

OBJECTS AND REASONS

This Bill would establish a Scotland District Authority with responsibility for the management and conservation of the Scotland District and would provide for matters related thereto.

Arrangement of Sections

Section

1. Short title.
2. Interpretation
3. Establishment of the Authority
4. Functions of the Authority
5. Remuneration of members
6. Committees
7. Disclosure of interest
8. Appointment of Director
9. Remuneration of Director
10. Appointment of staff
11. Management plan
12. Strategic development plan
13. Consultation with the public
14. Public enquiry
15. Modification of draft plan

Section (Cont'd)

16. Finalization of plans
17. Plans to be available for inspection
18. Amendment and revision of plans
19. Agencies to have regard to plans
20. Authority to monitor activities
21. Application to determine question
22. Enforcement notice
23. Service of enforcement notice
24. Appeal against enforcement notice
25. Penalties for non-compliance with enforcement notice
26. Execution of work required by enforcement notice
27. Offence relating to obstruction
28. Power to charge fees
29. Scotland District Fund
30. Borrowing power
31. Accounts and audit
32. Report
33. Protection of Authority
34. Pensions
35. Appeal Tribunal.
36. Appeal to Judge in Chambers.
37. Amendment of Schedules.
38. Regulations.
39. Commencement.

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

BARBADOS

A Bill entitled

An Act to establish a Scotland District Authority with responsibility for the management and conservation of the Scotland District and to provide for matters related thereto.

ENACTED by the Parliament of Barbados as follows:

1. This Act may be cited as the *Scotland District Authority Act*, Short title. **2007.**

Interpreta-
tion

2. In this Act,

“enforcement notice” means the notice referred to in section 22;

“Fund” means the Scotland District Fund referred to in section 29;

“management plan” means the plan prepared under section 11;

“member” means a member of the Authority;

“plans” mean the management plan and the strategic development plan;

“Scotland District” or “District” means that area of land situate in the parishes of St. John, St. Joseph, St. Peter, St. Thomas and St. Andrew as described in the *First Schedule*;

First
Schedule.

“Scotland District Authority” or “Authority” means the Authority established under section 3;

“strategic development plan” means the plan prepared under section 12.

“Tribunal” means the Scotland District Appeal Tribunal established under section 35;

Establish-
ment of the
Authority

3. (1) There is established an Authority to be known as the Scotland District Authority.

Second
Schedule.

(2) The *Second Schedule* has effect with respect to the constitution of the Authority and otherwise in relation thereto.

Cap. 1

(3) The Authority is a body corporate to which section 21 of the *Interpretation Act* applies.

4. The functions of the Authority are

Functions
of the
Authority

- (a) to prepare, implement and enforce a management plan for the management and conservation of the physical and other resources of the Scotland District;
- (b) to prepare, implement and enforce a strategic development plan for the regulation of the execution of works or the carrying on of any economic or other activities within the District;
- (c) to preserve the natural beauty of the Scotland District and also any artifacts and buildings of historical and architectural interest;
- (d) to be responsible for the conduct of research within the District to ensure the sustainability of the resources in the District; and
- (e) to promote the development of economic activity within the District.

5. Members of the Authority are eligible for such remuneration whether by way of fees or travelling or other allowances as the Minister may determine.

Remunera-
tion of
members

6. (1) The Authority may appoint committees of its members or other persons to assist with the proper discharge of its functions.

Commit-
tees.

(2) Where a person who is not a member of the Authority is appointed to a committee, the Authority may, with the approval of the Minister, determine the remuneration and allowances to be paid to that person.

Disclosure
of interest.

7. (1) A member of the Authority who holds any office or has any interest whereby, directly or indirectly, his functions under this Act are likely to be in conflict with his personal interests, shall disclose the nature, character and extent of that office or interest to the members at a meeting thereof.

(2) The disclosure referred to under subsection (1) shall be made

(a) in a case where the interest or office is held by the person before he became a member of the Authority, at the first meeting of the members that is held after he becomes a member;

(b) in any other case, at the first meeting of the members of the Authority that is held after the acquisition by the member of that relevant office or interest.

(3) A member of the Authority who has any interest or concern in a company with which the Authority proposes to make a contract or otherwise transact business shall disclose to the Authority the particulars of that interest.

