

PARLIAMENT
Bridgetown



REPORT

OF THE

JOINT SELECT COMMITTEE

(STANDING)

ON THE

SOCIAL SECTOR

AND THE ENVIRONMENT

ON THE

HEALTH SERVICES (AMENDMENT) BILL,

2024

AND THE

PROPOSED HEALTH SERVICES

REGULATIONS, 2024

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THE HEALTH SERVICES (AMENDMENT) BILL, 2024
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THE PROPOSED HEALTH SERVICES (NUISANCES)
REGULATIONS, 2024**

1. On Tuesday, July 23rd, 2024 the Honourable The House of Assembly referred to the Joint Select Committee (Standing) on the Social Sector and the Environment (**hereafter referred to as “the Committee”**) to deliberate and report thereon, the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024.

2. The Committee’s membership is as follows:
 - Ms. Toni N. S.-A. Moore, J.P., M.P. (Chairman)
 - Miss Cynthia Y. Forde, J.P., M.P.
 - Mr. Trevor A. Prescod, J.P., M.P.
 - Hon. Corey A. Lane, J.P., M.P.
 - Senator John A. King (Deputy Chairman)
 - Senator Rev. Canon Dr. John A. Rogers, PhD
 - Senator André R. Worrell, J.P., B.A.

3. ***The Health Services (Amendment) Bill, 2024***
A Bill to amend the Health Services Act, Cap. 44 to: -

- (a) make provision for administrative penalties; and
- (b) revise the provisions concerning the removal and sanitary disposal of offensive matter.

And

The proposed Health Services (Nuisances) Regulations, 2024

Regulations to be made by the Minister, in exercise of the powers conferred on him by section 10(1)(f) of the Health Services Act.

- 4. By Round Robin of Friday, September 20th, 2024 all the members of the Committee agreed to the following Terms of Reference of the Bill and the proposed Health Services (Nuisances) Regulations, 2024 as follows:
 - 1. To enquire into and determine whether the Bill as drafted makes adequate provisions for administrative penalties for breaches in relation to the Health Services Act, Cap. 44 and the proposed Health Services (Nuisances) Regulations, 2024.
 - 2. To examine whether the administrative penalties imposed in the Bill and the proposed Regulations as drafted are disproportionate and or/unreasonable in any way.
 - 3. To consider whether the Bill and the proposed Regulations as drafted will be effective in the revision of the provisions concerning maintaining lands and buildings in a sanitary and safe state for the promotion and preservation of the Health of the inhabitants of Barbados.
 - 4. To examine whether the Bill and the proposed Regulations as drafted offer effective enforcement procedures to ensure compliance with the provisions of the Bill.
 - 5. To recommend changes, if deemed necessary, to the Bill and proposed Regulations as drafted for further consideration by the Chief Parliamentary Counsel.
 - 6. To report to the Honourable the House of Assembly on completion of the Committee's deliberations no later than three (3) months from the date of referral, i.e.,

Tuesday, July 23rd, 2024. This timeline was consequently subject to the provision of Standing Order 62(5) of the Honourable House of Assembly.

5. The Committee has the honour to report as follows:

The Committee scheduled and held meetings on the following dates:

- (i) Tuesday, October 1st, 2024;
- (ii) Thursday, October 17th, 2024;
- (iii) Thursday, October 31st, 2024;
- (iv) Thursday, November 7th, 2024; and
- (v) Friday, December 13th, 2024

6. The Minutes of the meetings are appended hereto and marked ‘**A1 to A5**’ respectively and form part of this report.

7. All the meetings were held at the Parliament Buildings, Bridgetown.

8. Copies of the Health Services (Amendment) Bill, 2024 (HSAB, 2024), and the proposed Health Services (Nuisances) Regulations, 2024 (HSNR, 2024) are appended hereto and marked “**B1**” and “**B2**” respectively. The principal legislation, the Health Services Act, Cap. 44 (Cap. 44) is also appended hereto and marked “**B3**”.

9. The Committee in keeping with its parliamentary practice issued a Press Release inviting and encouraging the public whether as organisations, interest groups, individuals, community-groups, official and unofficial bodies with special interest and generally anyone who may assist with its work to submit written submissions setting out their views and comments on the issues or to make oral submissions.

10. The Committee invited submissions from the following organisations, interest groups, individuals, community-groups, and official and unofficial bodies:

- Association of Freighters

- Audit Firms: -
 - Barbados Audit Office
 - Grant Thornton Barbados
 - PriceWaterhouseCoopers (PwC) Barbados
 - Nexa Financial Services
- Barbados Agricultural Management Company (Inc.)
- Barbados Agricultural Society (BAS)
- Barbados Black Belly Sheep Farmers Association
- Barbados Dairy and Beef Producers Association
- Barbados Egg and Poultry Producers Association
- Barbados Pig Farms Cooperative Society Ltd.
- Barbados Association of Professional Engineers(BAPE)
- Barbados Bar Association
- The Barbados National Trust
- The Barbados Natural Heritage Department
- The Barbados Red Cross
- Barbados Revenue Authority (BRA)
- Barbados Water Authority
- Chief Environmental Health Officer, Ministry of the Environment and National Beautification
- Coastal Zone Management Unit
- The Community Development Department
- Green Nation Community Group
- The Bajan Tree Planting Project
- Division of Youth Affairs, Ministry of Youth, Sports and Community Empowerment
- Drainage Division, Senior Technical Officer
- Future Centre Trust
- Head of the Vehicle Maintenance Facility Operators
- Recycling Brokers: -

- B's Recycling
- Scrap Man
- Sanitation Services Authority
- Sustainable Barbados Recycling Centre (SBRC) Inc.
- Wastewater Treatment Plants Operator: -
 - Ecohesion Inc.
- Waste Haulers' Association: -
 - Garbage Master Ltd.
 - José Y José Liquid & Solid Waste Management Inc.
 - RPI Recycling Preparation Inc.
- Machine/Equipment Technicians: -
 - Electric Sales and Service Ltd.
 - TMR Sales and Services Ltd.
 - Vision Equipment Supply
- Present and past Students who wrote the CAPE Examination on Environmental Science: -
 - The Barbados Community College
 - Ministry of Education, Technological and Vocational Training

11. The Committee decided that written submissions should reach the office of the Clerk of Parliament no later than Friday, October, 11th, 2024. Subsequently, the Barbados Bar Association was granted an extension of the deadline to submit a written submission no later than Thursday, October 24th, 2024. An extension of the deadline was also granted to Mr. Anderson Cherry, Managing Director of José Y José Group of Companies and Chairman of the Waste Haulers' Association; and Team.

12. The Committee decided that in relation to the oral presentations each presenter would present for fifteen (15) minutes followed by a thirty (30) minute question and answer session. For expediency, one-hour time blocks were provided to separate each presenter.

13. Technical legal support was provided by Mr. Shaquille Newton, Parliamentary Counsel (Ag.), Chief Parliament Counsel's office (CPC) who first made a presentation of the HSAB, 2024 and the proposed HSNR, 2024. He explained the amendments contained in the HSAB, 2024 Clause by Clause and the Schedule thereto and also the Regulations and the Schedules of the proposed HSNR, 2024. *(See PowerPoint Presentation appended hereto and marked "C1")*

14. Other technical support was also provided by the Hon. Davidson I. Ishmael, M.P., Minister of State and Mr. Ronald Chapman, Chief Environmental Health Officer (Ag.), the Ministry of Health and Wellness; and Mr. Anthony Headley, Director, Ms. Lisa Senhouse, Deputy Director, and Mr. Andrew Deane, Chief Buildings Development Office, the Environmental Protection Department (EPD).

15. **WRITTEN SUBMISSIONS**

Written submissions were received from the following organisations/persons:

1. Mr. Mark Durant
2. Ms. Shaunelle Bryan
3. Mrs. Ruth McClean
4. Mrs. Christine Toppin-Allahar, Attorney-at-Law
5. The Barbados Bar Association
6. Mr. Anderson Cherry, Managing Director of José Y José Group of Companies and Chairman of the Waste Haulers' Association and Team

The written submissions are appended hereto and marked "D1 – D6" and form part of this report.

16. The Committee deliberated on the following written submissions:

- a) **Mr. Mark Durant of 10 Blackmans, St. Joseph:** *(transcript follows)*

Mr. Mark Durant addressed his concerns based on the proposed HSNR, 2024 and was mainly concerned with agricultural hazards.

Mr. Durant recognised the important role that the regulations would play in maintaining public health and safety. He was concerned that the legislation would need to adapt to address specific environmental hazards posed by agricultural practices.

He also emphasised the need to address the contamination of ground and water supplies. One such amendment was to include regulations to address the nuisances created by the agricultural practices, particularly those involving the application of pesticides.

Though the concerns raised by Mr. Durant were valid, Mr. Shaquille Newton, Parliamentary Counsel (Ag.) informed the Committee that the regulations were designed to address matters primarily of public health but would be better addressed under other pieces of legislation such as the Marine Pollution Control Act, Cap. 392A.

Mr. Newton added the following:

“... in this instance, it is not the tidiest fit to seek to address exhaustive matters of chemicals and pesticides, under these particular regulations. There are other mechanisms which whereby these can be addressed.”

Hon. Corey A. Lane queried whether Government could regulate spray paint and pesticides which he agreed was a public health concern. Mr. Newton’s response was that these issues were matters of policy and would have to be determined by the policymakers and after further consideration, would be crystallised in a Cabinet Paper and then instructions given to CPC.

Mr. Durant's' submission generated further discussion causing Mr. Newton to further examine the General nuisances, Regulation 4 more carefully. It was agreed by the Committee that CPC would take note to strengthen the language at Regulation 4.(1):

"For the purposes of these Regulations, on any premises the following are deemed to be nuisances ...:

Sub-regulation "(c) the existence of any condition, matter or thing which in the opinion of an officer provides or may provide food or harbourage or acts as a breeding place for ...".

The words "*which in the opinion of an officer*" should be amended and substituted with the words, "*... which in the professional assessment of the officer...*"

b) Ms. Shaunelle Bryan: (transcript follows)

Ms. Shaunelle Bryan's submission was brief and it was in relation to the proposed HSNR, 2024 where she addressed the issue of the Administrative Penalties as contained in the *First Schedule*. Ms. Bryan argued that the payment of \$300.00 every two (2) to three (3) weeks to cut the grass at the level of two feet pursuant to Regulation 4(1)(d) was too harsh and unreasonable as most persons were poor. She further submitted that generally overgrown lots were five (5) feet high.

The Committee agreed that after the examination of the proposed HSNR, 2024 that this area of concern raised by Ms. Bryan was covered under the said regulations. It was evident that if there was any hardship and other concerns being experienced, the person could seek recourse through the Relief Board.

Mr. Newton stressed that the fines placed within the regulations were within the realm of policy and that the administrative penalties must be strong enough to serve as a deterrent.

c) **Mrs. Ruth McClean:** *(transcript follows)*

Mrs. Ruth McClean's submissions were based on the HSAB, 2024 and the proposed HSNR, 2024.

Mrs. McClean submitted that the twenty-one (21) days' notice as provided for under Regulation 8.(2) was too short and recommended at least forty-five (45) days. According to her, this extended time period would give a property owner sufficient time to arrange for their property to be de-bushed or cleared of rubbish that has been illegally dumped on their property.

Senator John A. King suggested that a time period of twenty-eight (28) days could be considered to give the person the opportunity and enough time to get the land cleared.

Mr. Newton explained that that time period of twenty-one 21 days was perceived as an adequate period of notice by the EPD.

Another of Mrs. McClean's concerns was that the draft Regulations were vague and did not define the word '*hardship*' or provide any examples of such a '*hardship*'. Madam Chairman opined that there may be consideration given for a definition of hardship so that it would not be left "*open-ended*".

Mr. Newton stated that:

"the reason why '*hardship*' is left open-ended is because that in Regulation 5.(2) it states:

"an owner or occupier may be exempted on the grounds of hardship."

Further, Sub-regulation 5.(3) states:

“an application made pursuant to paragraph (2) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application.”

He explained:

“Sub-regulations 5.(2) and 5(3) must be read in conjunction. What the effect is, is to give the Relief Board a discretion of whether to grant exemptions and it would be quite difficult and maybe not the best legislative approach to try to define hardship in a narrow context because you cannot possibly car to every situation that may arise.”

An important query raised by Mrs. McClean was when will the daily ten dollars (\$10.00) penalty for a property owner who fails to comply with the Contravention Notice (CN) begin or how will the penalty cease to operate?

Mr. Newton explained that the daily \$10.00 penalty as set out in the *Second Schedule* of the proposed HSNR, 2024 starts at the non-response to the CN which triggers the dated Administrative Penalty Notice (APN). This signals a continuing offence and begins to run and start to incur penalties up until the date specified in the said APN.

The Chairman put the question to the Committee to decide whether Mrs. McClean’s written submission should be followed up with an oral submission so that there could be further and meaningful discussions surrounding her issues and concerns raised. The Committee agreed that she should be invited to make an oral presentation.

Subsequently, several attempts were made by the Journal Department to contact Mrs. McClean *via* email which were unsuccessful.

d) Mrs. Christine Toppin-Allahar, Attorney-at-Law: *(transcript follows)*

Mrs. Christine Toppin-Allahar's written submission was with regard to the HSAB, 2024 and the proposed HSNR, 2024.

Mrs. Toppin-Allahar submitted that she was generally *"supportive of the introduction of provisions for the imposition of administrative penalties for contravention of regulations made under section 10(1)(f) of [Cap. 44] by means of the amendment of the parent Act by section 4 of the Amendment Act."*

Section 10.(1) of Cap. 44 states that:

"The Minister may, subject to negative resolution, make regulations for the proper carrying into effect of this Act, and in particular may make regulations..."

Further, Sub-section (f) states that:

"for the prevention, abatement or removal of nuisances and insanitary conditions on premises:"

Clause 4 of the HSAB, 2024 states that:

"Section (10)(1) of the principal Act is amended by inserting immediately after paragraph (y) of the following paragraph:

"(y.1) annexing to the contravention of or failure to comply with regulations made under section 10(1)(f) of the Health Services Act, Cap. 44 an administrative penalty."

She pointed out that though provisions had been made in PART III of the proposed HSNR, 2024 for the introduction of Administrative penalties for statutory nuisances as

well as for the recovery of such penalties there were no provisions with respect to service of the CN and APN under Regulations 8.(1) and 9.(1). The manner of service of notices was only addressed under Cap. 44. She recommended that this needs to be rectified. She also proposed that Regulation 9.(3) should be amended to provide that the penalty is payable “within 30 days of service of the administrative notice” as, depending on the means of service effected, the person liable to pay it may not be notified of the imposition of the penalty within 30 days of issuance of the notice.

As this issue was previously raised, it was reiterated that with the CN, the penalty will only occur after the CN was received and not acted upon.

She criticised the amendments to Cap. 44 by submitting that there were limited to the changes necessary to enable the incorporation of the administrative penalties into the proposed HSNR, 2024. She believed that Cap. 44 was in need of revision to make it fit for purpose in this twenty first century. This is within the context of the contemporary role of environmental laws for the regulation that some matters which have traditionally fallen within the ambit of public health.

She further criticized the general enforcement of a suite of Regulations made under Cap. 44 which the EPD now has the responsibility for and which is no longer within the MHW. Additionally, she made reference to Section 9.(1) of Cap. 44 which provides that:

“Except as the Minister may otherwise direct, the Chief Medical Officer shall discharge the functions conferred on the Minister under this Act, and every Medical Officer of Health, Public Health Inspector or other public health officer shall discharge functions under this Act as directed by the Minister or the Chief Medical Officer, and in so doing shall be deemed to be acting under the authority of the Act.”

She submitted that pursuant to aforementioned section 9, those officials are empowered to exercise the powers conferred on the Minister of Health and Wellness to delegate

specific powers and functions to various Boards, Committees and even officers. However, she was unable to find any legal provision in the Bill which would allow the EPD to administer regulations made under the parent Act.

In conclusion, it was agreed that Mrs. Toppin-Allahar should be invited to appear before the Committee to make an oral presentation so that there could be further discussion and examination of the issues and concerns which she raised.

Mrs. Toppin-Allahar's submissions were further deliberated on her subsequent oral presentation which was lived streamed on October 24th, 2024.

17. **ORAL PRESENTATIONS:**

1. **Mrs. Christine Toppin-Allahar, Attorney-at-Law** in her oral presentation (*transcript follows*) informed the Committee that she is a former Lecturer in Caribbean and International Environmental Law at the University of the West Indies, Cave Hill Campus and a practicing Consultant in Environmental Law.

Mrs. Toppin-Allahar in her presentation stated that the language and the defined terms used by the drafters in the HSAB, 2024 and the proposed HSNR, 2024 were archaic and Victorian in nature. She mentioned that there is a tremendous gap in environmental management law in Barbados and opined that there is no proper framework of Integrated Environmental Law.

She submitted that one critical health issue which was being addressed in the new Physical Development Plan approved by Parliament and Gazetted in December 2023 was a new program of action for groundwater protection. In this situation, the public health authorities are in charge of the disposal of waste under the regulations made under the Act.

Another critical issue was that the Environmental Engineering Department in the Ministry of Health and Wellness was morphed into the EPD and it lacked a proper piece of legislation vesting them with the necessary jurisdiction. EPD is still governed by Cap. 44 which she believed is not the proper jurisdiction. She explained that persons are working under the Minister of Health and Wellness but the EPD is operating under the Ministry of Environment and National Beautification which needs to be rectified.

She concluded that she did not have any objections to the HSAB, 2024 but suggested that there is a need for more radical revision particularly to modernizing the proposed HSNR, 2024.

In response to Mrs. Toppin-Allahar's view that the language and defined terms in the legislation were archaic, Mr. Newton reminded the Committee that HSAB, 2024 is an amended Bill and not a new Act. Generally, there is no use of new terminology to incorporate into a Bill that has existing old terminology. He further stated thus:

"It is also important to remember that since this is not a new Act and there are also going to be other amendments to the Health Services Act which are currently being undertaken; it was important that the legislative approach be consistent and those were in keeping with instructions."

Ms. Lisa Senhouse, Deputy Director, EPD agreed that there is a need for proper environmental legislation. This prompted a further discussion on EPD's powers in utilizing the provisions within Cap. 44. Mrs. Toppin-Allahar reminded the Committee of Section 9 of Cap. 44 as previously mentioned above. This section enables the Minister to make certain appointments or powers of delegation. She stated that:

“Clearly, it does not seem to me to enable the Minister to go outside the Ministry to what I would call a stranger in law.”

Mr. Newton proposed to the Committee a solution for the apparent discrepancy within the legislation regarding the word ‘Minister’. He made reference to the Interpretation Act, Cap. 1 which generally governs the use of the word ‘Minister’.

He explained:

“It is normal in the course of things not to define the term ‘Minister’ so that these matters can be worked out administratively. What has happened here is that ‘Minister’ has indeed been defined to mean ‘Minister of Health’. I can write a more fulsome opinion on this matter in due course but a solution that is possible right now could be the removal of the specificity to the reference of the ‘Minister’ in the legislation and that the Interpretation Act then can govern the term ‘Minister’. And that should provide some, no, it will provide a solution to allow for these matters to be worked out administratively for the time being.”

Mrs. Toppin-Allahar added that she recognised that one of the crucial aspects which the legislation is trying to transform is the enforcement mechanisms by using the APN in place of prosecutions for a summary offence because of the clogged process of the Magistrate’s Court system.

She explained that the remedy as provided within the provision of the HSAB, 2024 is that if you do not pay the penalty instead of going to the Magistrate’s Court it will be included on the person’s Land Tax Bill. She believed that this policy was very circuitous and was querying whether an appeal would be imminent under Cap. 44 or under the Land Tax Act, Cap. 78A?

One notable alternative to the enforcement of the law that was put forward by Mrs. Toppin-Allahar for the enforcement of the law was a 'Fixed Penalty Notice' similar to the traffic ticket for environmental offences. She however rationalised that the main objective is to avoid having to prosecute such matters in the Magistrate's Court but was concerned that the Government would receive a lot of 'blow-back' if the administrative penalty was included on the Land Tax Bill.

Madam Chairman asked for clarification with regard to the perceived 'blow-back' from applying the penalties to the Land Tax Bill. She wanted to know whether the alternative was to use a ticketing system similar to what was done with the Town and Country Planning legislation?

Mrs. Toppin-Allahar informed the Committee that though she mentioned this particular alternative she believed that enforcing that type of law in the Caribbean is very problematic. However, she explained that no new tickets had been issued under the new Planning and Development Act, no. 5 of 2019 because the regulations for the Act had not been written to-date.

Mr. Newton advised that in relation to the setting up of administrative penalties, the Fixed Penalty Notice (FPN) as was done with the Planning and Development Act was considered and could have been used as a mechanism. However, it was felt that the administrative penalty was more applicable in the circumstances.

More importantly, he further pointed out that:

“. . . the administrative penalty notice does not automatically kick in. There is the provision for the contravention notice at Regulation eight (8), where it was felt that given this mechanism, it gave persons an opportunity to actually remedy the breach first.

“In relation to the point about the imposition of the administrative penalty when it remains unpaid on Land Tax Bills; we felt that this was the best

approach because in relation to these matters of public health and keeping your properties clean, these are all things which have a natural nexus with the land tax. That is why this approach was taken . . .”

2. Barbados Bar Association Oral Presentation: (transcript follows)

The Barbados Bar Association was represented by Mrs. Kaye Williams, President.

Mrs. Kaye Williams informed the Committee that since the enactment of Cap. 44 in 1969, the Act and the Regulations were cumulatively amended fifty-seven (57) times. She stated that after 55 years, the Act had served Barbadians well and she believed that it was still relevant. However, she queried whether the time was ripe for reform of Cap. 44 and did it meet the needs of modern Barbados? Do we need to create a policy paper? to rethink, relook and reshape?

She profoundly stated:

“We have gone past the post-colonial phase where we had a lot of law reform and have a good history of that kind of law reform; post-colonial law reform and post-Independence law reform. Now, that we are our own; we are a Republic, having transitioned from a Constitutional Monarchy onto a Republic status. What does modern Barbados require?...

“Given the extensive nature of the various regulations, how would we want to shape it going forward? How would you want the Act to still have force but still allow the main actors, such as the Chief Medical Officer (CMO) and the Public Health Officers to be able consistently to have edicts thrown out there to which people have to comply but yet you still have a holistic piece of legislation you can look to.”

Mrs. Williams raised the issue of the collection of the penalties and the administrative fees which are due to the State, in civil proceedings. These will be collected in the Magistrate's Court where the Cap or ceiling is \$10,000.00.

She further submitted that with the amendment, the penalties and fees owing are going to be a charge on the land and added to the Land Tax Bill. In this case, she explained that some challenges maybe encountered and that person's rights would be infringed. She proposed to the Committee that they may want to consider maintaining the debt recovery in the Magistrate's Court or consolidating everything in the High Court.

In relation to the Amendment made at Clause 5 which makes amendments to section 11A of Cap. 44. which states:

“(1) Subject to this section and section 11B, where property is in a dangerous state or is injurious to the health of human beings, animals or plants the Minister may take possession of such property and execute any work that is reasonably necessary, and after the expiration of 42 days or such period as the High Court after hearing an appeal under section 11B orders, the Minister may direct that the property be sold by public auction for the recovery of the debts due to the Crown (the State) in respect of any work so executed.”

With regard to the expiration of the forty-two (42) days' notice she stated that with the administrative penalty being attached to the Land Tax Bill the owner may have had some challenges or may not have been served with the notice during that period. As a consequence, thereafter, the Minister may direct the property to be sold by a public auction.

She put it to the Committee that if the property is sold by a public auction which would involve appeals for relief being made to the High Court or for an appeal

from any decision of the Relief Board; then there is still the factor that debt recovery is available in the Magistrate's Court. She stressed that this may not be efficient and queried whether the purpose of the amendment was to foster compliance or was it to be punitive in a modern Barbados in 2024. She suggested that further consideration should be given to the underlying policy governing this particular amendment.

Another issue raised by her was that of the time-frame as addressed in Clause 6 which makes amendment to the Repeal and replace of section 11B of Cap. 44:

"11B.(1) The owner or occupier of the property upon which work is executed by the Minister may within 42 days after receipt of the demand for repayment of costs ... appeal to a Judge in chambers against the costs of any such work.

"(2) The owner or occupier of any property upon which an administrative penalty is imposed... may within 14 days of receipt of an administrative penalty notice appeal to the Relief Board."

Mrs. Williams recommended to the Committee that the period of fourteen (14) days to appeal to the Relief Board be increased to twenty-eight (28) days because 14 days is a very short time for the average person.

At this stage of her presentation, she addressed the concerns pertaining to the proposed HSNR, 2024. She commented that the General Nuisances under Regulation 4.(1) were very specific and it was an exhaustive list. She however believed that there should be a 'catch-all' provision that allowed for a discretion to determine what is a nuisance and to capture nuisances not yet defined. For example, Clause 4(1)(a) states as follows:

“any place matter, thing, deposit or accumulation of liquid or solid matter that is full, in such a state, or so placed, made or left as to be insanitary, injurious or dangerous to health or likely to become so;”

With regard to the above provision, she felt that there would be a challenge defining a nuisance based on the fact that there must be a discretion to contemplate a health challenge which was not contemplated at the time this provision was drafted so as to keep the amendments relevant to the times.

In relation to the Application for Exemption from Regulation 4 she queried how the term ‘*hardship*’ is defined and how would it be applied, as provided by Clause 5(2). Since there was no definition provided within the Regulations she noted that the owner or occupier would apply to the Relief Board on the ground of ‘*hardship*’. Once it has reached the appeal stage to the said Relief Board, a discretion should be allowed on the basis of ‘*hardship*’ for an owner or occupier who may be out of time.

Finally, Mrs. Williams recommended that in relation to PART IV – Appeals, at Clause 10.(8) which states:

“A person who is aggrieved by a decision of the Relief Board made in accordance with this regulation may, within 14 days of receipt of the decision, appeal of the High Court.”

Once again, she made a recommendation with regard to the timeframe of fourteen (14) days which she believed was too short for the average person and alternatively proposed twenty-eight (28) days. She cited the Civil Procedure Rule No. 60(5) which generally provides that any appeals from tribunals must be served within twenty-eight (28) days. For the necessity of being consistent she felt it would be best if the time limited for appeals in the HSAB, 2024 be similar to the time limited for appeals under the Civil Procedure Rules.

Finally, she queried how the penalties in the First and Second Schedules of the proposed HSNR, 2024 would be calculated. The \$300 administrative penalty and the \$10 per day for the continuing contravention of the Regulation were reasonable. She explained that the actual administrative fine plus the penalty will be added to the Land Tax Bill and the bill itself would be subject to interest and penalties for every period that the Bill was not paid. She did not know whether it was an accumulated tax, compounded or whether it would be separate. She further queried whether there would be a Cap on the contravention of the Regulation? And suggested to the Committee that they consider a Cap of “X” amount per year for every year failing compliance by the owner or occupier of the property.

Mr. Ronald Chapman, Acting Chief Environmental Health Officer addressed the issue of the timeframe of fourteen (14) days to remedy the nuisance. He stated thus:

“ . . . I think that we need to also look not only at the overgrown vegetation, but the nuisance also speaks to the breeding of flies, mosquitoes and other vermin.

“The average Aedes Aegypti mosquito takes seven (7) to fourteen (14) days in which to breed, a fly takes three (3) to five (5) days and if we leave those conditions unattended for twenty-eight (28) days, for another fourteen (14) days; you can see how a neighbourhood can be inundated and how disease can spread. The Health Services Regulation is there to prevent the spread of environmentally driven health hazards and diseases, so there must be some sort of balance between the amount of time that it takes for that environmental health risk to be generated and the time of remedying that.”

In relation to the recommendation of utilising a ‘catch-all’ provision for general nuisances Mr. Newton made reference to Regulation 3.(1):

“For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any

“(a) act not authorized by law;

“(b) failure to discharge a legal duty; or . . .”

He explained:

“When Regulation 3(1)(a) and 3(1)(b) are read in conjunction, it does have the effect of catering to almost every imaginable situation which could constitute a nuisance; that in and of itself can be used as a ‘catch-all’ provision within the legislation.

However, it was suggested that the language used within the legislation for the above ‘catch-all’ provisions should be simplified for the average person.

3. Mr. Anderson Cherry, Managing Director of José Y José Group of Companies and the Waste Haulers’ Association; and Team: (transcript follows)

1. Mr. Trevor Manning, General Manager, Garbage Master Ltd.; and
2. Mr. Michael Forde, General Manager, Forde’s Freighting and Rental Services Inc.

Mr. Anderson Cherry introduced himself to the Committee as the Managing Director of José and José and Chairman of the Waste Haulers’ Association.

Mr. Cherry began his presentation by stating that he would present an alternative to placing a fee or charge for cleaning a lot on the Land Tax Bill and also present an opportunity for enfranchisement. He was ably assisted by Mr. Calvin Noel, member of the Waste Haulers’ Association during his presentation.

Mr. Noel began by presenting a summary of the amendments relative to the new administrative penalties within the HSAB, 2024. He proposed on behalf of the Waste Haulers' Association that with the assignment of enforcement to the Ministry of Health and Wellness, the amended Bill places the Minister of Health at the nucleus of the regulatory enforcement, managing penalties and overseeing health violations. He strongly argued that the CMO with his/her expertise in the management of public health would be better suited and responsible at ensuring efficiency and enforcement of the health regulations.

In relation to the administrative penalties, an alternative approach was presented because it was felt that these penalties for health violations, recoverable as a land tax, added financial burden to the already struggling landowner. It would be less burdensome and would enfranchise black-owned businesses, stimulating economic growth, while maintaining public health goals.

In summary, he questioned the role of the Minister of Health and Wellness under the provisions of the HSAB, 2024 and recommended that the CMO be at the helm because of the following reasons:

- i) His/her medical expertise in public health and being the most qualified person to understand the technical aspect of health violations, including identifying filth and offensive matter that could pose a public health risk. Alternatively, the Minister who assists with the shaping of health policies may not have the same public health experience;
- ii) His/her operational efficiency with regard to the implementation of public health policies and enforcing the Health Regulations. The CMO is better positioned to ensure that administrative penalties for health violations are applied fairly and consistently. However, the

Minister's delegation of responsibilities could lead to delays in inefficiencies;

- iii) The aspect of the separation of policies and enforcement between the Ministry of Health and Wellness and the CMO. The Ministry formulates the policies whereas the CMO enforces the policies. The objective is to have freedom from political interference so that the responsibility of enforcement, penalties and health violation charges would be assigned to the CMO;
- iv) The CMO has responsibility for a public health outcome, that is, he/she is officially tasked with overseeing the overall health of Barbados. The CMO has a vested interest in ensuring that health violations are swiftly addressed and that penalties act as an effective deterrent to behaviour that would harm public health. The Minister on the other hand, may have competing priorities related to health budgeting, legislative advocacy and government affairs which could distract the day-to-day enforcement of the health regulations; and
- v) The HSAB, 2024 allows for the affected party to make an appeal for the violation of penalties to a Judge or a Relief Board. The CMO would be more knowledgeable about the specific circumstances surrounding a violation and better equipped to handle appeals or provide relevant evidence during the appeals process. The Minister lacks the technical background to handle detailed appeals based on the medical or environmental health data.

Mr. Noel further presented a proposal with regard to the financial sustainable and socially empowering alternative to the administrative penalties and goals. The financial proposal was basically a large scale business model to enfranchise

twenty (20) black-owned businesses and local contractors. They would be utilized in the clearing of large land properties for the Government which was evidently beyond the legislative intent of the HSAB, 2024.

Hon. D. I. Ishmael responded to the Waste Haulers Association's recommendation to utilising the CMO within the provisions of the HSAB, 2024 instead of the Minister of Health and Wellness. He stated that inaccurate assumptions were made to name a few:

- i) *“ . . . There is a fairly standard and common way of drafting legislation that allows for critical decisions to be made by a Minister responsible for that area within the responsibilities of the executive and the framework of the executive, which is the Cabinet of Barbados. I do not believe that the legislation contemplates that a Minister has to have all of the technical expertise within himself or herself; but I do believe that as has been the custom across the many decades of governance, that a Minister is advised and guided by technical human resources within his or her portfolio; and*
- ii) *“... that a Minister is the person who has to have and hold all of the technical expertise within himself or herself. That is not how it works. Ministers are guided by technical officers within the ministry. They are supported by technical officers within their ministry. A decision that a minister makes is often at its core, led by, advised by, recommended by, proposed by, technical officers within his or her ministry. Therefore, I would not want to encourage us to depart from what has been a standard procedure from many years in drafting, to then change this to being the remit of CMO, or a senior technical person.”*

Hon. D. I. Ishmael highlighted that a public health issue may not just occur within the Ministry of Health and Wellness it can sometimes affect any other Ministry and because of the way that Cabinet works and how the executive works and functions, he believed that the Minister would be best placed to address matters of public health.

It was reiterated by Mr. Newton that when Legislation references the Minister, the Minister is advised by technocrats within his Ministry and those persons within the said Ministry would carry out those functions in their professional capacity on behalf of the Minister. He made it abundantly clear that the Minister is not personally responsible for the administration of the Act.

Hon. D. I. Ishmael spoke to the financial proposal and business model and stated the following:

“However, I do believe that it is not well placed within the current scope of this legislation to try to form out a business model that will enfranchise these 20 businesses.

“I believe, ultimately, we have to remember what this legislation is about. It is actually, these regulations that we are in enabling or enacting eventually, will allow us to be able to better regulate the behaviour of our people relative to one another.”

He also stated that the financial proposal would not sit well within the current amendments and reminded that the Committee’s purpose was to address some of the environmental challenges and public health challenges within Barbados.

The Committee concluded its deliberations on the three (3) oral presentations and directed its attention to the examination of the HSAB, 2024 Clause by Clause and the proposed HSNR, 2024 respectively.

18. **A. EXAMINATION OF THE HEALTH SERVICES (AMENDMENT) BILL, 2024** *(transcript follows)*

Mr. Newton comprehensively examined and explained each Clause within the HSAB, 2024.

The Committee entirely agreed to each Clause except that:

Clause 2 (Amendment of section 2 of Cap. 44)

Under Sub-clause “(c) *inserting the following definitions in the appropriate alphabetical order: ...*”

“Minister” means the Minister with responsibility for health; ...”

The Committee agreed to delete the above definition of “Minister” and the amending words to this effect was inserted in the Bill at Clause 2(b) which reads: *“deleting the definition “Minister”;*

No further amendments were made and the examination was concluded.

B. EXAMINATION OF THE PROPOSED HEALTH SERVICES (NUISANCES) REGULATIONS, 2024 *(transcript follows)*

The Committee made no amendments to **PART I.**

PART II – NUISANCES

Nuisances under health regulations:

Regulation “3.(1) For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any...

In the closing words, the words “*of*”, “*the act*”, “*the failure or the contravention*” were deleted to simplify the paragraph and to avoid repetition.

General nuisances:

Regulation “4.(1) For the purposes of these Regulations, on any premises the following are deemed to be nuisances:...

- (c) the existence of any condition, matter or thing which in the opinion of an officer provides or may provide food or harbourage or acts as a breeding place for...”

The Committee agreed that the words “*which in the opinion of an officer*” be deleted and substituted with the words “*in the professional opinion of an officer*”.

The Committee made no further amendments throughout the Regulations.

Consideration of the Regulations and Schedules of the proposed HSNR, 2024 was concluded.

19. The Committee agreed to give consideration to EPD’s Report to the Joint Select Committee (Standing) on the Social Sector and the Environment on the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 by the Environmental Protection Department, Ministry of Environment and National Beautification, Green and Blue Economy; attached hereto and marked “E1”.
20. By Round Robin on Friday, December 27th, all the members of the Committee approved the Fifth Meeting Minutes of Friday, December 13th, 2024 and the amended draft Report.

21. CONCLUSION:

Having given due consideration to the limited submissions, both written and oral; and after interaction with the three (3) presenters along with the many robust discussions, and with the benefit of guidance by Mr. Shaquille Newton, Parliamentary Counsel (Ag.), the Committee agreed to the amendments as shown in the Table of Amendments appended hereto and marked “F1” and “F2” and reflected in the redrafted Bill and Regulations append hereto and marked “G1” and “G2”.

Transcripts of all the meetings are appended hereto and marked “H1” to “H5”.

22. RECOMMENDATIONS:

The Committee hereby makes the following recommendations:

1. There is a need for some public education through the use of the Government Information Service and community sessions whereby the first principles of “*Cleanliness is next to Godliness*” which we learnt as we grew up would be enforced and thrive to continue putting it into practice.
2. There must be a continuous public relations campaign going forward for each land and property owner who possesses ownership rights. They also have to be looking after properties for family members *et cetera* and must be responsible and serious about their surroundings and environs. A balance must therefore be struck not only between the welfare and hardship of those who are owners, but the welfare and hardship of occupiers who also have the responsibility to curb their behaviours.
3. As a consequence of the robust discussions, the Committee recognised that the EPD which is governed by Cap. 44 is devoid of a proper piece of legislation vesting them with the necessary powers of enforcement. Therefore, for the avoidance of conflict, EPD should be governed by its own piece of legislation.

23. ACKNOWLEDGEMENT:

The Committee wishes to thank and acknowledge all of the organisations and individuals who took the time and effort to submit written submissions or appeared and were willing to make oral presentations before the Committee.


The Committee noted all the concerns raised, the suggestions and recommendations put forward. It is forever grateful for the different perspectives and views shared which valuably assisted in making the amendment which reflected transparency and accountability.

The Committee expresses its sincere thanks and appreciation to Mr. Shaquille Newton, Parliamentary Counsel (Ag.) for his tremendous assistance and foresight in enabling the Committee to accomplish its work in a satisfactory manner. The Committee also profoundly extends gratitude to the technical support provided by the Hon. Davidson I. Ishmael, M.P., Minister of State and Mr. Ronald Chapman, Chief Environmental Health Officer (Ag.), the Ministry of Health and Wellness; and Mr. Anthony Headley, Director, Ms. Lisa Senhouse, Deputy Director, and Mr. Andrew Deane, Chief Buildings Development Office, the Environmental Protection Department (EPD).

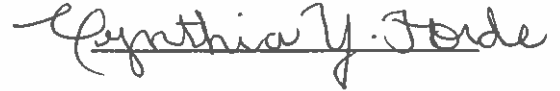
The Committee takes this opportunity to express a deep sense of gratitude and a special thanks to the staff of Parliament for its diligence and commitment in expediting the work of the Committee.

Approved by the Members of the Committee: -

Ms. Toni N. S.-A. Moore, J.P., M.P. (Chairman)



Her Honour Miss Cynthia Y. Forde, J.P., M.P.



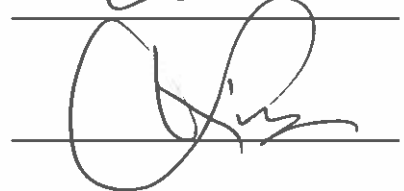
Mr. Trevor A. Prescod, J.P., M.P.



Hon. Corey A. Lane, J.P., M.P.



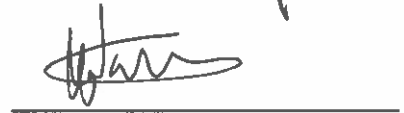
Senator John A. King, J.P., BSS



Senator Rev. Canon Dr. John A. Rogers, PhD



Senator André R. Worrell, J.P., B.A.



Dated this 27th day of December, 2024.

MINUTES

**PARLIAMENT OF BARBADOS
(FIRST SESSION OF 2022 - 2027)**

**JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT**

Minutes of the First Meeting ('Hybrid') of the Joint Select Committee (Standing) on the Social Sector and the Environment to review and examine the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 held in the Senate Chamber, Parliament Buildings, Trafalgar Street, Bridgetown, St. Michael on Tuesday, October 1st, 2024 at 10:00 a.m.

PRESENT WERE:

Ms. Toni N. S-A. Moore, J.P., M.P. (Chairman)
Senator John A. King, B.S.S. (Deputy Chairman)
Her Honour Miss Cynthia Y. Forde, J.P., M.P.
Hon. Corey A. Lane, J.P., M.P.
Senator André R. Worrell, J.P., B.A.

ABSENT:

Mr. Trevor A. Prescod, J.P., M.P.
Senator Rev. Canon Dr. John A. Rogers, PhD

IN ATTENDANCE WERE:

Ms. Beverley S. Gibbons, J.P. *Deputy Clerk of Parliament*
Miss J'anne C. Greenidge, *Typist (Journal Department)*

An excuse for absence was received on behalf of Mr. Shaquille Newton, *Chief Parliamentary Counsel (Ag.) (Chief Parliamentary Counsel's Office (CPC))*.

Item 1: Call to Order/Welcome by Chairman

Madam Chairman called the Meeting to order at 10:13 a.m. and welcomed the members in attendance.

Item 2: Discussion of the timeline and schedule for completion of the Committee's deliberations on the Bill and proposed Regulations with regard to the date for reporting back to the House of Assembly

Madam Chairman explained that the Bill and proposed Regulations were referred to the Committee on Tuesday, 23rd July, 2024 and the Committee was given until Tuesday, 23rd October, 2024 to complete its deliberations. Due to the Honourable the House of Assembly's five (5) weeks' recess period – Tuesday, 9th August, 2024 to Tuesday, 17th September, 2024, the timeline for the Committee to complete its work was adjusted to Tuesday, November 26th, 2024 pursuant to Standing Order 62(5) which states that:

"A Select Committee to which a bill has been committed shall report to the House not later than three months after the committal of the bill, provided that any period during which the House is in recess shall not be counted for this purpose."

She noted that the office of the Clerk of Parliament had dealt with the Press Release to the public and that the deadline for written submissions was Friday, October 11th, 2024.

Item 3: Determination of which organisations, interest groups and individuals who would be invited by the Clerk's office to make written submissions and or oral presentations

The Committee agreed that the following organisations, interest groups and individuals should be written inviting submissions in writing or in person:

1. Recycling Brokers (Mr. Bynoe – B's Recycling; Mr. Morris or Mr. Cozier)
2. General Manager, Sanitation Services Authority
3. Senior Technical Officer, Drainage Division
4. Barbados Agricultural Society (BAS)
5. Barbados Association of Professional Engineers(BAPE)
6. Operators of Wastewater Treatment Plants (for e.g., Ecohesion Inc., and Waste Water Treatment Plant Operators)
7. Waste Haulers Associations
8. Head of the Vehicle Maintenance Facility Operators
9. Machine/Equipment Technicians – Washing machine, fridges, etc.
10. Barbados Revenue Authority (BRA) – Land Tax Representative
11. Audit Firms
12. Association of Freighters (if any)
13. Chief Environmental Health Officer
14. Sustainable Barbados Recycling Centre (SBRC) Inc.
15. Students of the Barbados Community College (BCC) and students who have sat or is preparing to sit the CAPE Examination on Environmental Science
16. Chief Executive Officer, Barbados Agricultural Management Company (Inc.)
17. Community Groups
18. Green Nation Community Group
19. Ms. Stacey Alvarez de la Campa, Director, Future Centre Trust
20. Dr. Leo Brewster, Director, Coastal Zone Management Unit
21. The Barbados Bar Association, Mrs. Kaye Williams, President
22. The Barbados Natural Heritage Department

- 23. The Barbados National Trust
- 24. General Manager, Barbados Water Authority

Item 4: Any other Business


There was none.

The Committee agreed that the date for the next meeting would be Thursday, October 17th, 2024 at 10:00 a.m.

ADJOURNMENT

There being no further business, on the motion of Senator John A. King, seconded by Senator André R. Worrell, the meeting was adjourned to Thursday, October 17th, 2024 at 10:00 a.m.

Madam Chairman adjourned the meeting accordingly at 11:02 a.m.


Deputy Clerk of Parliament

Confirmed this 17th day of November 2024.


Chairman

**PARLIAMENT OF BARBADOS
(FIRST SESSION OF 2022 - 2027)**

**JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT**

Minutes of the Second Meeting ('Hybrid') of the Joint Select Committee (Standing) on the Social Sector and the Environment to review and examine the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 held in the Senate Chamber, Parliament Buildings, Trafalgar Street, Bridgetown, St. Michael on Thursday, October 17th, 2024 at 10:00 a.m.

PRESENT WERE:

Ms. Toni N. S-A. Moore, J.P., M.P. (Chairman)
Senator John A. King, B.S.S. (Deputy Chairman)
Her Honour Miss Cynthia Y. Forde, J.P., M.P.
Hon. Corey A. Lane, J.P., M.P.
Senator André R. Worrell, J.P., B.A. (online)

ABSENT:

Mr. Trevor A. Prescod, J.P., M.P.
Senator Canon Rev. Dr. John A. Rogers, PhD

IN ATTENDANCE WERE:

Ms. Beverley S. Gibbons, J.P., *Deputy Clerk of Parliament*
Mr. Nigel R. Jones, Q.C., *Deputy Clerk of Parliament*
Miss Suzanne Hamblin (*Journal Department*)
Mr. Shaquille Newton, Parliamentary Counsel (Ag.) (*Chief Parliamentary Counsel's Office (CPC)*)

Item 1: Call to order/Welcome by Chairman

Madam Chairman called the Meeting to order at 10:12 a.m. and welcomed everyone.

Prayers were led Her Honour Miss C. Y. Forde.

Item 2: Minutes of the Meeting held on Tuesday, October 1st, 2024

The Minutes of the Meeting of Tuesday, October 1st, 2024 were deferred on the motion of Senator J. A. King, seconded by Her Honour Miss C. Y. Forde.

Item 3: Matters Arising

There was consequentially none.

Item 4: Consideration of the Health Services (Amendment) Bill, 2024 and the Proposed Health Services (Nuisances) Regulations, 2024

(i) Technical Support – Mr. Shaquille Newton, Chief Parliamentary Counsel (Ag.) (Chief Parliamentary Counsel’s Office (CPC))

Mr. Shaquille Newton presented a PowerPoint presentation on the following:

A. Health Services (Amendment) Bill, 2024

Mr. Newton began his presentation with a Clause by Clause analysis of the Health Services (Amendment) Bill, 2024 (HSAB, 2024) which will amend the Health Services Act, Cap. 44.

