authority may, with the approval of and subject to such terms and conditions as may be imposed by the Governor-General, 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 for different classes of employees.

Payment by Authority to Government in respect of emoluments and pensions, etc.

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 be 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. 408.**

(3) The Authority 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 Pensions Act such sum or sums of moneys 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. **Cap. 311.**

(4) In the event of the winding up or dissolution of the Authority any sums of money due under subparagraph (1), (2) or (3) shall rank as preferred debts.