(4) The details of any disclosure made under this section shall be recorded in the minutes taken at the meeting at which the disclosure is made.

(5) A member of the Authority who has made a disclosure under this section shall not take part in any deliberation or discussion of the Authority relating to that contract, business or interest.

8. (1) The Authority shall, with the approval of the Minister, appoint a Director who shall be the chief executive officer of the Authority. Appointment of Director

(2) The Director shall perform the functions conferred on him by this Act and such other functions as may be conferred on him by the Authority.

(3) The Director is subject to the directions of the Authority and responsible to the Authority for the execution of its policy and the management of its affairs.

9. The Authority shall pay the Director such remuneration and allowances as the Minister determines. Remuneration of Director.

10. (1) The Authority may appoint and employ such officers, agents and servants as it considers necessary for the proper carrying into effect of this Act, at such remuneration and on such terms and conditions as the Minister approves in writing. Appointment of staff

(2) Notwithstanding the powers conferred on the Authority by subsection (1), the Authority shall not, without the prior approval of the Minister

(a) assign to any post established by the Authority any salary in excess of such amount *per annum* as the Minister may determine and notify to the Authority in writing; or

(b) appoint any person to a post established by the Authority to which a salary in excess of the amount determined by the Minister under paragraph (a) is assigned.

Management plan.

11. The Authority shall prepare a management plan which shall set out policies, strategies and standards to provide for the management and conservation of the District.

Strategic development plan.

12. The Authority shall prepare a strategic development plan for the regulation of

- (a) the execution of works or the carrying on of any mining, engineering or other operation on land in the Scotland District that in the opinion of the Authority is likely to affect the physical landscape; and
- (b) economic or other activities that may be carried on within the District.

Consultation with the public

13. The Authority shall, as soon as possible after preparing a draft management plan and a draft strategic development plan, publish a notice in the *Official Gazette* and in a daily newspaper, published and circulated in Barbados, stating that such draft plans have been prepared and indicating

- (a) the place at which and the times during which the draft plans may be inspected; and
- (b) the manner in which and the period within which objections and representations in relation to the draft plans may be made by persons who have an interest in the Scotland District.

14. The Authority may hold a public enquiry to present the draft management plan and strategic development plan for discussion and representations.

Public enquiry

15. The Minister shall take into consideration any objections and representations made under sections 13 and 14; and shall make any necessary modification to the draft management plan and the draft strategic development plan after the discussions or consultations.

Modification of draft plan

16. After the management plan and the strategic development plan have been finalized, the Minister shall forthwith publish in the *Official Gazette* and in a daily newspaper printed and published in Barbados a notice stating that the plans have been finalized and indicating a place where, and the time during which, the plans may be inspected.

Finalization of plans

17. The Authority shall at all reasonable times make the plans available for inspection by members of the public on the payment of any fee that may be prescribed.

Plans to be available for inspection.

18. (1) Any substantive amendments made to the management plan and the strategic development plan shall be made in accordance with sections 13 and 14.

Amendment and revision of plans.

(2) The Authority shall conduct a review of the management plan and the strategic development plan at least once in every 5 years.

(3) Sections 13 and 14 shall apply where a review of the management plan and the strategic development plan is conducted.

Agencies to
have regard
to plans

19. (1) Subject to subsection (2), any person or authority exercising any function, whether under an enactment or otherwise that may impact on the conservation and management of any resources in the Scotland District, or that relates to any activity that is regulated under the management plan and the strategic development plan, shall have regard to the management plan and the strategic development plan; and in case of any conflict between those plans and any other scheme or plan, the management plan and the strategic development plan shall take precedence.

Cap. 240.

(2) The Minister and the Chief Town Planner shall have regard to the management plan and the strategic development plan in the exercise of their jurisdictions under the *Town and Country and Planning Act*.

(3) Notwithstanding the provisions of this Act, the management plan and the strategic development plan shall not be construed as authorizing any development that is not permitted under the *Town and Country Planning Act*.

Authority
to monitor
activities

20. The Authority shall take such measures as it thinks fit to monitor the activities being carried on within the Scotland District for the purpose of ensuring that the management plan and the strategic development plan are being complied with.