He explained the amendment provided in Clause 3 to section 3 of Cap. 44 and more particularly in Section 3(3) where it states that: *“The order made under subsection (2) shall be subject to negative resolution.”* That is, the order being laid in both Houses of Parliament have a time period of forty (40) days within which, by a Resolution could be annulled but any acts done under the said order would be without prejudice.

The amendment provided in Clause 4 to section 10 of Cap. 44 introduced the concept of administrative penalties for failure to comply with the Health Services (Nuisances) Regulations, 2024 (HSNR, 2024). It does so by inserting Paragraph (y.1) which states that: *“annexing to the contravention of or failure to comply with regulations made under section 10(1)(f) of the Health Services Act, Cap. 44 an administrative penalty.”*

The amendment at Clause 5 to section 11A of Cap. 44 allows for both the cost for work incurred by the State and unpaid administrative penalties to be added to the land tax bills. Clause 5(3) states, *“ . . . is due to the act or omission of the owner of that property it shall be a charge on that property and be added to the land tax imposed under section 5(2) of the Land Tax Act, Cap. 78 A.”*

Additionally, the said cost for work and unpaid administrative penalties is further addressed in Clause 5(4) which states that, *“is added to land tax under subsection (3) it shall be subject to the penalty and interest payable under section 28(3) of the Land Tax Act, Cap. 78A”*. This evidences the nexus between the HSAB, 2024 and the Land Tax Act, Cap. 78A such that *“the money where it is unpaid shall constitute a debt to the State and is recoverable at District ‘A’ Magistrates’ Court.”*

Clause 5(6) addresses the issue of a dispute between the owner and an occupier of any property which results in any costs incurred by the State or any administrative penalty being imposed. In such a case, the Relief Board has the power to hear and determine the dispute.

In relation to the Repeal and replacement of section 11B of Cap. 44, the amendment in Clause 6 sets out the appellate process for the imposition of cost for work and administrative penalties. Under section 11B the owner or occupier of any property has forty-two (42) days to appeal to a Judge in Chambers against the costs and for the administrative penalties. Also, for contravention of or failure to comply with the regulations

made under section 10.(1)(f) of Cap. 44, the owner or occupier of any property may within fourteen (14) days of receipt of an administrative notice appeal to the Relief Board.

B. Proposed Health Services (Nuisances) Regulations, 2024

Mr. Newton explained to the Committee that the proposed HSNR, 2024 is a mechanism which will govern the areas to be regulated and which is essentially to have persons keep their land clean and not to commit any nuisances.

He presented an analysis of each Regulation and provided the Committee members with a general overview of the basis for what is a nuisance, nuisances not to be committed under health regulations, what constitutes a General nuisance and the general prohibitions that must be complied with. The list of general nuisances as provided by Regulation 4.(1) is an exhaustive list.

Mr. Newton stated that Regulation 5.(1) allowed for the exemptions for committing nuisances by an owner or occupier of premises to apply to the Relief Board under the ground of '*hardship*' as provided by 5.(2). In accordance with 5.(4), the Relief Board shall respond in writing within 7 days of receipt of the application. If no response, the applicant would seek a remedy through the principles administrative law.

He explained the issue of administrative penalties under Regulation 7.(1) which are provided for in the *First Schedule* where one has to determine the breach that has been committed and the corresponding administrative penalty of \$300 to be imposed in all circumstances.

In relation to Regulation 8.(1), Contravention notice (CN), 2(c) requires the person to remedy the contravention within a period specified by the Chief Environmental Health Officer (CEHO) but not exceeding 21 days. In this instance, a measure of discretion is given to the CEHO since it is a matter of public health, a shorter period is needed for

compliance. If, however, the person fails to remedy the contravention within 21 days an administrative penalty shall be imposed pursuant to sub-regulation 8.(3).

If the person fails to remedy the contravention within the 21 days, the Administrative Penalty Notice (APN) will be served pursuant to Regulation 9.(1) and the penalty shall be paid to the CEHO within 30 days. Once this notice is received, as per Regulation 9.(5), the person shall pay a further penalty as set out in the *Second Schedule*, to the CEHO for every day or part thereof for which the contravention is continued.

Part IV – Appeals, Regulation 10.(1) addresses the appellate procedure whereby the Relief Board does not approve an application for an exemption for general nuisances and derelict buildings made pursuant to Regulation 5 or 6.(3). The applicant may appeal to the High Court and the decision shall be final.

Pursuant to Regulation 10.(6), Where the Relief Board receives an appeal, it shall make a determination within 21 days of receipt of the appeal and in writing notify the applicant of the determination. Sub-regulation (7) sets out the powers of the Relief Board in relation to appeals relating to administrative penalty.

A person who is aggrieved by a decision of the Relief Board, may within 14 days of receipt of decision appeal to the High Court as provided by Regulation 10.(8).

He concluded that Regulation 12 revokes the *Health Services (Nuisances) Regulations, 1969* to allow for the new HSNR, 2024 to come into effect upon the Minister signing off.

Hon. C. A. Lane raised the issue that the Environmental Protection Department (EPD) has the responsibility for derelict buildings *etcetera* and was previously regulated by the Ministry of Health and Wellness (MHW). Pursuant to Section 10(5) of Cap. 44 the Minister of Health delegates any responsibility to the Chief Medical Officer by the HSNR, 2024. He referenced Section 9(3) of Cap. 44 where it expanded on a number of persons

and agencies to institute court proceedings. He suggested that EPD's Director or EPD should be governed by the MHW or should be included in the HSNR, 2024.

In response, Mr. Shaquille Newton referred to the *Carltona* principle which is instructive on how ministerial powers are exercised within Government departments but stated that he would consider his suggestion and review the HSAB, 2024.

(ii) Examination of Written Submissions

The Committee examined the following written submissions: -

a) Mr. Mark Durant of 10 Blackmans, St. Joseph:

In Mr. Mark Durant's submission to the Committee he recommended amendments to the proposed HSNR, 2024 based on the fact that specific environmental hazards occur *via* agricultural practices. He emphasised the need to address the contamination of ground and water supplies. One such amendment was to include Regulations to address the nuisances created by agricultural activities such as the application of pesticides.

Though the Committee considered Mr. Durant's valid concerns, it was agreed that the Regulations were designed to address matters primarily of public health but they would be better addressed under other pieces of legislation such as the Marine Pollution Control Act, Cap. 392A.

SUPENSION

The meeting was suspended at 11:35 a.m. until 11:45 a.m. on the motion of Senator A. R. Worrell seconded by Senator J. A. King.

RESUMPTION

Madam Chairman resumed the meeting at 12:05 p.m.

Mr. Durant's submission generated some discussion and a question was put to Mr. Newton to examine General nuisances, Regulation 4 more carefully. It was agreed by the Committee that CPC would take note to strengthen the language at Regulation 4.(1) sub-regulation (c) "... which in the opinion of an officer..." and should consider substituting with the words, "... which in the professional assessment of the officer..."

Additionally, the Committee agreed to have CPC re-examine and refine Regulation 4.(1)h for further expansion and to capture specific agricultural nuisances as raised by Mr. Durant.

b) Ms. Shaunelle Bryan:

Ms. Shaunelle Bryan's submission was in relation to the HSNR, 2024 where she addressed the issue of the Administrative Penalties as contained in the *First Schedule*. Ms. Bryan believed that the payment of \$300 every three (3) weeks to cut the grass at the level of two feet pursuant to Regulation 4.(1)(d) was too harsh and unreasonable. She further submitted that generally overgrown lots are five (5) feet high.

The Committee agreed that this area of concern raised by Ms. Bryan was covered under the Regulations. Where there is hardship and other concerns, the person could seek recourse through the Relief Board.

c) Mrs. Ruth McClean:

Mrs. Ruth McClean's submissions were based on the HSAB, 2024 and the HSNR, 2024.

She submitted that the 21 days' notice as provided for under Regulation 8.(2) was too short and alternatively recommended 45 days. However, it was suggested that

a period of 28 days could be considered to give the person the opportunity and enough time to get the land cleared. Mr. Newton explained that that time period of 21 days was perceived as an adequate period of notice by the EPD.

She also submitted that the draft Regulations were vague and did not define the word '*hardship*'. Mr. Newton explained that Regulation 5.(2) and sub-regulation (3) must be read together and this would effectively give the Relief Board a discretion as to whether to grant exemptions. He opined that it may not be the best legislative approach to define '*hardship*' within a narrow context because it is difficult to cater to every situation that may arise.

In responding to her issue of when will the daily \$10.00 penalty as set out in the *Second Schedule* of the HSNR, 2024 begin and ends, Mr. Newton explained that the non-response to the CN would trigger the dated APN which signals a continuing offence and begins to run and start to incur penalties up until the date specified in the said APN.

The Committee agreed that that Mrs. McClean should be invited to make an oral presentation so that there could be some further discussion around the issues and concerns which she raised.

d) Mrs. Christine Toppin-Allahar, Attorney-at-Law:

Mrs. Christine Toppin-Allahar's written submission was with regard to the HSAB, 2024 and the HSNR, 2024.

Mrs. Toppin-Allahar submitted that there were no provisions with respect to service of the CN and APN under Regulations 8.(1) and 9.(1). The manner of service of notices is only addressed under Cap. 44. She recommended that this needs to be rectified. She also proposed that Regulations 9.(3) should be amended to provide that the penalty is payable "within 30 days of service of the administrative notice",

depending on the means of service effected. It was reiterated that with the CN, the penalty will only occur after the CN was received and not acted upon.

One notable criticism was that in her view, the proposed amendments to Cap. 44 were limited to the changes necessary to enable the incorporation of the administrative penalties into the HSNR, 2024. She believed that Cap. 44 was in need of revision to make it fit for purpose in this twenty first century.

She further criticised the general enforcement of a suite of Regulations made under Cap. 44 which the EPD now has the responsibility for instead of the MHW.

It was agreed that Mrs. Toppin-Allahar should be invited to appear before the Committee to make an oral presentation so that there could be further discussion and examination of the issues and concerns which she raised.

The Committee agreed that representatives from the MHW, EPD and the Minister of the Environment and National Beautification were integral to this process and should be invited by the Clerk's office to give technical support to the Committee going forward.

Item 5: Any other Business

Madam Chairman queried whether there was a response received from The Barbados BAR Association. She was informed by Ms. Beverley Gibbons, Deputy Clerk of Parliament, that the Clerk's office was in receipt of an email from Mrs. Kaye Williams, President who had expressed a request for an extension of time to submit the written submission as well as Mr. Anderson Cherry, President of the Barbados Waste Haulers' Association.

The Committee agreed that the Barbados BAR Association would be invited to make an oral presentation with a *proviso* that the written submission be submitted to the Clerk's office no later than Thursday, 24th October, 2024.

After some discussion, the Committee agreed to meet on October 24th, 2024 and October 31st, 2024 at 10:00 a.m. for the Committee to examine all the oral presentations. The Committee agreed that its deliberation should be completed by 8th November, 2024.

ADJOURNMENT

There being no further business, the meeting was adjourned to Thursday, October 24th, 2024 at 10:00 a.m. on the motion of Senator A. R. Worrell, seconded by Senator J. A. King.

Madam Chairman adjourned the meeting accordingly at 1:20 p.m.


Deputy Clerk of Parliament

Confirmed this 13th day of December 2024.


Chairman

**PARLIAMENT OF BARBADOS
(FIRST SESSION OF 2022 - 2027)**

**JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT**

Minutes of the Third Meeting ('Hybrid') of the Joint Select Committee (Standing) on the Social Sector and the Environment to review and examine the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 held in the Senate Chamber, Parliament Buildings, Trafalgar Street, Bridgetown, St. Michael on Thursday, October 31st, 2024 at 10:00 a.m.

PRESENT WERE:

Ms. Toni N. S-A. Moore, J.P., M.P. (Chairman) (online)
Senator John A. King, B.S.S. (Deputy Chairman)
Her Honour Miss Cynthia Y. Forde, J.P., M.P.
Mr. Trevor A. Prescod, J.P., M.P. (online)
Senator Rev. Canon Dr. John A. Rogers, Ph.D.

ABSENT:

Hon. Corey A. Lane, J.P., M.P.
Senator André R. Worrell, J.P., B.A.

IN ATTENDANCE WERE:

Ms. Beverley S. Gibbons, J.P. *Deputy Clerk of Parliament*
Mr. Nigel R. Jones, Q.C., *Deputy Clerk of Parliament*
Miss Suzanne Hamblin (*Journal Department*)
Mr. Shaquille Newton, Parliamentary Counsel (Ag.) (*Chief Parliamentary Counsel's Office (CPC)*)

ALSO IN ATTENDANCE WERE:

Hon. Davidson I. Ishmael, M.P. (Minister of State in the Ministry of Health and Wellness)

Mr. Ronald Chapman (Chief Environmental Officer (Ag.))

Ms. Lisa Senhouse (Deputy Director, Environmental Protection Department) (Ag.)

Mr. Andrew Deane (Chief Building Development Officer, Environmental Protection Department)

Item 1: Call to Order/Welcome by Chairman

In the absence of the physical presence of the Chairman, Senator J. A. King presided over the Meeting. He called the Meeting to order at 10:10 a.m. and welcomed everyone.

Prayers were led by Senator Rev. Canon J. A. Rogers.

Item 2: Minutes of the Meeting held on Thursday, October 17th, 2024

The Minutes of the Meeting of Thursday, October 17th, 2024 were deferred at the request of the Deputy Chairman.

Item 3: Matters Arising

This item was consequentially deferred.

Item 4: Oral Presentations and Examinations

- (a) Mrs. Christine Toppin- Allahar, Attorney-at-Law** and former lecturer in Caribbean and International Environmental Law at the University of the West Indies

Mrs. Toppin-Allahar in her presentation (see transcript) opined that there was a need for more radical revision of the Barbados health laws than what was proposed; that the proposals were a bit archaic and showed up the tremendous gap in environmental management law in Barbados.

Mr. Shaquille Newton pointed out that the subject legislation was an amending Bill and not a new Act; and that for the sake of consistency, there is no mixture of new terminology in a new Bill or Act with old terminology. He stated that other amending legislation to the Health Services Act was currently being undertaken. Ms. Lisa Senhouse supported what was said by Mr. Newton.

Mr. Trevor Prescod's concerns were about the functioning of the Environmental Protection Department (EPD) within the framework and provisions of the Health Act and the challenges arising therefrom. Mr. Ronald Chapman responded that a Memorandum of Understanding was established to address the nuances where the EPD and the health legislation are concerned; and that the MOU would address the issues until the enactment of additional legislation. He cited the power of the of the Minister of Health under sections 9 or 12 of the legislation to authorise or delegate to persons or agencies to act on behalf of the Ministry of Health.

There were further contributors and questions by Members of the Committee which were addressed.

- (b) Mr. Anderson Cherry (online)** (CEO of José y José Liquid and Solid Waste Management Inc. and member of the Waste Haulers' Association)

Due to technical difficulties, Mr. Cherry was unable to make his presentation. Messrs. Michael Forde and Trevor Manning, also members of the Waste Haulers Association, were absent from the meeting.

(c) Mrs. Kaye Williams, Attorney-at-Law and President of the Barbados Bar Association.

Mrs. Kaye Williams in her presentation (see transcript) commented that the Health Services Act. Cap 44 enacted in 1969 had served the country well; and had been amended on a number of occasions as needed along with the several Regulations made thereunder. She continued that the legislation was still relevant but queried whether it met the needs of modern Barbados.

Of concern however, to Mrs. Williams was whether the current amendments were to foster compliance or intended to be punitive.

Mrs. Williams considered the Bill clause by clause and highlighted where there were concerns, such as the jurisdiction of the Magistrate's Court District "A" as the designated court for the recovery of debt and fines under the Act in spite of the monetary limit of that Court; that the Relief Board for this Act was the Land Taxation Relief Board and the competence of its membership to deal with issues of relief arising from enforcement under the Health Services Act; and the timelines for the various appeals which she suggested should not be fourteen (14) days but twenty-eight (28) days as proscribed by the Civil Procedure Rules, Rule No. 60(5). She queried whether the Bill was promoting efficiency while putting the Ministry in three (3) different jurisdictions at one time over one (1) parcel of land.

Mr. Ronald Chapman in response to other concerns raised by Mrs. Williams, assured her that the Ministry does assist and facilitate persons who are elderly and incapacitated or suffering from other disabilities which prevented them from readily complying with the

provisions of the legislation in regard to their obligations as property owners. He further stated that the Ministry exercised discretion in enforcement matters by giving land owners or occupiers of land the opportunity to remedy situations before initiating the process of the law, however there must be some balance in the situation to present the spread of environmentally-driven health hazards and diseases.

Item 2: Minutes of the Meeting held on Thursday, October 17th, 2024 (reverted)

On the motion of Senator Rev. Canon Dr. J. A. Rogers, seconded by Her Honour Miss C. Y. Forde, the Minutes were deferred to the next meeting of the Committee.

ADJOURNMENT

There being no further business, the meeting was adjourned to Thursday, November 7th, 2024 at 10:00 a.m. on the motion of Senator Rev. Canon Dr. J. A. Rogers, seconded by Her Honour Miss C. Y. Forde.

The Deputy Chairman adjourned the meeting accordingly at 1:05 p.m.



Deputy Clerk of Parliament

Confirmed this 13th day of December 2024.



Chairman

PARLIAMENT OF BARBADOS
(FIRST SESSION OF 2022 - 2027)

JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT

Minutes of the Fourth Meeting ('Hybrid') of the Joint Select Committee (Standing) on the Social Sector and the Environment to review and examine the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 held in the Senate Chamber, Parliament Buildings, Trafalgar Street, Bridgetown, St. Michael on Thursday, November 7th, 2024 at 10:00 a.m.

PRESENT WERE:

Senator John A. King, B.S.S. (Deputy Chairman)

Her Honour Miss Cynthia Y. Forde, J.P., M.P.

Mr. Trevor A. Prescod, J.P., M.P. (online)

Senator Rev. Canon Dr. John A. Rogers, Ph.D.

Hon. Corey A. Lane, J.P., M.P.

ABSENT:

Ms. Toni N. S-A. Moore, J.P., M.P. (Chairman)

Senator André R. Worrell, J.P., B.A.

IN ATTENDANCE WERE:

Ms. Beverley S. Gibbons, J.P., *Deputy Clerk of Parliament*

Mr. Nigel R. Jones, Q.C., *Deputy Clerk of Parliament*

Miss Suzanne Hamblin (*Journal Department*)

Mr. Shaquille Newton, Parliamentary Counsel (Ag.) (*Chief Parliamentary Counsel's Office (CPC)*)

ALSO IN ATTENDANCE WERE:

Hon. Davidson I. Ishmael, M.P. (Minister of State in the Ministry of Health and Wellness)

Mr. Ronald Chapman (Chief Environmental Officer (ag))

Mr. Anthony Headley (Director, Environmental Protection Department)

Item 1: Call to order/Welcome by Chairman

Senator J. A. King called the meeting to order at 10:11 a.m. and welcomed all in attendance.

Prayers were led by Her Honour Miss C. Y. Forde.

Item 2: Minutes of the Meetings held on Tuesday, October 1st, 2024; Thursday, October 17th, 2024; and Thursday, October 31st, 2024.

On the motion of Her Honour Miss C. Y. Forde, seconded by Senator Rev. Canon Dr. J. A. Rogers, the Minutes were deferred until later in the meeting.

Item 3: Matters Arising

This item of business was consequentially deferred.

Item 4: Oral Presentations and Examinations

- (a) Mr. Anderson Cherry (online) (CEO of José y José Liquid and Solid Waste Management Inc. and member of the Waste Haulers' Association)**

- (b) **Mr. Trevor Manning** (General Manager of Garbage Master Ltd.); and
- (c) **Mr. Michael Forde** (Member of the Waste Haulers' Association)

Mr. Anderson Cherry, assisted by a Mr. Calvin Noel made his presentation to the Committee (*see transcript*).

Mr. Cherry's presentation was on two (2) main issues. Firstly, he argued that the Chief Medical Officer (CMO) was better suited (reasons given) to manage public health and enforcement than the Minister of Health as proposed by the amending legislation; and secondly, he contended that the administrative penalties for health violation to be appended to the Land Tax Bill as proposed was an added financial burden to struggling land owners. He suggested and gave proposals for an alternative approach.

Hon. Davidson I. Ishmael supported by Messrs. Anthony Headley and Shaquille Newton and responded to some of the misconceptions held by Mr. Cherry regarding his first point. Mr. Ishmael expressed some doubts about the practicality and financial viability of Mr. Cherry's alternate proposal regarding fees and penalties; he was however supportive of Mr. Cherry's business initiatives expressed.

Mr. T. A. Prescod contributed to the discussion.

Mr. Trevor Manning, speaker also on behalf of Mr. Michael Forde supported the contribution of Mr. Cherry.

Item 2: Minutes of the Meetings held on Tuesday, October 1st, 2024; Thursday, October 17th, 2024; and Thursday, October 31st, 2024. (reverted)

The Minutes of the Meeting of Tuesday, October 1st, 2024 were approved without amendments on the motion of by Senator Rev. Canon Dr. J. A. Rogers seconded by Her Honour Miss C. Y. Forde.

Item 3: Matters Arising (reverted)


There were no matters arising thereafter.

Items 5 and 6: Examination of the Health Services (Amendment) Bill, 2024 and the Health Services (Nuisances) Regulations, 2024.

The Committee, led and assisted by Mr. Shaquille Newton, examined and discussed the Bill clause by clause, and the regulations section by section. (*see transcript*)

ADJOURNMENT

There being no further business, the meeting was adjourned to Thursday, November 7th, 2024 at 10:00 a.m. on the motion of Hon. C. A. Lane, seconded by Senator Rev. Canon Dr. J. A. Rogers at 1:25 p.m.


Deputy Clerk of Parliament

Confirmed this 13th day of December 2024.


Chairman

**JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT**

Minutes of the Fifth Meeting ('Hybrid') of the Joint Select Committee (Standing) on the Social Sector and the Environment to review and examine the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 held in the Senate Chamber, Parliament Buildings, Trafalgar Street, Bridgetown, St. Michael on Friday, 13th December, 2024 at 10:00 a.m.

PRESENT WERE:

Ms. Toni N. S-A. Moore, J.P., M.P. (Chairman)
Hon. Corey A. Lane, J.P., M.P.
Her Honour Miss Cynthia Y. Forde, J.P., M.P. (online)
Senator John A. King, J.P., B.S.S.

EXCUSES FOR ABSENCE:

Senator Rev. Canon Dr. John A. Rogers, PhD
Senator André R. Worrell, B.A.

ABSENT:

Mr. Trevor A. Prescod, J.P., M.P.
Mr. Nigel R. Jones, Q.C., *Deputy Clerk of Parliament*

IN ATTENDANCE WERE:

Ms. Beverley S. Gibbons, J.P., *Deputy Clerk of Parliament*

Miss J'anne C. Greenidge, *Typist (Journal Department)*

Mr. Shaquille Newton, *Parliamentary Counsel (Ag.) (Chief Parliamentary Counsel's Office (CPC))*

Item 1: Call to order/Welcome by Chairman

Madam Chairman called the Meeting to order at 2:14 p.m. and welcomed everyone in attendance.

Item 2: Prayers

Prayers were led by Her Honour Miss Cynthia Y. Forde.

Item 3: Confirmation of the Minutes of the Meetings held on October 17th, October 31st, 2024 and November 7th, 2024

The Minutes of the Meeting of October 17th, 2024 were taken as read and were confirmed on the motion of Hon. Corey A. Lane, seconded by Senator John A. King.

The Minutes of the Meeting of October 31st, 2024 were taken as read and were confirmed on the motion of Senator J. A. King, seconded by Her Honour Miss C. Y. Forde.

The Minutes of the Meeting of November 7th, 2024 were taken as read and were confirmed on the motion of Hon. C. A. Lane, seconded by Senator J. A. King.

Item 4: Matters Arising

There were none.

Item 5: Consideration of the Draft Report

The Committee reviewed the draft Report and agreed to the following amendments:

1. On page 3, at paragraph 5, the date of Friday, December 13th, 2024 was inserted.
2. On page 6, under paragraph 15 “Written Submissions”, at number 6, the name “Anthony” was deleted and substituted with “Anderson”.
3. With regard to Mr. Mark Durant’s written submission, on page 8, the following paragraphs were deleted:

“Additionally, the Committee agreed to have CPC re-examine and refine Regulation 4.(1) (h) so that could be further expanded on and to capture specific agricultural nuisances as raised by Mr. Durant.

“Regulation 4.(1) (h) states that:

“any discharge, except in accordance with a permit granted by the Minister or the Chief Environmental Health Officer of any industrial waste or other noxious matter on to any beach, into the sea or into any river, ravine, watercourse, pond, ditch, drain or other place;”.

4. On page 27, at paragraph 18, under the title, A. Examination of the Health Services (Amendment) Bill, 2024 (transcript follows), the Committee agreed to delete the term "*Minister*". The words, "no amendments were therefore made" was also deleted.
5. On page 27, under the title, B. Examination of the Proposed Health Services (Nuisances) Regulations, 2024 (transcript follows), and under PART II – NUISANCES, the words, "No amendment was made to" were deleted. Under Regulation 3.(1), the closing words were amended as follows: the words, "*of, the act, the failure or the contravention*" were deleted.
6. On page 29, in the first paragraph, line 3, the word "non-owners" was deleted and substituted with the word "occupiers".
7. On page 29, in paragraph 3, line 3, the word "jurisdiction" was deleted and substituted with the words "powers of enforcement".

Item 6: Any Other Business

Madam Chairman thanked everyone who played a role in assisting the Committee with its work, especially each member of the Committee who sacrificed their time to completing the matter at hand over the past few months. She also thanked Mr. Shaquille Newton, Parliamentary Counsel (Ag.) who ensured that the language of both the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 were clearly understood by the Committee, the oral presenters and the general public. He also provided a clearer understanding of the few amendments which were made for the benefit of the Committee.

ADJOURNMENT

There being no other business, on the motion of Senator J. A. King, seconded by Her Honour Miss C. Y. Forde the meeting was adjourned *sine die*.

Madam Chairman adjourned the meeting accordingly at 3:00 p.m.



Deputy Clerk of Parliament

Confirmed this 27th day of December 2024.



Chairman

**ORIGINAL BILL,
REGULATIONS
AND ACT**

2024-06-19

OBJECTS AND REASONS

This Bill would amend the *Health Services Act*, Cap. 44 to

- (a) make provision for administrative penalties; and
- (b) revise the provisions concerning the removal and sanitary disposal of offensive matter.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 44
3. Repeal and replacement of section 3 of Cap. 44
4. Amendment of section 10 of Cap. 44
5. Amendment of section 11A of Cap. 44
6. Repeal and replacement of section 11B of Cap. 44
7. Amendment to certain enactments

SCHEDULE

Consequential Amendments

BARBADOS

A Bill entitled

An Act to amend the *Health Services Act*, Cap. 44 to make provision for the imposition of administrative penalties and the removal and sanitary disposal of offensive matter.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Health Services (Amendment) Act, 2024*.

Amendment of section 2 of Cap. 44

2. *Section 2 of the Health Services Act, Cap. 44, in this Act, referred to as the principal Act, is amended by*

(a) *deleting the definition “district” and substituting the following:*

“ “district” means a health district established by the Minister within an area under section 3;”;

(b) *deleting the full stop at the end of the definition “National Assistance Board” and substituting a semi-colon; and*

(c) *inserting the following definitions in the appropriate alphabetical order:*

“ “Chief Medical Officer” means the person assigned to the post of Chief Medical Officer, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“filth” includes any decomposing animal matter and vegetable matter;

“Medical Health Officer” means the person assigned to the post of Medical Officer of Health, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“Minister” means the Minister with responsibility for health;

“night soil” means human excreta;

“offensive matter” includes filth, animal excreta and night soil;

“Relief Board” means the Land Taxation Relief Board established by section 18 of the *Land Tax Act*, Cap. 78A . ”.

Repeal and replacement of section 3 of Cap. 44

3. *The principal Act is amended by deleting section 3 and substituting the following:*

“Minister to be responsible for health of inhabitants of Barbados and may divide Barbados into areas and districts.

3.(1) The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of Barbados.

(2) The Minister may by order

- (a) divide Barbados into such areas as he may determine;
- (b) establish such health districts within any area; and
- (c) assign duties to such officers in relation thereto as he thinks necessary,

to facilitate the preservation of the health of the inhabitants of Barbados.

(3) The order made under subsection (2) shall be subject to negative resolution. ”.

Amendment of section 10 of Cap. 44

4. *Section 10(1) of the principal Act is amended by inserting immediately after paragraph (y) the following paragraph:*

“(y.1)annexing to the contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44 an administrative penalty. ”.

Amendment of section 11A of Cap. 44

5. Section 11A of the principal Act is amended by deleting subsection (3) and substituting the following:

“(3) Where any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for the contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is due to the act or omission of the owner of that property it shall be a charge on that property and be added to the land tax imposed under section 5(2) of the *Land Tax Act*, Cap. 78A.

(4) Where any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is added to land tax under subsection (3) it shall be subject to the penalty and interest payable under section 28(3) of the *Land Tax Act*, Cap. 78A.

(5) Where any

- (a) costs incurred in the execution of work on property; or

- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is due to the act or omission of an occupier of that property it shall be a debt to the State recoverable in the Magistrate's Court for District A.

(6) Where there is a dispute between the owner of property and an occupier of property in relation to the act or omission which results in any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

the Relief Board shall hear and determine the dispute.”.

Repeal and replacement of section 11B of Cap. 44

6. *The principal Act is amended by deleting section 11B and substituting the following:*

“Appeal

11B.(1) The owner or occupier of any property upon which work is executed by the Minister may within 42 days after receipt of the demand for repayment of costs incurred in the execution of work under section 11A, appeal to a Judge in chambers against the costs of any such work.

(2) The owner or occupier of any property upon which an administrative penalty is imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health*

Services Act, Cap. 44 may within 14 days of receipt of an administrative penalty notice appeal to the Relief Board. ”.

Amendment to certain enactments

7. *The enactments set out in the first column of the Schedule are amended in the manner set out opposite thereto in the second column.*

SCHEDULE

(Section 7)

CONSEQUENTIAL AMENDMENTS

Column 1

Column 2

Enactments

Amendments

Land Tax Act, Cap. 78A Insert after section 27, the following section:

"Appeals in respect of *Health Services (Nuisances) Regulations*"

27A. The Relief Board shall hear and determine appeals made pursuant to regulations made under section 10(1)(f) of the *Health Services Act, Cap. 44* in accordance with section 10(1)(y.1) of the *Health Services Act, Cap. 44*."

Read three times and passed the House of Assembly this
day of _____, 2024.

Speaker

Read three times and passed the Senate this _____ day of
, 2024.

President

2024-06-19

S.I. 2024 No.

**HEALTH SERVICES (NUISANCES)
REGULATIONS, 2024**

Arrangement of Regulations

PART I

PRELIMINARY

1. Citation
2. Definitions

PART II

NUISANCES

3. Nuisances under health regulations
4. General nuisances
5. Application for exemption
6. Derelict buildings etc.

PART III

ADMINISTRATIVE PENALTIES

7. Administrative penalties

8. Contravention notice

9. Administrative penalty notice

PART IV

APPEALS

10. Appeals

PART V

MISCELLANEOUS

11. Specified regulations to bind the State

12. Revocation

FIRST SCHEDULE

Administrative Penalties

SECOND SCHEDULE

Administrative Penalties For Continuing Contravention

Health Services Act

CAP. 44

**HEALTH SERVICES (NUISANCES)
REGULATIONS, 2024**

The Minister, in exercise of the powers conferred on him by section 10(1)(f) of the *Health Services Act*, makes the following Regulations:

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the *Health Services (Nuisances) Regulations, 2024*.

Definitions

2.(1) In these Regulations,

“agricultural land” has the meaning assigned to it in section 2(1) of the *Land Tax Act*, Cap. 78A;

“Relief Board” means the Land Taxation Relief Board established by section 18 of the *Land Tax Act*, Cap. 78A;

“Chief Environmental Health Officer” means the person assigned to the post of Chief Environmental Health Officer, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“Environmental Health Officer” means the person assigned to the post of Environmental Health Officer, Ministry of Health and Wellness, as

established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“officer” means the person assigned to the post of

- (a) Environmental Health Officer I, Ministry of Health and Wellness; or
 - (b) Environmental Health Officer II, Ministry of Health and Wellness,
- as established by the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

PART II

NUISANCES

Nuisances under health regulations

3.(1) For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any

- (a) act not authorised by law;
- (b) failure to discharge a legal duty; or
- (c) contravention of the provisions of any other regulations made under the *Health Services Act, Cap. 44*,

of which the act, the failure or the contravention prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance.

(2) No person shall commit a nuisance or permit a nuisance referred to in this regulation.

General nuisances

4.(1) For the purposes of these Regulations, on any premises the following are deemed to be nuisances:

- (a) any place, matter, thing, deposit or accumulation of liquid or solid matter that is full, in such a state, or so placed, made or left as to be insanitary, injurious or dangerous to health or likely to become so;
- (b) the existence of
 - (i) flies, mosquitoes or other insects capable of transmitting or causing disease;
 - (ii) bed bugs, cockroaches or other vermin;
 - (iii) mice or rats;
- (c) the existence of any condition, matter or thing which in the opinion of an officer provides or may provide food or harbourage or acts as a breeding place for
 - (i) insects capable of transmitting or causing disease; or
 - (ii) vermin or rodents;
- (d) any grass, bush or weeds which are more than 2 feet in height;
- (e) the presence of branches, tree trunks or uprooted tree stumps which have been cut and accumulated which constitutes a health and safety hazard or which can block a watercourse;
- (f) the presence of empty bottles, broken or otherwise, empty tins, coconut shells, uncovered barrels, boxes or any other thing which may serve as a receptacle for water which creates a breeding place for mosquitoes or other insects capable of transmitting or causing disease;
- (g) any sanitary convenience which is not properly constructed or maintained;

- (h)* any discharge, except in accordance with a permit granted by the Minister or the Chief Environmental Health Officer of any industrial waste or other noxious matter on to any beach, into the sea or into any river, ravine, watercourse, pond, ditch, drain or other place;
 - (i)* any stack which emits smoke or grit in such quantity or of such density so as to be prejudicial or injurious to public health;
 - (j)* any serious disregard for general maintenance or upkeep of premises so as to be prejudicial or injurious to public health; and
 - (k)* any water supply system in such a condition that the water passing through, when used for domestic purposes can be injurious to health.
- (2) No person shall
- (a)* commit a nuisance referred to in this regulation;
 - (b)* aid or abet another person to commit a nuisance referred to in this regulation; or
 - (c)* being the owner or occupier of any premises, permit a nuisance referred to in this regulation to continue on the premises.

Application for exemption

- 5.(1) Notwithstanding regulation 7, an owner or occupier of premises may at any time, in writing, apply to the Relief Board for an exemption from regulation 4.
- (2) An owner or occupier may be exempted on grounds of hardship.
- (3) An application made pursuant to paragraph (2) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application.
- (4) Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within 7 days of receipt of the application.

- (5) Where the Relief Board approves an application, the Relief Board may state terms and conditions concerning the maintenance of the premises.
- (6) Where an owner or occupier is served with
- (a) a contravention notice in accordance with regulation 8; or
 - (b) an administrative penalty notice in accordance with regulation 9,
- and thereafter he applies for and is granted by the Relief Board an exemption in respect of the nuisance committed, the contravention notice or administrative penalty notice shall be null and void.
- (7) Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination.

Derelict buildings etc.

- 6.(1) A building or structure on premises which is in a derelict condition so as to be insanitary, injurious or dangerous to health or likely to become so is deemed to be a nuisance.
- (2) No person, being the owner or occupier of any premises, permit a nuisance referred to in this regulation.
- (3) Notwithstanding paragraphs (1) and (2) and regulation 7, an owner or occupier may, in writing, apply to the Relief Board for an exemption from this regulation.
- (4) Subject to paragraph (3), an owner or occupier may be exempted on grounds of hardship.
- (5) An application made pursuant to paragraph (3) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application.

(6) Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within 7 days of receipt of the application.

(7) Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination.

PART III

ADMINISTRATIVE PENALTIES

Administrative penalties

7.(1) A person who

- (a) contravenes a regulation appearing in the first column under the heading "Regulation" of the *First Schedule*; and
- (b) fails to comply with a contravention notice under regulation 8,

shall pay to the Chief Environmental Health Officer the administrative penalty in the second column appearing opposite thereto under the heading "Administrative Penalty".

Contravention notice

8.(1) Where a person contravenes a regulation specified in the *First Schedule*, an officer shall first serve a contravention notice, in such form as the Chief Environmental Health Officer determines, to the person.

(2) The notice referred to in subparagraph (1) shall

- (a) specify the regulation which has been contravened;
- (b) specify the nature of the act constituting the contravention; and

- (c) require a person in contravention of the specified regulation to remedy the contravention within a period specified by the Chief Environmental Health Officer, such period not exceeding 21 days.
- (3) An administrative penalty shall be imposed where a person fails to remedy the contravention within 21 days of the date of the contravention notice.

Administrative penalty notice

9.(1) Subject to regulation 7 where a person contravenes a regulation specified in the *First Schedule*, an officer shall serve an administrative penalty notice, in such form as the Chief Environmental Health Officer determines, to the person.

- (2) An administrative penalty notice shall specify
 - (a) the regulation which has been contravened;
 - (b) the nature of the act constituting the contravention; and
 - (c) the penalty to be paid.
- (3) The penalty shall be paid to the Chief Environmental Health Officer within 30 days of the date of the administrative penalty notice.
- (4) A person who is in receipt of an administrative penalty notice shall pay the penalty to the Chief Environmental Health Officer on or before the date specified in the administrative penalty notice.
- (5) A person in receipt of an administrative penalty notice shall pay a further penalty, as set out in the *Second Schedule*, to the Chief Environmental Health Officer for every day or part thereof for which the contravention is continued.

PART IV

APPEALS

Appeals

10.(1) Where the Relief Board does not approve an application made pursuant to regulation 5 or 6(3), the relevant applicant may appeal to the High Court.

(2) The decision of the High Court in respect of an appeal made under paragraph (2) shall be final.

(3) A person who receives an administrative penalty notice pursuant to regulation 9 may, within 14 days of receipt of the notice, appeal to the Relief Board.

(4) An appeal shall

(a) be made in such form as the Relief Board determines; and

(b) state the grounds on which the appeal is based.

(5) A person shall submit with the appeal any documentation or other information relied upon in support of the appeal.

(6) Where the Relief Board receives an appeal in accordance with this regulation, it shall

(a) make a determination within 21 days of receipt of the appeal; and

(b) in writing, notify the applicant of the determination.

(7) Subject to paragraph (3), the Relief Board may

(a) impose the administrative penalty;

(b) mitigate or remit the administrative penalty; or

(c) revoke the administrative penalty and declare the administrative penalty notice to be null and void.

(8) A person who is aggrieved by a decision of the Relief Board made in accordance with this regulation may, within 14 days of receipt of the decision, appeal to the High Court.

(9) The decision of the High Court in respect of an appeal made under paragraph (8) shall be final.

PART V

MISCELLANEOUS

Specified regulations to bind the State

11. Regulations 4 and 6 bind the State.

Revocation

12. The *Health Services (Nuisances) Regulations, 1969* (S.I. 1969 No. 159) are revoked.

FIRST SCHEDULE*(Regulations 7(1), 8(1) and 9(1))**Administrative Penalties*

Regulation	Administrative Penalty for Contravention of Regulation \$
Regulation 3(2)	300
Regulation 4(2)	300
Regulation 6(2)	300

SECOND SCHEDULE*(Regulation 9(5))**Administrative Penalties For Continuing Contravention*

Regulation	Administrative Penalty for Continuing Contravention \$
Regulation 3(2)	10 per day
Regulation 4(2)	10 per day
Regulation 6(2)	10 per day

Made by the Minister this day of , 2024.

Minister responsible for Health

CHAPTER 44
HEALTH SERVICES
ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Minister to be responsible for health of inhabitants of Barbados and may divide Barbados into areas and districts.
4. Functions of Minister.
5. Minister may establish health services institutions.
6. Minister may construct sewers.
- 6A. Power to enter premises.
- 6B. Compensation.
7. Minister may open and break up highways, etc.
- 7A. Minister may assign public health officers to certain businesses.
- 7B. Restoration of premises.
8. Minister may appoint Boards and Committees.
9. Chief Medical Officer to discharge functions of Minister.
10. Regulations.
- 10A. Recovery of fees.
11. Minister may compel execution of works in interest of public health.
- 11A. Minister may execute work on property in a dangerous state.
- 11B. Appeal.
- 11C. Sale of property for the recovery of costs incurred in the execution of work.

SECTION

- 11D. Closure of business or undertaking.
- 12. Powers of entry.
- 13. Exercise of power of entry by person authorised.
- 14. Offences.
- 15. Exemption from liability.
- 15A. Reciprocal Agreements.
- 16. Expenses.
- 17. Transitional pensions of officers.
- 18. Crown.

CHAPTER 44

HEALTH SERVICES

An Act relating to the promotion and preservation of the health of the inhabitants of Barbados.

1969-38.
1969-45.
1972-10.
1972-23.
1973-30.
1974-52.
1975-49.
1978-2.
1983-46.
1984-6.
1985-2.
1985-20.
1992-19.
1995-4.
1998-44.
1999-18.

[1st September, 1969] Commence-
ment.

1. This Act may be cited as the *Health Services Act*.

Short title.

2. For the purposes of this Act

Interpreta-
tion.

"area" means one of the areas into which Barbados is divided by the Minister under section 3;

"Board" means a Board established and appointed by the Minister under section 8;

"Committee" means a Committee established and appointed by the Minister under section 8;

"district" means a health or sanitation district established by the Minister within an area under section 3;

"health services institutions" includes general hospitals, hospitals and other health service units for special purposes, health centres, outpatients' clinics, maternity hospitals, district hospitals including infirmaries, dispensaries, or a combination of all or any of the foregoing;

1974-52

"Minister" means the Minister responsible for Health;

"National Assistance Board" means the National Assistance Board established under section 3 of the *National Assistance Act*.

Cap. 48.

Minister to be responsible for health of inhabitants of Barbados and may divide Barbados into areas and districts.

3. The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of Barbados, and for this purpose may divide Barbados into such areas as he may determine, establish such health or sanitation districts within any such area and assign duties to such officers in relation thereto as he thinks necessary.

Functions of Minister.

4. (1) The Minister shall be responsible for the administration of this Act, and, without limiting the generality of the foregoing, his functions shall include

- (a) the prevention, treatment, limitation and suppression of disease, including the conduct of investigations and enquiries in respect thereof;
- (b) the publishing of reports, information and advice concerning public health, including advice to the Government and the education of the public in the preservation of health;
- (c) the abatement of nuisances and the removal or correction of any condition that may be injurious to the public health;
- (d) the control of food and drugs in the interest of the public health and the seizure and destruction of food and drugs that do not comply with this Act or any regulations, and the protection of the public from fraud or deception in connection with food or drugs;
- (e) the acceptance and administration of gifts of money or property from individuals or organisations donated for any unit of the health services administered under this Act.

(2) The Minister may

- (a) delegate to the National Assistance Board or to any other Board or Committee such of his functions under subsection (1) as he thinks fit; and

(b) give directions to any Board or Committee mentioned in paragraph (a) as to the exercise and performance of any functions delegated to it under that paragraph, and that Board or Committee shall give effect to such directions.

(3) A Board or Committee to which the Minister delegates any of his functions under subsection (2) shall invite the appropriate Medical Officer of Health to attend every meeting thereof which is concerned with any matter relating to those functions and the Chief Medical Officer may attend any such meeting.

5. (1) The Minister may establish health services institutions at suitable places in any area.

Minister may establish health services institutions. 1974-52.

(2) The expenses of establishing health services institutions under subsection (1) and of maintaining such institutions shall be defrayed out of moneys voted for the purpose by Parliament.

(3) All existing health services institutions established and maintained by the Government prior to the 9th January, 1975,¹ shall be deemed to have been established by the Minister under subsection (1).

6. (1) The Minister may

Minister may construct sewers.

(a) construct, repair and maintain sewers; and

(b) make provision by means of sewerage disposal works or otherwise for effectively dealing with the contents of such sewers.

(2) A sewer referred to in subsection (1) may be constructed

(a) in, under or over any street or under any cellar or vault below any street;

(b) subject to section 6A, on any land not forming part of a street after giving not less than 14 days notice in writing to every owner and occupier of that land.

(3) Any such sewerage disposal works may be constructed on land acquired by the Minister responsible for Lands.

¹ Commencement date of the Health Services (Amendment) Act, 1974.

ss.6A-6B

Power to
enter
premises.
1995-4.

6A. (1) Subject to subsection (2), the Minister or any person authorised by him may, at all reasonable times enter upon premises for the purpose

- (a) of laying pipes and connections thereto for attachment to a sewer; or
- (b) performing any function incidental to the construction, maintenance or repair of a sewer.

(2) Subject to subsection (3), a person referred to in subsection (1) shall not be entitled to enter upon premises unless

- (a) he has given to the owner or occupier of the premises at least 14 days notice in writing of the proposed entry and the purpose for such entry; and
- (b) he identifies himself as a person who is authorised to enter upon the premises.

(3) Where the Minister or any person authorised by him is satisfied that an emergency has arisen in respect of any work that has been or is to be carried out pursuant to this section, notice must be given as soon as possible after

- (a) the necessity for the action has arisen; or
- (b) the action has begun.

Compensa-
tion.

6B. (1) The Minister shall pay reasonable compensation to the owner of premises for any loss or damage occasioned in the performance of his functions under this section.

(2) Where any question arises touching the title of any person to the premises that may be entered for the purposes of section 6A, or any estate or interest therein, the person in possession of the premises shall, for the purposes of this section, be deemed to be the owner of the same until the contrary is proved.

(3) Compensation payable under this section shall, where the parties fail to agree, be determined by a Judge.

(4) No claim for compensation under this section shall be admitted or entertained unless it is made in writing to the Minister within 2 years of the completion of the work carried out under section 6 or 6A.

7. (1) For the purpose of constructing, repairing, maintaining or in any way altering a sewer, the Minister may

Minister
may open
and break up
highways,
etc.

- (a) open and break up the surface, soil and pavements of any street or bridge;
- (b) open and break up any sewer, drain or tunnel in or over such street or bridge;
- (c) remove and use all earth and material in and under any such street or bridge; and
- (d) do all other acts which he considers necessary,

doing as little damage as possible in the exercise of the powers granted by this section.

(2) Before the Minister opens or breaks up any street, bridge, sewer, drain or tunnel under the control of the Minister responsible for Highways, he shall give to that Minister notice in writing, signed by him or by any public officer authorised by him in that behalf, of his intention so to do not less than 3 clear days before beginning such work.

(3) In any case of emergency arising from a defect in any sewer, notice under subsection (2) may be given as soon as possible after the beginning of the work or the necessity for the work has arisen.

7A. (1) The Minister may designate and assign Public Health Inspectors, on a full time basis, to certain private businesses if

Minister
may assign
public health
officers to
certain
businesses.
1985-20.

- (a) he is satisfied that it is in the interest of the public health of Barbados so to do; or
- (b) he is in receipt of a written request from a private business for such an assignment.

(2) A Public Health Inspector assigned under subsection (1) shall perform such duties as may be prescribed for the purposes of this section.

ss.7B-9

(3) The Minister may, by instrument in writing, delegate the designation and assignment for the purposes of subsection (1) to the Chief Medical Officer or such other public officer as he determines.

Restoration
of premises.
1995-4.

7B. The Minister shall

- (a) cause premises or the surface of any street, pavement or bridge disturbed for the purposes of this Act to be restored to their original condition without unnecessary delay;
- (b) cause a fence to be placed around that portion of the premises or surface of the street, pavement or bridge that is broken up; and
- (c) provide adequate warning devices of the fact of disrepair.

Minister
may appoint
Boards and
Committees.

8. (1) The Minister may establish such Boards and Committees as he may think fit for the purposes of this Act, consisting of members to be appointed by him and may if he thinks it expedient revoke the appointment of any such member.

(2) The constitution of every such Board or Committee shall be settled by the Minister.

(3) The functions of every such Board or Committee shall be

- (a) to advise the Minister on such matters relating to his functions under this Act as he may refer to it for such advice; and
- (b) to discharge any functions delegated to it by the Minister under subsection (2) of section 4.

(4) No remuneration shall be payable to the members of such Boards or Committees except with the approval of the Cabinet.

Chief
Medical
Officer to
discharge
functions of
Minister.

9. (1) Except as the Minister may otherwise direct, the Chief Medical Officer shall discharge the functions conferred on the Minister under this Act, and every Medical Officer of Health, Public Health Nurse, Public Health Inspector or other public health officer shall discharge functions under this Act as directed by the Minister or the Chief Medical Officer, and in so doing shall be deemed to be acting under the authority of this Act.

(2) Subject to subsection (1), such officers may take such steps as are necessary for the execution and administration of this Act, of regulations and of any orders or directives given by the Minister or the Chief Medical Officer and may call upon any member of the Police Force to lend such assistance as may be required in the execution and administration thereof.

(3) Notwithstanding any other provision of the Act or the regulations, where an offence punishable on conviction is created by this Act or the regulations, the Chief Public Health Officer, a Chief Public Health Inspector, the Manager, Sanita- 1978-2.

tion Service Authority or any other person authorised in writing by the Minister may, in respect of that offence, institute proceedings in a court.

10. (1) The Minister may, subject to negative resolution, make Regulations. regulations for the proper carrying into effect of this Act, and in particular may make regulations

- (a) prescribing the forms to be used for the purposes of this Act;
- (b) for the prevention, treatment, limitation and suppression of disease;
- (c) for the prevention of the overcrowding of premises;
- (d) for the maintenance of the proper sanitary condition of premises;
- (e) providing for the institution of measures for ensuring the purity of the water supply;
- (f) for the prevention, abatement or removal of nuisances and insanitary conditions on premises;
- (g) with respect to sewers and sewage disposal works;
- (h) providing for the collection, removal and sanitary disposal of rubbish, night-soil and other offensive matter;
- (i) providing for the licensing of persons, places and institutions for the carrying on of prescribed businesses;
- (j) prescribing the method of carrying on any offensive trade or business;
- (k) regulating the slaughtering of animals for use as food for human consumption;
- (l) regulating the keeping of domestic animals;
- (m) providing for the disposal of dead animals;
- (n) for the control and destruction of mosquitoes, termites, and other insects, rodents and other vermin;
- (o) with respect to the production, importation and sale of food 1999-18. for human consumption;

s.10

-
- 1972-23. (p) for controlling the offering for sale of food, drugs, cosmetics and devices, and the importation of any drug, and prescribing standards of identity, composition and quality of such products;
- (q) providing for the inspection of hotels, boarding-houses and other places of accommodation;
- (r) providing for the inspection of the places of business of barbers, hairdressers and beauticians;
- (s) providing for the inspection and sanitary conditions of beaches and swimming pools in the interest of the public health;
- (t) providing for the medical and dental examination and treatment of school children, the removing of children from school and closing of schools in the interest of the public health;
- (u) respecting
- 1984-6. (i) the interment of the dead;
- (ii) the entry of dead bodies into Barbados;
- (iii) the use of dead bodies for the teaching of anatomy to medical students and the final disposal of those bodies; and
- (iv) the inspection of undertaking establishments, morgues, crematoria and other places used in connection with the preparation, transportation and disposal of dead bodies;
- (v) for the control and use of public baths, washrooms and sanitary conveniences;
- 1998-44. (w) providing for the licensing, management, operation, control and inspection of private hospitals, nursing homes, senior citizen's homes and maternity homes;
- 1972-10. (x) providing for the notification of the births of children and the form and manner of such notification;
- 1978-2. (y) annexing to the contravention of, or failure to comply with, any regulation made under this section a punishment by way of a fine of \$5 000 or imprisonment for a term of 12 months or

both such fine and imprisonment, and in the case of a continuing offence, to a further fine of \$200 for each day or part thereof during which the offence continues after conviction is first obtained;

(z) providing for the proper management and administration of any health services institutions established or deemed to have been established under section 5 and prescribing the fees to be paid for the services provided at such institutions and the terms and conditions (if any) on which such fees are to be paid. 1974-52.

(2) The Minister may, with the approval of the Minister responsible for Establishments, make regulations 1985-20

(a) prescribing the duties to be performed by and the hours of work of Public Health Inspectors who are assigned to private businesses under section 7A;

(b) prescribing the fees and other expenses to be paid by businesses and undertakings to Public Health Inspectors assigned under section 7A and the manner in which such payments must be made.

(3) Regulations made under subsection (2) are subject to negative resolution.

(4) For the purposes of this section and of section 11, the expression

"premises" means land, whether open or enclosed, built on or not, public or private, and whether or not maintained under any enactment, and includes any aircraft, ship, vessel, boat, hulk, barge, tent, vehicle, shed, warehouse or any other structure designed and used for the carriage or storage of food or any other item; 1999-18.

"works" or "work" includes the structural alteration of a building, the repair of a road, whether public or private, and the removal or abatement of a nuisance.

(5) The Minister may, by instrument in writing, delegate to the Chief Medical Officer any function conferred on the Minister by regulations made under the Act. 1985-2.

10A. (1) Notwithstanding anything contained in the *Crown Proceedings Act*, proceedings for the recovery of any fees remaining unpaid under the *Hospital (Fees) Regulations, 1970* may be brought by and in the name of the Hospital Director, and such proceedings shall not be invalidated or lapse by reason of any change as to the holder of the office of Hospital Director.

Recovery of fees.
Cap. 197.
1974—52.
S.I. 1970
No. 175.

(2) No proceedings for the recovery of fees under the *Hospital (Fees) Regulations, 1970* shall be dismissed by reason only of the failure of the Hospital Director to appear in person or by an attorney-at-law, if he is represented by some person authorised by him in that behalf for the time being present in court.

(3) Nothing in this section shall be construed so as to

- (a) prejudice or affect the right of the Attorney-General to institute civil proceedings on behalf of the Crown under section 14 of the *Crown Proceedings Act*;
- (b) prejudice or interfere with the rights, duties or liabilities of the Crown under the provisions of the *Crown Proceedings Act*.

(4) Proceedings instituted by the Hospital Director under section (1) may be brought before a magistrate for District A notwithstanding that the amount recoverable in such proceedings exceeds the normal monetary limit on the jurisdiction of the magistrate's court.

(5) Fees due under the former *Barbados General Hospital Act, 1947*¹ may be recovered under and in accordance with this section.

(6) Nothing contained in this Act shall affect the validity of any proceedings for the recovery of fees which were begun under the former *Barbados General Hospital Act, 1947*¹ by or in the name of the Hospital Director prior to the 9th January, 1975.

11. (1) Where it appears to the Minister that for the protection or in the interest of the public health any works in or on any premises are necessary, the Minister may serve or cause to be served on the owner or occupier of such premises a notice in writing signed by the Minister or by any person authorised by the

Minister may compel the execution of works in interest of public health.

¹ Repealed by Act 1974—53.

Minister in that behalf requiring him to execute such work as the Minister considers necessary.

- 1983—46. (1a) Where personal service of notice under subsection(1) cannot be effected, whether by reason of the absence of the owner or occupier from Barbados or otherwise, the Minister may, on an affidavit that the owner or occupier cannot be found, direct that the notice be served
- (a) by affixing a copy thereof to any prominent part of the premises; and
 - (b) by advertising in a daily newspaper that is printed and published in Barbados.
- 1972—10. (2) A notice under subsection (1) shall indicate the nature of the works to be executed and specify a period of time after the expiration of which the Minister may cause the works to be carried out if they have not previously been executed.
- (3) A person served with a notice under subsection (1) or any other person having an estate or interest in the premises to which the notice relates may, at any time before the expiration of the period of time specified in the notice pursuant to subsection (2) and in accordance with any rules of court for the time being in force, appeal to a Judge in chambers against the notice on any of the following grounds, namely
- (a) that the notice or requirement is not justified for the protection or in the interest of the public health;
 - (b) that there is some informality, defect or error in or in connection with the notice;
 - (c) that the Minister has refused unreasonably to approve the execution of alternative works;
 - (d) that works required by the notice to be executed are unreasonable in character or extent or are unnecessary;
 - (e) that the time within which the works are required by the notice to be executed is not reasonably sufficient for the purpose;
 - (f) that the notice might lawfully have been served on the occupier of the premises to which it relates instead of on the owner or on the owner instead of on the occupier, and it would have been equitable for it to have been so served;

(g) where the work is work for the common benefit of the premises to which the notice relates and other premises, that some other person, being the owner or occupier of the other premises to be benefitted, ought to contribute towards the expenses of executing any works required.

(4) Where an appeal under subsection (3) is based on the ground specified in paragraph (b) thereof, the Judge shall dismiss the appeal if he is satisfied that the informality, defect or error was not a material one.

(5) Where the grounds upon which an appeal is brought under subsection (3) include a ground specified in paragraph (f) or (g) of that subsection, the appellant shall serve a copy of his notice of appeal on each other person referred to therein and may serve a copy thereof on any other person having an estate or interest in the premises to which the notice under subsection (1) relates, and on the hearing of the appeal the Judge may make such order as he thinks fit in respect of the person by whom any work is required to be executed and the contribution to be made by any other person towards the cost of the work or as to the proportions in which any expenses which may become recoverable by the Minister under subsection (11) are to be borne by the appellant and such other person.

(6) In exercising his powers under subsection (5), the Judge shall have regard

- (a) as between an owner and an occupier, to the terms and conditions, whether contractual or statutory, of the tenancy and to the nature of the works required; and
- (b) in any case, to the degree of benefit to be derived by the different persons concerned.

(7) Where an appeal is brought under subsection (3), the notice to which it relates shall be of no effect pending the final determination or withdrawal of the appeal.

(8) On the determination of an appeal under subsection (3), the Judge shall give directions for giving effect to his decision, including, where appropriate, directions for quashing the notice to which the appeal relates or for varying the terms of such notice in favour of the appellant.

(9) Where the notice to which the appeal relates is varied or the appeal is dismissed, the Judge may, if he thinks fit, direct that the notice shall not come into force until such date (not being later than twenty-eight days from the determination of the appeal) as he thinks fit.

(10) The determination of an appeal under subsection (3) by a Judge in chambers shall be final.

1972—10.

(11) Where at the expiration of the period specified in a notice under subsection (1) or directed by a Judge on the determination of an appeal under subsection (3), the work specified in the notice or in the notice as varied by a Judge as aforesaid has not been executed, the Minister may cause such work to be carried out, and on completion thereof may recover the reasonable costs of carrying out the same as a debt due to the Crown in civil proceedings before a magistrate for District A notwithstanding that the amount of such costs exceeds the normal monetary limit of the jurisdiction of a magistrate.

(12) In any proceedings under subsection (11) the validity of the notice to which the proceedings relate shall not be questioned on any ground specified in subsection (3).

Minister
may execute
work on pro-
perty in a
dangerous
state.
1983—46.

11A. (1) Subject to this section and section 11B, where property is in a dangerous state or is injurious to the health of human beings, animals or plants the Minister may take possession of such property and execute any work that is reasonably necessary, and after the expiration of 42 days or such period as the High Court after hearing an appeal under section 11B orders, the Minister may direct that the property be sold by public auction for the recovery of the debts due to the Crown in respect of any work so executed.

(2) Where property is taken possession of under subsection (1), the Minister shall,

(a) if necessary, in writing, inform the owner or occupier thereof and shall cause a notice, setting out the powers of the Minister to sell the property under subsection (1), to be affixed to any prominent part of the property and advertised in a daily newspaper that is printed and published in Barbados; and

(b) where work is executed in accordance with subsection (1), demand repayment of the costs incurred.

(3) Any costs incurred in the execution of work on property shall be a charge on that property.

11B. The owner or occupier of any property upon which work is executed by the Minister may within 42 days after receipt of the demand for repayment of costs incurred in the execution of work under section 11A, appeal to a Judge in chambers against the costs of any such work.

Appeal.
1983—46.

11C. (1) Where any property is liable to be sold under section 11A, the Minister may, at any time after the power of sale becomes exercisable, by warrant, in an approved form, under his hand address to any person named therein order the sale of such property on such day and at such place as is named and appointed in the warrant.

Sale of
property for
the recovery
of costs in-
curred in the
execution of
work.
1983—46.

(2) Upon completion of a sale under subsection (1) the person authorised to sell the property shall, in writing, report to the Minister the amount of the highest bid received together with the name and the address of that person and the Minister may, on the basis of that report, declare that person to be the purchaser of the property and direct that upon payment of the purchase money the property be conveyed to the purchaser.

(3) Upon the execution of a deed of conveyance to the purchaser in accordance with subsection (2) the property described in the deed shall become vested in the purchaser freed and discharged from all estates, charges and incumbrances but subject to any other charges thereon in respect of debts due to the Crown.

(4) The purchase money from any sale under subsection (1) shall be applied in the following order:

(a) in payment of the costs incurred in the execution of work on any property;

(b) in the payment of any costs incidental to the sale,

and the surplus, if any, shall be paid to the person who owned or occupied the property prior to the sale; but where that person cannot be found the Minister shall, in accordance with the

Cap. 93. *Unclaimed and Undistributed Moneys Act*, cause the surplus to be paid to the Accountant-General to be dealt with under that Act.

Closure of
business or
undertaking.
1978—2.

11D. (1) Where

- (a) a person operates a business or other undertaking without having a licence prescribed by the regulations; or
- (b) a person on whom a notice is served under subsection (1) of section 11 fails to comply with the requirements of the notice under that subsection or the notice as varied by a Judge on the determination of an appeal under subsection (3) thereof,

then, without prejudice to any liability to a penalty under the regulations or to the provisions of section 11, as the case may be, the Chief Medical Officer, a Medical Officer of Health or any person authorised in writing by either of them may apply to the High Court for an order under this section.

(2) Notwithstanding the provisions of subsection (1), where it appears to the Chief Medical Officer that, with respect to the insanitary conditions existing in any business or undertaking, the impairment of the public health is imminent, he may, notwithstanding the requirements as to the service of a notice under subsection (1) of section 11, make an application to the High Court for an order under this section.

(3) An application under subsection (1)

- (a) shall, in the case of an application under paragraph (a) or (b) thereof, contain the facts on which the applicant relies; and
- (b) in addition, in the case of an application under paragraph (b) thereof shall
 - (i) be accompanied by a copy of the notice issued under subsection (1) of section 11 and, if applicable, a copy of the order of the judge varying the notice

on the determination of an appeal under subsection (3) thereof, and

- (ii) contain the fact that the requirements of the notice or the notice as varied by the judge, as the case may be, have not been met.

(4) An application under subsection (2) shall contain the particulars in which it is alleged that the insanitary conditions are likely to impair the public health.

(5) Where the court is satisfied as to the facts of any application under this section, it may *ex parte* make an interim order for the closure of the business or undertaking for such period as may be specified in the order.

(6) The court may, on the determination of an application under this section

- (a) make an order revoking the interim order;
- (b) make a final order for closure;
- (c) make such other order as it thinks fit.

(7) A decision of the Court of Appeal relating to an appeal by a person aggrieved by the decision of the High Court under this section is final.

12. (1) The Chief Medical Officer, a Medical Officer of Health or any person authorised in writing by either of them or by the Minister in that behalf may at all reasonable times enter, if necessary using such force as may reasonably be required, any premises for the purpose of

Powers of entry.

- (a) ascertaining whether there is or has been on or in connection with the premises any contravention of this Act or any regulations;
- (b) ascertaining whether or not circumstances exist which would authorise or require the Minister to take any action or execute any work under this Act or any regulations;

- (c) taking any action or executing any work authorised or required to be taken or executed under this Act or any regulations;
- (d) performing any function conferred on the Minister or on any such officer or authorised person under this Act or any regulations; or
- (e) generally examining and inspecting the premises.

(2) Any officer or person authorised to enter any premises under subsection (1), on leaving any unoccupied premises which he has entered pursuant to that subsection, shall leave such premises as effectually secured against trespassers as he found them.

Exercise of
power of
entry by
person
authorised.

13. (1) Where any power of entry conferred under section 12 is to be exercised by a person authorised by the Minister, the Chief Medical Officer or a Medical Officer of Health, the person claiming the right to enter shall produce the document authorising him in that behalf.

(2) A document purporting to have been signed by the Minister, the Chief Medical Officer or a Medical Officer of Health shall be deemed, until the contrary is proved, to have been signed by that person.

Offences.

14. Any person who

- (a) assaults, resists, obstructs or intimidates; or
- (b) uses indecent, abusive or insulting language to; or
- (c) interferes with or hinders; or
- (d) by any gratuity, bribe, promise or other inducement prevents or attempts to prevent the due execution of his duty by,

any officer or other person acting under the authority of this Act or of any regulations shall be guilty of an offence and shall be liable on summary conviction to a fine of \$1 000 or to imprisonment for 1 year or to both such fine and imprisonment.

1995-4.

Exemption
from
liability.

15. Nothing done by the Minister, the Chief Medical Officer, a Medical Officer of Health, or any person acting under the authority of any of them shall, if such thing was done *bona fide* for the purpose of

executing any of the provisions of this Act, subject such persons to any action, liability, claim or demand whatsoever.

15A. The Governor-General may, by order published in the *Official Gazette* give effect to any agreement between Barbados and the government of any other Commonwealth country, or the government of any foreign country, providing for reciprocity in matters relating to the provision of health services at health services institution. **Reciprocal agreements. 1992-19.**

16. Any expenses incurred in the administration of this Act shall be defrayed out of moneys voted for the purpose by Parliament. **Expenses.**

17. (1) The provisions of this section shall apply notwithstanding any enactment to the contrary relating to pensions. **Transitional pensions of officers.**

(2) The pension, gratuity or other allowance which may be granted to or in respect of an officer who—

(a) immediately before the appointed day¹ was employed by the Interim Commissioner in any office which—

(i) is specified in Part I of the First Schedule to the Local Government (Pensions) Regulations, 1961, and

L.N. 86 of 1961.

(ii) is pensionable in accordance with those regulations; and

(b) pursuant to this Act is transferred to or becomes employed in the public service on a part-time basis to undertake work relating to the functions previously discharged by him in any office mentioned in paragraph (a),

shall be determined in accordance with the law relating to pensions applicable to him immediately before he is transferred or becomes so employed.

(3) The pension, gratuity or other allowance which may be granted to or in respect of an officer who—

(a) immediately before the appointed day was employed by the Interim Commissioner in any office which is specified in Part II of the First Schedule to the Local Government (Pensions) Regulations, 1961;

(b) for the purposes of this Act is transferred to or becomes employed in the public service; and

(c) on the date on which he is so transferred or becomes so employed—

(i) has attained the age of sixty years, or

(ii) has not attained the age of sixty years and, within twelve months after the appointed day or within such further period as the Governor-General in his Accountant-General, discretion allows, by notice in writing to the elects not to come under the Pensions Act, or the Public Employees Pensions Act, as the case may be,

1975-49.

Cap. 25.

Cap. 30.

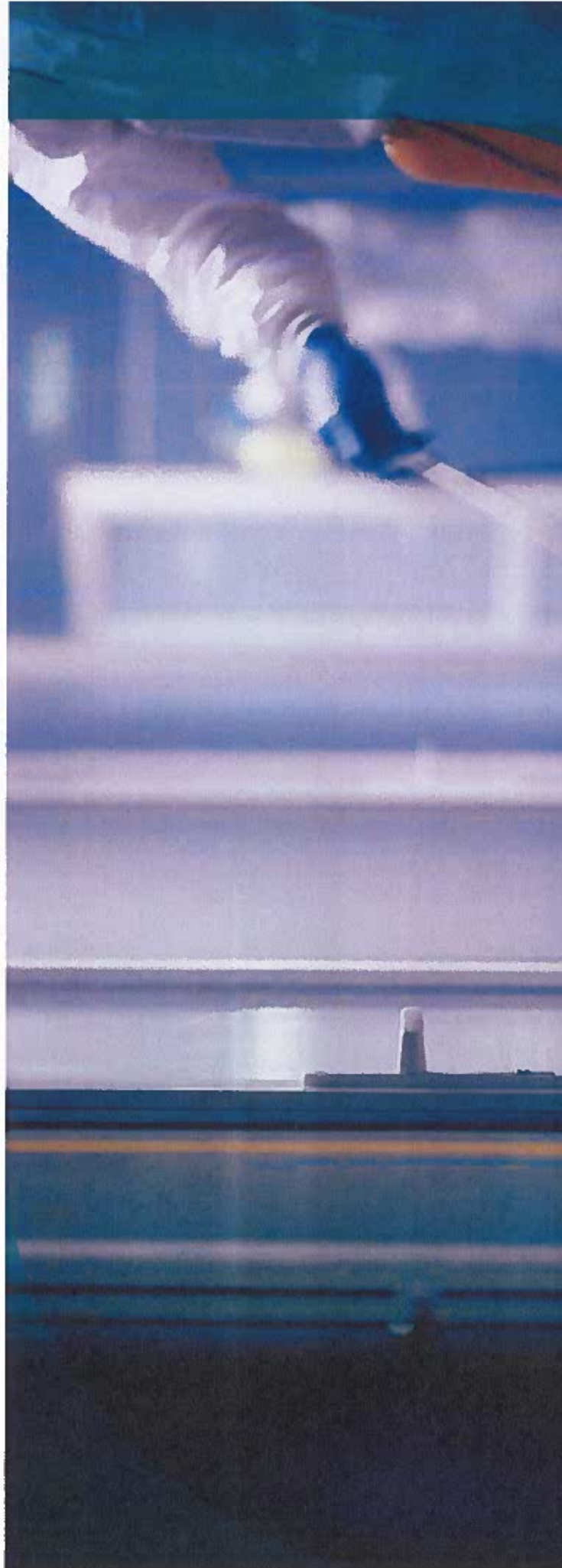
shall be determined in accordance with the law relating to pensions applicable to him immediately before he is so transferred or becomes so employed.

18. This Act shall bind the Crown.

Crown.
1978-2.

¹ 1st September, 1969.

**POWERPOINT
PRESENTATION
FROM THE CHIEF
PARLIAMENTARY
COUNSEL'S
OFFICE**



The Health Services (Amendment) Bill, 2024 & The Health Services (Nuisances) Regulations, 2024



Objects and Reasons

This Bill would amend the *Health Services Act, Cap.* 44 to

- (a) make provision for administrative penalties; and
- (b) revise the provisions concerning the removal and sanitary disposal of offensive matter.

Amendment of section 2 of Cap. 44

New definitions have been added to reflect contemporary circumstances:

“District”

“Filth”

“Medical Health Officer”

“Chief Medical Officer”

“Minister”

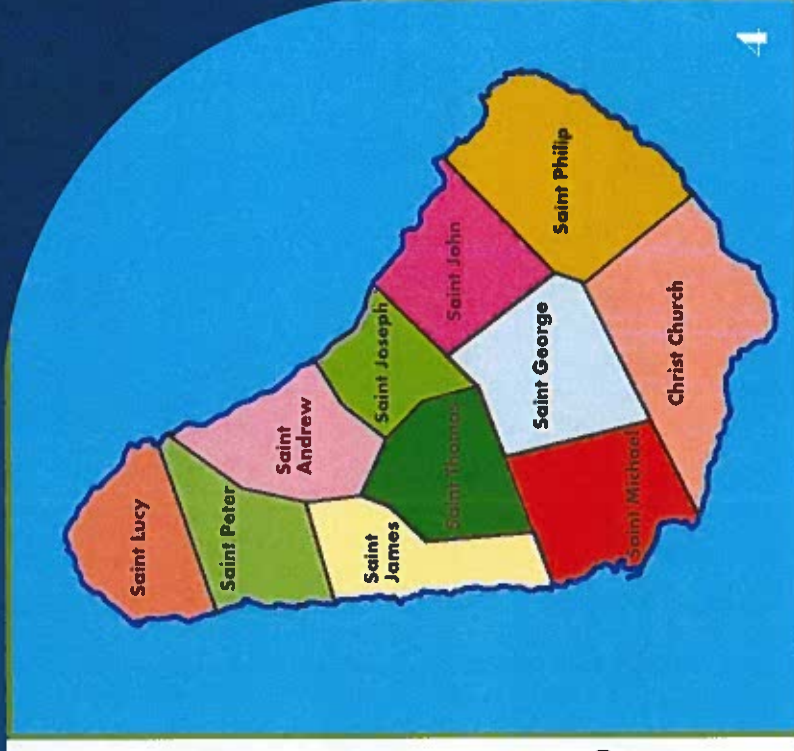
“Night soil”

“Offensive matter”

“Relief Board”

Repeal and replacement of section 3 of Cap. 44

- Minister of Health made responsible for the promotion and preservation of the health of the inhabitants of Barbados.
- The Minister is given the power to, by order, divide Barbados into health districts and assign duties to Officers to facilitate the preservation of the health of the inhabitants of Barbados.
- Any order made by the Minister under subsection (2) is subject to **negative resolution.**



Amendment of section 10 of Cap. 44



Introduces the concept of administrative penalties to allow for their imposition specifically for failure to comply with the *Health Services (Nuisances) Regulations, 2024*.

➤ “(y.1) annexing to the contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act* an administrative penalty.”

Amendment of section 11A of Cap. 44

Section 11A previously allowed the Minister to execute work on properties which dangerous or injurious to health. This amendment essentially allows both the cost for work and unpaid administrative penalties to be added to land tax bills.



The money is subject to interest payable under section 28(3) of the Land Tax Act, Cap. 78A.



The money shall constitute a debt to the state recoverable in the Magistrate's Court for District A.



Where there is a dispute as in relation to fault for the breach for the owner of the property and occupier of property the Relief Board shall hear and determine the dispute.



Repeal and replacement of section 11B of Cap. 44

(1) Where there is a demand for repayment for costs incurred in the execution of work, the right of appeal to a Judge in chambers is granted to an owner or occupier of property.

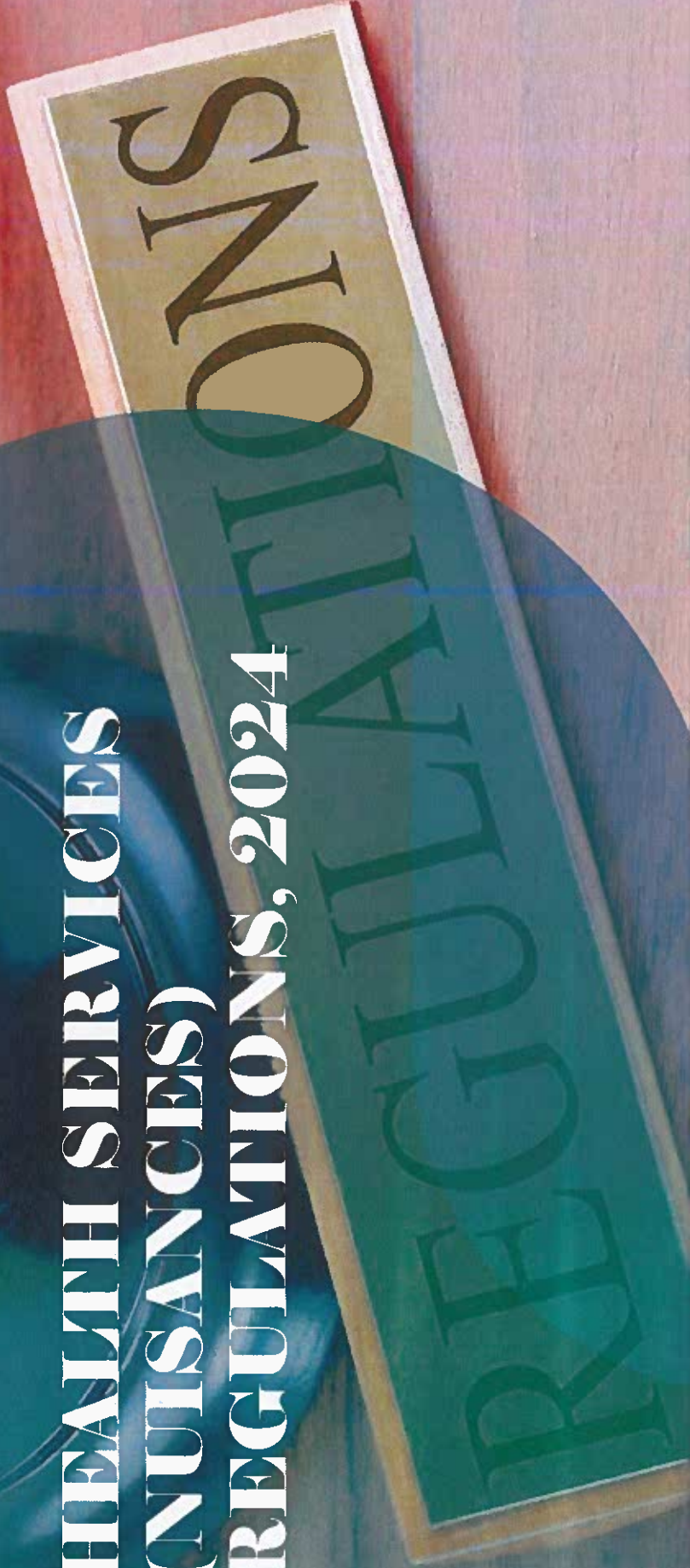
(2) Where an administrative penalty is imposed the right of appeal to the Relief Board is granted to an owner or occupier of property.

Amendment to certain enactments

- This clause consequently amends *Land Tax Act*, Cap. 78A, to allow the Land Taxation Relief Board to hear and determine appeals under the *Health Services (Nuisances) Regulations, 2024*.



**HEALTH SERVICES
(NUISANCES)
REGULATIONS, 2024**



Definitions

Definitions of terms used in the Regulations.

“Agricultural land”

“Environmental Health Officer”

“Chief Environmental Health Officer”

“Officer”

“Relief Board”



Regulation 3: Nuisances under health regulations

- Statement of law as to is deemed a nuisance.
- “For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any
 - a) act not authorised by law;
 - b) failure to discharge a legal duty; or
 - c) contravention of the provisions of any other regulations made under the *Health Services Act, Cap. 44,*

of which the act, the failure or the contravention prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance.”



Regulation 4: General nuisances

1. Explicit statements of law as to various nuisances e.g. the existence of flies, mosquitoes or other insects capable of transmitting or causing disease.
2. Prohibition on committing any nuisance referred to in this regulation.





Regulation 5: Application for exemption

- Allows an owner or occupant to apply to the relief for an exemption from Regulation 4.
 - For reasons of hardship
 - Shall state the reason
 - Relief Board to respond within 7 days of receipt of application
 - May be applied after contravention notice is served
 - Relief Board shall state reasons for the contravention.

Regulation 6: Derelict buildings etc.

- **Statement of law - Any building or structure on premises which is in a derelict condition so as to be insanitary, injurious or dangerous to health or likely to become so is deemed to be a nuisance.**
- **Prohibition – An owner or occupier of premises shall permit a nuisance referred to in this regulation.**
- **Allows for application for an exemption to the Relief Board.**
- **An exemption may be granted on the basis of hardship and shall state the reason.**
- **Relief board to respond within 7 days of the application and where the application is refused it shall state reasons.**

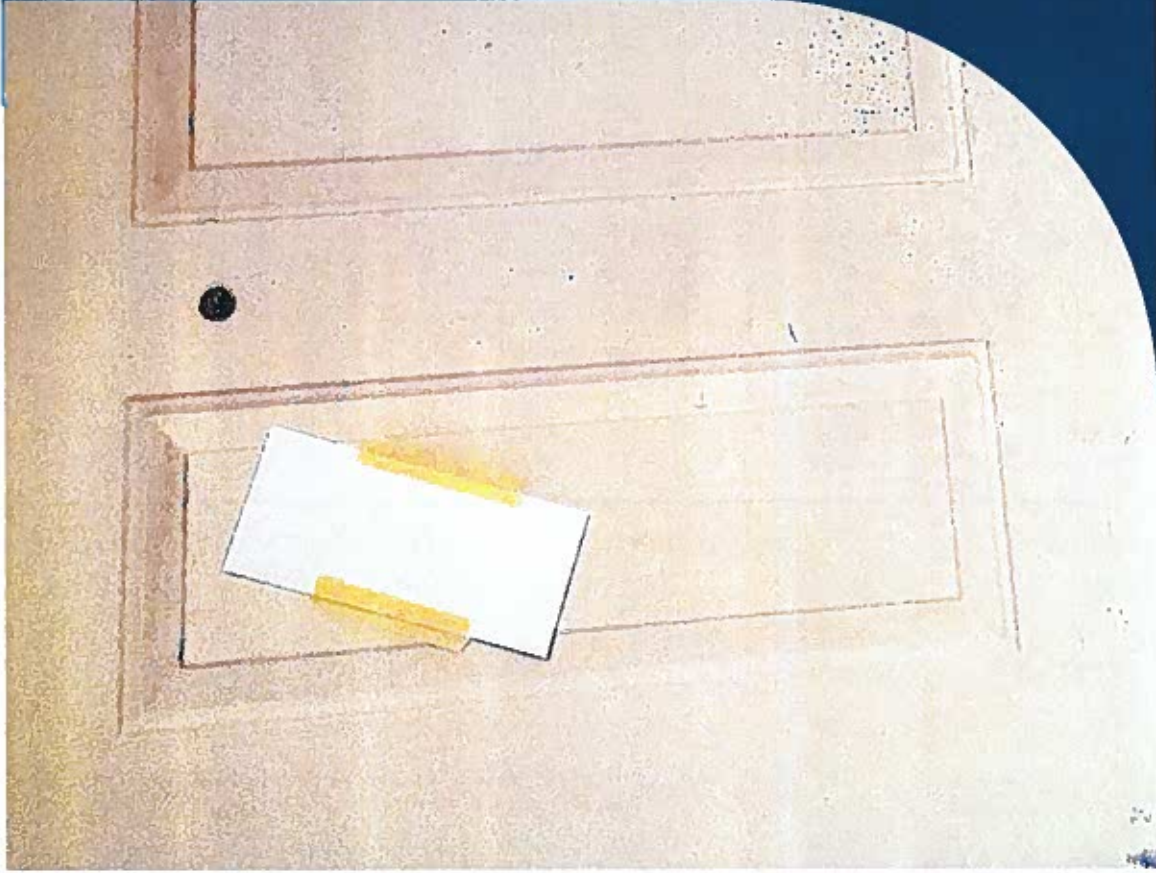
Regulation 7: Administrative penalties

A person who contravenes a regulation appearing the first column of the *First Schedule* shall pay the administrative penalty appearing the second column.

Regulation	Administrative Penalty for Contravention of Regulation \$
Regulation 3(2)	300
Regulation 4(2)	300
Regulation 6(2)	300

Contravention notice

- Provides for contravention notice to be served prior to imposition of administrative penalties.
- “ (2) The notice referred to in subparagraph (1) shall
 - a) specify the regulation which has been contravened;
 - b) specify the nature of the act constituting the contravention; and
 - c) require a person in contravention of the specified regulation to remedy the contravention within a period specified by the Chief Environmental Health Officer, such period not exceeding 21 days.”



Regulation 9: Administrative penalty notice



- Provides for administrative penalty notice to be served **after failure to comply with contravention notice.**
- “(2) An administrative penalty notice shall specify
 - (a) the regulation which has been contravened;
 - (b) the nature of the act constituting the contravention; and
 - (c) the penalty to be paid.
- (3) The penalty shall be paid to the Chief Environmental Health Officer within 30 days of the date of the administrative penalty notice.”

Administrative penalty notice



- There is the creation of a continuous offence.
- “(5) A person in receipt of an administrative penalty notice shall pay a further penalty, as set out in the *Second Schedule*, to the Chief Environmental Health Officer for every day or part thereof for which the contravention is continued.”



Regulation 10: Appeals

- Grants the right of appeal to the High Court where the Relief Board does not approve an application pursuant to regulation 5 or 6 (3).
- The decision of the High Court shall be final.
- Grants right of appeal against an administrative penalty to the Relief Board.
- Administrative penalty may be imposed, mitigated or revoke.
- Grants the right of appeal to the High Court to a person aggrieved by a decision of the Relief Board.

Regulations: 11 and 12



Regulation 11 binds the State in relation to Regulations 4 and 6.



Regulation 12 revokes the *Health Services (Nuisances) Regulations 1969* (S.I. 1969 No. 159).

SUBMISSIONS

Submission on the Barbados Health Services Nuisances Act: Addressing Agricultural Hazards

Introduction

The Barbados Health Services Nuisances Act plays a crucial role in maintaining public health and safety. However, it is increasingly evident that this legislation must adapt to address specific environmental hazards posed by agricultural practices, particularly those involving pesticide use. This submission emphasizes the need for amendments to account for the contamination of ground and water supplies, as well as the airborne spread of pesticides from farming activities to neighboring villages and homes.

As a person who resides on the rolling hills downwind from an agricultural farm, the effects of farming practices which engage the uses of pesticides are first of all, quite clear in the obvious discoloration of the houses which are below the farm. There is currently no evidence to proffer which suggests further public health risk because no investigation has been conducted. However, the public health risks of modern agriculture is well known, and potentially more exacerbated in an inter-tropical convergence zone where the winds whirls around within the island with the potential to scatter dangerous airborne hazards into communities and homes.

Public Health Risks from Pesticides

Pesticides are essential for modern agriculture, yet their misuse can lead to serious public health concerns. When pesticides contaminate water sources, they pose significant risks to the health of residents, including potential acute and chronic illnesses. Additionally, pesticides carried by the wind can affect air quality and harm individuals living near agricultural lands, resulting in respiratory issues and other health problems.

To effectively manage these risks, the Nuisances Act must explicitly address the nuisances created by agricultural activities, particularly those related to pesticide application. The failure to regulate these practices not only endangers public health but also undermines community trust in agricultural practices.

Proposed Amendments

To enhance the effectiveness of the Barbados Health Services Nuisances Act, the following amendments are proposed:

1. **Incorporation of Agricultural Nuisances:** The Act should be amended to include specific provisions addressing nuisances caused by agricultural practices, particularly regarding the application of pesticides. This will create a framework for identifying and mitigating risks associated with pesticide drift and groundwater contamination.
2. **Administrative Penalties:** Establishing administrative penalties for farmers who fail to comply with regulations regarding pesticide use will incentivize responsible practices. This enforcement mechanism is essential for holding agricultural producers accountable for actions that adversely impact public health.

3. **Public Awareness and Reporting Mechanisms:** The Act should promote public awareness regarding the potential hazards of pesticide use and establish clear channels for residents to report instances of nuisance or contamination. This will empower communities to take action and seek redress for health impacts resulting from agricultural activities.
4. **Collaboration with Agricultural Authorities:** The Act should encourage collaboration between health authorities and agricultural agencies to develop best practices for pesticide use. This partnership will facilitate the dissemination of information and promote safer agricultural practices that protect both farmers and nearby communities.

Recommendation

The proposed amendments to the Barbados Health Services Nuisances Act are essential for addressing the health hazards associated with agricultural practices, particularly concerning pesticide use. By recognizing and regulating the impact of these practices on public health and the environment, we can safeguard our communities and promote sustainable agriculture.

It is imperative for policymakers to prioritize these amendments to protect the well-being of Barbadians and ensure a healthier environment for all. Addressing agricultural nuisances is not only a regulatory necessity but a commitment to the health and safety of our communities. We urge immediate consideration and action on these proposed amendments.

Mark Durant
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St. Joseph
Mark.durant@barbados.gov.bb

Health Services (Nuisances) Regulations

D2

Shaunelle Bryan <shaunellebryan@hotmail.com>

11:53 AM 

To parliamentbarbados@caribsurf.com

Reply Reply all Forward Delete 

Most people cannot afford to pay \$300 every two weeks to cut grass for two feet.
Most people are poor! The regulation is too harsh and unreasonable to cut at two feet every three weeks!
Landscapers charge \$300 and over to cut grass once a month for a small area.
Overgrown are lots 5 feet high.

Ruth <ruth186mcclean@gmail.com>

10/9/2024 2:18 PM

Health Services (Amendment) Bill 2024 and Health Services (Nuisances) Regulations 2024

To parliamentbarbados@caribsurf.com

Dear Joint Select Committee (Barbados Parliament)

Below is my opinion about the Health Services (Amendment) Bill 2024 and the Health Services (Nuisances) Regulations 2024.

THE 21-DAYS' NOTICE PERIOD IS TOO SHORT

The 21-days' notice period to de-bush or clear a property is too short. My experience tells me that the notice period must be extended to, at least, 45 days. A 45-days' period should give a property owner sufficient time to arrange for their property to be de-bushed or cleared of rubbish that has been illegally dumped on their property. Please note that the de-bushing or clearing of a property may be delayed, e.g. due to rainy weather or the difficulty of finding worker/s to de-bush or clear a property.

WHAT IS THE PURPOSE OF THE 21-DAYS' NOTICE PERIOD?

It appears that the objective of a Contravention Notice (CN) is to obtain more money (in the form of administrative penalties) from a property owner rather than providing the property owner with a fair and reasonable opportunity to de-bush or clear their property (or comply with a CN). It will be very difficult or impossible for any property owner to avoid an Administrative Penalty Notice (APN) if the 21-days' notice period begins on the date of a CN. See Regulation 8(3).

The 21-days' notice period will not provide 21 days for a property owner to de-bush or clear their property - if the 21-days' notice period begins on the date of a CN. Therefore, a reasonable 21-days' notice period must begin on the date on which the property owner received a CN - if the CN intends to give 21-days' notice to a property owner to de-bush or clear their property.

It is unfair and unreasonable to expect a property owner to de-bush or clear their property within 21 days of the date of a CN - if it is unknown when the property owner received the CN. For example, a CN may be subject to postal delays - if the CN is posted to a property owner. In the case of a property owner who lives abroad, a CN may be received after the 21-days' notice period to de-bush or clear their property.

How will a CN be delivered to a property owner? For example, via a registered mail service or email? A dispute may arise if a CN is delivered via email. For example, a property owner may claim that they did not read the email on the same day that a CN was sent to them or a CN was delivered to their junk mail box.

It is absurd that the Relief Board shall respond to a "hardship" exemption application within seven days of the receipt of the application (see draft Regulations 5(4) and 6(6)), but the same principle does not apply to a property owner's response to a CN.

THERE ARE NO EXEMPTIONS UNDER THE DRAFT REGULATIONS

There are no exemptions under the draft Regulations. For example, the draft Regulations do not address a situation where a property owner is a victim of the illegal dumping of rubbish on their property. Yes, at the end of the day, the rubbish must be cleared from the property. But it is wrong and unfair that an innocent property owner must pay exorbitant administrative penalties for the illegal dumping of rubbish on their property while the perpetrator is not penalised or punished.

THE DRAFT REGULATIONS ARE VAGUE

The draft Regulations are vague. For example, the draft Regulations do not define a "hardship" or provide any examples of such a "hardship". How can a property owner apply for a "hardship" exemption - if they do not know what a "hardship" is? Property owners do not wish to waste their time/money "blindly" writing or appealing to the Relief Board or the High Court about "hardship" exemptions.

See draft Regulations 2, 5(2) and 6(4).

THE ADMINISTRATIVE PENALTY NOTICE

My comments about the Administrative Penalty Notice (APN) are similar to my comments in the above section about the 21-days' notice period of a Contravention Notice (CN). The APN (see draft Regulations 9(3) and 9(4)) shares the same fundamental flaw as a CN.

A property owner must pay an APN within 30 days of the date of the APN. Rather than a property owner paying an APN within 30 days of the date on which the APN was received by the property owner. It is unfair and unreasonable to expect a property owner to pay an APN within 30 days of the date of a APN - if it is unknown when the property owner received the APN. For example, an APN may be subject to postal delays - if the APN is posted to a property owner. In the case of a property owner who lives abroad, an APN may be received after 30 days of the date of the APN.

It is absurd that the Relief Board shall respond to a "hardship" exemption application within seven days of the receipt of the application (see draft Regulations 5(4) and 6(6)), but the same principle does not apply to a property owner's response to an APN.

THE \$300 ADMINISTRATIVE PENALTY IS EXCESSIVE

The \$300.00 administrative penalty is excessive. The \$300.00 administrative penalty is punitive and does not reflect the cost of sending a Contravention Notice to a property owner.

WHEN WILL THE DAILY \$10.00 PENALTY BEGIN OR HOW THE PENALTY STOP?

There is a daily \$10.00 penalty for a property owner who fails to comply with a Contravention Notice (CN). The draft Regulations do not state the date on which a daily \$10.00 penalty will begin. Or how the daily \$10.00 penalty will be stopped.