Application
to deter-
mine
question

21. Where any person proposes to carry out any activity or operation in the Scotland District and that person wishes to have it determined whether the proposed activity or operation would be inconsistent with the management plan or the strategic development plan, that person may apply to the Authority to determine the question.

Enforce-
ment notice

22. (1) Where it appears to the Authority that any activity or operation is being carried on or that any structure has been erected contrary to the management plan or the strategic development plan, the Authority may serve an enforcement notice on the owner and any occupier of the land concerned.

(2) A notice under subsection (1) may also be served on any other person having an interest in the land, where in the opinion of the Authority, that person's interest is materially affected.

(3) An enforcement notice

- (a) shall state in detail the manner in which the management plan or the strategic development plan is not being complied with;
- (b) may require such steps as may be specified in the notice to be taken within a specified period for the purpose of
 - (i) securing compliance with the management plan or the strategic development plan;
 - (ii) restoring the land to which the notice applies; or
 - (iii) requiring the demolition of any structure.

(4) An enforcement notice takes effect on the expiration of 28 days from the date of the service of the notice or such longer period as may be specified in the notice.

(5) Notwithstanding subsection (1), the Authority shall not serve an enforcement notice, requiring the demolition of any structure, after the expiration of 4 years of the execution of any works or the carrying out of any activity or operation contrary to the management plan and the strategic development plan.

23. (1) Subject to subsection (2), an enforcement notice shall be served personally.

Service of
enforce-
ment
notice.

(2) Where personal service of a notice referred to in subsection (1) cannot be effected, whether by reason of the absence of the owner or occupier from Barbados or otherwise, service thereof shall be effected by affixing the notice or a copy thereof to some conspicuous part of the premises.

Appeal
against
enforce-
ment notice

24. (1) Any person who is aggrieved by an enforcement notice issued under section 22 may, at any time before the notice takes effect under subsection (4), of that section, appeal in accordance with this Act to the Scotland District Appeal Tribunal against the order.

(2) Where an appeal is brought under this section, the enforcement notice shall be of no effect pending the final determination or withdrawal of the appeal.

(3) On determination of an appeal under this section, the Tribunal shall give directions for giving effect to its determination, including where appropriate, directions for quashing the enforcement notice to which the appeal relates or for varying the terms of the notice in favour of the appellant.

Penalties
for non-
compliance
with
enforce-
ment
notice.

25. Subject to section 22 (5) and section 24, where an enforcement notice has been served on the person who, at the time when the notice was served on him, was the owner of the land to which it relates, then, if any steps required by the notice to be taken have not been taken within the period allowed for compliance with the notice, that person is guilty of an offence and is liable on summary conviction to a fine of \$5 000, and on indictment to a fine of \$100 000.

Execution
of work
required by
enforce-
ment
notice.

26. Where within the period specified in an enforcement notice for compliance therewith, or within such extended period as the Authority may allow, any steps required by the notice to be taken have not been taken, the Authority or a person authorized by the Authority in writing, may enter upon the land and take those steps; and the Authority may recover as a civil debt from the person who is then the owner of the land any expenses reasonably incurred in that behalf.

27. A person who assaults, obstructs or interferes with any person acting under this Act is guilty of an offence and is liable on summary conviction to a fine of \$5 000 or to imprisonment for 12 months or to both.

Offence relating to obstruction.

28. The Authority may charge such fees as the Minister may prescribe for any service performed by it.

Power to charge fees.

29. There is established a Scotland District Fund which shall comprise

Scotland District Fund.

- (a) such moneys as may be voted for the purpose by Parliament;
- (b) moneys that may accrue from fees or the operations of the Fund;
- (c) such moneys as may be borrowed by the Authority for its purposes; and
- (d) such other moneys as may become available to the Authority from any other source approved by the Minister for the purpose of financing the objectives of the Authority.

(2) The funds of the Authority shall be applied towards discharging the obligations and performing any functions of the Authority under this Act and the regulations.

30. (1) Subject to subsection (2), the Authority may borrow money required by it for meeting any of its obligations or performing any of its functions.