If the daily \$10.00 penalty will stop on the day after the day on which a property owner has complied with a CN. How will the Chief Environmental Health Officer (CEHO) know that a property owner has complied with a CN on a particular date, in order, to stop the daily \$10.00 penalty?

Will a property owner have to notify the CEHO that they have complied with a CN on a particular date, in order, to stop the daily \$10.00 penalty? If so, how? For example, will a property owner have to send dated photographic or video evidence to the CEHO to prove that they complied with a CN on a particular date? This may lead to numerous disputes, e.g. whether the CEHO received such evidence? Or when the CEHO received such evidence? Or if the photographic or video evidence is genuine?

If a property owner has to notify the CEHO that they complied with a CN via telephone, it would be unfair that the daily \$10.00 penalty would continue to apply to the property owner - even though the property owner has telephoned the CEHO on numerous occasions - but the CEHO's phone is constantly busy or is not answered.

Will an Environmental Health Officer (EHO) **immediately** visit a property to verify that a property owner has complied with a CN? If an EHO fails to do so, when the EHO eventually visits the property, the EHO may get the wrong impression that the property owner has not complied with a CN - because the bush or grass may quickly regrow to taller than 2 feet during raining weather. Or another set of rubbish may be illegally dumped on the property after the property had recently been cleared of rubbish.

DRAFT REGULATION 11 - IS IT A DISTRACTION?

Draft Regulation 11 states that "Regulations 4 and 6 bind the State." But the draft Regulation provides no comfort for property owners because it is taxpayers who will pay an Administrative Penalty Notice (APN) that is being enforced against the State.

I am sceptical about whether the Chief Environmental Health Officer would enforce a Contravention Notice or an APN against the State. Or whether the State would pay an APN. This may be a case of the Government telling property owners to "do as the Government says, not what the Government does".

PUBLIC CONSULTATION PERIOD IS TOO SHORT

The public consultation period for the proposed Bill/Regulations failed to provide a reasonable amount of time (e.g. one month) for the public to respond to the proposed Bill/Regulations. On 2 October 2024, a press release about the proposed Bill/Regulations was published on the Government Information Service's website. However, the deadline for the public to submit their comments about the proposed Bill/Regulations is 11 October 2024.

CONCLUSION

The Regulations are not fit for purpose because it will be very difficult or impossible for any property owner to avoid an unjust Administrative Penalty Notice if the 21-days' notice period begins on the date of a Contravention Notice (CN). It is unfair and unreasonable to expect a property owner to de-bush or clear their property within 21 days of the date of a CN - if it is unknown when the property owner received the CN. For example, a CN may be subject to postal delays - if the CN is posted to a property owner. In the case of a property owner who lives abroad, a CN may be received after the 21-days' notice period to de-bush or clear their property.

The Regulations are vague. For example, the Regulations do not define a "hardship" or provide any examples of such a "hardship". How can a property owner apply for a "hardship" exemption if they do not know what a

"hardship" is? Property owners do not wish to waste their time/money "blindly" writing or appealing to the Relief Board or the High Court about "hardship" exemptions.

If the Joint Select Committee (JSC) scrutinises how the draft Regulations will actually work in practice, the JSC will conclude that the draft Regulations are ill-conceived and fundamentally flawed. Therefore, the draft Regulations must not become law.

There is nothing wrong with the current law that relates to unkept properties, the current law simply needs to be enforced effectively.

Yours sincerely.

Mrs McClean

"Golden Pond"
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BARBADOS

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October 10, 2023

Chairperson
Joint Select Committee (Standing) on
The Social Sector and the Environment
Parliament of Barbados
Parliament Buildings
Trafalgar Street
BRIDGETOWN

Health Services (Amendment) Bill, 2024
And
Health Services (Nuisance) Regulations, 2024

Referenced is made to the invitation, dated October 1, 2024, to members of the public to make written submissions and/or appear in person before the Committee with respect to the proposed legislation at caption by or before October 11, 2024, a copy of which I received from the Barbados Bar Association yesterday. The deadline does not allow for in-depth research and reflection on the proposed Bill and Regulations; however, I am offering the following brief comments for your consideration.

General Comment

Based on my experience throughout the Caribbean with respect to the difficulties attendant on enforcement of environmental legislation by way of summary offences, I am supportive of the introduction of provisions for the imposition of administrative penalties for contravention of regulations made under section 10(1)(f) of the *Health Services Act, CAP.44*, by means of the amendment of the parent Act by section 4 of the Amendment Act.

On this basis, provision has been made in Part III of the *Health Services (Nuisances) Regulations, 2024*, for the introduction of such administrative penalties with respect to statutory nuisances and provision has been made for the recovery of such penalties by the amendments made to section 11A of the parent Act by section 5 of the Amendment Act.

What appears to be missing are provisions with respect to service of the contravention notices and administrative penalty notices under Regulations 8(1) and 9(1). It appears to me that the only provisions made for the manner of service of notices under the parent Act, is specific to notices issued by the Minister under section 11 of the Act for the execution of works in the interest of public health, namely by sections 11(1) and 11(1a) of the Act. This is an omission with respect to administrative penalty notices that needs to be rectified.

Additionally, Regulations 9(3) of the proposed Regulations should be amended to provide that the penalty is payable "within 30 days of SERVICE of the administrative notice" as, depending on the means of service effected, the person liable to pay it may not be notified of the imposition of the penalty within 30 days of issuance of the notice.

Health Services (Amendment) Bill, 2024

It appears to me that the proposed amendments to the *Health Services Act*, CAP.44, are limited to changes necessary to enable the incorporation of administrative penalties into the proposed *Health Services (Nuisances) Regulations, 2024*. This is unfortunate as the parent Act itself is in need of revision to make it fit for purpose in the twenty first century, in the context of the contemporary role of environmental laws for the regulation that some matters which have traditionally fallen within the ambit of public health. Furthermore, it no longer fits comfortably into a system where subjects such as the regulation of land development and building control are no longer the responsibility of the Ministry responsible for public health and health services.

This is epitomized by the fact that enforcement of a suite of Regulations made under the *Health Services Act*, CAP.44, is now the responsibility of the Environmental Protection Department (EPD), which is no longer within the Ministry of Health. Section 9 of the parent Act deals with the officials who are empowered to exercise the powers conferred on the Minister of Health by the Act and, while the Act does make some limited provision for the Minister to delegate specific powers and functions to various Boards, Committees and even officers, I have been unable to find any legal provision in the Act which would allow the EPD to administer regulations made under the parent Act.

It is also evident in the archaic language used in the Act and the Regulations vis-à-vis things and conditions governed by the legislation. In my opinion, in 2024 it is not very helpful to the management of land, air and water by the control of emissions, effluents and deposits of solid, liquid and gaseous wastes, to be relying on the law of statutory nuisances and to be inserting definitions of Victorian terms such as "filth", "night soil" and "offensive matter", into new legislation.

As I pointed out in 2018 in my Country Report on Barbados under the regional GEF project on *Development and Implementation of a Sustainable Management Mechanism for Persistent Organic Pollutants*:

*The Health Services Act is one of the few laws in force which has been implemented by a fairly comprehensive suite of subsidiary legislation. There are some positive features of the legislation, including the provisions for enforcement and cost recovery; however, the efficacy of this legislation for environmental management in general, and the management of chemicals in particular, is limited by the archaic language of the law and the use of qualitative measures rather than quantitative standards. A more specific legal concern is that responsibility for the enforcement of some of the **Health Services Regulations** is being exercised by the Environmental Protection Department (EPD) - formerly the Environmental Engineering Division of the Ministry of Health - which, having been transferred into the Ministry of Environment and Drainage, no longer possesses statutory authority to discharge the functions conferred on the Minister of Health pursuant to s.9 of the **Health Services Act**.*

The Health Service (Nuisance) Regulations, 2024

As mentioned previously, I am of the view that in 2024 Barbados should not be relying on the law of statutory nuisance under public health legislation for environmental protection, particularly pollution control. There is a need for robust modern environmental management legislation. Apart from anything else, public health legislation is concerned only with the impacts of such things and conditions on human health and safety, not on the ecosystem as a whole. My specific comments are as follows:

- Section 2: There is no need to define "Relief Board" as the definition has been incorporated into the parent Act by the Amendment Act.
- Section 3(a): the phrase "act not authorised by law" is too wide. There are many acts that are not authorised by law which are perfectly lawful. It would be far better to say, any "unlawful act". That would capture acts that are unlawful at common law as well as under the written laws.
- Section 4(1): The differences between the matters constituting nuisances listed in this subsection and the existing list of statutory nuisances in the **Health Services (Nuisances) Regulations, 1969**, are very curious.

- 4(1)(d) “any grass, bush or weeds which are more than 2 feet in height” has replaced “any yard, enclosure or other place not free from bush and weeds, dry and clean”. It is not clear why this is thought to be an improvement and, if it is because specifying the height of the “bush” is considered necessary, it should be metricated.
 - 4(1)(h) the word “stack” has replaced “chimney”. In my opinion this is not an improvement as the word “stack” has several meanings from haystack to computer technology, which chimney does not. What this provision is intended to control is the emission of air pollutants from a point source and the use of the expression “in such quantity of such density” illustrates how inadequate this approach to controlling air pollution is.
 - Paragraph 3(8) of the 1969 Regulations, “Anything which substantially interferes with the entrance of sunlight or with free ventilation of any neighbouring premises or building”, has been completely omitted. This is inexplicable given the importance of access to sunlight and wind for the operation of renewable energy systems, which are being promoted by the government.
 - Section 4(1) also omits some nuisances that are usually mentioned in legislation on statutory nuisances and which are common in Barbados – notably unhealth noise levels and foul odours – but these were also omitted from the 1969 Regulations.
- Section 5(2): The reason for allowing the owner or occupier of any premises exemption from liability for the creation and/or continuation of a nuisance on grounds of “hardship” is unclear. As the application for exemption is to be made to the [Land Tax] Relief Board, presumably this means financial hardship; however, the proposed administrative penalties set out in the Schedules are nominal. In my opinion, this should be deleted. Financial hardship is not ordinarily a ground for excusing compliance with other environmental legislation in Barbados, for example town and country planning legislation.

- Section 6(3). Likewise, the provision for relief from the penalty under this regulation should also be deleted.
- Part IV Appeals: The provisions for appeals under the proposed regulations are inconsistent with the provisions for appeals under the parent Act. For example, appeals against notices served under section 11 of the **Health Services Act**, CAP.44, is to a Judge in Chambers and the grounds of appeal are specified. Elsewhere mention is made of appeals to the High Court and Court of Appeal. Moreover, Regulation 10(1) now provides for an appeal from decisions of the Relief Board to the High Court; however, section 22 of the **Land Tax Act** CAP.78A provides for appeals from the Relief Board to the Minister. These appellate provisions in the Regulations need to be harmonized with the principal Acts.

Conclusion

As mentioned above, in my opinion Barbados needs to adopt modern environmental management legislation, which provides inter alia for pollution control on a scientific basis, as an important tool for sustainable development. In this context, the revision of antiquated public health legislation governing statutory nuisances can only be a stop-gap measure in the right general direction.

I hope these comments are helpful to the Committee.

Yours respectfully



CHRISTINE TOPPIN-ALLAHAR
B.A. (Hons); M.A.; LL.B. (Hons); L.E.C.
Attorney-at-Law

BARBADOS BAR ASSOCIATION

Comments On The

(1) Health Services Amendment Bill 2024

(2) Draft Health Services Regulations

The Barbados Bar Association expresses its gratitude and has welcomed the invitation to comment on the Health Services Bill Amendment Bill 2024, Draft Health Services Regulations.

Barbados Bar Association

Per

Kaye Williams

President

<u>Legislative Provision</u>	<u>Comments,</u>	<u>Recommendations</u>
<p>Health Services (Amendment) Bill 2024</p>		
<p>Jurisdiction</p>	<p>Enquiries were made on jurisdictions with similar provisions. None found to date. Cross reference application of 'Hardship' in tribunal hearings</p>	
<p>General</p>	<p>(1) The Health Services Act Cap44 was enacted 1969 (55 years)and has served this country very well. Since then the Act has been amended 14 times and the Health Services Regulations have been amended 57 times.</p>	<p>Recommendation: The time is ripe to reform the Health Services Act to meet the needs of modern Barbados</p>

<u>Legislative Provision</u>	<u>Comments,</u>	<u>Recommendations</u>
	Source: 2024 consolidated index, compiled by UWI	
	(2) Reconsider the jurisdiction of the Magistrate's Court in Section 11 given the other amendments	
Amendment 2	It is noted that the Relief Board is the Land Taxation Relief Board established by the Land Tax Act. The composition would of course be of resource persons for tax	Possible amendment of the relevant provisions - Consideration needs to be made in respect the composition of the Relief Board to include the technical persons who operate pursuant to Health Services Act
Amendment 5 - to Section 11A of Cap 44	Notice provisions in the current provisions provide for notice and expiry of 42 days. Is the purpose of the amendment to cause compliance? Is there room for first and second notices, for	The BBA underlying the underlying reason for the amendment, however consideration must be given to the underlying policy guiding this amendment.

<u>Legislative Provision</u>	<u>Comments,</u>	<u>Recommendations</u>
	<p>example 2 notices of 30 days each? What allowances are made for the property owner who attempts to rectify and hampered by lack of resources or hampered by technical challenges?</p>	
<p><u>6 repeal of 11B of Cap44</u></p>	<p>11B(2) 14 days to appeal administrative penalty notice is too short for the average citizen; previous provision proposes 42 days</p>	<p>Recommendation: increase length of time to appeal to 28 days</p>
<p><u>Health Services Regulations</u></p>		

<u>Legislative Provision</u>	<u>Comments,</u>	<u>Recommendations</u>
<u>4. General nuisances</u>	The section is very clear and specific. "are deemed" In its specificity, it may unwittingly limit the operation of the section	Section needs a 'catch-all' term that would allow the section to capture nuisances not yet defined.
<u>5. Application for exemption</u>	Definition of 'hardship' will be defined by Tax appeals	
<u>Appeals</u>	10(8) appeals to High Court is too short a time limit for the average citizen. 28 days is proposed	Bring the time for appeal in line with Civil Procedure Rule 60.5 – Appeals form Tribunals

Queries:

Consider the policy position of the amendments. Is it to foster compliance? Or is it to be punitive? Is there a possibility that the amendments can cause elderly or incapacitated property owners to lose their properties?

Consider beneficiaries in an estate where the property is in dispute. Could the penalties for non-compliance be onerous?

DOCUMENT ENDS

BARBADOS

CONSOLIDATED INDEX

OF

STATUTES AND SUBSIDIARY LEGISLATION

TO

1st JANUARY 2024

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2024

TITLE	REFERENCE
GRANTS-IN-AID (CHURCHES) ACT (CAP.376)	1971 Rev.
GUARANTEE OF LOANS (COMPANIES) ACT (CAP.96) Amendment 2010	1971 Rev. 23/2010
- H -	
HANDICRAFT WORKERS PENSIONS ACT 1993	20/1993
HANSHELL NATURALISATION ACT 1912 (O)	4/1912
HAREWOOD TRUSTEES (SALE OF LAND TO EXECUTIVE COMMITTEE) ACT 1954 (O)	- 37/1954
HASELL (NATURALISATION) ACT 1907 (O)	7/1907
HEALTH SERVICES ACT (CAP.44)	1971 Rev.
Amendment 2009	30/2009
" 2015	18/2015
" 2017	8/2017
Sec. 9: Authority to Institute Court Proceedings Directions - To Chief Pest Control Officer 1978 (201/1978)	1978 Rev.
<u>Health Services Regulations -</u>	-
" 10: (Notification of Births) Regulations 1972 (133/1972)	1978 Rev.
" 10: (Control etc. of Artificial Sweeteners etc.) Regs. 1970 (110/1970)	1978 Rev.
Amendment 1978 (Inc. in 1978 Rev.)	111/1978
" 10: (Rodent Control) Regulations 1969 (180/1969)	1978 Rev.
Amendment 1978 (Inc. in 1978 Rev.)	111/1978
" 10: (Communicable & Notifiable) Diseases Regs. 1969 (179/1969)	1978 Rev.
Amendments 1970-1982 (omitted) (Inc. in 1978 Rev.)	-
1 st Sch: Communicable Diseases	1978 Rev.
Amendments 1977-1983 (omitted)(Inc. in 1978 Rev.)	-
Amendment 2020	12/2020
2 nd Sch: Notifiable Diseases	1978 Rev.
Amendment 1974 (Not inc. in 1978 Rev.)	47/1974
" 1977 (Inc. in 1978 Rev.)	205/1977
3 rd Sch: Trades & Callings	1978 Rev.
4 th Sch: Diseases requiring Immunisation Certs. (Added 1970) (162/1970)	-
Amendment 1977-1980 (omitted)(Inc. in 1978 Rev.)	1978 Rev.
" 10: (Pathological Laboratories) 1976 (105/1976)	-
Amendments 1978 - 1985 (omitted) (Inc. in 1978 Rev.)	1978 Rev.

TITLE	REFERENCE
HEALTH SERVICES ACT (CAP.44) (cont.)	
<i>Health Services Regulations (cont.)</i>	
Sec. 10: (Control of Drugs) Regulations 1970 Amendments 1974 - 1978 (omitted) (Inc. in 1978 Rev.)	(212/1970) 1978 Rev.
" 2015	22/2015
" 10: (Collection & Disposal of Refuse) Regulations 1975 Amendment 1978 (Inc. in 1978 Rev.)	(51/1975) 1978 Rev. 110 and 111/1978
" 10: (Bakeries) Regulations 1970 Amendment 1978 (Inc. in 1978 Rev.)	(111/1970) 1978 Rev. 111/1978
" 10: (Transportation of Human Remains) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(78/1969) 1978 Rev. 111/1978
" 1984 (By implication)	96/1984
" 2023 (By Act)	22/2023
" 10: (Building) Regulations 1969 Amendments 1976 - 1978 (omitted) (Inc. in 1978 Rev.)	(233/1969) 1978 Rev.
" 2023 (By Act)	22/2023
" 10: (Hotels) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(231/1969) 1978 Rev. 111/1978
" 2023 (By Act)	22/2023
" 10: (Food Hygiene) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(232/1969) 1978 Rev. 111/1978
" 1996	48/1996
" 1999	88/1999
" 10: (Restaurants) Regulations 1969 Amendments 1978 - 1979 (omitted) (Inc. in 1978 Rev.)	(234/1969) 1978 Rev.
" 2023 (By Act)	22/2023
" 10: (Private Hospitals & Nursing Home) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(235/1969) 1978 Rev. 111/1978
" 10: (Control of Mosquito) Regulations 1970 Amendment 1978 (Inc. in 1978 Rev.)	(179/1970) 1978 Rev. 111/1978
" 10: (Lodging Houses & Barracks) Regulations 1970 Amendment 1978 (Inc. in 1978 Rev.)	(74/1970) 1978 Rev. 111/1978
" 2023 (By Act)	22/2023
" 10: (Hairdressers) Regulations 1970 Amendment 1978 (Inc. in 1978 Rev.)	(75/1970) 1978 Rev. 111/1978
" 10: (Swimming Pools) Regulations 1970 Amendments 1977 - 1978 (omitted) (Inc. in 1978 Rev.)	(180/1970) 1978 Rev.
" 10: (Offensive Trades) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(158/1969) 1978 Rev. 111/1978
" 10: (Nuisances Regulations) 1969 Amendment 1978 (Inc. in 1978 Rev.)	(159/1969) 1978 Rev. 111/1978
" 10: (Disposal of Offensive Matter) Regulations 1969 Amendment 1978 (Inc. in 1978 Rev.)	(160/1969) 1978 Rev. 111/1978
" 10: (Medical Staff Committee) Regulations 1977 Repealed 2001 (By Sec. 24)	(242/1977) 1978 Rev. 14/2001
" 10: (Hospital Fees) Regulations 1977 Amendment 1982 (Inc. in 1978 Rev.)	(168/1977) 1978 Rev. 143 and 159/1982
" 1992	54/1992

TITLE	REFERENCE
HEALTH SERVICES ACT (CAP.44) (cont.)	-
<i>Health Services Regulations (cont.)</i>	-
Sec. 10: (Hospital Fees) Regulations 1977 (168/1977) (cont.)	-
1 st Sch: Table of Operations	1978 Rev.
2 nd Sch: Table of Accommodation etc. Fees	1978 Rev.
Repealed & Replaced 1992	54/1992
Amendment 1992	65/1992
3 rd Sch: Table of Fees for Examinations etc.	1978 Rev.
4 th Sch: Medical Reports	1978 Rev.
" 10: (Psychiatric Hospital Accommodation Fees) Regs. 1982 (142&158/1982)	1978 Rev.
" 10: (Domestic Animals) Regulations 1982 (194/1982)	1978 Rev.
" 10: (Anatomy) Regulations 1984 (96/1984)	1978 Rev.
" 10: (Embalmers & Funeral Directors) Regulations 1984 (6/1985)	1978 Rev.
Amendment 1986 (Inc. in 1978 Rev.)	130/1986
" 10: (Assignment of Public Health Inspectors to Private Businesses) Regulations 1986 (143/1986)	1978 Rev.
Amendment 2010	103/2010
1 st Sch: Hours of Work	1978 Rev.
2 nd Sch: Overtime Rates of Pay	1978 Rev.
" 10: (Psychiatric Hospital) (Encephalograph etc. Fees) Regs. 1989 (88/1989)	1978 Rev.
" 10: (Private Hospitals, Nursing Homes, Senior Citizens' Homes and Maternity Homes) Regulations 1999	-
Revoked 2005	56/1999
58/2005	
" 10: (Private Hospitals, Nursing Homes, Senior Citizens Homes and Maternity Homes) Regulations 2005	-
Amendment 2023	58/2005
22/2023	
" 10: (Protection of Minors from Tobacco Products) Regulations 2010	13/2010
Repealed 2017	18/2017
" 10: (Prohibition of Tobacco Smoking in Public Places) Regulations 2010	101/2010
Repealed 2017	18/2017
" 10: (Ladymeade Reference Unit) (Fees) Regulations 2011	76/2011
" 10: (Substance Dependency Treatment Facilities) Regulations 2015	25/2015
" 10: Packaging and Labelling of Tobacco Products) Regulations 2017	16/2017
" 10: Smoking Regulations 2017	18/2017
" 15A: Health Services (Reciprocal) Order 1992	73/1992
(See under National Insurance & Social Security Act (post) for Barbados - U.K. Convention)	-
HEALTH SERVICES (PRIVATE HOSPITALS, NURSING HOMES, SENIOR CITIZENS HOMES AND MATERNITY HOMES) REGULATIONS (VALIDATION) ACT 2005	-
Sec. 3: Commencement (w.e.f. 25.2.2005)	1/2005
	1/2005
HENRY JASON JONES (JETTY) ACT 1919 (X)	11/1919
HERBERT HOUSE BATHING HOUSE & JETTY ACT 1927 (X)	3/1927

Part 60

Appeals to the High Court

Contents of this Part

Scope of this Part	Rule 60.1
How to appeal to the court	Rule 60.2
Effect of appeal	Rule 60.3
Persons on whom claim form must be served	Rule 60.4
Time within which claim form must be served	Rule 60.5
Amendment of statement of case	Rule 60.6
First hearing	Rule 60.7
Hearing of appeal	Rule 60.8

Scope of this Part

60.1 (1) This Part deals with appeals to the High Court from any tribunal or person under any enactment other than an appeal by way of case stated.

(2) In this Part,

"appellant" means any person challenging the decision of a tribunal or person under this Part;

"clerk to the tribunal" means the clerk, secretary or other person responsible for the administration of the tribunal;

"decision" means the order, determination, decision or award appealed against; and

"tribunal" means any tribunal other than a court of law established under an enactment.

(3) This Part takes effect subject to any provisions in the relevant enactment.

How to appeal to the court

60.2 (1) An appeal to the court is made by issuing a fixed date claim form in Form 2 to which must be annexed to the formal document entitled "Grounds of Appeal". Form 2.

- (2) The appellant's grounds of appeal must show
- (a) details of the decision against which the appeal is made;
 - (b) the name of the tribunal or person whose decision is under appeal;
 - (c) the enactment and section enabling an appeal to be made to the court;
 - (d) the facts found by that tribunal or person; and
 - (e) the grounds on which it is contended the decision should be reversed, varied or set aside, identifying
 - (i) any finding of fact; and
 - (ii) any finding of law

which the appellant seeks to challenge.

(3) The date fixed for the first hearing must not be less than 28 nor more than 56 days after the issue of the application.

- **The procedure relating to fixed date claims is dealt with in rules 8.1(5) and 27.2**
- **Part 56 deals with applications to quash a decision by way of certiorari**

Effect of appeal

60.3 The filing of an appeal does not operate as a stay of proceedings on or pursuant to the decision against which the appeal is brought unless

- (a) the court; or
- (b) the tribunal or person whose decision is under appeal

so orders.

Persons on whom claim form must be served

60.4 The appellant must serve the application and grounds of appeal on

- (a) the clerk to the tribunal, minister or other person by whom the decision appealed against was made; and
- (b) every other party to the proceedings in which the decision was made.

Time within which claim form must be served

60.5 The claim form and grounds of appeal must be served within 28 days of the date on which the decision was given to the appellant.

Amendment of statement of case

60.6 (1) The appellant may amend his grounds of appeal without permission not less than 7 days before the first hearing.

(2) Permission to amend the grounds of appeal may be given after the 7 days specified in sub-rule (1) where the court considers that the interests of justice so require.

Summary:

The **Health Services Amendment Act 2024** in Barbados, introduces new administrative penalties within the Health Services Act Cap 44, aiming to enhance regulatory enforcement. The Act establishes definitions for terms as “filth” and “offensive matter,” and designates the Minister of Health as the official responsible for managing public health, including creating health districts across Barbados. The legislation permits penalties for health violations to be attached as charges to property owners or occupants, recoverable as land taxes. Affected parties can appeal these charges to a judge or the Relief Board, ensuring a structured process for disputes. The amendment also includes related provisions within the Land Tax Act to streamline enforcement and appeals, however, the Waste Haulers association (WHA) have two critical points for presentation associated with the **Health Services Amendment Act** that should require some closer examination:

1. **The Assignment of Enforcement to the Minister of Health:** The Act places the Minister of Health at the center of regulatory enforcement, managing penalties and overseeing health violations. However, there is a strong argument that the **Chief Medical Officer (CMO)**, with their medical expertise and operational role in public health, would be better suited because of his academic speciality to handle these responsibilities, ensuring more efficient and objective enforcement of health regulations.
2. **Administrative Penalties:** The Act allows penalties for health violations to be recovered as land taxes, adding financial burdens on already struggling landowners. (WHA) suggests an alternative approach, that wouldn't further burden landowners, enfranchises black owned businesses, stimulating economic growth, while maintaining public health goals.

KEY POINT for the Chief Medical Officer as the Best-Suited Position under the Health Services (Amendment) Act, 2024

1. Medical Expertise and Public Health Focus

- The **Chief Medical Officer** is a senior public health professional with **extensive medical knowledge** and experience in the field of public health. Their role is directly tied to the day-to-day **monitoring** and **management of health issues**, making them the most qualified person to understand the technical aspects of health violations, including identifying “filth” and “offensive matter” that could pose public health risks.
- The **Minister of Health**, though a key figure in shaping health policy, is often a political appointee who may not have the same depth of public health expertise.

Decisions related to administrative penalties, which have direct health implications, would benefit from the technical insight and **medical expertise** of the CMO rather than being driven by a potentially political figure.

2. Operational Efficiency

- The **CMO** is already responsible for overseeing the implementation of public health policies and enforcing health regulations. They are more **closely involved with local health officers**, environmental health inspectors, and public health departments, giving them **direct operational control** over health services. This operational oversight makes the CMO better positioned to ensure that administrative penalties for health violations are applied fairly and consistently.
- Delegating these responsibilities to the **Minister of Health** could lead to delays and inefficiencies, as the Minister's primary focus is on broader health policies and government-wide initiatives. The **CMO's focus** is more **localized and operational**, allowing for **faster response times** and more **effective enforcement** of penalties.

3. Separation of Policy and Enforcement

- In **good governance models**, there is a clear separation between **policy-making and enforcement**. While the **Minister of Health** is tasked with setting policies and providing strategic direction, it is the **role of the CMO** to enforce these policies. This separation ensures that enforcement is **objective, scientifically informed**, and free from potential political influence.
- By assigning enforcement responsibilities, including penalties and health violation charges, to the **CMO**, the government would promote a **more balanced system** where public health decisions are rooted in **medical science and practical expertise**, reducing the risk of politically motivated actions that could undermine the fairness of the health enforcement process.

4. Responsibility for Public Health Outcomes

- The **CMO** is directly responsible for the **health outcomes** of the population. Assigning the responsibility of managing health violations and imposing penalties to the CMO ensures **greater accountability and alignment** with public health goals. As the official tasked with overseeing the overall health of Barbados, the CMO has a vested interest in ensuring that health violations are swiftly addressed and that penalties act as an effective deterrent to behaviors that harm public health.
- The **Minister of Health**, on the other hand, may have competing priorities related to health budgeting, legislative advocacy, and government affairs, which could divert attention away from the **day-to-day enforcement** of health

regulations. Having the CMO in charge of enforcement ensures a **continuous focus** on health outcomes and regulatory compliance.

5. Streamlined Appeals Process

- The **Health Services (Amendment) Act, 2024** allows affected parties to appeal health violation penalties to a judge or the **Relief Board**. The **CMO**, given their hands-on involvement in health administration, would be more knowledgeable about the specific circumstances surrounding a violation and better equipped to handle appeals or provide relevant evidence during appeals processes.
- The **Minister of Health** may lack the technical background to handle detailed appeals based on medical or environmental health data. Assigning this role to the **CMO** would ensure **faster, fairer resolutions** in the appeals process, based on **expert understanding** of public health risks.

Conclusion: Expertise, Efficiency, and Focus on Health Outcomes

Assigning the role of enforcing health penalties and overseeing health violations to the Chief Medical Officer under the Health Services Amendment Act, 2024 would provide significant advantages in terms of medical expertise, operational efficiency, and separation of policy from enforcement. The CMO, as a dedicated public health official, is better equipped to manage the day-to-day intricacies of public health enforcement, ensuring that penalties are applied fairly and in line with public health best practices.

The Minister of Health should focus on the broader strategic direction of healthcare, while the CMO should be entrusted with the critical enforcement role, creating a more balanced, effective, and science based approach to managing Barbados's public health with the oversight of the Health Minister.

A Financially Sustainable and Socially empowering alternative to Administrative Penalties Imposed.

1. Government Fund Structure

- **Initial Investment:** The concept (is), The government creates a \$6 million fund.
- **Allocated to:** 20 Black-owned businesses, with each business employing no less than five workers.
- **Job Creation and Stability:** This setup supports steady, meaningful employment, ensuring stable income for Over 100 people (**20 Businesses by 5 employees**).

2. Economic Flow

- **Daily Wages:** Each worker earns \$120 per day for a five-day week, creating a reliable wage-based economy within these communities.
- **Weekly Payroll:** Total weekly payroll per business = \$3,000 (\$120 by 5 workers by 5 days), with total monthly payroll reaching \$12,000 per business.
- **Tax Revenue:** Both employer and employee taxes are deducted from salaries, sustaining revenue flow to the government without the proposed administrative penalty imposed on landowners directly.
- **Loan Structure:** Each business takes out a loan for essential equipment (Bobcat truck and Tool), with monthly repayments of \$4,000. This promotes responsible capital use and asset ownership while stimulating local lending markets.

3. Business Viability and Revenue Generation

- **Service Fees:** Each property cleanup job is priced at around \$5,000. This pricing could yield substantial revenue.
- **Revenue for Each Business:** Assuming 100 cleanup jobs weekly, each business generates approximately \$25,000 per month (\$5,000 per job by 4 weeks). After payroll and loan repayment, this model can sustain the businesses profitably, potentially scaling further.
- **Profitability:** Post-expenses, each business would retain a minimum \$5,000 which could support business growth, equipment maintenance, or reinvestment into the business or community.

4. Benefits of No Administrative Penalty imposed.

1. Community Empowerment:

- **Financial Relief:** By not having Administrative Penalty imposed on landowners, particularly those on fixed or modest incomes, such our School Teacher, Nurses and Police officers , they are not further burdened with the annual tax payments.

This allows them to redirect funds toward essential living expenses such as housing, utilities, and childcare.

- **Economic Reallocation:** Instead of further taxing individual landowners, the funds will be derived directly from local businesses and workers through the government's investment in community clean-up services.

2. Encouragement of Black-Owned Business Growth:

- **Consistent Work Opportunities:** The government's investment in a clean-up initiative allows **small-owned businesses** and **local contractors** to benefit from consistent work. These businesses, empowered by government contracts, can build financial stability and foster entrepreneurship within their communities.
- **Nurturing Entrepreneurship:** By not burdening landowners, they can redirect their funds back into local businesses, driving demand for services and enhancing community participation in economic growth.

3. Sustainable Revenue Model:

- **Tax Revenue Replacement:** Rather than relying on administrative penalties imposed through land tax, the government generates revenue through **P A Y E , N I S, and V A T** from the businesses and workers involved in cleanup operations. These taxes deducted can better replace the proposed Administrative penalty imposed on land tax collections, creating a **self-sustaining model** where economic activity from businesses contributes to government revenue while enfranchising Black own business.
- **Long-Term Economic Stability:** For landowners who are also part of the workforce, this system recycles economic value within the community, ensuring that wages are spent locally and contribute to sustainable economic growth.

4. Improved Public Health:

- **Direct Benefits to Property Owners:** Properties are cleaned without property owners bearing the direct financial burden of the cleanup operations. The government directly enhances public health, aligning with the goals of the **Health Services Act**, ensuring that public health is prioritized without imposing additional costs on already struggling landowners.
- **Environmental Improvement:** Clean, well-maintained properties not only improve our health concerns but also safety concerns of the community with increase overall **livability** of neighborhoods, providing landowners with a cleaner, safer environment that may also increase property values over time.

GOVERNMENT REVENUE

This information is calculated in Barbadian Dollars.

P A Y E (Pay As You Earn) uses the following structure in Barbados:

- Income up to 50,000: 12.5%
- Income above 50,000: 28.5%
- Value Added TAX is 17.5%.

TAX REVENUE from Business.

Assumptions:

- Revenue per Cleanup Job: \$5,000 BDS
- Jobs per Month per Business: 5

Monthly Gross Revenue per Business: (\$5,000 by 5 jobs = \$25,000)

- **Daily Wage per Worker: \$120**

Weekly Payroll per Business: (5 workers by \$120 by 5 days) gives us \$3,000

So) The Monthly Payroll per Business is: \$12,000

- **Fuel and Maintenance Costs:** \$2,500 per month
- **Equipment Loan Repayment for & Misc:** \$4,000 per month
- Employer NIS Contribution: 11.25% of payroll
- Employee NIS Contribution: 6.75% of payroll

P A Y E (Pay As You Earn) Tax Calculation

For Barbados, the P A Y E tax rate is:

- 12.5% for income up to **\$50,000**
- 28.5% for income above **\$50,000**

Each worker's annual salary is:

- **Annual Income per Worker: \$600 per week by 52 weeks = \$31,200**
Since each worker's income is below \$50,000, the 12.5% P A Y E rate applies.
- Annual P A Y E per Worker: \$31,200 by 12.5% = **\$3,900**
- **Total Annual P A Y E per Business: \$3,900 by 5 workers = \$19,500**

Total Annual P A Y E Revenue from 20 Businesses:

20 businesses by 19,500 = 390,000

2. National Insurance (NIS) Contributions

In Barbados, NIS rates are:

- **6.75% for employees**
- **11.25% for employers**

- **Employee NIS Contribution (per Worker): \$600 by 6.75% = \$40.50 per week**
- **Employer NIS Contribution (per Worker): \$600 by 11.25% = \$67.50 per week**
- **Total Weekly NIS Contribution (per Worker): \$40.50 + \$67.50 = \$108**
- **Total Weekly NIS Contribution per Business: \$108 by 5 workers = \$540**
- **Monthly NIS Contribution per Business: \$540 by 4 weeks = \$2,160**
- **Annual NIS Contribution per Business: \$2,160 by 12 months = \$25,920**

Total Annual NIS Revenue from 20 Businesses:

20 businesses by \$25,920 = \$518,400

3. Value Added Tax (VAT)

- **Property Cleanup Fee per Job: \$5,000**
- **VAT Rate: 17.5%**
- **VAT per Job: \$5,000 x 17.5% = \$875**
- **Monthly VAT per Business (5 Jobs): \$875 by 5 = \$4,375**
- **Annual VAT per Business: \$4,375 by 12 = \$52,500**

Total Annual VAT Revenue from 20 Businesses:

(20 businesses by \$52,500) = \$1,050,000

Summary of Annual Government Revenue from 20 Businesses at 5 Jobs per Month)

- **PAYE: \$390,000**
- **NIS Contributions: \$518,400**
- **VAT on Services: \$1,050,000**

Total Estimated Annual Revenue:

\$390,000 + 518,400 + 1,050,000 = \$1,958,400

EMPLOYER CLEAN UP REVENUE

Scenario Assumptions:

- **Revenue per Cleanup Job: \$5,000**
- **Jobs per Month: 5**
- **Monthly Gross Revenue: \$5,000 by 5 jobs = \$25,000**
- **Monthly Payroll: \$12,000**

- **Employer NIS Contribution:** 11.25%
- **Loan Repayment for Equipment:** \$4,000 per month
- **Fuel and Maintenance Cost:** \$2,500 per month

1. Gross Monthly Revenue

- **Monthly Revenue:** \$5,000 per job by 5 jobs = \$25,000

2. Monthly Payroll and NIS Costs

- **Payroll Cost per Month:** \$12,000
- **Employer NIS Contributions:** \$12,000 by 11.25% = \$1,350
- **Total Payroll + NIS:** \$12,000 + \$1,350 = \$13,350

3. Monthly Equipment Loan Repayment & Miscellaneous

- **Loan Repayment:** \$4,000

4. Fuel and Maintenance Cost

- **Fuel and Maintenance:** \$2,500

5. Net Monthly Revenue (Profit)

- **Net Revenue =** Gross Revenue - (Payroll + NIS) - Loan Repayment - Fuel and Maintenance
- $\$25,000 - \$13,350 - \$4,000 - \$2,500 = \$5,150$

6. Annual Net Revenue (Profit)

- **Annual Net Revenue (Profit):** \$5,150 by 12 months = \$61,800

Summary of Employer's Revenue with 5 Cleanup Jobs per Month:

- **Monthly Gross Revenue:** \$25,000
- **Monthly Net Revenue (Profit):** \$5,150
- **Annual Net Revenue (Profit):** \$61,800

With 5 cleanup jobs per month, each employer would make approximately **\$61,800 in annual profit** after covering payroll, NIS contributions, loan repayments, and fuel/maintenance costs. This model provides a sustainable level of profitability.

PROJECTED EMPLOYER REVENUE

Monthly Revenue with 15 Cleanup Jobs inclusive of Government's contract

- **Revenue per Job:** \$5,000
- **Total Jobs per Month:** 15
- **Gross Monthly Revenue:** 15 jobs by \$5,000 = \$75,000

2. Monthly Costs with Increased Fuel and Maintenance

- **Payroll + Employer NIS:** \$13,350
- **Loan Repayment:** \$4,000
- **Fuel and Maintenance:** \$7,500
- **Total Monthly Expenses:** \$13,350 by \$4,000+ \$7,500= \$24,850

3. Net Monthly Profit Calculation

Net Monthly Profit = Gross Monthly Revenue - Total Monthly Expenses

$$\$75,000 - \$24,850 = \$50,150$$

4. Annual Net Profit Calculation

- **Net Annual Profit** = Net Monthly Profit x 12 months

$$\$50,150 \text{ by } 12 = \$601,800$$

With the **increased workload of 15 cleanup jobs per month**,

Gross Monthly Revenue: \$75,000

- **Total Monthly Expenses:** \$24,850
- **Net Monthly Profit:** \$50,150
- **Net Annual Profit:** \$601,800

With these adjustments, the company's **annual profit** comes to **\$601,800**

With the company performing **15 cleanup jobs per month**, the **total annual tax revenue** for the government would be approximately **\$201,420 per business**, generated from P A Y E, N I S, and VAT. This amount reflects the government's share from the increased workload and associated taxes.

TAX Revenue from 20 companies = **\$4,028,400** , Derived from P A Y E, N I S, and V A T.

Simple Cost-Benefit Analysis

We are comparing two scenarios for the government to handle property cleanups and generate revenue:

1. **Scenario 1:** The government imposes an administrative penalty on land owners estimated around **5,000 Barbadian dollars** value applied to the land tax bill.
2. **Scenario 2:** The government establishes a **\$6,000,000 fund** to contract **20** small Businesses to perform cleanup services, generating additional tax revenue (P A Y E, N I S, V A T) from the Business operations.

Scenario 1: Landowners Pay Land Tax with Integrated Cleanup Fee

Description: In this scenario, each landowner is charged a **flat \$5,000 cleanup fee** added directly to their annual land tax bill to cover the cost of property cleanup, without adjusting the property's taxable value.

- **Calculation:**

1. **Flat Cleanup Fee per Property:** \$5,000 BDS.
2. **Total Properties:** 1,200 properties.
3. **Total Revenue Generated:** 1,200 properties by \$5,000 = **\$6,000,000** annually.

Key Considerations and Benefits:

1. **Revenue Generation:**

1. **Total Annual Revenue:** \$6,000,000 BDS from the cleanup fees.
2. **Reliability:** Provides a predictable revenue stream from landowners, covering cleanup costs directly.

2. **Administrative Costs:**

- The government is responsible for organizing and executing all cleanup activities, including staffing, equipment procurement, and scheduling, leading to increased administrative overhead and potential inefficiencies.

3. **Limited Economic Impact:**

- The model generates no additional economic benefits such as job creation nor or enfranchisement of small business since it does not involve contracting local businesses.
- Places the entire financial burden on landowners, potentially impacting those on limited incomes, such as retirees and single-parent households.

4. **Public Perception and Compliance:**

- Adding a substantial fee to land tax may lead to public dissatisfaction and resistance, particularly among those who may find it challenging to pay the increased amount.
- Increased risk of non-compliance, as some landowners may struggle with the additional tax burden, affecting revenue collection stability.

Scenario 2:

Using 20 Companies for Cleanup Services

In **Scenario 2**, the government sets up a **\$6,000,000 fund** to contract 20 small businesses

for cleanup operations, each performing 5 cleanups per month. This scenario includes additional revenue from taxes paid by the business and employees.

Calculation:

- **Total Cleanup Fees:** \$6,000,000 (allocated to 20 companies over the year).
- **Net Cost to Government:** \$6,000,000 (initial fund) - \$1,958,400 (recouped through taxes) = \$4,041,600

Total Revenue in Scenario 2:

- **Tax Revenue (PAYE, NIS, VAT): \$1,958,400 annually.**

Key Considerations:

- **Net Fund Expense:** The **\$6,000,000** fund is offset by tax revenue from the companies, bringing the net cost to **\$4,041,600**.
- **Additional Benefits:**
 - **Job Creation:** 100 jobs created through 20 companies, enhancing local employment.
 - **Business Growth:** Stimulates entrepreneurship and empowers Black-owned businesses.
 - **Reduced Government's Administrative Burden:** Private companies manage the cleanup logistics, relieving the government of these responsibilities.
 - **Public Health Improvement:** Cleanup services align with the Health Services Act's goals without adding costs to individual landowners.

Final Comparison of Scenarios

Scenario 1: Landowners Pay Flat \$5,000 Cleanup Fee

- **Total Annual Revenue:** \$6,000,000 directly from landowners.
- **Administrative Burden:** High, as the government must manage cleanup logistics and workforce.
- **Economic Impact:** Limited, as there is no job creation or business engagement.
- **Public Perception:** Potentially negative due to the high financial burden on landowners.

Scenario 2:

- **Total Tax Revenue (PAYE, NIS, VAT): \$1,958,400 annually,** reducing the net government expenditure on the fund.
- **Net Fund Expense: \$4,041,600** after tax recoupment.
- **Broader Economic and Social Benefits:**
 - Job creation, business empowerment, and reduced administrative costs.
 - Public health improvements with no direct costs to landowners.

Comparing the two scenarios reveals that **Scenario 2** offers a more sustainable and socially beneficial approach to managing property cleanups. While **Scenario 1** generates the full \$6,000,000 directly from landowners, it also imposes a high administrative burden on the government, which must oversee cleanup logistics and enforce payment. Additionally, this approach has limited economic impact, as it does not create jobs or engage local businesses,

and could be met with negative public perception due to the substantial financial strain on landowners.

In contrast, **Scenario 2** not only alleviates the direct financial burden on landowners but also generates a substantial portion of the cleanup fund cost \$1,958,400 through P A Y E, N I S, and VAT contributions. Although this scenario requires a net government expenditure of \$4,041,600 after tax recoupment, it provides significant economic and social advantages. By contracting local businesses, Scenario 2 fosters job creation and business growth, empowering communities while also reducing the government's operational responsibilities. Additionally, this approach aligns with public health goals, improving sanitation and neighbourhood conditions without direct costs to property owners.

Overall, **Scenario 2** represents a more balanced and community-focused solution, promoting economic empowerment, supporting public health, and ensuring a more manageable administrative burden on the government.

THE AVERAGE HOUSEHOLE/LANDOWNER .

Estimated Monthly Living Expenses:

- **Housing (Rent or Mortgage):**
 - Average rent for a 2-3 bedroom apartment: **\$1,200 - \$1,500**
- **Utilities** (Electricity, Water, Gas, Internet):
 - Average monthly cost: **\$350 - \$500**
- **Groceries:**
 - Average monthly grocery expense for 1 adult and 1 child: **\$600 - \$800**
- **Transportation** (Car maintenance, gas, or public transport):
 - Public transport or minimal car usage: **\$250 - \$400**
- **Childcare/Education** (if applicable):
 - Daycare or after-school care: **\$300 - \$500** (varies based on age and need).
- **Healthcare:**
 - Medical expenses and insurance: **\$100 - \$200**
- **Miscellaneous** (Clothing, entertainment, household items):
 - Average monthly expense: **\$200 - \$400**

Estimated Monthly Living Expenses for a Single Female Parent (Barbadian Teacher's Salary: \$4,000 BDS)

- **Housing (Rent or Mortgage):**
 1. **Mid-range estimate:** \$1,350
- **Utilities** (Electricity, Water, Gas, Internet):
 1. **Mid-range estimate:** \$425
- **Groceries:**
 1. **Mid-range estimate:** \$700
- **Transportation** (Car maintenance, gas, or public transport):
 1. **Mid-range estimate:** \$325

- **Childcare/Education**
 1. **Mid-range estimate:** \$400
- **Healthcare:**
 1. **Mid-range estimate:** \$150
- **Miscellaneous (Clothing, entertainment, household items):**
 1. **Mid-range estimate:** \$300

Total Monthly Expense Estimate (Mid-Range)

Mid-range total: \$3,650

Summary of Monthly Expenses:

- **Low-end total:** \$3,000
- **Mid-range total:** \$3,650
- **High-end total:** \$4,300

With a **monthly income of \$4,000**, this teacher's **mid-range expenses of \$3,650** would leave her with **\$350** disposable income per month, which could vary depending on additional unforeseen expenses.

Benefits to Landowners: Not implementing the Administrative Penalties:

Specific Benefits to the Teacher (Single Parent Scenario):

- **Increased Disposable Income:** If she owns property, the non imposition of the Administrative Penalties could significantly reduce her overall financial obligations, leaving more room in her budget for essential needs such as childcare, groceries, or healthcare.
- **Less Financial Stress:** Given that her mid-range expenses are already close to her monthly salary, eliminating land tax alleviates financial pressure, allowing her to focus on other areas of her life, such as providing for her child and saving for future expenses.
- **Greater Participation in Local Economy:** With more disposable income, she would be better positioned to spend within the local economy, supporting the growth of local businesses, especially those involved in the cleanup initiatives, further enhancing the community-wide benefits of this model.

Choosing not to impose additional administrative penalties on landowners provides more than just financial relief - it unlocks a pathway for local economic growth. By contracting local businesses, including small Black-owned enterprises, to handle property cleanups, the government stimulates job creation and increases local spending. This community-driven model supports long-term economic empowerment by redirecting funds to those who need it most, strengthening the local economy and building community pride. This approach advances public health without burdening landowners, investing in a sustainable, inclusive solution that benefits both property owners and the broader community.



ENVIRONMENTAL PROTECTION DEPARTMENT

E1

Ref No.: 062 Vol. III

DATE: November 11, 2024

Chairperson
Joint Select Committee (Standing on
The Social Sector and the Environment Name
Parliament of Barbados
Parliament Buildings
Trafalgar Street
Bridgetown

Report to the Joint Select Committee (Standing) on the Social Sector and the Environment on the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024 by the Environmental Protection Department, Ministry of Environment and National Beautification, Green and Blue Economy

Dear Sir/ Madam,

The Environmental Protection Department, Ministry of Environment and National Beautification, Green and Blue Economy is pleased to present its opinion on the caption subject matter. EPD's mandate addresses both human health and the protection of the environment including flora and fauna. This mandate recognises that a healthy environment, and sustainably functioning ecosystems are essential for clean water, clean air and thriving environment base development activity. To this end and within the mandate of the Department, our duties and responsibilities include the regulation and control of development activities through building development control, derelict buildings and vehicles control, multilateral environmental agreements, multi-hazards management (oil and chemicals spills), hazardous materials, marine pollution, solid waste, water quality, and ambient air quality programmes. These programmes therefore contribute to the public health goals articulated in the Health Service Act, CAP 44.

In relation to the caption matter, environmental health includes those aspects of human health, that are determined by the physical, biological, social and psycho-social factors in the environment (Bassett.W.H, 2004). This meant that the primary focus is human health, noting that humans operate within different environments such as the home, work and the recreational environment, thus drawing the social, economic and environmental determinants of health together.

Environmental health is not described as being directed to a single aim, it targets *avoidance* of disease, achieving greater longevity, and promoting positive states of health and well-being. The responsibility of environmental health is **not given as any single actor** or just

Environmental Protection Department

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each individual person taken alone, it requires efforts across society (Coggon, 2023). The success of environmental health efforts is therefore based on shared responsibility and partnerships at all levels throughout society. In other words, no singular entity works towards the prevention of disease or the promotion of the health and the well-being of the community, it is a responsibility shared by many organizations across society. However, in a modern Barbados with significant advances and utilisation of technology, the focus of environmental health needs to balance the human health concern with that of environmental quality in a more practical and direct way given the connection between human health and the environment.

Since 1971, the EPD has played an integral role within and along-side the Ministry of Health and Wellness in the promotion of good environmental health practices within society. The department’s mandate makes a clear distinction between those activities which are deemed public health nuisances and those that are environmental nuisances. Environmental nuisances are events that disrupt and interfere with daily lives of communities resulting from offensive odours, loud noise, dust and light derived from commercial and industrial development activity. These are usually caused by emissions of aerosols, fumes, noise, odours, energy and particulate matter (Queensland Government, 2023). Notably, complaints received by the EPD over the years have been classified under the following headings; wherein the proposed Environmental Management Act will address:

- a. Vehicle maintenance facilities
- b. Manufacturing operations, industrial stacks, and incinerators
- c. Vehicular traffic
- d. Indiscriminate backyard burning
- e. Quarrying, cement manufacturing, and other associated activities
- f. Road works
- g. Fuel storage
- h. Agricultural activities (not including animal husbandry).

The Department therefore recommends that an **Environment Act** with provisions for pollution control, emission standards, environmental management procedures and codes of practice be the basis to address significant environmental problems that affect ecosystem health, ecosystems services and by extension human health. In that regard, the Department has comments as follows:

Health Services (Amendment) Bill, 2024

Section	Comment
Section 2 (c)	Inclusion of a definition of the term “noxious matter” which means any solid, liquid or gaseous matter, including, but not limited to, gases, vapours, dusts, fumes, and mists, containing properties which by chemical means are inherently harmful and likely to destroy life or impair health, or are capable of causing injury to the well-being of persons or damage to property (South Euclid,, 2024). The law should ensure that air borne biological agents that can cause disease should also be distinctly addressed and should clearly include agents such as

	mould, fungi that can have adverse impacts on human health particularly within the indoor environment.
Section 9.(1)	<p>The Amendment to the Act does not address the inclusion of the Director of the EPD who performs several functions on behalf of the Ministry of Health and Wellness. There are examples of the Director being written into the Regulations as described below. The Health Services Regulation that include the post of Director all be it under former names of the post and these include the Senior Environmental Engineer referenced in Regulation 14 of the Health Services (Private Hospitals, Nursing Homes, Senior Citizen’s Homes and Maternity Homes) Regulations, 2005 and Regulation 2(b) of the Health Services (Prohibition of Tobacco Smoking in Public Places) Regulations, 2010. Regulation 2 of the Crematorium (Operating Standards) Regulations, 1999 cites the Environmental Engineering Division of the Ministry of Health, Now EPD, as the Regulatory Authority for these Regulations. The Water Reuse Act also sights the Director of the EPD under Section 4 (4) and states <i>“the Director, Environmental Protection Department shall be responsible for (a) the inspection of a wastewater treatment plant or premises on which such a plant is to be situated for the purpose of determining its suitability or continued suitability for producing reclaimed water for sale or other supply; and (b) monitoring the impact of the operation of the plant on the environment.</i></p> <p>The Department therefore recommends that the Director of the EPD should be included in the Health Services Act, CAP 44 similar to how the Manager of the Sanitation Service Authority (SSA) is included in the Health Services Act.</p>
Health Services (Nuisances) Regulations, 2024	
Regulation 4.(1)(h)	<p>According to Black, 1968, a public nuisance constitutes that which annoys and disturbs one in possession of his property, rendering its ordinary use or occupation physically uncomfortable to him, or anything that endangers life or health, gives offense to senses, violates the laws of decency, or obstructs reasonable and comfortable use of property, (Black, 1968).</p> <p>Noting that a public nuisance is the “unreasonable interference with a right common to the general public, such as a condition dangerous to health” (Center for Disease Control and Prevention, n.d.). Agriculture development activities such as poultry and pig farming have long pose a public nuisance to neighbouring communities when not managed effectively. The EPD recommends the inclusion of noxious gases within this regulation or a separate regulation.</p>
Regulation 5.(1)	States that an owner or occupier of premises may apply to the Relief Board for an exemption from Regulation 4. Regulation 4 address the definition of nuisances and does not address financial matters. It is assumed that the Relief Board will only preside over a financial burden and not make public health

	determinations. Does the law require the Relief Board to consult with a regulatory and competent authority in making any decision on matter under regulation 4? The Department recommends that the Relief Board should only address financial matters and public health matters should be left to the Chief Medical Officer.
Regulation 6.(1)	<p>The definition given for “derelict buildings” in Regulation 6(1) of the amended Health Services (Nuisances) Regulation, 1969, is quite narrow and provide uncertainty in the assessment of buildings that might be deemed derelict. There are decisions of the court that require structural assessment, which imply that if the health nuisance is removed the building can remain. The EPD in its assessment of buildings apply the following test to determine whether a building is derelict. The building should be vacant, appears to be neglected, poorly maintained and unsuitable for occupancy. This may include a building that are:</p> <ul style="list-style-type: none"> i. in a ruinous state, or in a dilapidated condition, and structurally unsound. j. a fire hazard to itself or surrounding properties. k. a hazard to health and or safety to the public. l. in a state of non-repair and is no longer suitable for human habitation or business purposes. <p>In that regard, a derelict building may be defined as “a dilapidated, uninhabitable, structurally unsound and unoccupied structure that may provide a home for disease causing vectors, which may adversely impact on environmental quality, human health, public safety and cause discomfort to the general public”.</p>
Regulation 7(1)(b) & 9(4)	<p>The amendment to the Section 11A, Health Services Act makes provision for the inclusion of the Land Tax imposed under Section 5(2) of the land tax Act Cap 78A. Regulation 7 also provides for payment of penalties to the Chief Environmental Health Officer. This implies two payment streams and may confuse the public. Should payment of cost incurred, and penalties be streamlined.</p> <p>How do these arrangements affect the easy of doing business for the public?</p>

Yours faithfully


ANTHONY HEADLEY
DIRECTOR

cc. Permanent Secretary, Ministry of Environment and National Beautification, Green and Blue Economy

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**AMENDMENTS TO
THE BILL AND
REGULATIONS**

JOINT SELECT COMMITTEE (STANDING)
AMENDMENT TO THE HEALTH SERVICES (AMENDMENT) BILL, 2024

NO.	LEGISLATIVE PROVISION	RECOMMENDATION
1	<p>Clause 2 (Amendment of section 2 of Cap. 44)</p> <p>Sub-clause "(c): <i>inserting the following definitions in the appropriate alphabetical order: ...</i></p> <p><i>““Minister” means the Minister with responsibility for health;”</i></p>	<p>CPC recommended that the definition of “Minister” be deleted.</p> <p>The Committee agreed to delete the definition of “Minister” and the amending words to this effect would be added in the Bill at Clause 2(b) which should read: <i>“deleting the definition “Minister”.</i></p>

JOINT SELECT COMMITTEE (STANDING)
AMENDMENTS TO THE PROPOSED
HEALTH SERVICES (NUISANCES) REGULATIONS, 2024

NO.	LEGISLATIVE PROVISION	RECOMMENDATION
<p>1.</p> <p>2.</p>	<p style="text-align: center;"><u>PART II -- NUISANCES</u></p> <p>Nuisances under health regulations “3.(1) For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any ...</p> <p><i>“of which the act, the failure or the contravention prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance.”</i></p> <p>General Nuisances “4.(1) For the purposes of these Regulations, on any premises the following are deemed to be nuisances:...</p> <p><i>“(c) the existence of any condition, matter or thing which in the opinion of an officer provides or may provide food or harbourage or acts as a breeding place for...”</i></p>	<p>The Committee agreed that in the closing words, the words “of”, “the act”, “the failure or the contravention” should be deleted to simplify the paragraph and to avoid repetition.</p> <p>The Committee agreed that the words “which in the opinion of an officer” be deleted and substituted with the words “in the professional opinion of an officer”.</p> <p>Sub-regulation (c) should now read: <i>“the existence of any condition, matter or thing in the professional opinion of an officer provides or may provide food or harbourage or acts as a breeding place for...”</i></p>

NEW BILL AND REGULATIONS

2024-12-13**OBJECTS AND REASONS**

This Bill would amend the *Health Services Act*, Cap. 44 to

- (a) make provision for administrative penalties; and
- (b) revise the provisions concerning the removal and sanitary disposal of offensive matter.

Arrangement of Sections

1. Short title
2. Amendment of section 2 of Cap. 44
3. Repeal and replacement of section 3 of Cap. 44
4. Amendment of section 10 of Cap. 44
5. Amendment of section 11A of Cap. 44
6. Repeal and replacement of section 11B of Cap. 44
7. Amendment to certain enactments

SCHEDULE

Consequential Amendments

BARBADOS

A Bill entitled

An Act to amend the *Health Services Act*, Cap. 44 to make provision for the imposition of administrative penalties and the removal and sanitary disposal of offensive matter.

ENACTED by the Parliament of Barbados as follows:

Short title

1. This Act may be cited as the *Health Services (Amendment) Act, 2024*.

Amendment of section 2 of Cap. 44

2. *Section 2 of the Health Services Act, Cap. 44, in this Act, referred to as the principal Act, is amended by*

(a) *deleting the definition “district” and substituting the following:*

“ “district” means a health district established by the Minister within an area under section 3;”;

(b) *deleting the definition “Minister”;*

(c) *deleting the full stop at the end of the definition “National Assistance Board” and substituting a semi-colon; and*

(d) *inserting the following definitions in the appropriate alphabetical order:*

“ “Chief Medical Officer” means the person assigned to the post of Chief Medical Officer, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“filth” includes any decomposing animal matter and vegetable matter;

“Medical Health Officer” means the person assigned to the post of Medical Officer of Health, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“night soil” means human excreta;

“offensive matter” includes filth, animal excreta and night soil;

“Relief Board” means the Land Taxation Relief Board established by section 18 of the *Land Tax Act*, Cap. 78A .”.

Repeal and replacement of section 3 of Cap. 44

3. *The principal Act is amended by deleting section 3 and substituting the following:*

“Minister to be responsible for health of inhabitants of Barbados and may divide Barbados into areas and districts.

3.(1) The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of Barbados.

(2) The Minister may by order

- (a)* divide Barbados into such areas as he may determine;
- (b)* establish such health districts within any area; and
- (c)* assign duties to such officers in relation thereto as he thinks necessary,

to facilitate the preservation of the health of the inhabitants of Barbados.

(3) The order made under subsection (2) shall be subject to negative resolution.”.

Amendment of section 10 of Cap. 44

4. *Section 10(1) of the principal Act is amended by inserting immediately after paragraph (y) the following paragraph:*

“(y.1)annexing to the contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44 an administrative penalty. ”.

Amendment of section 11A of Cap. 44

5. Section 11A of the principal Act is amended by deleting subsection (3) and substituting the following:

“(3) Where any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for the contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is due to the act or omission of the owner of that property it shall be a charge on that property and be added to the land tax imposed under section 5(2) of the *Land Tax Act*, Cap. 78A.

(4) Where any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is added to land tax under subsection (3) it shall be subject to the penalty and interest payable under section 28(3) of the *Land Tax Act*, Cap. 78A.

(5) Where any

- (a) costs incurred in the execution of work on property; or

- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

is due to the act or omission of an occupier of that property it shall be a debt to the State recoverable in the Magistrate's Court for District A.

(6) Where there is a dispute between the owner of property and an occupier of property in relation to the act or omission which results in any

- (a) costs incurred in the execution of work on property; or
- (b) administrative penalty imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health Services Act*, Cap. 44,

the Relief Board shall hear and determine the dispute.”.

Repeal and replacement of section 11B of Cap. 44

6. *The principal Act is amended by deleting section 11B and substituting the following:*

“Appeal

11B.(1) The owner or occupier of any property upon which work is executed by the Minister may within 42 days after receipt of the demand for repayment of costs incurred in the execution of work under section 11A, appeal to a Judge in chambers against the costs of any such work.

(2) The owner or occupier of any property upon which an administrative penalty is imposed, for contravention of or failure to comply with regulations made under section 10(1)(f) of the *Health*

Services Act, Cap. 44 may within 14 days of receipt of an administrative penalty notice appeal to the Relief Board. ”.

Amendment to certain enactments

7. *The enactments set out in the first column of the Schedule are amended in the manner set out opposite thereto in the second column.*

SCHEDULE

(Section 7)

CONSEQUENTIAL AMENDMENTS

Column 1

Column 2

Enactments

Amendments

Land Tax Act, Cap. 78A Insert after section 27, the following section:

"Appeals in respect of Health Services (Nuisances) Regulations

27A. The Relief Board shall hear and determine appeals made pursuant to regulations made under section 10(1)(f) of the *Health Services Act, Cap. 44* in accordance with section 10(1)(y.1) of the *Health Services Act, Cap. 44*."

2024-12-13

S.I. 2024 No.

**HEALTH SERVICES (NUISANCES)
REGULATIONS, 2024**

Arrangement of Regulations

PART I

PRELIMINARY

1. Citation
2. Definitions

PART II

NUISANCES

3. Nuisances under health regulations
4. General nuisances
5. Application for exemption
6. Derelict buildings etc.

PART III

ADMINISTRATIVE PENALTIES

7. Administrative penalties

8. Contravention notice

9. Administrative penalty notice

PART IV

APPEALS

10. Appeals

PART V

MISCELLANEOUS

11. Specified regulations to bind the State

12. Revocation

FIRST SCHEDULE

Administrative Penalties

SECOND SCHEDULE

Administrative Penalties For Continuing Contravention

Health Services Act

CAP. 44

**HEALTH SERVICES (NUISANCES)
REGULATIONS, 2024**

The Minister, in exercise of the powers conferred on him by section 10(1)(f) of the *Health Services Act*, makes the following Regulations:

PART I

PRELIMINARY

Citation

1. These Regulations may be cited as the *Health Services (Nuisances) Regulations, 2024*.

Definitions

2.(1) In these Regulations,

“agricultural land” has the meaning assigned to it in section 2(1) of the *Land Tax Act*, Cap. 78A;

“Relief Board” means the Land Taxation Relief Board established by section 18 of the *Land Tax Act*, Cap. 78A;

“Chief Environmental Health Officer” means the person assigned to the post of Chief Environmental Health Officer, Ministry of Health and Wellness, as established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“Environmental Health Officer” means the person assigned to the post of Environmental Health Officer, Ministry of Health and Wellness, as

established in the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

“officer” means the person assigned to the post of

(a) Environmental Health Officer I, Ministry of Health and Wellness; or

(b) Environmental Health Officer II, Ministry of Health and Wellness,

as established by the *Public Service (General) Order, 2020* (S.I. 2020 No. 41);

PART II

NUISANCES

Nuisances under health regulations

3.(1) For the purposes of these Regulations and in addition to nuisances specified in regulations 4 and 6, any

(a) act not authorised by law;

(b) failure to discharge a legal duty; or

(c) contravention of the provisions of any other regulations made under the *Health Services Act, Cap. 44,*

which prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance.

(2) No person shall commit a nuisance or permit a nuisance referred to in this regulation.

General nuisances

4.(1) For the purposes of these Regulations, on any premises the following are deemed to be nuisances:

- (a) any place, matter, thing, deposit or accumulation of liquid or solid matter that is full, in such a state, or so placed, made or left as to be insanitary, injurious or dangerous to health or likely to become so;
- (b) the existence of
 - (i) flies, mosquitoes or other insects capable of transmitting or causing disease;
 - (ii) bed bugs, cockroaches or other vermin;
 - (iii) mice or rats;
- (c) the existence of any condition, matter or thing which in the professional opinion of an officer provides or may provide food or harbourage or acts as a breeding place for
 - (i) insects capable of transmitting or causing disease; or
 - (ii) vermin or rodents;
- (d) any grass, bush or weeds which are more than 2 feet in height;
- (e) the presence of branches, tree trunks or uprooted tree stumps which have been cut and accumulated which constitutes a health and safety hazard or which can block a watercourse;
- (f) the presence of empty bottles, broken or otherwise, empty tins, coconut shells, uncovered barrels, boxes or any other thing which may serve as a receptacle for water which creates a breeding place for mosquitoes or other insects capable of transmitting or causing disease;
- (g) any sanitary convenience which is not properly constructed or maintained;

- (h)* any discharge, except in accordance with a permit granted by the Minister or the Chief Environmental Health Officer of any industrial waste or other noxious matter on to any beach, into the sea or into any river, ravine, watercourse, pond, ditch, drain or other place;
 - (i)* any stack which emits smoke or grit in such quantity or of such density so as to be prejudicial or injurious to public health;
 - (j)* any serious disregard for general maintenance or upkeep of premises so as to be prejudicial or injurious to public health; and
 - (k)* any water supply system in such a condition that the water passing through, when used for domestic purposes can be injurious to health.
- (2) No person shall
- (a)* commit a nuisance referred to in this regulation;
 - (b)* aid or abet another person to commit a nuisance referred to in this regulation; or
 - (c)* being the owner or occupier of any premises, permit a nuisance referred to in this regulation to continue on the premises.

Application for exemption

- 5.(1) Notwithstanding regulation 7, an owner or occupier of premises may at any time, in writing, apply to the Relief Board for an exemption from regulation 4.
- (2) An owner or occupier may be exempted on grounds of hardship.
- (3) An application made pursuant to paragraph (2) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application.
- (4) Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within 7 days of receipt of the application.

(5) Where the Relief Board approves an application, the Relief Board may state terms and conditions concerning the maintenance of the premises.

(6) Where an owner or occupier is served with

(a) a contravention notice in accordance with regulation 8; or

(b) an administrative penalty notice in accordance with regulation 9,

and thereafter he applies for and is granted by the Relief Board an exemption in respect of the nuisance committed, the contravention notice or administrative penalty notice shall be null and void.

(7) Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination.

Derelict buildings etc.

6.(1) A building or structure on premises which is in a derelict condition so as to be insanitary, injurious or dangerous to health or likely to become so is deemed to be a nuisance.

(2) No person, being the owner or occupier of any premises, permit a nuisance referred to in this regulation.

(3) Notwithstanding paragraphs (1) and (2) and regulation 7, an owner or occupier may, in writing, apply to the Relief Board for an exemption from this regulation.

(4) Subject to paragraph (3), an owner or occupier may be exempted on grounds of hardship.

(5) An application made pursuant to paragraph (3) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application.

(6) Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within 7 days of receipt of the application.

(7) Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination.

PART III

ADMINISTRATIVE PENALTIES

Administrative penalties

7.(1) A person who

(a) contravenes a regulation appearing in the first column under the heading "Regulation" of the *First Schedule*; and

(b) fails to comply with a contravention notice under regulation 8,

shall pay to the Chief Environmental Health Officer the administrative penalty in the second column appearing opposite thereto under the heading "Administrative Penalty".

Contravention notice

8.(1) Where a person contravenes a regulation specified in the *First Schedule*, an officer shall first serve a contravention notice, in such form as the Chief Environmental Health Officer determines, to the person.

(2) The notice referred to in subparagraph (1) shall

(a) specify the regulation which has been contravened;

(b) specify the nature of the act constituting the contravention; and

- (c) require a person in contravention of the specified regulation to remedy the contravention within a period specified by the Chief Environmental Health Officer, such period not exceeding 21 days.
- (3) An administrative penalty shall be imposed where a person fails to remedy the contravention within 21 days of the date of the contravention notice.

Administrative penalty notice

9.(1) Subject to regulation 7 where a person contravenes a regulation specified in the *First Schedule*, an officer shall serve an administrative penalty notice, in such form as the Chief Environmental Health Officer determines, to the person.

- (2) An administrative penalty notice shall specify
 - (a) the regulation which has been contravened;
 - (b) the nature of the act constituting the contravention; and
 - (c) the penalty to be paid.
- (3) The penalty shall be paid to the Chief Environmental Health Officer within 30 days of the date of the administrative penalty notice.
- (4) A person who is in receipt of an administrative penalty notice shall pay the penalty to the Chief Environmental Health Officer on or before the date specified in the administrative penalty notice.
- (5) A person in receipt of an administrative penalty notice shall pay a further penalty, as set out in the *Second Schedule*, to the Chief Environmental Health Officer for every day or part thereof for which the contravention is continued.

PART IV

APPEALS

Appeals

- 10.(1)** Where the Relief Board does not approve an application made pursuant to regulation 5 or 6(3), the relevant applicant may appeal to the High Court.
- (2) The decision of the High Court in respect of an appeal made under paragraph (2) shall be final.
- (3) A person who receives an administrative penalty notice pursuant to regulation 9 may, within 14 days of receipt of the notice, appeal to the Relief Board.
- (4) An appeal shall
- (a) be made in such form as the Relief Board determines; and
 - (b) state the grounds on which the appeal is based.
- (5) A person shall submit with the appeal any documentation or other information relied upon in support of the appeal.
- (6) Where the Relief Board receives an appeal in accordance with this regulation, it shall
- (a) make a determination within 21 days of receipt of the appeal; and
 - (b) in writing, notify the applicant of the determination.
- (7) Subject to paragraph (3), the Relief Board may
- (a) impose the administrative penalty;
 - (b) mitigate or remit the administrative penalty; or
 - (c) revoke the administrative penalty and declare the administrative penalty notice to be null and void.

(8) A person who is aggrieved by a decision of the Relief Board made in accordance with this regulation may, within 14 days of receipt of the decision, appeal to the High Court.

(9) The decision of the High Court in respect of an appeal made under paragraph (8) shall be final.

PART V

MISCELLANEOUS

Specified regulations to bind the State

11. Regulations 4 and 6 bind the State.

Revocation

12. The *Health Services (Nuisances) Regulations, 1969* (S.I. 1969 No. 159) are revoked.

FIRST SCHEDULE*(Regulations 7(1), 8(1) and 9(1))**Administrative Penalties*

Regulation	Administrative Penalty for Contravention of Regulation \$
Regulation 3(2)	300
Regulation 4(2)	300
Regulation 6(2)	300

SECOND SCHEDULE*(Regulation 9(5))**Administrative Penalties For Continuing Contravention*

Regulation	Administrative Penalty for Continuing Contravention \$
Regulation 3(2)	10 per day
Regulation 4(2)	10 per day
Regulation 6(2)	10 per day

Made by the Minister this day of , 2024.

Minister responsible for Health

HANSARD TRANSCRIPTS

**FIRST MEETING
OF THE
JOINT SELECT COMMITTEE (STANDING)
ON THE
HEALTH SERVICES (AMENDMENT) BILL 2024
AND THE
HEALTH SERVICES (NUISANCES) REGULATIONS 2024,
HELD IN THE
SENATE CHAMBER**

Tuesday, 01 October, 2024

PRESENT:

Ms. **TONI N. S.-A. MOORE, J.P., M.P.**
(CHAIRMAN)
Senator **JOHN. A. KING, J.P., B.S.S.**
(DEPUTY CHAIRMAN)
Her Honour Miss **CYNTHIA Y. FORDE, J.P., M.P.**
Hon. **COREY A. LANE, J.P., M.P.**
Senator **ANDRE. R. WORRELL, J.P., B.A.**

ABSENT:

Mr. **TREVOR A. PRESCOD, J.P., M. P.**
Senator Canon Rev. Dr. **JOHN A. ROGERS,**
Ph.D.

ALSO IN ATTENDANCE:

Ms. **BEVERLEY GIBBONS, J.P.** (Deputy
Clerk of Parliament)
Miss **J'ANNE C. GREENIDGE** (Typist,
Journal Department)

The Chairman called the meeting to order at 10:13 a.m.

Madam CHAIRMAN: Welcome. This is the second item that we will be observing under this particular Joint Select Committee. You would recall that the Committee has previously examined Bills relating to Child Justice and Child Protection. That was the first remit of the

Committee and now we have before us, consideration of the Health Services (Amendment) Bill and the proposed Health Services (Nuisances) Regulations, 2024.

Before the Committee begins its work, I am to acknowledge the fact that the Chief Parliamentary Counsel (CPC) representative is not going to be with us today because she is unwell and will be on sick leave for two weeks. We will have to confirm whether that will have implications for our work or if there will be someone else assigned to follow the work.

CPC is integral to our discussions as we observed under our examination of the Child Protection Bill and the Child Justice Bill, now Acts of Parliament. So that may alter the course of our work.

I am also to recognise the presence of Senator Andre Worrell, the (Opposition) Senator assigned to follow the work of the Joint Select Committee (JSC). Welcome, because this will be your first meeting.

We have a quorum; we have four (4) people. The Terms of Reference makes provision that quorum is established once we have four (4) people and that is whether here or online.

The other Members of the Committee who are not present today...

Asides.

Madam CHAIRMAN: Is Corey here?

Asides.

Madam CHAIRMAN: Okay. The Honourable Corey Lane is here. We also have Mr. Trevor Prescod, who forms part of the Committee. Senator Rev. Canon Dr. Rogers is also a Member of the Committee and that is it.

Those are the two (2) other members of the Committee who are not yet here at this present time and they are not online. Senator King is the Deputy Chairman of the Committee, so he only presides when the Chair is not available.

Now, the matter before us, the Health Services (Nuisances) Regulations, 2024. This was passed to the Committee for its attention at the end of July, 2024. I believe it was 23 July, 2024 that the matter was passed to us and according to the Terms of Reference, matters referred to the Committee should be examined and passed back no later than three (3) months, after they have been referred.

This particular matter was referred at a time when we were in recess, so hopefully they could be allowance made for some latitude to be given to the Committee, given that one, we were unable to meet and two, now we also have the Chief Parliamentary Counsel that is unable to be with us today.

I am being made to indicate reference to Standing Order 62 (5):

"A Select Committee to which a Bill been committed shall report to the House not later than three (3) months after the committal of the Bill, provided that any period during which the House is recess shall not be counted for this purpose."

We have some latitude which is good but it really only gives us an extra month for all intents and purposes. We have to commit to completing the examination before this Committee, by the end of November, 2024. From the 23 July, 2024, the five (5) extra weeks will take us to 26 November, 2024. That is a day I should remember; it is my daughter's birthday. We have that deadline, a deadline that I certainly cannot forget, to complete this examination.

The agenda before us is a short one. The discussion of the timeline and schedule for completion of our deliberations, we have until 26th of November, 2024, so we will have to schedule meetings in between there but that will pretty much be a function of the Agenda Item number three. The groups and individuals that will submit written proposals; make written submissions to the Committee and those who will

indicate that they want to come and present oral submissions to the Committee.

We sent out advertisements, as is required, to the public. The Parliament website is there that people can always make comments but when matters are to appear before the Joint Select Committee, we send out public notices; public advertisements; giving members of the public adequate time that they can respond. As I said, the Bill was referred towards the end of July, 2024, so members of the public have been making comments, even before the notice went out. But to make sure that our work is in keeping with our obligations, we sent out the advertisements and the deadline is Friday, 11 October, 2024 which is next week Friday, for submissions to be made.

Today is the October 01, 2024, and this Committee is tasked with agreeing on those individuals and/or organisations that the Committee believes we should, out of an abundance of caution and for the avoidance of doubt, ensure that they have seen the advertisement because we believe that the work of the Committee could benefit from their input.

It is one thing to say '*well the notice went out*' but for completeness of our work, we are allowed to express our belief of those individuals or groups that we want to ensure that they have seen the notice and that we can give them ample opportunity to provide us with the benefit of their input.

I would wish to suggest that we can look at point number three and then. We can start to examine some proposed dates, as well, for our Committee to meet. We will not be in a position to finalise dates until after October 11, 2024; at which point in time we will have a list of the submissions that have been made and all the requests that have been made to the Committee, whether for just examination of written or oral presentations.

I would want us to leave here with at least two dates in mind, that we can consider to commence an examination and prioritising of the written and oral submissions and so on. That is by way of opening, if there are any questions or comments before we proceed, I leave the floor open to you at this time.

Asides

Madam CHAIRMAN: Okay, to get us moving, the Deputy Clerk and her team have for

our consideration, some areas that can be considered for this particular piece of legislation. As you are aware, I am sure, the Health Services (Amendment) Bill is one that has been amended to address the very niggling issue of 'bush'. Let me just put it that way.

It is to address bush around the country. We have been receiving continued complaints of property that has been left unattended by the owners of the said property and this is presenting a public nuisance to neighbours and passers-by on the road and so on.

People very frequently have to be clearing lots that are not theirs; there is a cost associated with it. If you cannot manage that cost, there are security implications, health implications, and so on. We would want to make our work as tidy as possible, making sure that outside of "*John Public*", that key groups have an opportunity to participate in our examination of the amendments before us. The amendments are not very lengthy, so if we have not read them as yet, they should make for fairly easy reading as we examine them.

The proposals before us are to look at the recycling brokers and that was said deliberately, first of all, knowing that the Member of Parliament (MP) for St. Thomas will have a view certainly on this.

The recycling brokers which is B's Recycling and Mr. Morris or Mr. Cozier, 'Scrap Man', that is for own information; the Sanitation Services Authority (SSA). I just list them and then, we can discuss them if there are any that you feel should not be there or whatever; it is not cast in stone. The Drainage Division and the Barbados Agricultural Society (BAS); these things have livestock implications. The Barbados Association of Professional Engineers (BAPE); operators of wastewater treatment plants, for example, Ecohesion Inc., and vehicle maintenance facility operators.

Those are some of the broad areas, let me just say, rather than organisations. Within these, but not limited to these, we can begin our consideration of those individuals and organisations that should be targeted to make them aware of the amendments and to make a provision to entertain their submissions.

Yes, I recognise. Turn on your microphone.

Her Honour Miss C. Y. FORDE: Thank you very much for breaking this down to the level where not only I can understand but our new Senator who is with us, so that we get to

understand better. Another area, and I know I might be saying this late, is to do with those repairing household appliances on the road. There are just as bad as the cars. I do not know if that would come under one of these categories that we are doing now.

People fixing washing machines and fridges. Like the road where I live, it is like taking up half of the road and the health inspector would have come and told them to put them onto your land. To my mind, that is something even though it is late now, that we might want to pay attention to as time goes by.

Madam CHAIRMAN: Indeed, it is not late at all because we still have time to write them. Once we can agree on a list; what the staff would do is send out those notices to them to make sure they are aware and to make sure that they have the opportunity to comment between now and next week Friday.

Her Honour Miss C. Y. FORDE: Thank you very much, Madam.

Madam CHAIRMAN: You are most welcome. I recognise Senator Worrell.

Senator A. R. WORRELL: Thank you, Madam Chairman. I do not know because I am new to this, but I think my understanding was part of the reason this was also sent to the Committee had to do with the issue of the collection of the taxes; placing the penalty on the taxes. I think that if that is the case, we should have someone from the Land Tax Department, Barbados Revenue Authority (BRA) and possibly one of the audit firms who deal with taxes, if they would give an opinion on that as well.

Madam CHAIRMAN: Okay. A proposal is before us as well to send out specifically to BRA and to audit firms. We could send out to audit firms generally because we would not want to specify one (1) and then, it feels like it is skewed. BRA would have factored into the discussions but for the purposes of examination, it is useful. Any other considerations?

Her Honour Miss C. Y. FORDE: I will now make my intervention as well. As much as we are talking all of this, interior Barbados is one (1) of the biggest dumping grounds ever. When calls are made and photographs are sent and I could show you one hundred and one; then we are not getting the response from the Ministry of Environment, I believe it is, and the Ministry of Health, in a way that it can be curtailed and that those persons who are breaching the law, can be

apprehended. I can say for your attention and the all of the Members here that the Ministry of Environment has been trying very hard with cameras, so that persons can be seen doing the illegal dumping and all that.

When you look at places like Vaucluse, Canefield and those areas, all of those coconut shells and so on that are being sold alongside the street are dumped in those areas. The same old fridges and all of that, and it is really unacceptable for Barbadians who we have given so much free education to, to be doing it without even being bothered.

While I have got the ear of the Minister of the Environment, it seems to me as though the Ministry of Health itself has got to be an integral part of it because it is one of the biggest nuisances you could ever want with the illegal dumping not only in St. Thomas but across Barbados.

Even in town, I have seen mattresses. I am talking about in Bridgetown; mattresses just thrown out in front of people's houses. It means that public education has to be the hallmark of what we do and the penalties must be enforced, so that when you capture one or four persons, then something has to be done about it. If I am not saying this in the right forum, I apologise but that is one of the biggest problems we have in central Barbados and across rural Barbados as a whole.

Almost every parish has illegal dumping, people coming with big trucks and all of that and just putting anything anywhere that they feel like. I am not sure how that might be included but I think that it is, in my own understanding, for us to have that included somewhere in what we are doing, so that the public education and all that can be included once we determine exactly where we are going with this. It does not make sense we are doing all of this and then, something as serious as illegal dumping ... sometimes, even the illegal dumping of bodies, has been in Vaucluse and those communities as well.

I am not saying that in any slight way. I am just saying that dumping has to stop and unless we get people in community groups to say, "*we want to be advocates against this madness and we are going to go out on a Saturday morning with our cameras*" or the cameras are installed and somebody is monitoring them, then we can capture those culprits. Big businesses; small businesses. I do not think that is the Barbados we have known or grown accustomed to, except within the last few years.

People are just doing what they feel like and then they seem to have friends elsewhere that they do not have to go to court and be exposed and something needs to be done. I just thought I would put that on the table as well Madam Chairman. Thank you for your patience.

Madam CHAIRMAN: Senator King.

Senator J. A. KING: Chair, I am not sure if in Barbados there is any overarching body that represents what you would call haulers; people who actually, not necessarily as waste haulers but people who move, even furniture, different things like that, because what I think that Minister Forde is talking about, is the fact that on the ground, people pay people who have trucks to move things for them to take them to the dump or whatever, and they carry them all over the place and drop them.

Yes, this is a major problem. As I said, I am not sure that there is an overarching body that represents that particular group but a lot of businesses hire these people now to deliver things for them, so we have to find a way of getting those persons rounded up and I believe that since they have to go through a licensing process in The Pine, that that particular body, the Licensing Authority should be called in on this also, because it should in some way affect how people get these licences for these trucks, so that is just my submission.

Asides

Her Honour Miss C. Y. FORDE: So I apologise for interjecting here, but we really have to do this in a more holistic way for our country that has been given so much in education and services and all that. It is unfortunate that just a small percentage perhaps is breaching every rule and think they can get away with it, while they are dumping their waste into other communities that will impact on other people with vermin and whatever diseases that might come forth because you are talking dengue mosquitoes getting into those items that they are disposing of. I thank you very much for your attention ladies and gentlemen.

Madam CHAIRMAN: I thank you for that and I smiled at one point in your submission only because we had to clean a tree off of the Union's property a few months ago. Rats and so on were seen and we had to get special permission because

you know, for some trees you will have to get permission to get them cut down.

When that tree was cut down; mattresses, furniture because it is one of those trees that covered a lot; there is a lot of green and so on. Mattresses, there was a cupboard, a desk, a metal chair and clothes. It was ridiculous. We were thinking that the rats and so on just found a home but we did not know the reason why they were finding a home. This would also be having implications for PAREDOS and The Sunshine School.

People do not really consider the implications of their actions. Maybe it is Christmas cleaning or people coming to visit, and you just want to get it from your place because SSA might not be picking it up so you dump it wherever you could get it. It is definitely something for consideration by this Committee; and then the other point that you picked up that I did not want us to lose track of, is when you mentioned community groups; so what are some of the community organisations that we would think that do the cleaning up that we would want to invite? But while we consider that, I saw the hand of Senator Andre Worrell.

Senator A. R. WORRELL: Thank you Chair, and I support what Her Honour MP Forde would have said. I think, I was going to interject to say that we have the Government agencies but will we be seeking the Chief Environmental Health Officer who would be the one who would deal with the majority of these complaints in the community? If you want to address the issue, we also need to know what challenges they may face and what are some of the issues that they face in addressing the issue. I do believe at one point in time there was a Waste Haulers Association but if there is not, we can at least reach out to the bigger players in that industry and then drill down from there and then there is also Sustainable Barbados Recycling Centre Inc. (SBRC) because a lot of this waste should really be going to SBRC to be recycled.

Asides.

Senator A. R. WORRELL: Sustainable Barbados Recycling Centre handles and sorts all of the garbage in Barbados and takes out what can be recycled, including bulk waste - metal and waste from construction sites as well. We should include them to find out what are the challenges in

getting persons to actually take the bulk waste such as the fridges and the mattresses to that area for dumping.

Quite a few students are now doing environmental studies as part of the Caribbean Advanced Proficiency Examination (CAPE) and at Barbados Community College (BCC), so I would suggest that we put an invitation out to hear from young people with regard to the issues with controlling the environment and keeping the environment clean, so we can probably put in a special request for CAPE students and Barbados Community College students who are doing the environmental studies, to possibly write submissions to the Committee; and there are also a number of environmental groups.

I think only recently a group did a cleaning in a gully. Hearing from them of what they found and their challenges as well would also feed into what the Committee is doing and then the final point on this one: One of the biggest nuisances that we have in this area would be cow itch, so if anything we would need to have a special session dealing with cow itch because that would include the large agricultural players such as the Barbados Agricultural Management Company, which would fall into that. This would also include a lot of Government land.

Cow itch can be dealt with but you need to deal with it at a certain time. If you wait too late, the only thing that you can do will be to burn it but you should be able to deal with it before, so we need to put some provisions in place of dealing with cow itch as well and getting the large landholders on board with that because it could be costly if you are not using the pesticides.

Madam CHAIRMAN: The legislation really deals with any kind of bush that is higher than two feet, so hopefully that will take care of the cow itch because generally, it is in the overgrown areas and you should be taking care of that bush or those fields before it reaches that kind of height; but I agree with you, that is one of the areas to examine as well. You also spoke about school children and groups – we can add Future Barbados and other environmental groups as well. Pardon?

Asides

Her Honour Miss C. Y. FORDE: Yes, nursery schools. We need to really sensitise children in a special way, and not only teach them

Maths and English. It is very important that we are sensitised and that whole component, as the Senator said, it has to do with sensitisation about how you dispose of your bottles? Plastic bottles or not, people just drop them in the garbage like that, and you know we are into these water bottles and drinks in bottles and so on. A lot of Barbadians are not separating their garbage. I separate my garbage because I understand it, but a lot of people do not. They are just putting everything in one and just putting it anywhere.

Yesterday morning, there was a massive pig, about 150 pounds, on Ashford Main Road. Somebody just dumped it there and that is how the culture is going. Our seniors in this country are rolling over in their graves because they were some of the cleanest people with limited water; you had to go to the standpipe; they had to go and work in the agricultural belts all day long, sometimes never even getting proper lunch because they did day-work with all kinds of challenges and today we are not getting it right.

When it comes to all of this education; all of these big jobs, and I am not begrudging anybody. I am just saying the whole culture of giving and serving my country and my community seems to be going through the window. We need to get back to basics in our schools and in the workplaces as well.

It is not enough that they have a degree and walk into an office but when you were walking in you had your drink and you just drop it outside the door because of "*a janitor here to clean it up*" mentality. We have to arrest it in some other special way and we cannot only do it at this level.

Every community has to have a community clean-up-day every quarter or so. I did it in Allen View and all of the residents came out. The National Conservation Commission (NCC) came, but I am not boasting about that. I am just saying, because what in there looked like and what Vault Road and Sturges looked like, because other people are just doing the illegal dumping. Engage the shopkeepers and everybody in the community. Are they not too stakeholders? That is the only way we are going to correct some of these problems.

Also make sure too the penalties are paid. I went one day and I parked in Roebuck Street about 15 years ago to pick up lunch, and the ladies who wear the uniforms, the Traffic Wardens, as soon as I stepped in to pick up the food, the lady came and I was parked on Roebuck Street, and

she put the ticket under my windscreen. When I came out and I saw it, I went straight and paid the fine.

Unless we make sure that, do not care who you are or where you come from, once there is a breach and you are given that ticket, you should not be able to get any ease either. We want money in the Government coffers to help build a hospital and to look after people who are disabled, our senior citizens and all of that, as well as the rest of the country.

We need to make it more holistic in what we do and not ease anybody because of who they are or where they may come from. This country is slipping in those directions and it is not good for other persons who will never get the opportunity to get an ease in anything. All I did was to stop to pick up the lunch and I paid my dues. I was just parked there for just a few seconds, but I have to conform with the rules just like anybody else.

I think those are the things that we need to reinforce and I am going to shut my mouth now because somebody would soon say, "*she is old and miserable.*" I have grown accustomed to that as well and I am proud to be able to live so long with the standards that the poorest of people in Barbados instilled in their homes, in their churches and in their communities and we have had some of the best citizens any country in the world could have produced.

We need to get back to basics in that respect and until that time: embrace, educate, tolerate to some extent, because a lot of people do not understand what their roles are, but I am sure that we will get an element of success once we start in our schools and in our communities.

Thank you, Madam Chairman, my big mouth is shut.

Madam CHAIRMAN: Thank you.

Madam DEPUTY CLERK: Madam Chairman, just to add to what Senator Worrell would have said previously about a community group doing a recent clean up. That area was in St. George based on my research and that community group is Green Nation Community Group headed by Adrian Bowen, Project Manager.

I also advise the Committee to write to the Future Centre Trust, Ms. Stacey Alvarez, she is the Director and also the Coastal Zone Management Unit, headed by Dr. Leo Brewster. We can also write the Barbados Bar Association as well.

Senator J. A. KING: Madam Chairman, I would like to add too to that list the Natural Heritage Department and also the Barbados National Trust as they are responsible for looking after natural heritage also.

Madam CHAIRMAN: I just should have said that once we do not hear any dissenting voices on any of the proposals made, we will take it that the Committee has agreed and we will write to all of these people.

Are there any others? So we said community groups. We have the relevant agencies from the Minister of Health and Wellness and the Environment that deals with community health. We have those in the Ministry of Education, Technology and Vocational Training, particularly the Caribbean Advance Proficiency Examination (CAPE); the Future Trust and so on.

We would need to get a list of agencies that are involved in community clean-up work and to the greatest extent possible reach out to those for their inputs. Then we have the waste haulers and the recycling companies. I think that is extensive.