Borrowing power

(2) The power conferred on the Authority by subsection (1) is exercisable only with the approval of the Minister of Finance, and the Authority must stipulate

- (a) the amount and source of the loan; and
- (b) the terms and conditions on which the loan may be effected.

(3) The approval of the Minister of Finance under subsection (2) may either be general or limited to a particular borrowing.

Accounts
and audit

31. (1) The Authority shall, in respect of its functions under this Act, keep proper accounts and adequate financial and other records to the satisfaction of and in accordance with the directions of the Auditor-General or any auditor appointed under subsection (2) for the purpose of auditing the accounts, and shall prepare a statement of accounts in respect of each financial year.

(2) The Authority shall, not later than 3 months after the end of each financial year, submit its accounts for audit to the Auditor-General or to an auditor appointed by the Minister.

(3) The Authority and all other persons concerned with the keeping of its accounts, shall grant to the auditor auditing the accounts under subsection (2), access to all books, documents and cash relating to those accounts, and shall give the auditor on request, all the information within their knowledge in relation to the operation of the Authority.

Report.

32. (1) The Authority shall, not later than 3 months after the end of each financial year, submit to the Minister a report containing

- (a) an account of the activities and transactions of the Authority throughout that financial year, in such detail as the Minister may direct; and
- (b) a statement of the accounts of the Authority for that financial year in accordance with section 31.

(2) A copy of the report referred to in subsection (1), together with a copy of the auditor's report shall be laid in the House of Assembly and the Senate and published in the *Official Gazette* not later than 3 months after those reports are received by the Minister.

33. (1) No action, prosecution or other proceedings shall be brought or instituted against the Authority or any member thereof in respect of any act done *bona fide* in pursuance of, execution of or intended execution of this Act. Protection
of Author-
ity.

(2) No act done or proceedings taken under this Act shall be questioned on the grounds of any omission, defect or irregularity not affecting the merits of the case.

34. (1) The employees of the Authority are entitled to pension in accordance with the provisions of the *Statutory Boards Pensions Act*. Pensions.
Cap. 384.

(2) Where a public officer is seconded from a pensionable office within the meaning of section 2(1) of the *Pensions Act* to perform any service with the Authority, his service with the Authority shall, unless the Governor-General otherwise decides, count for pension under that Act as if the officer had not been so seconded.

(3) Where

(a) a public officer is transferred to an office in service of the Authority; or

(b) an officer of the Authority is transferred or seconded to an office in the public service,

the *Pensions Act* shall apply to him as if his service with the Authority were other public service within the meaning of that Act, and the *Pensions Regulations, 1947* shall apply to him accordingly. L.N. 20/
1947

(4) Where a public officer is transferred to the service of the Authority in accordance with this section, the Authority shall refund to the Consolidated Fund all moneys payable as pension in respect of the service of that officer with the Authority.

- Appeal Tribunal. **35.** (1) There is established a Scotland District Appeal Tribunal.
- (2) Any person who is aggrieved by a decision of the Authority under this Act may appeal to the Scotland District Appeal Tribunal within such time and on such grounds as may be prescribed.
- Third Schedule. (3) The *Third Schedule* shall have effect with respect to the constitution and procedure of the Tribunal and otherwise in relation thereto.
- (4) The members of the Scotland District Appeal Tribunal shall be paid such remuneration as may be fixed by the Minister.
- (5) A notice of appeal shall, as far as possible, state the precise grounds for appeal.
- Appeal to Judge in Chambers. **36.** An appellant under this Act or the Authority, as the case may be, may appeal to a Judge in chambers from a decision of the Scotland District Appeal Tribunal within such time and on such grounds as may be prescribed.
- Amendment of Schedules. **37.** The Minister may by order amend the Schedules to this Act.
- Regulations. **38.** The Authority may, subject to the approval of the Minister, make regulations
- (a) to provide for the procedure for appeals under this Act;
- (b) to provide for fees and any other matters required to be provided for by this Act; and
- (c) generally for the efficient operation of this Act.
- Commencement. **39.** This Act shall come into operation on a date to be fixed by proclamation.