On the list was the National Cultural Foundation (NCF) but that would be for loud noise and that does not relate to the Bill ... maybe the Barbados Water Authority (BWA) too because it has implications for our drinking water. If they want to make a submission because we do drainage but a lot of these things get into the water supply and can pose problems as well. I know that they have had some challenges with burst mains and different things that were not just depleted mains but were things that caused these problems; so maybe you can reach out to them if they want to comment.

I know that a lot of the Government agencies have been collaborated with for the purpose of presenting these amendments but it is also useful for us at the Committee level to give them the opportunity to come in with their experiences.

Senator J. A. KING: I just thought of the companies that are into construction. I have had the, I should not come out and say 'the pleasure', but I have noticed that some people take concrete, in particular, off work sites and drop it anywhere.

Mr. CHAIRMAN: That was one we mentioned when we spoke about having the Barbados Association of Professional Engineers and the construction industry players. It would not be the builders necessarily but those driving

on the road that after you fix a road and the cement and stuff dropping out and unmaking what you have just done. I would like them to give attention to that.

Her Honour Miss C. Y. FORDE: Madam Chairman, as a young girl, something I am witnessing now that is really posing tremendous problems. The same cement trucks and if you get to the roundabout by Haggatt Hall, St. Michael, it really is bad because they do not put a bucket or anything under that chute where it drops out and really it is destroying whatever is happening.

The other thing is, which is really, perhaps, tangential to what we are discussing but those big container trucks that travel on the roads in peak time traffic and they take up so much space and they come around the roundabouts as though it is a small car they are driving or something. We really have a lot of challenges in this place that we need to have them addressed, but the ones with the cement, I support you 100 per cent with that and the other cargo that they carry sometimes that they do not even tie it on properly and then when it drops off in the road, it creates challenges for others. It may drop off on a vehicle or it might inhibit you in your travel so we might need to have some conversations with those owners as well.

Madam CHAIRMAN: If this Committee feels strongly enough about these issues that might not fall within the scope of the Bill, but it is something that we should be signalling at different levels, in The Senate and in the House of Assembly and so on; we should make sure we flag it for attention. There will be other nuisances that I am sure in the course of the discussions, will be identified and highlighted that, as part of our report, they will feature anyhow as recommendations for areas of further address. Have we exhausted the list?

Her Honour Miss C. Y. FORDE: A lot of the mechanics, when they are fixing engines and all that, and that I believe that will come in with what we are doing; they empty the old oil into drains. That goes into our aquifers and impacts on it, so perhaps at the governmental level there should be some kind of collection base or something. One or two will still do it because some of us are not used to conforming with standards but in the international world, when they do foolishness, there are heavy fines.

In small Barbados you would hear, "*that is my nephew or my cousin. Give him or her a*

break.” It should not be happening because at the end of the day, in the same way that the concrete is going to enter the drain and block the water course or the galvanise sheets which you take off your house and dump in what we call a depression; that water is going to go from Bridgefield in St. Thomas, as is the case, down to wherever the water collection points are in the aquifers.

There is also the paint that they use for household painting and all of that, will impact on what we are doing. It then comes into our households because whatever poisonous liquids or whatever they are that will contaminate the water system then, it will affect all of us and those who come to visit among us from overseas.

There are so many things that need to be done. We cannot do all at one time but at least the sensitisation and bringing the Government Information Service (GIS) and the other entities on board, that they can give us the tips as to how to dispose of our waste in different ways and how to be our brothers’ keepers because they never can tell if what they are doing that is wrong will impact on them as well. That is my ten cents’ worth. Thanks.

Madam CHAIRMAN: Thank you. We want to get this right and although I have asked if there are any others, I am wondering and we have to be advised, if we think of any other areas, subsequent to this meeting, if we can just e-mail them in and then through round-robin, we can share it.

With the best will in the world, we can sit down here and from the time you get outside you may think, “*I should have mentioned X*”, and we want to make sure that the wider public of Barbados has every opportunity to come and share. For some of them it is not only their views on the Bill but it provides an opportunity for us to question them on these very things that we find that are important to us, so if we can agree to that as an approach because we still have between now and October 11, 2024.

What has been submitted to us on this sheet is the first written submission and it comes from an individual, Mark Durant. We can start by reading ahead on it and this will be presented to us again in the full list that we will collect once we have reviewed what we have on October 11, 2024. This is for our information and for us to start examining some of the contents during that time.

It brings us to *Any Other Business* - the dates for the meeting. Since the closing date for submissions is October 11, 2024, I would like us to consider having a meeting in the following week, so that we can start to look at those submissions and from there, we will have an indication of how our work will proceed.

I would like us to consider two dates, if possible, just in case one does not work out, so that we can have a fall-back or we will have a second date at least if we utilise the first one, that we can start inviting people to come and make submissions because we really want to get on with it. November and leading up to Independence is a busy time for everybody, so if we can push as much of our work as possible...

In the week of October 14, 2024, there is no variation to the dates the House will meet; right now that is on Tuesdays as we had yesterday, and the Senate on Wednesdays, so those two days are out. Can we consider Thursday, October 17, 2024? Is that convenient?

Asides.

Madam CHAIRMAN: Yes. Ten o’clock. We did not do any refreshments for this meeting because we expected it to be a brief one, but on October 17, 2024, we will block out the whole day. I am being advised that on that day, we can have the preliminary examination of the submissions, both written and oral.

Asides.

Madam CHAIRMAN: The Chief Parliamentary Counsel should be back out to work then on October 14, 2024, so then we will have CPC’s input. Maybe we can allocate another date just in case the CPC says that coming back on October 14, 2024 is too early. What do you think? Okay, October 17, 2024 is good? Okay. That is the time we will go with for now. What we will do, Senator Worrell, as we did the last time, the CPC will come and they will walk us through the legal aspects. Did we have the Bar Association? Any submissions? Okay, so we will have CPC walking us through the different sections as well so that is why the whole day would be useful.

Is there *Any Other Business*? I hear none. Now we take very careful note of the need for us to respect each other’s time and commence these meetings promptly. With the greatest will in the

world, things will happen but we should commit to having these meetings start on time so that we can be efficient and effective in our work. Can we have a motion to adjourn this committee until October 17, 2024?

ADJOURNMENT

Senator J. A. KING: I move that the meeting be adjourned until October 17, 2024.

Senator A. R. WORRELL: I beg to second that, Madam Chair.

Madam CHAIRMAN: It is now 11:02 a.m. and the meeting is adjourned.

**SECOND MEETING
OF THE
JOINT SELECT COMMITTEE (STANDING) ON THE
SOCIAL SECTOR AND THE ENVIRONMENT
ON THE
HEALTH SERVICES (AMENDMENT) BILL 2024
AND THE
HEALTH SERVICES (NUISANCES) REGULATIONS 2024,
HELD IN THE
SENATE CHAMBER**

Thursday, 17th October, 2024

PRESENT:

**Ms. TONI N. S.-A. MOORE, J.P., M. P.
(CHAIRMAN)**

**Senator JOHN. A. KING., J.P., B. S. S.
(Deputy CHAIRMAN)**

**Her Honour Miss CYNTHIA Y. FORDE, J.P.,
M. P.**

Hon. COREY A. LANE, J. P., M. P.

**Senator ANDRÉ R. WORRELL, J.P.,
B.A.(Hons.) (*Online*)**

ABSENT:

**Senator Rev. Canon Dr. JOHN A. ROGERS,
B.Sc., B. A. (Hons.), M. Phil., Ph.D.**

Mr. TREVOR A. PRESCOD, J. P., M. P.

ALSO IN ATTENDANCE:

**Ms. BEVERLEY S. GIBBONS, J.P. (Deputy
Clerk of Parliament)**

**Mr. NIGEL R. JONES, Q.C. (Deputy Clerk of
Parliament)**

**Miss SUZANNE HAMBLIN, Library Assistant
(Ag) (Journal Department)**

**Mr. SHAQUILLE NEWTON, (Parliamentary
Counsel (Ag.), Office of the Chief
Parliamentary Counsel)**

*The Chairman called the meeting to order at
10:12 a.m.*

Madam CHAIRMAN: Good morning. It is 10:12 a.m. I would wish to call this meeting to order. I would like on the onset to just say a very good morning to everyone. We look forward to a very productive session today, as we contemplate issues surrounding the Health Services (Amendment) Bill, 2024 and the Health Services (Nuisances) Regulations.

We are pleased this morning to have the Chief Parliamentary Counsel (CPC) represented by Mr. Shaquille Newton who would spend some time with us initially walking us through the stages of the amendments that are before us.

We have some submissions that have been made; just four (4), for us to consider. These came in from members of the public. We will continue looking at those once we have completed our initial review of what the amendments are. So, without much further ado, I wish to recognise that online we have Senator André Worrell. Good morning to you, Sir and welcome. Can you hear us?

Senator A. R. WORRELL: Yes. Good morning. I can hear you, can you hear me?

Madam CHAIRMAN: You sound really distant like you are in a tunnel.

Senator A. R. WORRELL: Alright. Well, I will come a bit closer.

Madam CHAIRMAN: Is the volume up to all because it sounds a little muffled as well?

Senator A. R. WORRELL: Alright. I will try to adjust the volume on my end.

Madam CHAIRMAN: Okay.

Senator A. R. WORRELL: Alright.

Madam CHAIRMAN: Say something again, please. Senator Worrell?

Senator A. R. WORRELL: Alright. I am adjusting the volume setting on my end, so just give me a few minutes.

Madam CHAIRMAN: Okay. It is improving just slightly but we want to be sure that when you have an intervention that it can be heard clearly. So, it is as important for us to hear you as it is for you to hear what we are saying here.

Senator A. R. WORRELL: Okay.

Madam CHAIRMAN: Okay. Just give us a sentence so that we could verify that we are hearing you.

Senator A. R. WORRELL: Alright. Can you hear me any better?

Madam CHAIRMAN: Yes. It is still slightly muffled but audible enough. So, you keep working at it but it has improved now. Alright. So, thank you very much. In the Chamber we have with us Senator John King; Honourable Corey Lane and Ms. Cynthia Forde, who are Members of the Committee here. Mr. Shaquille Newton, without much further ado....

Asides.

Madam CHAIRMAN: I am reminded that we have to go through the agenda for today. So, I was excited to get into the Bill but reversing slightly, we have the Minutes of the meeting held Tuesday, 01 October, 2024, that we have to attend to. I would wish to entertain a motion for those Minutes to be deferred at this time.

On the motion of SENATOR J. A. KING, seconded by Her Honour Miss C. Y. FORDE, the Minutes of Tuesday, 01 October, 2024, were deferred.

Her Honour Miss C. Y. FORDE: Madam Chairman, I crave your indulgence. I always like for us to start with a prayer.

Madam CHAIRMAN: Okay.

Her Honour Miss C. Y. FORDE: If you would allow it, please?

Madam CHAIRMAN: Yes.

Her Honour Miss C. Y. FORDE: I can do it. I am the senior person in the room, in age.

Madam CHAIRMAN: I would wish you, as the most senior person in the room, to set the trend.

Prayers were led by Her Honour Miss C. Y. FORDE

Madam CHAIRMAN: Thank you, Ms. Forde, for reminding us of the importance of taking pause for the purpose of our spiritual wellness. So often we want to get on with issues and forget the importance; not only of connecting to the Father but to really just settle a bit and put ourselves in the space where we can focus on the work at hand. So, thank you for that.

With the Minutes deferred, Matters Arising would also be deferred. We can commence consideration of the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024.

As I said before, Shaquille Newton from the CPC is here. He will be providing very useful technical support to this committee's work as we consider this particular piece of legislation. I turn at this time to you, Mr. Newton, so that you can walk us through the amendments.

Mr. Shaquille NEWTON: Thank you, Madam Chairman. Good morning to the Committee. I drafted the Health Services (Amendment) Bill, 2024 and the Health Services (Nuisances) Regulations, 2024. I will be doing a clause-by-clause analysis of both, the Bill and Regulations.

At the outset, I wish to say that this Bill is an amending Bill, so it must be read in conjunction with the principal legislation which is the Health Services Act, Chapter 44 of the Laws of Barbados, for it to make perfect sense within the context of the principal Act.

Jumping straight into the Bill, Objects and Reasons, it states as follows:

"This Bill would amend the Health Services Act, Cap. 44 to

a. make provision for administrative penalties; and

b. *revise the provisions concerning the removal and sanitary disposal of offensive matter.*

After that, if you look at the Bill, you would see the general enactment clause which states:

"ENACTED by the Parliament of Barbados as follows:"

Then, there is the Short Title which reads:

"This Act may be cited as the Health Services (Amendment) Act, 2024."

The first amendment being made is an amendment to Section two (2) of the principal legislation which generally is the Interpretation or Definitions clause which basically outlines the terminology of various terms and words used throughout the Bill.

These definitions have been updated to reflect contemporary circumstances. If you look at the principal legislation, it would have had references to words such as *"health inspector"*. These posts, the names would have changed, given effluxion of time. So, now we refer to terms such as *"medical officer of health"* and *"chief environmental health officer"*. There is a definition that references other legislation such as the Land Tax Act.

I am turning to Repeal and Replacement of Section three (3) of Cap. 44. That has been repealed and now inserted is Section three (3) which states as follows:

"The Minister shall generally be responsible for the promotion and preservation of the health of the inhabitants of Barbados."

It gives the Minister the power, by order, to divide Barbados into health districts and assign duties to officers to facilitate the preservation of the health of the inhabitants of Barbados.

Madam CHAIRMAN: Just one (1) minute.

Asides.

Madam CHAIRMAN: For the benefit of those online. Is the screen being shared now? No? We are not seeing it.

Mr. Shaquille NEWTON: No, it is not being shared because I can just see who is in the room.

Madam CHAIRMAN: We need to see it being shared. Yes, thank you very much. Sorry, Senator Worrell.

Senator A. R. WORRELL: Okay, no problem but it is gone again.

Mr. Shaquille NEWTON: It is being shared on my end, though.

Madam CHAIRMAN: We will pause for about two (2) minutes so that we can attend to that technical aspect to ensure that the screen is being shared on all ends.

Aside

s.

Senator A. R. WORRELL: I can see the screen.

Mr. Shaquille NEWTON: May I continue?

Madam CHAIRMAN: We will continue. Do not move yet, Randi (Alleyne – technical operator at the Barbados Parliament), just in case. Okay, continue, Mr. Newton.

Mr. Shaquille NEWTON: I will start once more from Repeal and Replacement of Section three (3) of Chapter 44. This clause makes the Minister of Health responsible for the promotion and preservation of the health of the inhabitants of Barbados. The Minister is given the power by order to divide Barbados into health districts and assign duties to officers to facilitate the preservation of the health of the inhabitants of Barbados and any order made under subsection two (2) is subject to negative resolution. This essentially means that upon the order being made, it is laid in Parliament for a period of 40 days for both Houses of Parliament to have the opportunity, by resolution, to annul the order but any acts which would have been done under the order, would be without prejudice. It gives the opportunity for there to be some parliamentary oversight and scrutiny – forty days.

It gives the opportunity for there to be parliamentary oversight and scrutiny of the order being made by the Minister. In this instance you could say that the Minister's power is still subject to parliamentary control; basically, it puts a safeguard on the powers of the Minister.

Moving to amendment of Section 10 of the principal legislation; this clause introduces the

concept of administrative penalties into this legislation to allow for the imposition of administrative penalties for failure to comply with the Health Services (Nuisances) Regulations, 2024 and it does so by inserting paragraph Y (1) to Section 10. It states that annexing to the contravention of or failure to comply with regulations made under Section 10(1)(f) of the Health Services Act there is an administrative penalty.

In essence, this Bill is setting up the architecture or framework under which the Health Services (Nuisances) Regulations will operate; a Bill introduces into primary legislation substantive aspects of law and then regulations catering to matters of detail. This is standard drafting principle because it is not possible to put every single detail into a Bill. That is why you have the enabling provisions within a Bill, that allow for a functionary, generally a Minister, to make regulations for giving effect to the Bill.

Then there is the amendment of Section 11A of the principal legislation. Section 11A previously allowed the Minister to execute work on properties which were dangerous or injurious to health and this amendment essentially allows both the cost for work and unpaid administrative penalties to be added to Land Tax bills.

Under the various subsections, this money is subject to the interest payable under Section 28(3) of the Land Tax Act, Chapter 78A:

"The money where it is unpaid shall constitute a debt to the State and is recoverable in the Magistrates' Court for District A."

Madam CHAIRMAN: For the avoidance of doubt, would it be possible for you to reference Section 28(3) of the Land Tax Act?

Mr. Shaquille NEWTON: I do not have it before me.

Madam CHAIRMAN: We will pull it up. I was trying to recall what it says. For the benefit of the committee, Section 28(3) of the Land Tax Act reads:

"A person who fails to pay tax before the expiration of the year in respect of which it is levied, or if the date of the tax demand notice is later than the 30th January in that year before the expiration of 60 days from the date of the notice shall:

- (a) *in addition to the tax pay to the Commissioner of penalty equal to five (5) per cent of the amount which was not paid, and*
- (b) *in addition to the tax and the penalty imposed by paragraph 'A', pay to the Commissioner an amount as interest at the rate of one (1) per cent per month calculated for each month during which any amount of tax and penalty remains unpaid on the largest amount of tax and penalty that was due and unpaid at any time in that month."*

Madam CHAIRMAN: Mr. Newton, that is a lot of words but basically what you are explaining is that this is where the amendment for this particular piece of legislation will be cross-referenced to...

Mr. Shaquille NEWTON: Yes, I am. This what establishes a nexus between the Health Services (Amendment) Bill and the Land Tax Act. Basically what it is saying is that the penalty imposed, or the sum of money due to the State for work done, is subject to the same interest and penalty rates as any other penalty under the Land Tax Act.

In sub-section six (6) where there is a dispute in relation to who is at fault for the nuisance committed between the owner of the property and an occupier of the property; the Land Taxation Relief Board is given to power to hear and determine the dispute.

Madam CHAIRMAN: Repeat that please.

Mr. Shaquille NEWTON: By virtue of sub-section six (6) of this amendment, where there is a dispute between the owner of property and an occupier of property, in relation to any act or omission which results in any costs being incurred by the State to fix the property or any administrative penalty being imposed, the Land Taxation Relief Board is given the power to hear and determine the dispute; basically to adjudicate on the matter.

There is the Repeal and Replacement of Section 11 (b) of the principle legislation which in essence, seeks to lay down an Appellate procedure for the imposition of Administrative penalties by virtue of sub-section one (1):

"The owner or occupier of any property upon which work is executed by the Minister may, within 42 days after the receipt of the demand for the repayment of the cost incurred for the execution of the work, under Section 11A, appeal to a judge in Chambers against the cost of any such work, and two, the owner or occupier of any property upon which the administrative penalty is imposed, for the contravention of, or the failure to comply with the regulation made under Section 10 (1F).

This a generic way of stating that the Health Services Nuisances Regulations (2024), made within 14 days of the receipt of an Administrative penalty, may appeal to the Relief Board.

To establish the nexus between the Health Services (Amendment) Bill and the Land Taxation Act by virtue of Clause 7 of this amendment Bill; the Land Tax Act was consequentially amended to give the Land Taxation Relief Board the power to hear and determine appeals made pursuant of the Health Services (Nuisances) Regulation 2024.

That is the extent of the draft Health Services (Amendment) Bill.

Madam CHAIRMAN: Thank you Mr. Newton. Members of the Committee, those amendments were few but if you have any questions relating to the explanations; if there is further clarity required, this would be a good time to raise those before we get into an examination of the regulations themselves. Senator Worrell, are you good up to now?

Senator A. R. WORRELL: Yes, I am following. Following also with the legislation that was provided before, so I am okay. I would just need to come with the land tax legislation when we review submissions.

Madam CHAIRMAN: Okay, thank you. Mr. Newton then we can get into an examination of the regulations.

Mr. Shaquille NEWTON: As I previously stated, the Amendment Bill basically set out in the primary legislation, the mechanisms or architecture in which the Health Services (Nuisances) Regulations will operate.

Let us start with the usual citation: *These regulations may be cited as the Health Services (Nuisances) Regulations 2024*. Then we have definitions within the regulations. These are definitions of terms that may have specific, that may move beyond the normal usage of these

terms in an ordinary sense and may be specific to how they are used within the regulations. There are terms such as the "Relief Board", which may be shortened versions of various functionalities and terminology, which is used frequently throughout the regulations which is just for the user friendliness and accessibility of the draft to the general populace.

In drafting the regulations, it was borne in mind that since these are really the mechanisms which will govern the area to be regulated, which is essentially to have persons keep their land clean and not to commit nuisances, that this would be the document that average Barbadians would be referring to and would not have to turn to the Amendment Bill or the principal legislation.

To a large extent, this is the primary document which houses the substantive law and the prohibitions that must be complied with and to this extent, it was endeavoured to draft the regulations as simply as possible and to also just make the regulations as user friendly to average Barbadians. There are some instances where some standard drafting practices were slightly deviated from in an effort to do so. For example, the definition of Relief Board. Although that was stated in the Bill, it is not the general practice that we repeat a definition then in the regulations. Since the average Barbadian would be looking to the regulations for guidance, we thought it was necessary to explain once again in the regulations, what the Relief Board actually is.

Once again, as I stated previously, some of the definitions would have been updated in other Health Services (Nuisance) Regulations; there might be references to posts and functionalities such as "health inspectors".

Now, those references have been updated to reference 'Environmental Health Officer' and 'Chief Environmental Health Officer' as the nomenclature would have changed through the years.

Madam CHAIRMAN: I would just like to emphasise that any member of the Committee may interject at any point in time for a point of clarity or so on. I think that would be useful. Is that okay, Mr. Newton?

Mr. Shaquille NEWTON: Yes, it is, Madam Chair.

Madam CHAIRMAN: Okay. Thank you.

Mr. Shaquille NEWTON: Regulation 3(1) is a general statement of the law as to what is

deemed a nuisance under these regulations. It states as follows:

"For the purposes of these regulations and in addition to nuisances specified in regulations 4 and 6, any

- a) *act not authorised by law;*
- b) *failure to discharge a legal duty; or*
- c) *contravention of the provisions of any other regulations made under the Health Services Act, Cap. 44,*

of which the act, the failure or the contravention prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance."

Mr. Shaquille NEWTON: At 3(2) of the regulations, we have the general prohibition which states as follows:

"No person shall commit a nuisance or permit a nuisance referred to in this regulation."

At Regulations four (4), we have an enumerated list of acts or omissions which will constitute nuisances. It reads as follows:

"For the purposes of these regulations, on any premises the following are deemed to be nuisances:"

And then, we have prohibitions on things such as:

- *the existence of flies; mosquitoes or other insects capable of transmitting or causing disease; bed bugs; cockroaches or other vermin; mice or rats;*
- *any grass, bush or weeds which are more than two (2) feet in height;*
- *any sanitary convenience which is not properly constructed or maintained;*

It is quite a detailed and enumerated list of actions or omissions which would constitute nuisances. It is not possible to enumerate every single situation or scenario, so that is why then there is still that regulation three (3), which basically makes some general statements as to what nuisances under these regulations.

There is regulation five (5) which allows for exemptions for committing nuisances. Regulation 5(1) states as follows:

"Notwithstanding regulation seven (7), an owner or occupier of premises may at any time, in writing, apply to the Relief Board for an exemption from regulation four (4)."

This regulation essentially makes the Land Taxation Relief Board the functionary to, or in simple terms, the body or entity which is tasked with hearing applications to be exempted from the provisions of this regulation. It also states that the general ground upon which an application for an exemption may be made would be on the ground of hardship; that is catered to at Sub-Regulation 5(2). Sub-Regulation 5(3) states that an application shall state the reasons for the application and contain any documentation or other information relied upon in support of the application.

Any person who wishes to have an exemption to commit a nuisance would apply to the Relief Board. They would make the application under the ground of hardship and then, they are given the opportunity to detail their reasons for seeking the exemption. They are enumerating what is their claim of hardship.

Madam CHAIRMAN: I note that it is open-ended, in that it does not say when the case for hardship is presented to the Relief Board. Is that deliberate because the regulations contemplate that you could either be proactive in saying, *"I have a problem, so I cannot treat to the nuisances."* It allows also a person to not treat to them and when they are approached for repayment and so on, they also at that point make the case for hardship?

Mr. Shaquille NEWTON: That is correct. We will come to that in the further Regulations.

Madam CHAIRMAN: Sorry.

Mr. Shaquille NEWTON: That is okay. Yes. At Sub-Regulation 5(4), it states where the application is made pursuant to this regulation, the Relief Board shall respond in writing to the application within seven (7) days of receipt of that application.

Madam CHAIRMAN: What if they do not respond in seven (7) days? Is any further action null and void?

Mr. Shaquille NEWTON: In those instances, what would happen is there would be

the general recourse to the provisions of administrative law.

Senator A. R. WORRELL: Madam Chairman, if I may ask a question?

Madam CHAIRMAN: Sure. Proceed, Senator.

Senator A. R. WORRELL: I was wondering, were these regulations shared? Do you actually have them that I can go through?

Madam DEPUTY CLERK: Senator Worrell, those regulations along with the Parent Act and the amended Bill, were shared at the first email submitted by Ms. Greenidge. Yes. For your convenience, you can go on Parliament's website. It is on the homepage.

Senator A. R. WORRELL: Okay. I will check there. Thank you.

Madam CHAIRMAN: Would you wish for us to give you a minute?

Senator A. R. WORRELL: I would not have.... Pardon me.

Madam CHAIRMAN: Would you wish for us to give you a minute to pull them up?

Senator A. R. WORRELL: No. You can go ahead. I have the website up now, so I will check for the regulations.

Madam CHAIRMAN: Okay. Thank you. Continue, Mr. Newton.

Mr. Shaquille NEWTON: Then at regulation 5(5), it states as follows:

"Where the Relief Board approves an application, the Relief Board may state terms and conditions concerning the maintenance of the premises."

Although the application may be approved, the Relief Board is still granted the discretion to impose some terms and conditions, as to what may or may not need to be done. To answer your question, Madam Chairman, Regulation 5(6) states as follows:

"Where an owner or occupier is served with

- a) a contravention notice in accordance with regulation 8; or*
- b) an administrative penalty notice in accordance with regulation 9,*

and thereafter he applies for and is granted by the Relief Board an exemption in respect of the nuisance committed, the

contravention notice or administrative penalty notice shall be null and void."

To answer your previous question, yes, the regulation is drafted in an open-ended manner to allow for a wide category of situations which may occur when the exemption is needed. At Regulation 5(7), it reads:

"Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination."

Once again, to your previous question, there is a codification of the right to reasons which is a general principle with administrative law within these regulations.

I crave your indulgence. Can everyone see the screen once again?

Senator A. R. WORRELL: Yes, I can see it.

Mr. Shaquille NEWTON: Okay. Moving on to Regulation 6, this regulation deals with derelict buildings. Regulation 6(1) states that:

"A building or structure on premises which is in a derelict condition so as to be unsanitary, injurious or dangerous to the health or is likely to become so is deemed to be a nuisance."

That is the general statement of law in respect of derelict buildings. Then Sub-Regulation 6(2) states the prohibition:

"No person being the owner or occupier of any premises, permit a nuisance referred to in this regulation." It allows for the exemption procedure.

Sub-Regulation 6(3) states:

"Notwithstanding paragraphs one (1) and two (2) and regulation 7, an owner or occupier may in writing apply to the Relief Board for an exemption from this regulation."

Then by Sub-Regulation 6(4), it allows for the exemption to be once again made on the grounds of hardship. It states:

"Subject to paragraph three (3), an owner or occupier may be exempted on the grounds of hardship."

By Sub-Regulation 6(5) once again, the claim of hardship must be substantiated by an owner or occupier of premises by reasons, which are to be submitted with the application to the Relief Board.

Once again by Sub-Regulations 6(6) and 6(7) the normal principles of administrative law are codified and it states:

"When an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within seven (7) days of receipt of the application, and

Sub-Regulation 6(7) states that:

"Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination."

Her Honour Miss C. Y. FORDE: Madam Chairman, through you, there are a lot of Government buildings that are derelict. Does this include them?

Mr. Shaquille NEWTON: I will come to that at the end of the regulations by virtue of Regulation 11. The State is bound by the provision of some of these regulations, so I will come to that in due course. Madam Chairman, may I proceed?

We come to Part three (3) of the regulations which deal with the Administrative Penalties. Regulation seven (7) states *that a person who contravenes a regulation appearing in the first column under the heading, regulation of the First Schedule, and (b) fails to comply with a contravention notice under regulation eight (8) shall pay to the Chief Environmental Health Officer the Administrative Penalty in the second column appearing opposite thereto under the heading, Administrative Penalty.*

Reference must be made to the First Schedule to determine, one (1), the breach that has been committed and the corresponding Administrative Penalty to be imposed and this is the standard drafting practice. These are matters of detail which would go into the body of regulations, so it is best placed in the Schedule for the user-friendliness of the draft.

Before the Administrative Penalty can be imposed, there is the contravention notice which is the standard manner of imposing Administrative Penalties. I crave your indulgence but I will try to share my screen once more. Okay, back to the contravention notice.

As I was saying, this is the standard manner to set up an Administrative Penalty regime. First, the functionary is identified, which the Administrative Penalty must be paid to. In this instance, it is the Chief Environmental Health Officer and after that, there is the contravention notice. Regulation eight (8) caters to the contravention notice. It states:

"Where a person contravenes the regulations specified in the First Schedule, an officer [this means one of the officers within that department of the Chief Environmental Health Officer] shall first serve a contravention notice in such form as the Chief Environmental Health Officer determines to the person.

(2) The notice referred to in subparagraph one (1) shall:

(a) specify the regulation that is contravened."

So you are telling the offender what exactly he or she has contravened.

"(b) Specify the nature of the contravention."

So you are telling the offender how he or she has contravened the regulation.

"(c) Require a person in contravention of the specified regulation to remedy the contravention within a period specified by the Chief Environmental Health Officer."

Asides.

Mr. Shaquille NEWTON: As I was saying, the Chief Environmental Health Officer is given a measure of discretion in how long they will allow for an opportunity to remedy the contravention but has no longer discretion than 21 days.

In this provision, there was consultation with the officers within the Department of the

Chief Environmental Health Officer and it was felt that 21 days is an adequate period of notice to remedy contraventions because in the realm of public health, these matters escalate very quickly. For instance, in relation to the breeding of mosquitoes, the Health Officer must be given the opportunity to make a site visit; assess the situation and determine whether 21 days would be too long in those instances to prevent a public health crisis from outbreak.

There is that measure of discretion but it was felt by the Environmental Health Office that 21 days was more than adequate to do their work and to prevent public health crises.

At Regulation nine (9), there is the administrative penalty notice and it states, subject to regulation seven (7), that where a person contravenes or regulation specified in the First Schedule an officer shall serve an administrative penalty notice in such form as the Chief Environmental Health Officer determines to that person.

In essence, a mechanism is set up that, first, there is the contravention notice; the person has the opportunity to comply with the contravention notice and remedy the breach and if they do not comply within the 21 days, then the administrative penalty notice is served and then there is the imposition of the administrative penalty.

Sub-Regulation 9(2) states:

"An administrative penalty notice shall specify:

(a) the regulation which has been contravened."

Once again you are telling the person which regulation they have contravened, by paragraph

(b) the nature of the act constituting the contravention.

so once again you are telling the offender how they have contravened the regulation and

(c) the penalty to be paid.

It also states:

(3) The penalty shall be paid to the Chief Environmental Officer within 30

days of the date of the administrative penalty notice.

(4) A person who is a receipt of an administrative penalty notice shall pay the penalty to the Chief Environmental Health Officer on or before the date specified in the administrative penalty notice.

(5) A person in receipt of an administrative penalty notice shall pay a further penalty, as set out in the Second Schedule, to the Chief Environmental Health Officer for every day are part thereof for which the contravention is continued.

Mr. Shaquille NEWTON: So, by virtue of Sub-Regulation 9(5), a continuing offence is created; in essence, if the administrative penalty is imposed, after the imposition of the administrative penalty by means of the administrative penalty notice and the breach continues, you will receive a further penalty for every day or part thereof which the contravention continues.

Turning to Part Four (4) of the regulation, this is the appellate procedure. As I mentioned earlier, the Health Services (Amendment) Bill would have placed into primary law, the right of appeals under these regulations and now the regulations speak to the matters of detail as to how the appellate process works.

By regulation, Sub-Regulation 10(1):

"Where the Relief Board does not approve an application made to pursuant to regulation five (5) or 6(3), the relevant applicant may appeal to the High Court."

Those references to regulation five (5) or 6(3) are references to the exemption procedures for general nuisances and for derelict buildings.

The mechanism is created that if the Relief Board does not grant the exemption, that a person may appeal to the High Court and then by Sub-Regulation two (2), it is stated that the decision of the High Court in respect of an appeal made under paragraph two (2) shall be final.

At Sub-Regulation 10(3):

"A person who receives an administrative penalty notice pursuant to regulation nine

(9), may, within 14 days of the receipt of the notice, appeal to the Relief Board.

Sub-Regulation 10(4):

That appeal shall be made in such form as the Relief Board determines and state the grounds on which the appeal is based.

At sub-regulation 10(5):

“A person shall submit with the appeal, any documentation or other information relied upon in support of the appeal.”

So these two (2) sub-regulations, read in conjunction, give guidance as to how the appeal may be made and what documents can be, well, not what documents, what grounds can be relied upon to substantiate an appeal.

At Sub-Regulation 10(6):

“Where the Relief Board receives an appeal in accordance with this regulation, it shall (a) make a determination within 21 days of the receipt of the appeal and (b) in writing, notify the applicant of the determination.

Mr. Shaquille NEWTON: This is a qualification of the procedure of how the Relief Board is supposed to respond within a timely manner as its determination in relation to the appeal.

Subject to paragraph three (3), *the Relief Board may (a) impose the administrative penalty, (b) mitigate or remit the administrative penalty or (c) revoke the administrative penalty and declare the administrative penalty to be null and void.*

Sub-Regulation 10(7) sets out the powers that the Relief Board has in relation to appeals relating to the administrative penalty.

Sub-Regulation eight (8) states: *a person who is aggrieved by the decision of the Relief Board made in accordance with this regulation may, within 14 days of the receipt of the decision, appeal to the High Court.*

That is the Appellate procedure there that if you are still unhappy with the determination of ... I crave your indulgence once again.

Asides

Mr. Shaquille NEWTON: So as I was saying, this sub-regulation allows that if a person is still unhappy with the decision of the Relief Board in relation to the administrative penalty, that they may appeal to the High Court.

By Sub-Regulation 10(9), the decision of the High Court in respect of an appeal made under paragraph eight (8), shall be final.

Turning to Part Four (4), the Miscellaneous Provisions, to answer MP Forde's previous question, by Regulation eight (8), specified regulations within these Health Services (Nuisances) Regulations bind the state. Regulations four (4) and six (6) bind the state and finally, regulation twelve (12), the Health Services (Nuisances) Regulations 1969, are revoked.

This clause revokes the previous Health Services (Nuisances) Regulations to allow for the new Health Services Regulations (2024) to come into effect upon signing of the regulations by the Minister.

Madam CHAIRMAN: I just have a question. If I were to be dissatisfied with the decision of the Relief Board and I made a decision to appeal to the High Court and then the High Court's judgement that is final in my case, supports, upholds the position of the Relief Board in terms of payment of penalty, am I responsible penalty-wise, for the time that for every day or part thereof, that the decision of the High Court is made or does the High Court determine that in its final judgement, that is the extent to which I would be responsible for the days in between there?

Mr. Shaquille NEWTON: One cannot speak to the decision of the High Court. You cannot take away their inherent jurisdiction but there would be a measure of discretion on the part of the High Court in making their determination and granting an order as to the mechanisms that must operate going forward.

Madam CHAIRMAN: Thank you, Mr. Newton. Members of the Committee, we have had some explanations. We had our opportunities for intervention but at this stage I will still entertain a further opportunity for us to require clarification or further explanation on any aspects that we are still unclear about. Honourable Corey Lane?

Hon. C. A. LANE: Usually I like to be short-winded but it might be a little long-winded because I want to put it into context. First of all, I would just like for the record to make a

recommendation that the authorities; that the various agencies operate on, should be placed in some central place for each agency to know the authority that they have.

I am saying that, based as a community activist; former talk show host; moderator; *et cetera*, where people call in and want to know who is responsible for what. The public does not know and then sadly, the people responsible, they do not know.

Let me put it into context. I acted as Minister of Environment for the month of December last year; part of September, October and will be doing so for November and let us use the issue of the coconut vendors. We had an issue with the coconut vendors in Warrens and Newton. We went to speak to them and you know they do not hear 'so good'.

I was told I needed to go to the Ministry of Transport & Works (MTW), they manage the highways. MTW then sent me to Sanitation Service Authority (SSA). SSA sent me to Environmental Protection Department (EPD). EPD told me this fell under the Health Services Act 1969. The Ministry of Health then sent me to the Barbados Police Service (BPS) and the police sent me back to the Ministry of Health. You understand, in the end, the coconuts remained there. That is the long and short of the story.

The issue I want to raise, though, in terms of how it can speak to this specific legislation is the fact that EPD used to be included under the Ministry of Health. So EPD did not need to rely on extra legislation or may not need to rely on amendments but they may need to do so under this legislation.

They are responsible for the derelict buildings; derelict vehicles and other issues. In the particular amendment from Section 10(5), it speaks to the Minister giving responsibility, this is in the Health Services Act, to the Chief Medical Officer. I am linking it to the Nuisances Act for a reason.

Under 9(1), it speaks to giving specific persons. It speaks to the Public Health Inspector; The Public Health Nurse and the Chief Medical Officer (CMO). In 9 (3), it expands the number of persons and agencies but only to represent in the event of court proceedings.

I am seeking guidance here. It expands it now to the manager of Sanitation Services Authority, only in that context. What am I asking is if it may be wise and this is based on the

meeting I had on 04 October, 2024 with EPD, to include the EPD Director or EPD in this legislation now. Since his hands are tied, he has to go over to the Ministry of Health. We need to either put the EPD back in the Ministry of Health or need to include the EPD in these regulations.

I am seeking your advice and counsel on that particular part, based on the earlier context that I gave.

Mr. Shaquille NEWTON: Senator Worrell has said quite a lot.

Asides.

Madam CHAIRMAN: The Honourable Corey Lane.

Mr. Shaquille NEWTON: Oh, Sorry.

Madam CHAIRMAN: The Honourable Corey Lane is being confused with Senator André Worrell.

Senator A. R. WORRELL: I noticed.

Hon. C. A. LANE: A good mix up, Senator.

Asides.

Mr. Shaquille NEWTON: Minister Lane has said quite a lot. I wish to draw some guidance the *Carltona* principle which basically is instructive on how ministerial powers are exercised within Government departments. That is one (1) principle that can be relied upon.

Asides.

Carltona. I can, but it is not usual in legislation to define "the Minister". Those are administrative matters that can be worked out but I can review the Bill and see if there is a possibility to place your suggestions within the context of the Bill.

Madam CHAIRMAN: Thank you. Any further questions or comments?

Hon. C. A. LANE: A quick second one (1). I saw in the regulations at 8(2)(c), it speaks to the period of 21 days. EPD usually puts out a notice when they are seeking to remove derelict buildings. I am sure with the cars but they give 42 days. Is this amendment amending it from 42 to 21 or this is something completely different?

Mr. Shaquille NEWTON: These are two (2) separate concepts that are being addressed. This is a separate concept from the one (1) which you have referred to. As I previously said, given

that these are matters of public health, it is felt that you need a shorter period rather than a longer period for compliance. The longer the period you give, the more you run the risk of a public health crisis out-breaking.

Hon. C. A. LANE: This will be the last intervention. The reason I asked is because I do agree with reducing it. I have a number of places that need cleaning. They put on the 42 days and it goes way past the 42. We pass and see these "MOH" notices on places until they disappear. The sun bleaches it out and you have to come and put it back on. So, it is way past 42. I agree with the 21 days. I just wanted to know if you were rationalising across the board, so that all agencies have like a similar timeframe.

I will check in with EPD to see because I have already actually written to them and I believe they should make a submission here because they were arguing to have their own legislation or be included in this legislation. I think now that I am reading through, I think that they should make some submission to be included in here.

Madam CHAIRMAN: Perhaps, for the avoidance of doubt, we should clarify whether EPD was consulted in the development of the Regulations.

Mr. Shaquille NEWTON: Yes. I am at liberty to say that, yes, there were some conversations between the Environmental Health Department and the EPD in drafting this legislation.

Madam CHAIRMAN: Further, for the avoidance of doubt and for the fullness of information, the EPD was approached to make a submission. It went out to the public and they were one (1) of the special agencies that the Committee felt should have been invited specifically to make a submission and we have received no submission.

Her Honour Miss C. Y. FORDE: Madam Chairman, I just wanted to find out how do we deal with that if it is a governmental agency and an invitation has been made on a matter as important as this. How do we deal with it as a Committee? Do we write officially to the Minister, to the Permanent Secretary or whoever? Something as important as this needs to be addressed and those who are integral to the whole exercise should be the most knowledgeable that they too can go into communities, church halls and wherever when this is properly put before the public, to explain to the residents.

We have serious problems and I would only say, particularly in the heart of Barbados called St. Thomas, where all of the coconut shells are dumped in Vacluse, Dukes and all of those areas. You cannot get an Environmental Officer or any of those people at that level to really treat to those matters in the way we would like.

Unless they are on board on what their roles are and be able to work with us as a society to do with our health and issues related, then we are going to spin tops in mud.

I thank you for the moment, Madam Chairman.

Madam CHAIRMAN: Yes. I think what the Committee is recognising is that we have executed faithfully our responsibility in asking them to make a submission and having not received a submission, that we can go further to state our concern over the fact that one was not forthcoming because it leads us to assume that that department is comfortable with the amendments and the regulations as presented in the respective documents.

So, we can state our concern and we may still, as a Committee, decide whether we would want to, for the benefit and the public's benefit, to invite them to an oral discussion. If the Committee agrees that might be necessary, the Clerk will advise me if within the terms of reference that we have agreed, that is possible.

Madam Deputy CLERK: Yes, it is possible.

Mr. CHAIRMAN: I am receiving confirmation that it is possible and we can invite them to make an oral submission.

Her Honour Miss C. Y. FORDE: Madam, I beg to second that and trust that it will happen before Christmas because that is when people dispose of household appliances and all of that. Again, poisoning the heart of Barbados.

Thank you, Madam.

Madam CHAIRMAN: We have Her Honour Forde seconding and we will entertain a motion. I will take it that she is making the motion and will have Minister Lane seconding it.

It will have to be before Christmas because this Committee is obligated to submit its report to the House by 26 November, 2024. A date that I shall not forget. Yes. By 26 November, 2024; we have that documented.

On the motion of Ms. C. Y. FORDE, seconded by the Hon. C. A. LANE, to invite the

Environmental Protection Department to make an oral submission to the Committee.

Her Honour Miss C. Y. FORDE: Thank you, Madam Chairman.

Hon. C. A. LANE: I said I would not intervene but it was a very traumatic experience working in the Ministry of Environment. I am still a little traumatised, Madam Chairman, so just allow me. I remember when we did the Child Protection Bill, we had the Minister here. I would suggest when we do these things that it is good to get the line Ministers involved. Both the Minister of Health and the Minister of Environment and some of his key people; I would like to make a suggestion that we make that as part of our Standard Operating Procedure (SOP) for the Committee because I think it is really healthy to do it that way so that we do not operate in silos, once it is accepted by the Committee and yourself.

Madam CHAIRMAN: The suggestion is being made by Minister Lane and seconded by Her Honour Miss Cynthia Forde. Thank you; so noted.

Any other questions? Comments? I am seeing from your responses that we are comfortable. Mr. Newton, we are going to ask you if it is possible, for our benefit, that the slide presentation could be shared with the Members of the Committee.

Mr. Shaquille NEWTON: Yes, that is possible.

Madam CHAIRMAN: Thank you very much. With that, it brings us to the next part of our Agenda where we examine the written submissions. As I indicated, there were four (4), so this is the opportunity that we will go through these one by one and determine if we are satisfied that we have a sufficient understanding of what the concerned persons are raising or if, additionally, we would need to entertain oral submissions from them as well. I would like for us to start with the submission of Mr. Mark Durant. That is the one-pager in our package; the one leaf with two (2) pages.

Taking it paragraph by paragraph to make sure we have the salient points covered, Mr. Durant is recognising the important role that the regulations would play in maintaining public health and safety. He is concerned that the legislation would need to adapt to address specific environmental hazards posed by agricultural

practices, particularly those involving pesticide use.

The submission emphasises the need for amendments to account for the contamination of ground and water supplies, as well as the airborne spread of pesticides from farming activities to neighbouring villages and homes. As I pause there, the question to the Chief Parliamentary Counsel (CPC) is whether this particular set of regulations and the amendments have considered these and I believe then we should go back to those areas that we recognise were not exhaustive, to see if under General Nuisances, the regulations had considered the concern raised by Mr. Durant in Paragraph one (1).

Mr. Shaquille NEWTON: In relation to the regulations, it must be remembered that the statute book does not operate in isolation. I do take Mr. Durant's concern and point but these regulations are designed to address matters primarily of public health. That is not to say that Mr. Durant's concerns are not valid but they are better addressed under various other pieces of legislation such as Marine Pollution Legislation.

I know recently there was also the Barbados Water Authority (BWA) Zones Order, which does make prohibitions in relation to pesticides and other chemicals that can be used safely in close proximity to water courses, *et cetera*.

On our statute books, there is Chemical Waste Management Legislation, so it is important to remember that there needs to be a tidy fit within the statute book of how you are addressing various concepts and from a drafting perspective, in this instance, it is not the tidiest fit to seek to address exhaustive matters of chemicals and pesticides, under these particular regulations. There are other mechanisms which whereby these can be addressed.

Madam CHAIRMAN: Then we refer again to the Bill entitled "*an Act to amend the Health Services Act to make provision for the imposition of administrative penalties and the removal and sanitary disposal of offensive matters*", so that is really the purpose of this particular piece of legislation.

Mr. Shaquille NEWTON: That is indeed correct, Madam Chair.

Madam CHAIRMAN: That is the first response. The submission in that introduction goes on to explain the concerns behind the introduction of the risks that were cited before. Then he goes on to look at public health risks

from pesticides and if the Committee accepts CPC's response, then the Committee would be recognising that the concerns raised are valid concerns but the Committee would also be recognising that these concerns are handled more appropriately under other pieces of legislation. I just pause for members of the Committee to be able to reflect and respond, if there is any dissent with the position offered by CPC.

Hon. C. A. LANE: Madam Chair, just two (2) quick ones and again that is why it is good to have professionals to provide guidance. There is a specific one (1) I want to raise. I was still reluctant in raising it because CPC did say legislation cannot cover every single possible thing, so you still have to be mindful of that but one of the things the Director for the Environmental Protection Department raised at our last meeting was this idea of spray paint.

There were also a lot of issues raised at the Parish Speaks in terms of persons who are affected by people who engage in the spray painting and affect their neighbours. I would see that as a nuisance, so I would figure that it should come under the nuisances or something that speaks broadly to that. It could therefore be spray paint or it could be something else creating an odour.

The other concern he raised was our ability to legislate and be able to implement the said legislation. For instance, with noise pollution we have to have the decibels set and we have to have decibel meters. If we can regulate spray paint, he said something about an air test. I cannot remember and, again, the professionals have to provide the guidance. I would just want to ask CPC if there is consideration for that and then in relation to Mr. Durant's submission, I would say that this is an issue of public health.

Although it may not fall under nuisances or general services, I do agree with you that there may be another place in agriculture or whatever but I do see this idea of pesticides as a public health concern; even if it comes under the Water Works Management Act or one of those because of these pesticides, these forever chemicals. Barbados, as you know, is limestone, porous and so on and a lot of these chemicals can get into our water and then that becomes public health concern. Just those two (2) things come to mind when I think of this particular Section, that I would want to highlight and seek CPC's guidance on.

Madam CHAIRMAN: CPC's guidance, so the Chair should hush up for now.

Mr. Shaquille NEWTON: In response to Minister Lane's question, I believe I have it correctly this time, I rely on my previous guidance as these are matters of policy which must be determined. It would not be within our purview to say exactly what should go where. We can give guidance as to whether it is appropriate but these are matters which the policymakers must have further consideration to crystallise in a Cabinet paper and then give instructions to our office.

Senator J. A. KING: Madam Chair, I just wanted to endorse what was just said because that is exactly what I was about to say. The problem that has been highlighted by MP Lane is not one (1) of the law itself but the structure in terms of who implements what. Just to go back to what was mentioned by CPC, I would support this going underneath the title of a "nuisance" also.

I will just give you a classic example. For instance, you have had for many years a problem with people burning stuff in Barbados. It is a problem, especially in the parish where I live, it is very serious problem. Will that constitute a "nuisance" under what we are doing here, what we are looking at? You have young and old people suffering with asthma, all sorts of different problems, but people continue to burn stuff daily across this island and they are not in cans, so I cannot say it is coming out of a chimney or nothing like that; but they are just burning it.

I am just wondering from your point of view, if we consider that to be a public health risk, why would we not also take into consideration what MP Lane spoke about as a public health risk also, pardon the pun, we risk the chance of this not being enacted anywhere at all based on what was mentioned earlier; where different acts fall underneath different people and then you cannot get things resolved because nobody is clear as to who is supposed to enforce these things. This is a problem that we have.

The only way you can rectify that to my mind, is when certain aspects do not cross or if they do cross, you say who has the right to do what at which particular point in time. This can become very - what is the word I am looking for? Confusing. If at some point in time, you are saying this is a public health problem but then EPD cannot do anything there for the environmental protection, the next person cannot do anything. This is where people become so

confused and fed up because it is always like there is no clear-cut thing as to who deals with what, even though the law says so. I feel that this, this one (1) in particular, should really be thought through or at least considered differently, in terms of a public health risk. I really do.

Madam CHAIRMAN: Before Mr. Newton's responds, I am seeing that it may become necessary for you not just to skim over Section four (4) on General Nuisances but maybe we should go through these, to see within the context of the purpose of the Act, whether it could or should be considered here. After that, we will take a short break and that is not to force your hand.

SUSPENSION

Mr. Shaquille NEWTON: That is not an issue. We can take a more granular look at...

Madam CHAIRMAN: Or if you would rather, maybe we could take that ten-minute break and then we come back so that we can take a more granular look at it. Sorry to interrupt. It is 11.35 a.m., and I am entertaining a motion for a short ten-minute break for us to resume at 11.45 a.m.

Senator A R. WORRELL moved that there be a short suspension, seconded by Senator J. A. KING.

The motion was resolved in the affirmative without division and the meeting was suspended accordingly.

RESUMPTION

Madam CHAIRMAN: We have a quorum that we can resume. When we took the break, the question before Mr. Newton was if we could examine more carefully Regulation four (4), by way of responding, to the questions that were raised regarding the submission by Mr. Durant and the support for aspects of it from some Members of the Committee.

Mr. Shaquille NEWTON: Resuming, a more detailed analysis of Regulation four (4). The opening words are as follows:

"For the purposes of these Regulations, on any premises the following are deemed to be nuisances:

(a) any place, matter, thing, deposit or accumulation of liquid or solid matter that is full, in such a state, or so placed, made or left as to be unsanitary, injurious or dangerous to health or likely to become so;

(b) the existence of

i. flies, mosquitoes or other insects capable of transmitting or causing disease;

ii. bed bugs, cockroaches or other vermin;

iii. mice or rats;

Madam CHAIRMAN: Can you pause a minute? Let us go back to 4(1)(a). It states, "any place, matter, thing, deposit or accumulation of liquid or solid matter that is full...." What does that mean?

Mr. Shaquille NEWTON: The question is surrounding the use of the word "thing"?

Madam CHAIRMAN: All of it. So, let us start with, I think I can understand "thing". "The deposit or accumulation of liquid or solid matter that is full...."

Mr. Shaquille NEWTON: What this provision is essentially designed to catch is any object which can accumulate liquids or solids. The use of the word "full" there is still appropriate but it just means any object which can accumulate liquids or solids to a capacity that it becomes dangerous or injurious to health. If you read under (a), there is (b); "the existence of flies, mosquitoes or other insects capable of transmitting or causing disease."

That is a precursor to objects which are capable of harbouring liquids or solids which could breed insects or, in other words, be a threat to disease outbreak.

Madam CHAIRMAN: So then, the concern about agricultural practices and pesticides, that would not fit into this description?

Mr. Shaquille NEWTON: No, it would not because it is a generic provision just aimed at catching objects, *et cetera*, that can accumulate liquids or solids which have the capacity to become injurious to health. If the question is surrounding pesticides, I mean it is not specific to just pesticides. So, no it cannot fit there.

Madam CHAIRMAN: You say it is not specific to just pesticides but can it apply to pesticides?

Mr. Shaquille NEWTON: It could, but when you say any place, matter or thing, the accumulation. It means a receptacle that is...

Asides.

Madam CHAIRMAN: Right, so I am just trying to establish where you would position the concern about the use of pesticides. So, I am just trying to establish whether or not it can apply here. It does not seem like it can apply here.

Mr. Shaquille NEWTON: No.

Madam CHAIRMAN: Let us continue. Minister Lane, you wanted to ask a question?

Hon. C. A. LANE: When I read that, it seems like a lot of legalese just to say like a 'container'. Any container that builds up liquid. I want to know the difference between (a) and (f), if that is the case. I know we have not gotten down to (f) as yet but it kind of confuses me. It seems similar but when you get there. Do not worry. When you get there.

Madam CHAIRMAN: Continue, Mr. Newton. We were at (b)?

Mr. Shaquille NEWTON: I believe we are at (c) now. It states as follows:

- (c) *the existence of any condition, matter or thing which in the opinion of an officer provides or may provide food or harbourage or acts as a breeding place for*
 - i. *insects capable of transmitting or causing disease; or*
 - ii. *vermin or rodents;*

So, this provision is essentially aimed at catching conditions, objects or receptacles that vermin essentially or other pests could easily breed, dwell or exist in, as the case maybe.

- (d) *any grass, bush or weeds which are more than two feet in height;*
- (e) *the presence of branches, tree trunks or uprooted tree stumps which have been cut and accumulated which constitutes a health and safety hazards or which can block a watercourse;*
- (f) *the presence of empty bottles, broken or otherwise, empty tins, coconut shells, uncovered barrels, boxes or*

any other thing which may serve as a receptacle for water which creates a breeding place for mosquitoes or other insects capable of transmitting or causing disease;

Mr. Shaquille NEWTON: To answer Minister Lane's question, this is more detailed and specific than (c). (C) is general and generic in the sense that it is not aimed explicitly at mosquitoes but there may be other situations where receptacles that could harbour liquids or solids could be injurious to public health.

Madam CHAIRMAN: This specifies which creates a breeding place for mosquitoes or insects, so is that specific to that?

Mr. Shaquille NEWTON: Yes, please.

Senator J. A. KING: Just to play, if you would call it, devil's advocate here for a minute. At (c) it states, "*which in the opinion of an officer provides...*"

There are people on this island, especially a lot of older people, who have gardens that have things like old toilet bowls, basins and different things. You have some gardens that you could go and look at that have vats that come out of old factories that have water lilies in them, fish and all sorts of things.

I am a bit concerned that when you say here in a person's opinion because an opinion can vary from person to person. How do we deal with this because none of us in this room can rationalise for another human being. One (1) officer may see it in one (1) way because it might be a toilet bowl; it has in plants; it is holding a lot of water, too.

I am just a little uncomfortable with the whole idea of 'in a person's opinion'. Opinions vary, so that is my concern. Again, I raise it because in going around, especially when you are dealing with a lot of older people, these kinds of receptacles are things that you see in their gardens. How do you mitigate against a person using this "nuisance thing" – pardon the pun - for themselves to be a nuisance to other people?

Mr. Shaquille NEWTON: In response to Senator King's question, it says "*which in the opinion of an officer*". An officer is an Environmental Health Officer who would have training and expertise in public health and what situations would give rise to public health concerns. That is not to say that there are not instances where persons use makeshift objects for

agricultural purposes or any other purposes on land but there still needs to be a measure of discretion given to an officer who has training and expertise, to use and exercise good judgement as to what might give rise to public health matter.

To that extent, all I can say is that we would have to be confident in the expertise of the Environmental Health Officers to make good judgement and I do not think it would be prudent to take away that discretion from them because a lot of situations can arise.

Hon. C. A. LANE: Chair, if I may. I agree with CPC but also with Senator King, it may just be a matter of wording and you do not want to nitpick. "*Opinion*" sounds loose so you might say "*the professional assessment of the officer*" or something. The wording sounds as though he may have passed there a day and did not 'feel good' that morning....

Asides.

Mr. Deputy CLERK: I had an experience with two (2) different service officers in relation to bromeliads. One (1) told me to pull them all up and the other said, "*No, you do not need to. Just put some cooking oil where the water may collect in the bromeliads. It is a legitimate plant so why should you get rid of it?*"

Two (2) different officers had different opinions. Fortunately, the second opinion came before the first one (1). The first one (1) advised to get rid of everything, the second one (1) said, "*No, you do not need to. Just put some cooking oil or whatever in these plants, so that with the new rainwater collection, there would be no mosquitoes.*"

Madam CHAIRMAN: I think CPC has taken note of maybe how we can strengthen the language to convey the same thing but get away from the use of the word "*opinion*".

Mr. Shaquille NEWTON: Duly noted.

Madam CHAIRMAN: Yes, so we can continue.

Mr. Shaquille NEWTON: Continuing at paragraph (g), "*any sanitary convenience which is not properly constructed or maintained*". That provision is aimed at things such as outside toilets.

Paragraph (h), "*any discharge except in accordance with a permit granted by the Minister or Chief Environmental Health Officer of any industrial waste or other noxious matter to any beach, into the sea or into any river, ravine, water*

course, pond, ditch, drain or other place." That is aimed at catching emissions from land that have the potential to contaminate water sources.

Senator A. R. WORRELL: Chair, could not Mr. Durant's submission fall into (h) or be covered by (h)?

Madam CHAIRMAN: The question is whether the submission by Mr. Durant as it relates to agricultural products will fall under (h)?

Mr. Shaquille NEWTON: It could, but it would need to be more detailed than just using the words "*agricultural premises*". It would need to capture probably things greater than just discharge but it is duly noted and attempts can be made to refine the clause to capture a wider variety of situations.

Madam CHAIRMAN: Is that satisfactory, Senator Worrell? CPC, in other words, would review it to see if, and how it can be incorporated.

Senator A. R. WORRELL: What I would also suggest, since we made a motion to invite the Environmental Health Officers to make a presentation, is that we raise that issue with them because it is fine and good to put it into the legislation but will they actually have the manpower to police the provision once it is there?

Madam CHAIRMAN: We can take a note of that so that when we invite them to come as we previously agreed, we can meet those queries and questions and raise those concerns. Thank you.

Mr. Shaquille NEWTON: 'Any stack' at paragraph (i), "*any stack which emits smoke or grit in such a quantity or such density so as to be prejudicial or injurious to public health.*"

That deals with emissions from perhaps industrial complexes, incinerators and the like; that is pollution to the air.

Paragraph (j):

"any serious disregard for general maintenance or upkeep of premises so as to be prejudicial or injurious to public health."

This is a provision to cater to various situations where premises fall into an unsanitary state.

Paragraph (k):

"any water supply system in such a condition that the water passing through when used for domestic purposes can be injurious to public health."

Supplying water that has the propensity through its mechanisms to flow to become contaminated and which would be injurious to a person's health.

Then at Sub-Regulation 4(2), we have our prohibition: No person shall (a) commit a nuisance referred to in this regulation, (b) aid or abet another person to commit a nuisance referred to in this regulation, and (c) being the owner or occupier of any premises permit a nuisance referred to in this regulation to continue on the premises.

Madam CHAIRMAN: Right. Thank you. I think that given the submission by Mr. Durant, the concerns that have been raised and the commitment that we would go back and examine it with the scope, really, of the legislation and whether it makes provision for expansion of this particular provision, the CPC has undertaken to look at it.

We had said earlier that we would invite the Environmental Protection Department as well to an oral exchange. In contemplating it, CPC naturally would have to also look for other pieces of legislation where the particular concern may already be captured and see if it is a way that it needs to be repeated here; if you draw a nexus between the pieces of legislation and so on.

We will take note and we will await any further guidance on this in relation to the meetings that we proposed, the hearing that we proposed to have and CPC's further examination of the legislation.

The question would be because the rest of the submission would relate to if it is incorporated, then administrative penalties will have to be established against farmers who fail to comply with the regulations regarding pesticides and so on.

There will need to be public awareness and reporting mechanisms as to the potential hazards of pesticide use and so on and collaboration with the agricultural authorities. Those will be consequential on how we decide to treat to it.

So the question is, against that background, whether the Committee sees a need for an oral engagement with Mr. Durant or if we accept it and note it for further action.

It is my view that it is not necessarily the points that he raises, I think that we make space for further analysis by CPC which would include discussions, not only with the examination of the

pieces of legislation but discussions with the Environmental Protection Department to address the concerns too, that Senator Worrell raised on manpower implications and so on, and also for collaboration with the Ministry of Agriculture, before we agree to any oral submission.

I do not believe that at this stage it looks like it might be necessary. It is more a question of further groundwork that will have to be done to make sure we are certain on how to proceed on this.

So we have taken note of the first written submission and at this stage, if it is the Committee's agreement, we do not have any further cause for oral examination. We can move on to examination of the next written submission, which is from Shaunelle Bryan.

Shaunelle Bryan, yes, this is not a very long one. I can read this one because of its length. It says simply: "*Most people cannot afford to pay \$300 every two (2) weeks to cut grass up to two (2) feet. Most people are poor. The regulation is too harsh and unreasonable to cut at two (2) feet every three (3) weeks.*

Landscapeers charge \$300 and over to cut grass once a month for a small area. Overgrown are lots five (5) feet high.

Madam CHAIRMAN: I think that given our examination of the Nuisances Regulations this morning, it is clear that there is opportunity for hardship and other concerns to be addressed by the Relief Board. To that extent, the legislation covers the concern or addresses the concern that is raised.

Mr. Shaquille NEWTON: Yes, it does, Madam Chair. Although fines are within the realm of policy, I just wanted to give the general advice in relation to administrative penalties that they must be strong enough to still serve as a deterrent.

Madam CHAIRMAN: Any other concerns or points to raise around this submission?

Senator J. A. KING: Just to say this Chair. I grew up in a Barbados many, many years ago where my grandmother would always say, "Cleanliness is next to Godliness." It was very necessary for a young boy who just came to Barbados and had never seen a hoe, sickle, none of these things in my life yet; having to go outside and make sure that I weeded and swept and kept around the little board (wooden) house clean.

I would like to take this opportunity to encourage Barbadians to do a little "Sankofa". We go back to the things that served you well in

the past in order to use those things to take you forward, and the whole idea of cleanliness around the place. If you keep around you clean on a regular basis, the grass cannot get to two (2) feet, it cannot get to three (3) feet or five (5) feet, you understand? But it would be good underneath your feet when you walk outside; so do what you need to do. Thank you, Madam Chair.

Madam CHAIRMAN: Thank you, Senator King. I recognise Her Honour MP Forde.

Her Honour Miss C. Y. FORDE: Thank you, Madam. I want to indicate that we need so much public education in Barbados; not now from a school or a college, but within our homes and our communities. We need some fora and I am speaking now as a person connected with older persons in the role that I play, to have more community sessions with the seniors; to tell the rest in the villages; meet with them in the churches; meet with them in the community centres. Those are things that we did not have anyhow.

Community centres and all those areas we did not have when we were young, but our parents stood on a principle that "Cleanliness is next to Godliness". If we can get more of our seniors meeting with our younger people and telling them about the way we were.

We had no real hospital. You had a general hospital but you only went there when it was a critical situation. We did not have polyclinics in the way we have today. As a matter of fact, we did not have doctors in the way we have or nurses. Barbadians continued to follow that route of being clean, the way they disposed of their garbage; the way they kept around the environs clean; particularly the interior of their houses where they knelt down and scrubbed with a scrubbing brush or a piece of white wood bush or something to be able to make sure.

Unless we share those things with our children, how we would go into the gully or wherever and cut the limbs, the coconut limbs, we would use the long part of the heart of it to sweep our yards. We made coconut brooms and these were sold and people bought them and they would still buy them today if available, or they would pick off certain bushes and they would sweep their environments.

They were not big; they were on tenantry lots but the old people and the younger people then, because we had to do it, keep around us clean. When the cane truck came, everybody had

a plot of land, they had sugar cane. The young people, like myself, had to go when we were fit; when the truck man was finished taking away the canes, take up all the tops that he had left behind and put them away.

We had animals; we had cows that would eat the cane tops and limbs or leaves, whatever we call them. Unless we get those generational links coming again, we have thrown them through the window. The television; the computer; the technology as a whole has given them (the children) a different way of life and understanding of what happens in the rest of the world but our history is not being taught in our homes; in our villages; in our schools in the way it should; so that our children can get a better understanding and an appreciation of where we have come from in the history of Barbados and how we were able to live longer.

I told my friends here this morning that my mother had eight (8) children and all were born at home. A midwife would come in with all the white linens and so on and she would do what she had to do. We did not have many resources but we lived and we are all healthy people. All of my family is in the seventies or in the eighties now and unless we get back to basics and change it around, our young people will write as this young lady has and she is correct to say, "*that two (2) feet is too high*".

What is she doing? Is she wearing gloves? We had no gloves in our days. We had to use our ordinary hands to pull up grass; to get a knife and cut grass; to make sure that the environs of where we lived were kept clean.

In our schools we are having similar problems. We used to turn our uniforms on the wrong side and scrub every table and desk and the floor because our schools in the 1950s and 1960s had no janitors and that is how we picked up skills of being clean because we had to have our environments clean; we had to get the ink off the tables because we had little ink wells and a wooden pen to write with. You had to dip the pen into the ink and work with it.

I am not saying we should go back to the old time days. I am saying if we continued along that trajectory, we would lessen the challenges that people have with the mosquitoes and the rats. Even the monkeys can take a toll on what we are doing now. We need to get back to basics. I highly recommend that when we are doing this (Joint Select Committee hearing), let us link it

with the real-life situation in our villages and communities.

Our children need to get that nurturing. Who is willing in this society to go into our communities; the churches; the church halls, the community centres and the school halls to talk to young people and let them know this is where we were, we have advanced but we remained healthy and when we grew fruits we shared them with each other. When we cooked certain meals, we gave somebody the cou-cou. It was a camaraderie and kind of spirit that is no longer with us in the way that we were. If we do not get back to it ... that young lady is correct to draw it to our attention.

She needs to know that we wear gloves now; pull some grass. If you do not have the gloves, you tie something around your hand and you pull (the grass). If we could give them the exposure through the verbal and the visual, to my mind, it will make a difference in the misunderstandings because the Government cannot do it all.

Although this might not be as tangential for me, with all those massive lots of land where people have all kinds of things growing in them, you are even afraid to get off the bus. Some of them are right by the bus stop. You do not know if you get off of your work at night in a 9:00 p.m. bus, who can pull you through the bushes and all that.

You are walking and driving, you do not know what is happening because a lot of the lots all over Barbados are overgrown, particularly those of plantations that, I assume, are waiting to get the land sold to build houses. It cannot work. We have a responsibility to clear our side roads, so that when vehicles are exiting, you can see and you can hear when they blow their horns; but we are not able to do it or manoeuvre with it well because of these large tracts of land where nobody is doing anything and our lives are in danger. Our lives, meaning the Barbadians, because I drive quite a bit but those who are pedestrians innocently walking, they are injured as a result of what is happening in our communities. I want for us to get back to basics.

I will get another forum in which I will stand on my - what kind of talk we call it? - soapbox -- to be able to see how best we can let the young people know the way we were, so that they can get a better appreciation of how it was back then. We have reached here now but we

cannot let go of those great principles on which the country called Barbados and the Caribbean, as a whole, were built.

Madam Chairman, that is my final comment.

Madam CHAIRMAN: I guess then there is no need for an oral presentation. This was very succinct. I think that it will cross over a number of other areas that will be explored, but what we are recognising is the need for some public education and community sessions where we reinforce the first principles that we grew up on. I do not have the sixty years, as my Deputy Chairman, but I grew up on that principle as well. I did not have any choice. It is akin to school mottos like "*only the best is good enough*" and that transcends to every area of life.

Her Honour Miss C. Y. FORDE: Madam Chairman, I am not contradicting you but it might be useful to hear what is going on in the young lady's head, that she would want to take the bold step to send this. It is only little grass but that is, how young people say it now? Sometimes, they have \$100 and say "*Oh you got a little bit of money.*" So, everything is a little bit.

It might be useful to hear what is going on in the mind of a young person who is bold enough to send this here. To pull ideas from her head as to where she is at, and how other young people are seeing it. Perhaps, we may want invite her here, but I am not contradicting you in any way, Madam Chairman. I respect you highly.

Madam CHAIRMAN: No. A difference of opinion is useful but I do not know, how we know she is a young person? The name? The name sounds young? Yes. I only said why it might not be necessary, only from the point of view that with EPD being invited and providing opportunity to discuss why two (2) feet, as opposed to the five (5) feet high, as she has raised. It raises issues around prevention and maintenance, as opposed to waiting until something gets five (5) feet high, and this is why I feel the community sessions are so important.

The recognition that this is not trying to penalise but curtail bad practices that lead to public health crises because it is not only mosquitoes; mice and rats; but it is safety from the criminal elements and so on. If the Committee so desires, but I just feel...

Asides

Madam CHAIRMAN: Having examined that one (1), we can move on to the third submission. This one (1) is quite extensive from Ruth McClean. First thing up is that the 21-day notice period is too short. We looked at that and you have said that...

Asides.

Mr. Shaquille NEWTON: Yes, just to repeat what was said before. There was input drawn, the Environmental

Health Department and in instances, it was even felt that 21 days was too short. From the perspective of the Environmental Health Department, it was even felt that the 21 days might be too long but it ended up being a happy compromise.

Madam CHAIRMAN: Related to that, you can come in but related to that was the issue of what was the purpose of the 21 days' notice as well because the concern raised by Ms. McClean is that, first, it is too short and, in any case, what is the point of 21 days?

Senator J. A. KING: I just wanted to say that when I looked at what the person is saying, she made the point about the 45 days' period should give a property owner sufficient time to arrange for their property to be debushed. I understand from EPD, the urgency within which they need to get these things done, based on what you had said to us earlier. I think we still also have to look at positions where you may have persons who might have a plot, it is not necessarily that they are rich or wealthy people.

They may be working on a monthly basis. That notice may come in the middle of or at the end of one (1) month and that person is really moving from pay cheque and waiting for the next pay cheque to do a lot of things. Maybe, I am just suggesting that 28 days, which would almost be like a month, might be something you can look at, in terms of giving that person the opportunity to get the land cleared.

I fully understand the purpose behind the whole thing. I fully understand EPD but I just want us to think in terms of not everyone is going to have the same situation in terms of cash or even manpower that they could do it. I think when you read through it, you will notice that she spoke about persons who may be living overseas. The time that it takes for them to get the notice. If it is somebody who is overseas, bought a plot of land

in Barbados and has no relatives or anybody here to clean it, there are so many other little things that we that we have to take into consideration in terms of when we are doing this.

I just put that on the table so that we do not dismiss everything and say, "*Okay. It has to be X, Y or Z.*" But, look at what some of the other mitigating things could be.

Madam CHAIRMAN: I think that is why it is going to be important to examine this against the background of having the experts in the area because all of these are considerations and so on but public health, being the objective, that is the overarching concern, so we have to be able to hear more extensively from the Environmental Health Department, from a public health perspective, why these 21 days are being proposed.

I think that when we get them here, respectfully, because Mr. Newton can only really relate what they have said, but we would be able to explore with them more fully. We can look at hardship; we can look at the ability of persons to manoeuvre and really I have no sympathy for people who are homeowners who live overseas. You have a responsibility.

You have a responsibility to make provisions and you should not be responding when there is a contravention notice. It is a responsibility to make sure your property is maintained. People have power of attorney and all sorts of things; you do not need relatives so there are provisions because somebody pays. Somebody has to pay: The Government or a politician because when everything else fails, you do not have this problem anymore, but when everything else fails, people come to you to pay with the expectation that 'mosquitoes biting up my children'. Why should you pay when a person who owns it has the responsibility?

We can come in here and try to be very "sweetie-folksy" and concerned about a number of things and be circumspect but we have to get real too. Somebody is paying; somebody is paying with the mosquito bites; somebody is paying with the rat infestation on their property which they did not cause. Somebody is expecting somebody else to pay for somebody else's problem, so these are the things that we have to look at in a real way, but those are issues that lead to subjectivity.

What is paramount is what is the public nuisance and the public interest that we are trying to address and I feel that is where we need to hear

specifically. Just like in COVID; in COVID it was not a question of how the unions felt about workers alone, or how we felt about wearing a mask, or how we felt otherwise. There were certain requirements that were made and decided in the public interest for public health reasons and that is where the political elements do not come into play because it is people with that responsibility who have to execute that responsibility.

The Committee will decide. I feel that we should invite this particular person who has made this submission but with the professionals here, that can respond. We can continue to examine it. I saw Her Honour Miss Forde had her hand up.

Her Honour Miss C. Y. FORDE: Those persons who have properties overseas, who are not cleaning them are where they are, wherever it is in the world, conforming with the regulations because they are tighter, more rigid than anything we have here. It is their duty to leave somebody in Barbados responsible for tidying up their yards. It is wrong.

Madam CHAIRMAN: I had the unfortunate experience of living between two (2) open lots and having to pay every single month as well because it is in my interest of my safety, so I could go and try to pursue this but while the grass is growing, the horse is starving and the rats are getting fat too. These things are real.

What we can argue and there will always be pros and cons but I think that the rationale behind the legislation is the public nuisance and the public danger and that is why the people with responsibility for this need to support this Committee in examining these concerns which are genuine concerns that I believe should be considered. It is saying further that there are more exemptions under the draft regulations but we went through the issues of hardship.

A specific concern raised here is that the draft regulations do not address a situation where a property owner is a victim of illegal dumping of rubbish on their property. We know that these things happen; when it must be cleared from the property, whose responsibility is it? That is an interesting question because if it is not the property owner's responsibility, whose is it? I guess the answer resounding from a lot of people would be Government, but you know Government spends from a revenue base that comes back to all of us. Government can only spend what Government collects.

Interesting discussions from a social perspective, so I think that we will be able to examine that further. The regulations are vague as they do not define hardship, so I think that there is a specific call, Mr. Newton, for a definition of hardship so that it is not left open-ended. Was that a consideration?

Mr. Shaquille NEWTON: The reason why hardship is left open-ended because if you read, I believe, in Regulation 5(2), it states:

"an owner or occupier may be exempted on the grounds of hardship."

Then at Sub-Regulation 5(3), it states:

"an application made pursuant to paragraph two (2) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application."

Sub-Regulations 5(2) and 5(3) must be read in conjunction. What the effect is, is to give the Relief Board a discretion of whether to grant exemptions and it would be quite difficult and maybe not the best legislative approach to try to define hardship in a narrow context because you cannot possibly cater to every situation that may arise.

Madam CHAIRMAN: It is actually in the interest of people who may be experiencing hardship of one (1) kind or another, to have it as broad and open as it is. The administrative penalty notice was raised and this would relate to the same concern that was raised about the contravention notice because the administrative penalty notice would follow the contravention notice and any details.

The question of whether it is fair for the property owner to pay the administrative penalty notice in 30 days and the statement here is that it is absurd that the Relief Board shall respond to a hardship exemption application within seven (7) days of the receipt of the application but the same principle does not apply to a property owner's response to an administrative penalty notice. I do not understand that really but we can have the opportunity for clarification, if we agree to invite this as an oral submission.

The three hundred dollar administrative penalty being excessive is the same point that was raised by Miss Bryan and the question of when

will the daily penalty begin. I think that is one that we can answer but we will repeat at the time because the penalty begins from the date that you are supposed to....

Mr. Shaquille NEWTON: On the date when the administrative penalty notice is dated, is when the continuing offence also begins to run.

Madam CHAIRMAN: It means that you did not respond to the contravention notice in time.

Mr. Shaquille NEWTON: Yes.

Madam CHAIRMAN: So you start to incur penalties and this one (1) was interesting, that draft Regulation 11 is just a distraction. That is the one that relates to what is binding State, Regulations four (4) and six (6). The draft regulation provides no comfort for property owners because it is taxpayers who will pay an administrative penalty notice that is being enforced against the State.

How Mrs. McClean is seeing it, is that if a notice is enforced, a penalty is enforced against the State, which is the point that we were raising before, about Government paying from revenues collected. She said, ultimately 'it will come back at us' where you hold the State accountable. We have to find out from Mrs. McClean if she is therefore suggesting that we should not hold the State accountable.

That would be an interesting exchange, I believe and the public consultation period being too short, is one (1) that we can address now and can repeat because the concern here is:

"The public consultation period for the proposed Bill or Regulations fail to provide a reasonable amount of time. Example, one (1) month for the public to respond to the proposed Bill or regulations.

On 02 October, 2024, a Press Release about the proposed Bill was published on the Government Information Service (GIS) website. However, the deadline for the public to submit their comments about the proposed Bill or Regulations is 11 October, 2024."

This matter was, these amendments were debated and the matter referred to committee from July, 2024.

One (1) of the submissions we considered actually came in before; before the notice was put

out in the Press. We take different steps; we understand that everybody does not follow the very interesting and productive discussions that take place in the Parliament of Barbados.

Following on from that, we make it our responsibility to send out a public notice which should mainly come by way of a reminder but we accept that for some people it comes by way of (new) information. Outside of that, where we believe that there are interested parties or groupings that should be responding, we make it a point also to reach out to them. Yes, they should be following the discussions in Parliament. Yes, they could respond to the public notices but in addition to that, we call for related groups or interested parties to respond to the request for comments.

I think that it would be useful to point out that on the surface of it, nine (9) days was not the notice period. There was up to now between the end of July and October, there were at least three (3) months that this particular Bill was before the public that they could comment and that was after it was laid in the Parliament of Barbados.

The question for the Committee is whether we have support for having this written submission followed up with an oral submission, at which we would have some further discussion around it.

Senator A. R. WORRELL: I would support that as well.

Madam CHAIRMAN: Senator Worrell is supporting that as well. We will write to Mrs. Ruth McClean, which brings us to the final submission before us, which is by attorney-at-law Christine Toppin-Allahar, who raises a number of concerns about the deadline as well.

This will be further to the comments I made previously, too. General comments, one (1) of the first things that is flagged is:

"Provision has been made in Part Three (3) of the Health Services (Nuisance) Regulations Bill for the introduction of administrative penalties with respect to statutory nuisances and provision has been made for the recovery of such penalties by amendments made to Section 11(a) of the Parent Act.

What appears to be missing are provisions with respect to service of the contravention notice and administrative penalty notices.

We will have to entertain some discussion around that but a suggestion is being proposed

that regulation should be amended to provide that the penalty is payable within 30 days of service of the administrative notice depending on the means of service affected, the person liable may not be notified of the imposition."

This was previously raised, the contravention notice, the period of 21 days versus 30 days.

For the payment of a penalty as distinct from responding to the contravention notice because the penalty only arises if after the contravention notice is received, it is not acted upon. That is correct, Mr. Newton?

Mr. Shaquille NEWTON: Yes, it is correct, Madam Chair.

Madam CHAIRMAN: The understanding, I think, that people are getting bogged down in the penalty payments, as opposed to the corrective action that can obviate the need for the payment of penalties. If I get notice and I have 21 days to clean, not 21 days to pay, because if I got 21 days to pay that is saying I cannot or would not clean; give me more time to pay. Then the Health Services (Amendment) Bill...

Asides.

Madam CHAIRMAN: Another good point that is being raised for further exploration or whether it is limited to the changes necessary to enable the incorporation of administrative penalties; rather than more widely to general enforcement.

The Bill is being criticised for its narrow focus in the view of the writer on just trying to bring in penalties rather than dealing with some broader issues. She is saying that in 2024, it is not very helpful to the management of land, air and water by the control of emissions, effluence and deposits of solid, liquid and gaseous waste to be reliant on the law of statutory nuisances and to be inserting definitions of Victorian terms such as filth, night soil and offensive matter into new legislation.

It would be interesting to have further examination. We wrote to the Barbados Bar Association (BAR) as well and there was no response, right?

Madam Deputy CLERK: I was going to discuss that under **Any Other Business**. We received an email from Mrs. Kaye Williams. At the time she responded to us and she said that they

were busy with the new call, in October, (of lawyers to the BAR) and then there was the all-day colloquium at Lloyd Erskine Sandiford Centre (LESC); so they put in a request for an extension of time and that, the Committee will have to decide. As well as Mr. Cherry from the Waste Haulers Association, who also requested an extension of time.

Madam CHAIRMAN: So, we have two (2) requests....

Madam Deputy CLERK: For an extension of time to make submissions.

Madam CHAIRMAN: Extension of time until when?

Madam Deputy CLERK: It would have to be the decision of the Committee. Do not forget the deadline was 11 October, 2024, which was last Friday.

Madam CHAIRMAN: The question is before the Committee, although it was intended to be raised under **Any Other Business**. The Chair has some views but I will open for the Committee to comment.

Senator J. A. KING: Madam Chairman, under the circumstances, I would vote for an extension. I would not be presumptuous to say how long but I would leave that to the Committee to decide.

Madam CHAIRMAN: We have until 26 November, 2024, to report.

Hon. C. A. LANE: I think it would be beneficial to have the input of the persons mentioned. I do support a deadline but it would have to be a tight deadline so it would not put pressure on us to get the report back in time. In all things, let there be moderation. I support a deadline but it would have to be a tight deadline. Madam Chairman, I have a suggestion.

We may not need an extension, if we could bring them in when we bring in the oral submissions and let them come and submit orally.

They can send written submissions, if they can send between that time when we bring in the oral people. They could come and present. We will not be held up and they will get them to present.

Madam CHAIRMAN: There are some organisations and institutions; when pieces of legislation are before the Parliament of Barbados, that one would expect would naturally or should naturally be interested. The BAR is one (1) such association because what we debate in Parliament are based on laws, legislation and regulations.

One would imagine that it should not have to wait until a Notice is published and this is the same point that was made by this Committee, when we made allowance on the last occasion; when we were examining the Child Protection and Child Justice Bills.

You should not have to wait on a Notice being published for a response to come, in the same way that we had a submission even before 01 October, 2024 by a member of John Public. As Chairman, I am not opposed and I do think it would be useful, when any piece of legislation is before this Committee's consideration, for the BAR to consider it worthy for us to have the benefit of their input.

As Chairman, I would not like to see myself here on this occasion and future occasions having to preside over this same issue, when there is plenty time for them to be considered from the time they are laid, discussed and read the first time in Parliament.

Notwithstanding, I do support the proposal offered by Minister Lane, in the same way that the EPD did not respond and the Committee sees it necessary for us to

bring the EPD in to assist in an examination of these things; I believe in similar vein, we can have the BAR come in and make an oral submission. But, I do believe as well, that there should be a proviso of a submission still before that oral submission.

On the last occasion as well, if the Committee recalls, when the BAR came in with a lot of the legalese, it was so much to digest in an oral submission. We had to then, not had to, but, the Committee gave some leeway to allow them to come on a second occasion. With the Committee's agreement, we would write to the BAR to come and make an oral presentation, but we would in that letter, specify a proviso too that a written submission be forwarded to us for own examination at least a week or a timeline such as five (5) working days, before the BAR is scheduled to appear before us.

When we come to look at those dates or meetings, we will work backwards from there and propose a time. We do respect the experts contributing to these discussions and we need to ensure that the experts respect that we have timelines.

I think without us having to go any further, there seems to be consensus in the Committee that this written submission should be further explored

with at an oral presentation. Since it is an attorney-at-law (Christine Toppin-Allahar) submitting, do we entertain it separately from the BAR? Do we incorporate this? The Committee? Clerk?

Madam Deputy CLERK: I would suggest you entertain it separately.

Madam CHAIRMAN: Separately?

Madam Deputy CLERK: Yes.

Madam CHAIRMAN: We have this submission. Is there an agreement that we should entertain this as an oral presentation? Senator Worrell?

Senator A. R. WORRELL: Yes.

Madam CHAIRMAN: The Committee agrees to invite Christine Toppin-Allahar to an oral presentation; also Ruth McClean and additionally the EPD to be present with the Committee, more from a technical standpoint, as we examine further these submissions. We will make provision for the BAR to make an oral submission, provided that the BAR is able to honour a commitment to present their concerns in writing, that at least the Committee could have some preview of what is being submitted before the actual oral presentation.

There was another matter raised from Mr. Cherry, you said. The Committee can decide if they would wish to invite Mr. Cherry to an oral submission as well. I am seeing nods of approval. Senator Worrell?

Senator A. R. WORRELL: Yes. I said I agree to that one (1).

Madam CHAIRMAN: We are in agreement. Now we have to look at "Any Other Business" and under that we should begin with an examination of some dates and we have to work backwards. The date on which our Report is due is 26 November, 2024.

We know that the Report typically takes our staff here at the Parliament comfortably two-and-a-half weeks to three (3) weeks to complete, so it means that our work for interviews really would have to be completed by the end of the first week in November, which is 08 November, 2024. We have to set meetings if the Committee is able to do whole-day sessions. Given that there are four (4) oral submissions, then I believe we should be able to do that in in two (2) days because it is only four (4).

The EPD will be here, so it is the BAR; attorney, Toppin-Allahar; Ruth McClean and Mr. Cherry. If we can set aside two (2) days for the

examination of those oral submissions from as early as next week.

Are Thursdays convenient to the Committee? Can we set those dates at the 24th and 31st of October, 2024? Deputy Chairman, would you be available? You are going to be very critical, and I say so because I will be travelling. I will not be able to sit in the position as Chairman but I would make myself available on Zoom to participate in the meetings. According to our terms of reference, there has to be a sitting Chairman, right? Right.

As the discussions have gone along, we felt that EPD should be here to sit through the different submissions for some technical support, so by way of doing that we will get their feedback as well, in the same way that the relevant Ministries had been present with the Child Justice and Child Protection Legislation.

We are looking at 24th and 31st October, 2024, starting at 10 o'clock. We will invite the BAR, given that the Committee would want to see their submission first. We should invite the BAR for the latter day, October 31, 2024, to get their submission by 24th October, 2024. Right, so the BAR will have another week.

ADJOURNMENT

Madam CHAIRMAN: Is there any other business? Since I am hearing none, can there be a motion for an adjournment of the meeting until next Thursday, October 24, 2024 at 10:00 a.m.

Senator A. R. WORRELL: So moved.

Madam CHAIRMAN: Senator Worrell has so moved. Is there a seconder? It is seconded by Senator King. Thank you very much, Committee. See you next week.

**THIRD MEETING
OF THE
JOINT SELECT COMMITTEE (STANDING) ON THE
SOCIAL SECTOR AND THE ENVIRONMENT
ON THE
HEALTH SERVICES (AMENDMENT) BILL 2024
AND THE
HEALTH SERVICES (NUISANCES) REGULATIONS 2024,
HELD IN THE
SENATE CHAMBER**

Thursday, 31st October, 2024

PRESENT :

Senator Mr. JOHN. A. KING., B. S. S. (Deputy CHAIRMAN) (Acting as Chairman)

Ms. TONI N. S.-A. MOORE, J. P., M. P. (CHAIRMAN) (Online)

Her Honour CYNTHIA Y. FORDE, J. P., M. P. (Deputy SPEAKER)

Mr. TREVOR A. PRESCOD, J. P., M. P. (Online)

Senator Rev. Canon Dr. JOHN A. ROGERS, B.Sc., B. A. (Hons.), M. Phil., Ph.D.

ABSENT:

Hon. COREY A. LANE, J. P., M. P.

Senator ANDRÉ R. WORRELL, J.P., B.A. (Hons.)

ALSO IN ATTENDANCE:

Ms. BEVERLEY S. GIBBONS, J.P. (Deputy Clerk of Parliament)

Mr. NIGEL JONES, (Deputy Clerk of Parliament)

Miss SUZANNE HAMBLIN, (Journal Department)

Mr. SHAQUILLE NEWTON, (Parliamentary Counsel (Ag.), Office of the Chief Parliamentary Counsel)

Hon DAVIDSON I. ISHMAEL, M.P. (Minister of State in the Ministry of Health and Wellness)

Mr. RONALD CHAPMAN (Chief Environmental Health Officer (Ag.)), Ministry of Health and Wellness)

Ms. LISA SENHOUSE (Deputy Director (Ag.), Environmental Protection Department)

Mr. ANDREW DEANE (Chief Buildings Development Officer, Environmental Protection Department)

PRESENTERS

Mrs. CHRISTINE TOPPIN-ALLAHAR (Attorney-at-law)

Mr. ANDERSON CHERRY (Chief Executive Officer, José Y José; representative, Barbados Waste Haulers' Association) (online)

Mrs. KAYE WILLIAMS (President, Barbados Bar Association)

The Acting Chairman called the meeting to order at 10:10 a.m.

Mr. CHAIRMAN (Ag.): Good morning, and welcome to the third meeting of the Joint Select Committee (Standing) on the Social Sector and the Environment of the Health Services (Amendment) Bill, 2024 and the proposed Health Services (Nuisances) Regulations, 2024.

As we continue our discussion on this matter, the crux in my view is who will be affected by this. We have asked for those persons with a bit more expertise in these matters than ourselves, to assist us as we take submissions or go through some of the submissions that we have had.

It is about three (3) minutes after 10 o'clock and we were scheduled to start at 10 a.m. Ms. Gibbons, if you can tell us if we have Mrs. Allahar coming in on **Zoom** or is she joining us live? I assume we will probably have to wait a few more minutes before we officially start.

Asides.

Mr. CHAIRMAN (Ag.): Good morning, everyone. This meeting is now officially called to order. I would like to acknowledge and welcome you. Joining us today is Ms. Lisa Senhouse, Acting Deputy Director from the Environmental Protection Department (EPD), along with Mr. Andrew Dean, Chief Buildings Development Officer and from the Ministry of Health and Wellness, Mr. Ronald Chapman, Acting Chief Environmental Health Officer.

Also our Senators, Rev. Dr. John Rogers; Member of Parliament (MP), Her Honour Miss Cynthia Forde, Member of Parliament, Mr. Trevor Prescod is **online** and from the Chief Parliamentary Counsel (CPC), Mr. Shaquille Newton. Yes, "young people" names. So welcome, everybody.

This is also just to acknowledge that two (2) persons are out of the island, the Chairman Ms. Toni Moore and Senator André Worrell and I believe that Ms. Moore will join us at some point in time during the day.

For us to get started, Member of Parliament Forde, I will ask you to lead us in prayer. Distinguished lady.

Asides.

Mr. CHAIRMAN (Ag.): You have deferred to Reverend Rogers, so Senator Rogers.

Prayers were led by Senator Rev. Canon Dr. J. A. ROGERS.

Mr. CHAIRMAN (Ag.): Thank you very much. At this point, ladies and gentlemen, I would like to ask that the Minutes for the meeting held on Tuesday, 01 October, 2024 and Thursday, 24 October, 2024 be deferred until after we finish the deliberations.

The question that the Minutes be deferred was put and agreed to.

Mr. CHAIRMAN (Ag.): We are going to go straight into our presentations and I am going to ask that Mrs. Christine Toppin-Allahar, attorney-at-law, be let into the meeting at this point in time.

Good morning, Madam. Ms. Toni Moore will also be joining us shortly. I would like to welcome Miss Christine Toppin-Allahar. The Floor is yours.

Mrs. CHRISTINE TOPPIN-ALLAHAR: Good morning, thank you very much. My name is Christine Toppin-Allahar. I am an attorney-at-law and I am also a former lecturer in Caribbean and International Environmental Law at the University of the West Indies, Cave Hill Campus. I also have a practice as a consultant in this area.

I have actually worked in every CARICOM country, from Suriname to Belize and in the Bahamas also in this area. I cannot pretend to be an expert in health law but I was retained by the Pan-American Health Organisation (PAHO) some years ago, to review public health legislation in Trinidad and Tobago. I have had an opportunity in the past to address my mind to these issues and I can start by saying that while I am not fully familiar with health law in Barbados, it appears to be very much in advance of the state at which I found it in Trinidad when I was looking at their laws some time ago.