FIRST SCHEDULE

*(Section 2)**Scotland District Area*

For the purposes of this Act, the Scotland District is presumed to be contained within the boundary line between the parishes of St. Andrew and St. Peter beginning at a point on the seashore near Pica Teneriffe continuing on the same boundary line to the point where the boundary line between the parishes of St. Peter and St. James meets it; continuing on the boundary line between the parishes of St. James and St. Andrew to the point where the boundary line between the parishes of St. James and St. Thomas meets it; continuing along the boundary line between the parishes of St. Andrew and St. Thomas to Highclere and thence along the public highway from Highclere to Canefield, to Carrington's Village, to Bloomsbury, to Chimborazo, to Castle Grant; thence by a line from Castle Grant to the top of Horse Hill; thence by a line following the limestone escarpment known as Hackletons Cliff to St. John's Church, Coach Hill, Codrington High School, Stewart Hill and then along the boundary line between the parishes of St. John and St. Philip to the point where it meets the sea south of Consett Point and then following the seashore northwards to the point (the starting point) where the boundary line between the parishes of St. Peter and St. Andrew meets the sea south of Pica Teneriffe.

SECOND SCHEDULE

*(Section 3)**Scotland District Authority*Constitu-
tion and
appoint-
ment

1. (1) The Scotland District Authority shall consist of 10 members who shall be appointed by the Minister by instrument in writing as follows:

- (a) one person as a representative of the Ministry of Agriculture and Rural Development;
- (b) one person as a representative of the Ministry of Tourism and International Transport;
- (c) one person as a representative of the Ministry of Public Works;
- (d) one person as a representative of the Ministry of Housing and Lands;
- (e) one person as a representative of the Ministry responsible for the Environment;
- (f) one person as a representative of the Town Planning Department;
- (g) one person as a representative of the Barbados Water Authority;
- (h) one person who is a member of a community based organization operating in the District; and
- (i) two persons who, in the opinion of the Minister, would best represent the economic, social and other interests of persons living in the Scotland District.

(2) the Minister shall appoint a member of the Authority to be Chairman and another member of the Authority to be Deputy Chairman.

2. (1) Subject to paragraphs 4 and 5, a member shall hold office for such period, not being less than 5 years, as the Minister may specify in the instrument of appointment. Tenure.

(2) A person who is appointed to fill a vacancy created by the death, resignation or removal from office of a former member, shall hold office only for the unexpired portion of the term of that former member.

(3) Every member is eligible for re-appointment for a further term on the expiration of the term of his appointment.

3. The Minister may in writing grant leave of absence to a member; and in the case of the inability of any member to act, the Minister may appoint a person to act temporarily in the place of that member. Temporary appointment.

4. (1) A member other than the Chairman may resign his office by instrument in writing addressed to the Minister, transmitted through the Chairman, and from the date of the receipt of the instrument by the Minister, that member ceases to be a member of the Authority, unless some other date is mentioned in the instrument. Resignation.

(2) The Chairman may, at any time by instrument in writing addressed to the Minister, resign his office, and from the date of the receipt of the instrument by the Minister, the Chairman ceases to be Chairman unless some other date is mentioned in the instrument; and the Chairman shall also cease to be a member of the Authority where the instrument so specifies.

Revocation
of appoint-
ment.

5. (1) The Minister may by instrument in writing, revoke the appointment of the Chairman, Deputy Chairman or any other member if he is satisfied that the person,

- (a) is incapacitated physically or mentally to such an extent as to impair his ability to perform his duties, or is otherwise unable or unfit to perform his duties;
- (b) is bankrupt or compounds with or suspends payment to his creditors; or
- (c) is guilty of serious misconduct in relation to his duties under this Act.

(2) A vacancy shall be deemed to arise in the membership of the Authority in case of

- (a) the death or resignation of a member;
- (b) the absence of a member without leave of the Authority from 3 or more consecutive ordinary meetings of the Authority.

Notices to
be pub-
lished.

6. (1) The appointment and cessation of appointment of the Chairman or a member shall be published in the *Official Gazette*.

7. (1) The Authority shall meet at such times as it considers necessary Meetings. for the transaction of the business of the Authority; but shall meet at least 4 times a year.

(2) The Chairman shall preside at meetings of the Authority and in the case of the absence of the Chairman, the Deputy Chairman shall preside.

(3) Where neither the Chairman nor the Deputy Chairman is present, the members present and constituting a quorum may elect a Chairman from among the members present who shall preside at that meeting.

(4) The Chairman, or if he is for any reason whatsoever unable to act, the Deputy Chairman may at any time call a special meeting of the Authority and shall call a special meeting within 7 days of the receipt by him of a requisition for that purpose addressed to him in writing by any 3 members.

8. The decisions of the Authority shall be by a majority of votes and Decisions. in the event of an equality of votes, the Chairman has a casting vote.

9. (1) All decisions made by the Authority and all documents of the Authority shall be signed by the Chairman, the Deputy Chairman or any other person authorised to act as Chairman. Signature and seal.

(2) The seal of the Authority shall be kept in the custody of the Chairman or such other member as the Authority may approve, and may be affixed to documents or instruments in the presence of the Chairman and the Secretary to the Authority.

(3) The seal of the Authority shall be authenticated by the signature of the Chairman or Deputy Chairman and the Secretary to the Authority.

- Quorum.** **10.** The quorum shall consist of 5 members including
- (a) the Chairman;
 - (b) in the absence of the Chairman, the Deputy Chairman; and
 - (c) in the absence of both the Chairman and the Deputy Chairman, any person appointed to act as Chairman.
- Minutes.** **11.** Minutes of each meeting shall be kept in proper form by the Secretary or such other person as the Authority may appoint for the purpose; and shall be confirmed in writing at the next meeting.
- Procedure.** **12.** Subject to the provisions of this Act, the Authority may regulate its own proceedings.

THIRD SCHEDULE

(Section 35)

Scotland District Appeal Tribunal

1. (1) The Scotland District Appeal Tribunal shall consist of 3 persons who shall be appointed by the Minister by instrument in writing for a period of not more than three years.

(2) The Minister shall appoint an attorney-at-law of at least 10 years standing or a person who has held high judicial office to be the Chairman.

(3) The members of the Tribunal are eligible for re-appointment.

2. A member may at any time resign his membership by notice in writing addressed to the Minister.

3. (1) If the Minister is satisfied that a member

(a) is incapacitated by physical or mental illness; or

(b) is otherwise unable or unfit to discharge the functions of a member,

the Minister may by notice published in the *Gazette*, declare the office of the member to be vacant and, thereupon, the office shall become vacant.

(2) In case of the temporary absence or inability of a member to act, the Minister may by notice published in the *Gazette*, appoint a suitable person to act in that member's place.

4. The Minister shall publish in the *Gazette*, notice of the appointment and cessation of appointment of a member.

5. The Tribunal may, at the discretion of the Chairman, sit in private where it appears expedient that the Tribunal should do so.

6. The validity of any proceedings of the Tribunal shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

7. The Tribunal shall set the place, date and time for the hearing of the appeal and shall notify the appellant and the Authority of that place, date and time at least 7 days before the date set for the hearing.

8. (1) In the hearing and determination of any matter before it, the Tribunal may act without regard to technicalities and legal form and shall not be bound to follow the rules of evidence stipulated in the *Evidence Act*; but the Tribunal may inform itself on any matter in such manner as it thinks just and may take into account opinion evidence and such facts as it considers relevant and material, but in any such case, the parties to the proceedings shall be given the opportunity, if they so desire, of adducing evidence.

Cap. 121.

(2) The parties to the proceedings shall be entitled to appear in person or may be assisted in the preparation of their respective cases by counsel or by a duly authorised representative, but the Tribunal shall not award costs to any party to a proceeding before the Tribunal other than sums in respect of the reasonable costs incurred in any one or more of the following:

- (a) the filing of documents;
- (b) the obtaining of any expert report;
- (c) the enforcement of an award of the Tribunal;

and any such award of costs shall be in the discretion of the Tribunal.

9. Subject to this *Schedule*, the Tribunal shall regulate its own procedure and may make rules for that purpose.

10. Without prejudice to the generality of paragraph 9, the Tribunal, as respecting the attendance and examination of witnesses, the production and inspection of documents and all other matters necessary for the exercise of its jurisdiction, shall have all such powers as are vested in a magistrate's court in an action in that court.