There still will be gaps in terms of some of the more modern things that were taking place in the field of health, like alternative medicine and some of these things one can buy in drug stores and so on. I do not know how they are regulated in Barbados. I have not looked into it and have not had the opportunity to do so because of course we had very short notice.

I will just focus on what been asked of the public with respect to the amendments to the

Health Services Act and the Nuisance Regulations which were before the public for comment.

Let me say that the background to the Law of Statutory Nuisances, is from the (Charles) Dickens' era; the same committees that looked into some clearance and health issues and so on in London in the Dickens' era. All the public health law and planning law and environmental law springs from that same root. Originally, it came into the Caribbean as Public Health law and similarly, I have seen it in Guyana, Trinidad and elsewhere, where things like subdivision control, slum clearance, building standards and all of that, fell under public health. A lot of that has been with the development of disciplines such as planning and environmental management; a lot of that has moved away from health and into separate agencies.

In Barbados, of course, we have a long tradition of the Town and Country Planning being a separate discipline and I am not sure if the Committee is aware, but I was the principal draftsman of the recent Planning and Development Act, which was adopted by the present government in 2019. In the course of my work, I have done an Environmental Management Act for all of the Organisation of Eastern Caribbean Countries (OECS) countries. I have a long background in related areas, put it that way.

The thing with the law of statutory nuisances, is that it was obviously invented based on the common law of nuisance. The common law of nuisance has certain threshold requirements for a person to sue their neighbour or whoever is causing a public nuisance as the case may be; they always cause some difficulties in court and so on. You have to establish your standing to sue and the nature of your damage. It is actionable only with proof of damage and like trespass, which is actionable *per se*.

You have a situation where this was brought on the statute books in order to allow local government to intervene on local issues, where neighbourhood problems were being created, which would ordinarily put the citizen to the burden of carrying on a private suit at common law nuisance. That was the situation and it continues in most countries to be a charge of local government.

Now, I am very old as you can see, so I was around when we had local government in Barbados but local government in Barbados was abolished when I was in Queen's College, so that

we no longer have that. This responsibility has been kicked up to the national level but it still remains a very localised responsibility in terms of the issues that have been complained of.

The thing is that even where in Britain, they reformed the law of statutory nuisances in 1990, when they did the Environmental Protection Act in Britain in 1990, they brought statutory nuisance over into the Environmental Protection Act as a section there; I actually have it with me. What they did in that process, they left it to be administered by local government but they also modernised the language, to do with nuisances. I think that was 34 years ago that they did that, I am not by any means suggesting that we should follow the law of another country.

I think that what we fail to do in the Caribbean, and I am great preacher for this, is that we have to look at our own unique circumstances as Small Island Developing States (SIDS) and see what works for us. One of the merits I think, of having this type of complaint in the hands of the government, although we do not have local government, is that in small communities it is very difficult for people to quarrel with their neighbours about things like this, so it is good to have a third party involved in the process.

My difficulty with what is being proposed here is that it is a bit archaic and I also mentioned, I think in my written submissions to you, that what it is showing up, is the tremendous gap in environmental management law in Barbados. As is the case with your medical law, which I think is scattered about the statute books in various places, for example, I noticed that senior citizens' homes are under regulations under the Health Services Act but children's day care centres are under the Children's Act. You have to really go through the statute books to find what the law is in Barbados on related subjects, if I could call it that.

The thing is that I think that though we have elements of environmental law in Barbados, we do not really have proper framework of integrated environmental law. One of the reasons is that, let me put it this way, the degradation of the environment by agriculture since the 1600s have removed most of our natural cover; most of the bird life and all of that sort of thing has gone many decades ago; hundreds of years actually, has been involved in that process.

Some the critical issues in Barbados in terms of the environment do not face people on a daily basis. We do have a Flood Protection Act --

flooding is an issue and ground water is an issue -- and we have a very old Groundwater Protection Act that never has a 'Protected Area' been declared under that.

I see a new scheme of groundwater protection being proposed. It is mentioned in the new Physical Development Plan that was approved by Parliament and Gazetted on 31 December, last year. Groundwater protection, I think will be a critical issue for us in Barbados and it is a critical health issue. In fact, how we have been doing it over the years, is through development control, in which the public health authorities have played a role being in charge of the disposal of waste under the regulations made under the Act. That is an important issue, and of course, some of important issues are to do with marine environment, very much so and now we have the whole Blue Economy and what have you.

There is a piece of legislation to which regulations have never been made of protecting the environment in the marine area. How it is defined, it actually captures a lot of things on land, it is a sort of ridge to reef concept of the environment that is captured there. You still have this sort of very scatter-shot approach.

As I mentioned, I think in my submissions here, we have something now called the Environmental Protection Department but they do not have a proper piece of legislation vesting them with their jurisdiction. What they are doing at present is because the Health Engineering Department that was taken and morphed over into the Environmental Protection Department; they are still operating generally under the Health Service Act. I will say it to you, I will not publicise out there for every lawyer to hear, but I do not think that they have properly good jurisdiction under the Health Services Act because only people that are working under the Minister of Health and that Environmental Protection Department is now in another Ministry.

For a couple of years, I have been flagging this as an issue. Believe me, if I was the defence lawyer and Environmental Protection Department was to come for my clients, I will go straight to court and say they have no jurisdiction. I think that is something we need to clean up and certainly I think we need to clean up the statute books when it comes to a number of things like air pollution. I think I mentioned noise, odours and other things like that that were omitted here.

Basically, I have no intrinsic objection of course to upscaling the Health Services Act. I think it needs more radical revision than is suggested here, certainly on modernising the Nuisance Regulations but I do not think we have modernised them here. I think the language is still archaic and some of the terms the drafters of these amendments have tried to define, are really Victorian in their nature.

That is basically what I would like to say to the Committee and I would be happy if you have time and you wish to ask me any questions, I would be happy to respond.

Mr. CHAIRMAN (Ag.): Thank you very much. Ladies and gentlemen, I am going to open the floor; if there are any questions, comments, CPC. We have heard that the legislation may be archaic in its approach, do you have any response to that in particular?

Mr. SHAQUILLE NEWTON: Good Morning. I listened to Ms. Toppin-Allahar's presentation; it was quite interesting. In relation to the assertion that the legislation is archaic, it is important to remember that the Bill is an amending Bill and not a new Act. In light of that, when we are drafting we generally do not use new terminology to mix in a Bill that has existing old terminology. For the sake of consistency, that is why the legislative language is the way that it is.

It is also important to remember that since this is not a new Act and there are also going to be other amendments to the Health Services Act which are currently being undertaken; it was important that the legislative approach be consistent and those were in keeping with instructions.

Mr. CHAIRMAN (Ag.): Thank you very much. Anyone else with any other comments? Committee? No? Yes?

Ms. LISA SENHOUSE: In response to Ms. Toppin-Allahar's presentation, I would say that we in the Ministry of Environment do agree that there is a need for environmental legislation. To that end, we have already recently drafted a Terms of Reference. We are looking to engage someone to prepare draft legislation for us, hopefully within this financial year, to address that particular issue.

Mr. CHAIRMAN (Ag.): Thank you very much.

Mr. T. A. PRESCOD: Mr. Deputy Chairman.

Mr. CHAIRMAN (Ag.): Just a bit of housekeeping, so-to-speak. Whenever we are

going to speak for the very first time, please identify yourself and the organisation. Thank you.

Mr. T. A. PRESCOD: Mr. Deputy Chairman.

Mr. CHAIRMAN (Ag.): There is a question from Member of Parliament, Trevor Prescod. Go right ahead, please.

Mr. T. A. PRESCOD: Yes. Thank you very much, Sir. Good morning to the entire collective. For a long time, I was extremely cautious and critical about the....

Mr. CHAIRMAN (Ag.): Excuse me. Could you raise the volume on your device, please?

Mr. T. A. PRESCOD: We are getting some problems with this thing. Yes.

Mr. CHAIRMAN (Ag.): That is fine. It is good.

Mr. T. A. PRESCOD: Is it better now?

Mr. CHAIRMAN (Ag.): Better.

Mr. T. A. PRESCOD: For a long time, I have been getting some challenges with understanding when the EPD is taking steps to address issues such as the removal of derelict buildings, vehicles and so on. The EPD within the Ministry of Environment, was claiming that they are using the provisions within the Health Act, in order to give notice to persons who were the purported owners of these vehicles and houses.

In my layman understanding of the law, I could not really grasp all the logic that I was hearing, coming from the highest levels of Government, that there was nothing wrong with the EPD in the Ministry of Environment using the provisions within the Ministry of Health, to stick notices on the various vehicles across Barbados. On more than one occasion, I do not know exactly what arguments were advanced within the court of law but on more than one occasion when vehicles were moved, some owners laid claims that the vehicles were in a good state.

One of the challenges that officers always had is that most of the time, these people were awarded damages for the removal of the vehicle by the Ministry of the Environment. I always contend that the Ministry of the Environment really needs a provision in the law related to that Ministry itself, that would give it the legitimacy to do what they were doing and that it was wrong to be using any provision or trying to apply provisions under the Health Act.

I believe that in the presentation, Judge Harris or the consultant, Harris, was indicating that that is a major contradiction within the law

itself. I would love to hear greater clarity on that and to know whether such a thing would be addressed in the new amendments to this legislation.

Mr. CHAIRMAN (Ag.): Thank you very much. I am going to ask Mr. Ronald Chapman, the Acting Chief Environmental Health Officer, if he has any comments to make on what has just been said.

Mr. RONALD CHAPMAN: I am Ronald Chapman, Acting Chief Environmental Health Officer. I think we have established that over the years the nuances where the EPD and the health legislation is concerned. I think that we have tried to address that issue with respect to a Memorandum of Understanding (MOU) and that MOU once it has been worked out would allow then for the EPD, until such time that it has rectified its issues, to continue to operate under the Health Services Act.

I need to be guided by a lawyer on this one, but I think either Section nine (9) or 12 of the legislation basically says that the Minister of Health may assign or authorise any person; agency or someone to act on behalf of the Ministry of Health.

So, until such time as the enactment of the additional legislation, I think the MOU would be able to address those issues.

Mr. CHAIRMAN (Ag.): Thank you very much. Anyone on the floor?

Mr. T. A. PRESCOD: I just need some clarity on this. The MOU has greater legal status than the statutory provisions?

Mr. RONALD CHAPMAN: No, Sir.

Mr. T. A. PRESCOD: If there is a law, can the officers, the Minister or even any senior officer, arrange an MOU between his ministry and another ministry, that gives guidance to how the particular provision can be applied? If I understand the principles of law well, the statutory law must be of a higher legal status than the MOU. The MOU depends on what is stated within the law itself and cannot be seen as a document alienated totally from what the law stipulates.

Mr. CHAIRMAN (Ag.): Ms. Toppin-Allahar, you....

Mrs. CHRISTINE TOPPIN-ALLAHAR: Yes, Thank you. I think what Mr. Chapman is referring to, is that there are two sections in the Health Services Act, that enable the Minister to make certain appointments or powers of

delegation also. Section nine (9) is the principal one. If you read Section nine (9), clearly it does not seem to me to enable the Minister to go outside the Ministry to what I would call a stranger, in law. I think that this Minister that I cannot see behind....

Asides

Mrs. CHRISTINE TOPPIN-ALLAHAR: Yes. What Mr. Chapman is trying to say is that if you find a section in the Act that allows the Minister to grant that power over, then you use the Memorandum of Understanding (MOU) under that section. So it falls within the scheme of the Act. I am not sure that the section enables that to be done but that is not for me to say. It is for the Attorney General to advise on, but I think that what will have to be done in due course, and I know Ms. Senhouse because we have collaborated before on a consultancy that I did for an international organisation.

I think what would have to be done or what is usually done and I would defer to a Parliamentary Counsel on that, is that when you bring new legislation in, you have a retrospective validation clause in it that would clean up past things if they were done without the correct measures being in place. So there is a solution there, but what is really needed is proper legislation for the EPD.

Mr. CHAIRMAN (Ag.): Thank you very much. CPC?

Mr. SHAQUILLE NEWTON: Thank you. I am Parliamentary Counsel (Acting) Office of the Chief Parliamentary Counsel. It does appear that there is somewhat of a discrepancy within the legislation but I can draw your attention to the Interpretation Act of Barbados which generally governs the use of the word Minister.

It is normal in the course of things not to define the term 'Minister' so that these matters can be worked out administratively. What has happened here is that 'Minister' has indeed been defined to mean 'Minister of Health'. I can write a more fulsome opinion on this matter in due course but a solution that is possible right now could be the removal of the specificity to the reference of the 'Minister' in the legislation and that the Interpretation Act then can govern the term 'Minister'. And that should provide some, no, it will provide a solution to allow for these

matters to be worked out administratively for the time being.

Mr. CHAIRMAN (Ag.): Thank you. Any further comments?

Senator Canon Rev. Dr. J. A. ROGERS: Thank you very much, Chair. I would just like to thank Mrs. Toppin-Allahar for her presentation and flagging the importance of bringing our Environmental Protection Legislation into the 21st century.

Having sat on the Constitution Reform Commission, I can tell you that this took up a lot of our time because we recognised it as one of the areas that we really needed to pay close attention to. Hopefully when those documents are presented, I do know that there was a lot of time spent on expanding environmental rights and so on and hopefully that will guide us in terms of our new legislation on the environment. I just thought I would thank you for that.

Mr. CHAIRMAN (Ag.): Thank you. I wanted to ask EPD in particular to shed some light on what it is that you actually do because we have persons who will be watching sometimes from the outside and when they hear these terms, they have no concept of what you do, what we are actually talking about; especially as it relates to Mr. Deane, the Chief Buildings Development Officer. I would kindly ask you to give us some background on what you do and how do you see yourselves fitting into this entire discussion that we are having on this particular Bill?

Mr. ANDREW DEANE: Good morning. I am Andrew Deane, Acting Chief Building Environment Officer, Environment Protection Department. Initially, back in 1971, when the Department was first established as the Environmental Engineering Department in the Ministry of Health, the functions were that of building development control and water quality monitoring.

The department expanded subsequently, years after and encompassed and expanded the Water Quality Monitoring Programme; The Solid Waste Management Programme; the air quality -- both ambient and indoor; but subsequently removed indoor air quality from our mandate, as well as marine pollution control; noise monitoring and derelict vehicles and buildings. Those are the main functions.

Asides.

Mr. ANDREW DEANE: Pardon me? We used to do swimming pools as well; that was returned to the Ministry of Health. With the 2019 legislation of the Town Planning Act, the building development component of the department was shifted to the Director of the Planning Department. So the Health Services Building Regulations is now deemed under the Planning and Development Department. The Derelict Programme, which includes derelict buildings and things, which you did rightly mention and Mr. Chapman also acknowledged, is a function of the Ministry of Health but the EPD, has been carrying out that function since 1986.

MP Prescod also alluded today that it may not appear to be legally correct, which I must acknowledge, but we have been carrying out this function for all of these years and have not been challenged thus far. I think I have answered your question.

Mr. CHAIRMAN (Ag.): Thank you very much. You can come in if you want to.

Mrs. CHRISTINE TOPPIN-ALLAHAR: Yes, I just wanted to say that, you know, I think everybody is doing their best, even with the deficiencies in the legislation. I have seen that, for example, EPD has been helpful in the planning process, in crafting conditions of planning approval, even for things like noise pollution; using World Health Organisation (WHO) standards; we have those standards in the domestic law.

I think that we should not be coming in through side windows and side doors to attack these sorts of issues in this modern age. We need to clean up the statute books; get things right and put things in the right place. Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much. I cannot help myself sometimes but when we look at this particular issue, the question I think that one has to ask is, "*how did we get here and why are we here to deal with this particular problem?*" One of the things that you keep hearing people talking about is the whole idea of penalties and how they seem harsh; those are a couple of these comments that we have coming in. This is really a challenge of a change in culture which people, for some unknown reason, do not want to identify with.

Laws are not made or put in place because people are doing the things that they are supposed to be doing. You find more and more laws coming in as a society fails basically, ethically, in

different departments. It is important that people understand how we have gotten here and why we are here. What is the public mischief or nuisance, so to speak, that you are trying to address whilst doing this?

I totally understand the deficiencies within the laws and the other things that we need to clean up. I think, again, the focus for me must always be on why are we here; what led us to be at this particular point in time to deal with these particular issues?

So I want to thank everyone, so far, for the contributions. If there is anything else that anyone would want, Mrs. Allahar, put on the table...

Mrs. CHRISTINE TOPPIN-ALLAHAR: Yes, Mr. Chairman, thank you. I think one of the key things in this legislation, I think I mentioned it in my comments, is that they are trying to change the enforcement mechanism, to get to your point, by using the administrative orders in place of summary prosecutions -- prosecutions for summary offences. Certainly the prosecutions for summary offences.

One reason that people have been able to break the law with almost with impunity throughout the Caribbean, is because it is so very difficult for a number of reasons: One being the Magistrate's Court system is really so backed up in most of the countries and actually having to go through the process of collection of the evidence, and going through the criminal process means the standard of proof beyond a reasonable doubt, *et cetera*.

People have been looking for alternatives for enforcement mechanisms and I have seen these administrative notice type of enforcement elsewhere. For example, I was recently doing some work on maritime law in Anguilla and they have administrative notices. Most of the time when people use administrative penalty notices, the provision is if you do not pay then the State has to collect it as a debt in the civil realm of the courts; petty civil courts, if you could call them that.

There is an alternative which we actually put in the new Planning Act which is the equivalent of giving people tickets. It is a fixed penalty notice, as it is called in the new Planning Act, so we can think about that: Giving people a fixed penalty notice, which then is like a traffic ticket but a different thing.

Here, the remedy is that if you have got this administrative thing and you do not pay it, instead

of having to go to the Magistrate's Courts, it is going to be put on your Land Tax bill, which seems to be very circuitous thing and then raises issues about the appeal and under what piece of legislation you are going to appeal. Are you going to appeal under this, the Health Services Act or are you going to appeal under the Land Tax Act? Then, that could get you into a thicket of difficulties there. I think that these are three options that I am familiar with; there may be more. There is always the indictable offence for serious offences where something is done with malice aforethought and so on, but there is the conventional summary offence. There is the new, or relatively new administrative penalty notices and there is the fixed penalty notice similar to the traffic ticket for environmental offences that can also be used.

I think there is a range of things and I think the desire here – and it is a commendable one – is to avoid having to prosecute these matters in the Magistrate's Courts and that is the aim, the basic underlying aim, of what you have before you.

It is a matter for you as to which device you think would work best in Barbados and have the least blow-back. I imagine that you are going to get a lot of blow-back if you put it on people's Land Tax bills; that is my feeling. Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much. Any further comments? Her Honour Miss Forde.

Her Honour C. Y. FORDE: I just want to indicate that we have really got much clarity now because the biggest problem that we, the regular citizens have, is calling a department and hearing, "*It is no longer us now, it is Town Planning,*" and it becomes extremely frustrating. Unfortunately, Barbadians generally have become extremely indifferent and disrespectful when it comes to laws and doing things and it is really creating a serious situation in almost every community across Barbados and I believe that what we are doing here today and the information that we are gathering now will help to make a tremendous change in what we do because we need to call the Environmental Protection Department, if that is what it is still called or no, it is the Ministry of Health or you now have to go out call Town Planning in relation to all of these household appliances alongside the roads taking up space or a derelict house that really needs to be demolished to save people from getting injured and so on.

If it is causing me confusion, what about the general public? Where can we get to be able to focus on public education and using the Government Information Service (GIS) more readily to be able to educate the public as well.

To read the laws, I am a total fool. There are so many things I do not understand and to me it is not about education alone but it is to do with that being one's field of endeavour as an attorney-at-law and you understand it better because you do it every day but for a regular citizen like me, in that respect, I cannot even advise anybody in the community where I live because I read but still I cannot internalise it because I have no interest in that way, as an attorney would, because they would have to defend.

Whatever we are doing here, I am going to call at this point for us to have more public education and rather than the call-in programmes dealing with political things, let us get into the meat of the matter so Barbadians can better understand you do not just pick up the phone or call or go to an office, especially senior citizens. As you know, I am the oldest person in here and I have difficulty understanding a lot of things as a result.

We need to really use the fora that are available to us, to touch people and let them know. To take a bus and go into the Ministry of Health to hear they have to go to another department along with all the segmentation of the agencies, to my mind, that is helping to create confusion. We are not getting answers to our issues in the communities where we live because of transfers between ministries and agencies, and it is creating a lot of problems.

Mr. CHAIRMAN (Ag.): Thank you very much. I am going to go to MP Toni Moore, who is **online**. She needs clarification on something that was said, so over to you, Ms. Moore.

MADAM CHAIRMAN: I hope that the background noise is not a constraint but I want to thank the attorney for the presentation and the clarification that she sought to offer through her presentation. I note that there was a concern that there was going to be blow-back from applying penalties to the Land Tax bill and I missed a part of it, so I am wondering if there was a suggestion. I know that the mention of a ticket was made similar to what was done with the Town and Country Planning Legislation. Is that the suggestion as an alternative to putting the

payments on the Land Tax bills? Is that the clear alternative being presented to the Committee?

Mr. CHAIRMAN (Ag.): I believe it is being put forward as an alternative but as was stated earlier, that would be for the powers that be to determine which way they are going to go but I will let Mrs. Allahar just go through it one more time for your clarity.

Mrs. CHRISTINE TOPPIN-ALLAHAR: I was just pointing out that there were three main alternatives for the enforcement of the law. I would be happy if people could come up with even a fourth because we have so many problems enforcing this type of law in the Caribbean. I am not recommending one above the other to the Committee because I have not really studied how any of them would work.

As far as I know, we have not issued any new tickets under the new Planning and Development Act because the Regulations for that part of the Act have not yet been written. It does exist, for example, under the Litter Act in Trinidad and Tobago and St. Lucia, where they do the derelict vehicles under their Litter Act, actually in those two countries, so there are possibilities elsewhere in the region that you can also look at.

MADAM CHAIRMAN: I thank you because the suggestion would be, that if the application of the penalties on the Land Tax bill was something that was enforced and it did not work, then there would be alternatives that could be considered but these are not being submitted one above the other; it is not to say that it should be done. Thank you.

Mr. CHAIRMAN (Ag.): CPC?

Mr. SHAQUILLE NEWTON: Good morning once more. I just wanted to advise that in relation to the setting up the administrative penalty, yes, the fixed penalty notices as was done with the Planning and Development Act, was considered and could be used as a mechanism. It was felt that the administrative penalty was more applicable in these circumstances.

I first want to make the point that the administrative penalty notice does not automatically kick in. There is the provision for the contravention notice at Regulation eight (8), where it was felt that given this mechanism, it gave persons an opportunity to actually remedy the breach first.

In relation to the point about the imposition of the administrative penalty when it remains

unpaid on land tax bills; we felt that this was the best approach because in relation to these matters of public health and keeping your properties clean, these are all things which have a natural nexus with the land tax. That is why this approach was taken; not saying that a fixed penalty notice cannot work, but it was felt that the administrative penalty was more applicable in these circumstances.

Additionally, Mrs. Allahar, we are speaking the same language as drafters, for consistency of the statute books, this tends to be the approach now that we are going with in terms of sanctions and enforcements, if you are making alternatives to penal sanctions.

Mr. CHAIRMAN (Ag.): Are there any other comments? No? At this time, I would like to thank you very much Ms. Allahar for a very enlightening morning and we look forward to maybe chatting with you a little further down as we get closer to bringing this particular session to an end. Thank you very much on behalf the entire Committee. Thank you.

Mrs. CHRISTINE TOPPIN-ALLAHAR: You are welcome, Mr. Chairman. It is my duty as a citizen.

Mr. CHAIRMAN (Ag.): Appreciated. We are just giving five (5) minutes before our next speakers. We have Mr. Anderson Cherry who is **online** but we are just waiting for one (1) more person from the Waste Haulers Association. Once he comes, we will get started. We can start with Mr. Cherry who is **online** and we then move on when the next speaker comes in.

Let us go to the line. Please bring in Mr. Anderson Cherry. Welcome.

Mr. ANDERSON CHERRY: Good morning, everyone. Thank you for inviting me.

Mr. CHAIRMAN (Ag.): Good morning, Mr. Cherry, are you there?

Mr. ANDERSON CHERRY: Yes Sir, I am here, good morning.

Mr. CHAIRMAN (Ag.): Good morning, Sir, how are you?

Mr. ANDERSON CHERRY: I am pretty good, thank you. Yourself?

Mr. CHAIRMAN (Ag.): I am well. Could you adjust the volume on your end just a little bit by raising the volume or if our technical team is able to do that.

Mr. ANDERSON CHERRY: Is this better?

Mr. CHAIRMAN (Ag.): Much better. Just for the record, you can state your name and the association that you represent. Thank you.

Mr. ANDERSON CHERRY: My name is Anderson Cherry and I am representing the Waste Haulers Group.

Mr. CHAIRMAN (Ag.): It is Mr. Anderson Cherry, for those who probably did not hear, and it the Waste Haulers' Association. We are still going to need some more volume.

Mr. ANDERSON CHERRY: Is it better there?

Mr. CHAIRMAN (Ag.): Could you get a little closer to your microphone? That is a bit better.

Mr. ANDERSON CHERRY: Thank you.

Mr. CHAIRMAN (Ag.): Over to you Mr. Cherry. You can make your submission. Are you hearing me?

Mr. ANDERSON CHERRY: I seem to be getting a little technical problem.

Mr. CHAIRMAN (Ag.): We are still waiting on the arrival of Mr. Michael Forde, who is also part of the Waste Haulers' Association. I would like to welcome the Honourable Davidson Ishmael, Minister of State in the Ministry of Health and Wellness who is joining us. Thank you so much, Sir, for being with us. Mr. Cherry are you ready?

Asides

Mr. CHAIRMAN (Ag.): We can hear you pretty well. We are going to ask the technical team if there is anything that they can do on their end to help. We will just pause until we can get that particular problem solved. We are also waiting on Mr. Michael Forde, who was supposed to be here in person and we probably will have, if possible, Mr. Trevor Mellin, who would also be a representative of the Waste Haulers' Association.

As was mentioned earlier, this issue really comes about because there is and has been for a long time, complaints about, I guess the falling health standards or practices within Barbados. I think sometimes we can gloss over these problems because they do not seem large at a particular point in time but most of us growing up, and especially those of us who grew up in rural Barbados, would know that there was a time, when you could not have anything such as grass or anything like that on the premises.

For those who are a bit younger and might not understand what it means to be out in the hot sun with a scraper or a hoe and having to make sure that there is no grass around the house; these were the practices which were, I would say, based on an old Barbadian saying which states, "Cleanliness is next to Godliness".

These are the things that people in my age group and above would have grown up with. It is not annoying but in my mind, it is a little bit strange that we have strayed away from what would have been basic ways of behaviour as a people, into what we find today, that forces us to be in these sort of meetings to create this kind of legislation to deal with a problem which, when you get to the root of it; is really a very individual responsibility, if may use that word, that people use to take seriously in the past.

I am hoping that Mr. Cherry would be able to come in because the Waste Haulers' Association, as was mentioned by Her Honour Forde earlier, and we listen to the call-in programmes, these particular organisations are the ones which have a lot of comments made about them by the general public and how they function. These are the matters that we, as the Committee, need to be able to help to clarify in the areas where there maybe error on the part of the general public or basically try to understand what may be some of the problems that face the particular associations and others within the community.

I am going to try to see Mr. Cherry is ready. Sir? What I would like to do is that I would personally like to ask a few questions whilst we are waiting for him to come in. I am going to pose this particular one to the EPD.

In terms of dealing with buildings in particular, could you give us some basic understanding of what is it that would cause you to have to come out to deal with buildings in that manner? What are the things that you are looking for? What are the things that you can, at least, enlighten the public about, so that they can probably prevent themselves from letting buildings get to that particular point where you have to step in?

Mr. ANDREW DEANE: You are referring to derelict buildings?

Mr. CHAIRMAN (Ag.): Derelict buildings.

Ms. LISA SENHOUSE: I am Lisa Senhouse; the Acting Deputy Director of the EPD. With respect to the derelict buildings, the concern

about the derelict buildings is that they are posing a risk; a public health risk. There are a number of criteria that we look at in determining if a building is derelict. A few of them are:

- Breeding ground for vermin
- Structural integrity of the building.

The Health Services Act lays out a process for the Government to deal with the buildings if they are posing a health risk. Under the Act, you must serve a notice to the owner. You publish it in the newspaper which gives the owner the opportunity to remedy the situation themselves. If that does not occur, the Government can go ahead and demolish the building. One of the things that is written into the Act, is if Government does demolish the building, the owner owes that debt to the Government. That is basically it, the process in a nutshell.

Mr. CHAIRMAN (Ag.): Thank you very much. As a person who is actively involved with the preservation of, let us say, historic buildings, how would you deal with an issue such as one where; this is hypothetically speaking. You have a building that probably belonged to a national hero or someone such as that and it found itself in a certain amount of disrepair; almost bordering on derelict. How do we strike the balance between demolishing from your end and putting forward maybe another proposal, as to how to deal with it?

Ms. LISA SENHOUSE: From our end, any time during the process, the owner of the building has the opportunity to remedy the situation. Once the person remedies the situation, we will no longer take action. In the case of a historic building, once that happens, we no longer will take action. Regardless of the situation, once the owner remedies the situation, we will not take action.

Mr. CHAIRMAN (Ag.): In remedying, one may feel that if the person fixes it but if the person can show you that there is a plan in place to get it done and can prove to you that maybe it is going to happen over one (1) year, two (2) years, three (3) months or whatever, that would be acceptable to you?

Ms. LISA SENHOUSE: Usually, if the building is one that we have served a notice on, there are certain things the owner would have to do immediately. If it is overgrown or if it needs some repairs to stop vermin from coming into the building and not that you necessarily have to renovate it and make it new. It is just to address

the situation where it poses a public health risk. Once you address that, even if you have not renovated the building or not able to occupy the building, it is really about preventing the public health risk. Once you mitigate that, we will take that building off the list.

Mr. CHAIRMAN (Ag.): Thank you very much, Ms. Senhouse. Now, we go over to Mr. Cherry. I believe you are ready, Sir? Ladies and gentleman, under the circumstances, I am going to ask that we suspend for ten (10) minutes to give them a chance to see if we can rectify whatever technical problems we are having. If we are in agreement, please say 'aye'. Well, I need to have the motion from someone first.

SUSPENSION

On the motion of Her Honour Miss C. Y. FORDE, seconded by Senator Rev. Canon Dr. J. A. ROGERS, the Committee was suspended until 11:20 a.m.

RESUMPTION

Mr. CHAIRMAN (Ag.): We have been informed that Mr. Cherry continues to have Internet difficulties, which is beyond any of our control. We still have not heard from any of the other representatives of the Waste Haulers' Association, who are supposed to be **online** or coming here to be physically with us.

We are going to hold on until our Deputy Clerk, Ms. Gibbons, comes back in and I think we will have to make a decision to either move on; if the person coming gets here to meet at 12:00; or suspend. That is basically where we are; please bear with us. I guess it is the provider's problem he is having with the Internet. So, we apologise for that unfortunate incident.

At this point in time, we have Mrs. Kaye Williams, President of the Barbados Bar Association and we are going to move on with her. If we can bring her in, please. Once again, folks, with Mrs. Williams coming in, it will be the first time she will be seeing anyone (at this Committee hearing), so please mention your name and organisation represented.

Good afternoon, Madam. Yes, it is still morning. Good morning, Madam. As mentioned before, ladies and gentlemen, this is Mrs. Kaye Williams, representative of the Bar Association. Madam, I am going to turn over to you.

Mrs. KAYE WILLIAMS: Thank you. Good morning. Permit

me to begin by thanking this Honourable Chamber, for this opportunity to just share a few of our thoughts and comments in respect of the Health Services (Amendment) Bill and the draft Health Services (Nuisances) Regulations. What we seek to do as a BAR, is that we would circulate the various legislation, Bills, *et cetera* and get comments from our members. Some Bills elicit more responses than others.

On this occasion, there was supposed to be a colleague with me but regrettably they could not join. On this one, because it is an amendment to an existing Bill, we had a few comments which we would be grateful to share. We welcome discussion on one or two issues that we wish to raise.

I will begin first with a general comment. The first general comment has to do with the jurisdiction. We did make an inquiry at first to ascertain whether the particular amendments, whether there was a particular jurisdiction because very often as part of the nations of Commonwealth, sometimes we look across the Commonwealth and model laws across from our brother and sister Commonwealth countries. I was told that, no, there was not any particular modelling or particular trend that we were particularly looking at. One of the reasons, of course, I was going to ask that is because of the references or reference that we come down to later on with respect to the Application for Exemption and the fact that exemptions from the penalties and the administrative fee will be based on 'hardship'.

When we saw that, the reason why we asked whether it was a particular model is that typically, you know, there will be tribunal decisions, *et cetera*, which may define exactly what hardship is and how that is applied. I will come to that in a moment; that is one of the first things that we were asking.

The second general comment is that the Health Services Act, Cap. 44 has served us very well. It was first enacted in 1969. It should be about 55 years, if my Mathematics serves me correctly, that this Act has served us. Since then, based on when I checked the current model of the law and I want at this point also to refer to the Consolidated Index, which you may be aware of and this resource is produced by the University of the West Indies (UWI) each year to show the

amendments to any one particular piece of legislation.

Now, the actual Act based on my very rough estimate, was amended about 14 times over the 55 years understandably because of the nature of the Bill. The regulations, you see the list of regulations and amendments go on for three (3) pages, with respect to the Health Services Act; the regulations underneath that.

You are amending to meet the various health services issues that arise from time to time. By our rough count, the amendments are about 57, which means that almost once a year in its fifty-five-year history, we had need to go back and amend the regulations. The recommendation is at this point, whether time is ripe for reform of the Health Services Act? Whether the Health Services Act, which I said has served us very well, it is amazing that 55 years later, is still relevant but the question is, does it meet the needs of modern Barbados? Do we need to create a policy paper? Do we need to rethink, relook and reshape? We have gone past the post-colonial phase where we had a lot of law reform and have a good history of that kind of law reform; post-colonial law reform and post-Independence law reform. Now, that we are our own; we are a Republic, having transitioned from a Constitutional Monarchy onto a Republic status. What does modern Barbados require?

This is just something that we want to throw out there. Given the extensive nature of the various regulations, how would we want to shape it going forward? How would you want the Act to still have force but still allow the main actors, such as the Chief Medical Officer (CMO) and the public health officers to be able consistently to have edicts thrown out there to which people have to comply but yet you still have a holistic piece of legislation you can look to.

When I sat down to look at the Act, because there were so many amendments to the regulations, you must make sure and double-check to see whether the particular iteration that was before you contained all of those 57 amendments. It was quite a bit of hoop and as I said, it is just something to consider at this point in time.

One other comment generally. One of the amendments refers to the Magistrate's Court Act. The penalties and the administrative fees will be collected in the Magistrate's Court, District "A". The legislative grounding for that is in the Health Services Act which is in the same 1969 Act which

indicated that the penalties and Section 11(11). So, the original Act would have indicated that a debt recoverable and reasonable costs which are due to the Crown, which of course now would be the State, in civil proceedings, that debt collection was to be done before a magistrate for District "A" notwithstanding the amount of such costs exceeding the normal monetary limit of the jurisdiction of a magistrate.

In the Magistrate's Court, as you know, there is a cap, a ceiling; that, since the 1969 legislation, of course has been increased and in Barbados it is now \$10 000. It means that the framers said whatever the cap is at Magistrate's Court level, even if it exceeds it, the jurisdiction to collect the debt is still in Magistrate's Court; that part we understand and that is fine because you can sue for wrongful dismissal at common law, notwithstanding the Employment Rights Act because there is a legislative ground that allows you to go to the court even if that measure of damages exceeds the cap of the Magistrate's Court Act.

When we look at the penalties and we will come to see how the administrative fees are also subject to penalties, the question is, do we still want to maintain the jurisdiction in the Magistrate's Court? You can or you may wish to shift to the High Court but we will look to see whether again are we addressing what the framers intended? Are we addressing a shift perhaps in the way you will be bringing such debt recovery actions, *et cetera*; especially since, as we will see, the debt recovery is now going to be a charge on land. You may be encountering challenges where before and when this was first framed, it would have been a simple fee; it is a fee owed.

Now with this amendment, we are seeking to attach it to land and for it to become one of the first charges put on to land; now you are touching people's rights, you see. You would then ask yourself whether you still want to maintain the debt recovery in Magistrate's Court or whether you might want to consolidate everything in High Court. Just a thought.

We turn now to the actual amendments and I will start first with the proposed amendments for the Health Services Act, that is the Bill and just by way of reference, we do note under the amendment for Section two (2) that the Relief Board for this Act has been defined as the Land Taxation Relief Board, established under the Land Tax Act.

I understand the need for efficiencies for anyone seeking relief because you are going to be potentially attaching the administrative fee and the penalties to land. I understand why you would want to create a new Board where you would want to create certain efficiencies and let it all be heard by the Land Taxation Relief Board, so that is noted. If you are going to be under the Relief Board, again, we ask whether the Land Taxation Relief Board which in its current composition will contain resource persons who are primarily for tax, and we will understand that.

All we are asking is when you look to the composition of the Land Tax Relief Board, whether there would be a resource person; a technical person who understands the intricacies of the Health Services Act as well or whether there will be allowance for that? In other words, if someone appeals to the Relief Board pursuant to an issue under the Health Services Act, they will be going to the Land Taxation Relief Board and the question is: Will there be a resource person who understands the Health Services Act and the provisions of that Act on the Land Taxation Relief Board? Just to bring a level of equity to the situation because, again, you do not want to open yourself to challenges. As an attorney-at-law, I may say, "*My client is coming to deal with a health services issue and here I am before a tax board, and the tax board understands what these health services issues were what caused my client to be here or to be fined.*"

I thought that it might be something you could consider to bring balance on those types of appeals. I cannot speak to the Land Taxation Relief Board now. I honestly did not look at that composition but that was raised and it is just something that perhaps we could look at.

Looking at Amendment No. 5, we are dealing with what in essence will be sums and debts recoverable pursuant to non-compliance under the Health Services Act. You have created a nuisance; nuisance has been redefined and we will get to that in the regulations. Vermin, something has escaped from the property, whether it is liquid or something and it is causing a health service problem and we need that person to comply.

Section five (5) seeks to bring a number of amendments to Section 11 and 11(a). As we said before, 11(a) gives the health services officers power to take this matter of debt recovery in civil proceedings, to Magistrate's Court.

Section 11(a) deals with the notice period, for example, the original Section 11(a) in the Health Services Act, talks about the Minister executing work on property that has been deemed to be dangerous or in a dangerous state and having executed those works and if the landowner has a grievance, he or she has 42 days to deal with that. Otherwise, the Minister may direct that the property be sold by public auction for the recovery of debts due to the Crown (the State) in respect of any work so executed. That is the basis of 11(a).

What the amendments here are proposing is that the costs incurred with the execution of work and/or the administrative penalties imposed for contravention and failure to comply, can now be charged to the property and added to the Land Tax imposed under the Land Tax Act. That is repeated then not only for the charge, but also for the penalties as we have here.

Then it goes on to say, "*it shall be a debt to the State recoverable in the Magistrate's Court for District "A".*" Under this section, the property owner may have a dispute and they then would appeal to the Relief Board, which is the Tax Board.

There are a number of things here and I am not sure exactly how this will roll out. For example, you have a 42-day period from the original Health Services Act, then you have the possibility of it being attached to the Land Tax Bill, which is fine but if that penalty, for example is attached to the Land Tax Bill, it is the beginning of a Land Tax year and, as you know, the Land Tax year runs from 01 April through to March 31, so if there is a breach in May, that land tax owner may say, "*I have not been deemed to have been served notice because I have not seen my land tax bill.*"

Mind you, it may be on the record but that land tax bill is not going to come out until months later; but you have a 42-day period after which the Minister has deemed that work has to be done because this is a danger and it cannot continue, that they can direct it be sold by public auction.

If you are going to sell it by public auction and we are going to come to the way the appeals are made, the appeals are made to High Court, the debt recovery is allowed in the Magistrate's Court and then you have public auction. I am just wondering whether this is efficient or whether you are really putting yourselves in three (3) different jurisdictions at one time over one property,

because you have public auction on one (1) side. Who does the public auction? You are recovering in the Magistrate's Court at District "A" and yet the property owner would be running to High Court for relief or for an appeal from any decision of the Relief Board.

This brings us then to another issue. The question is, are we fostering compliance, or are we seeking to be punitive? What is the policy position under the amendment? I am just asking that question. I do not expect that answer today but what I am saying is, if we are fostering compliance, when it was written in 1969, it may have been a different viewpoint. We are in Barbados 2024.

Is it that we wish to have two (2), three (3) strikes you are out, in the sense that we have a first notice, a second notice and thereafter the draconian penalty is imposed and/or the public auction? Meaning that the average landowner, property owner, has an opportunity to remedy. We are asking, can you give the average landowner an opportunity to remedy? I am sure that there are means but in terms of strict legislation, it tends to just go towards notice, fine, public auction. It does not seem to have layers.

The question is, again, we are the framers of the legislation that governs us and what is it that we seek to do for us as a people? One of the proposals would be whether there could be an accelerated or a series of steps that can be clearly placed in the legislation. On one hand, yes, the Minister responsible must act and must act quickly, but on the other hand, is it that we are trying to encourage the property owner to be compliant and if so, how would we do that? That is why I was saying you might want to consolidate all of the actions in High Court or you might be quite happy to leave the debt recovery in the Magistrate's Court but leave the appeals to the High Court. Again, it all depends on what the policy position would be for this particular amendment.

In respect of that then, is there room for first and second notices? What allowances are made for the property owner who attempts to rectify and is hampered by the lack of resources or hampered by technical challenges?

The backdrop against which I speak is that as attorneys, we tend to find that properties that tend to be derelict, often, it is either a situation where all of the immediate owners are either deceased; they all reside overseas or the property

is in dispute. Regrettably, you find that the particular piece of property which granny or grandad left, the family home, falls into dereliction and decay, and nobody can agree, they were 14 siblings and nobody can agree as to what we are going to be doing about it and nobody wants to be the one to put forward their funds to get it done because they think, if I do that that is a detriment to me and I am not going to get it back.

The other issue we would have is, the question of jurisdiction. Naturally, the land is here in Barbados and thought has to be given when it comes to these notices and issuing and putting it on the land tax bill. Obviously, if someone is paying that land tax bill, which is the trigger to see that something has occurred and they would want to clear that debt from the land tax bill.

I understand that but in doing so, remember that you deemed to have serve persons with notices and you may find that those who are out of the jurisdiction will say, look, the land tax bill says, "*in care of and it has a New York address. You know I am not in Barbados, so how did you serve that notice on me? Yes, it is in respect of my property, but I am not there.*"

We would have to look at jurisdiction as well and then we must look at how we are dealing with those persons who are incapacitated; elderly; have loss mental competence, *et cetera*; they are sitting in dereliction; the neighbours are complaining and to add to that hardship, to add to that situation, now the government comes and poses a penalty. In other words, how are we going to treat our own citizens, who may not even have the wherewithal to know that there is a Relief Board on which now I can apply and I have to apply within 14 days for hardships. What if the 14 days expires, I can barely get myself up for a shower; how am I going to get to a Relief Board in 14 days? These are things that I do want to be able to bring to light because these are the sort of responses that you are likely to encounter when this is brought into law.

In respect of the time-frame, that is why when it comes to section six (6), the appeal to the work done by the Minister is within 42 days which we accept and understand the 42 days, but it says in the amendment that the owner or occupier of the property upon which an administrative penalty is imposed and I will just flip over, may appeal to the Relief Board within 14 days and we respectfully would ask for an

increase of those 14 days. Fourteen days is a very short time for an average person, they get a notice and they are trying to figure out what they are to do with it.

We are asking for that to be increased to 28 days, because typically, a person, the owner, or the occupier, remember it says, owner or occupier. I may be the occupier but I am not the owner; I get the property; I am renting it; I am renting from somebody who is overseas; I am renting it from an elderly lady, she is not living here; I have to get hold of the cousin down the road to get a message to her. I believe that we need to give ordinary citizens a bit more time than 14 days.

I understand that in other statutes we have 14 days, for example, the Fair Trading Commission (FTC), a lot of their timelines are 14 days but remember, we are dealing business efficacy there. Very often when you are dealing with matters before the Fair Trading Commission, those persons already have access to attorneys at law, technical people, so when the appeal time is given as 14 days; it is important for businesses not to be held for too long, not knowing what the situation is. So, 14 days is tough but it is doable for them but, for the average citizen, 14 days is hard. We do ask for an extension of time with respect to that.

Those are the comments on the Act itself; we just have two (2) comments with respect to the Schedule. With respect to the Schedule - the Schedule for which the regulations - the first comment is on General Nuisances. The Schedule is very specific. Well done! It enunciates exactly under the Regulation what is a nuisance. These are deemed to be nuisances; it is quite an exhaustive list.

We would suggest that there still be some form of discretion which would capture a term which perhaps we have not yet contemplated because, as you know, when it comes to health challenges; health nuisances or health occurrences; you can sit in one decade and something can arise that we have never contemplated. In 2010, we never thought that there was something called COVID-19. There has to be a catch-all phrase.

We believe that in its specificity you must be still able to have a catch-all phrase that allows a discretion to determine a nuisance. By that, what do I mean? For example, let us just take Section 4(1)(a). It states as follows:

“any place, matter, thing, deposit or accumulation of liquid or solid matter”

For example, it states place, matter or thing. Does that mean it includes, for example, gases? Does that include, for example, some high-tech thing that gives off a radio frequency or a radio emission that then, annoys the neighbours?

You cannot ever define based on today’s context. Once the section is finished, then there must be a discretion in case we must contemplate a technology or a health challenge that was not contemplated when it was framed, so that you still have and can keep the amendments as still relevant. But, again, I do not know whether that can be said to be so because when we look at the number of amendments, you realise precisely why there are so many amendments because you cannot contemplate all the scenarios. From year to year and decade to decade, we have had to return to this legislation time and time again. So then, we turn to the Application for Exemption.

As I had indicated to you, in Section 5(2) reads:

“An owner or occupier may be exempted on grounds of hardship”.

How is that hardship applied? How is that hardship defined? We do not know. We would have to turn to tax appeals because of course the Relief Board is a Tax Board. If that person applies on the ground of hardship, we just wondered whether in terms of the timelines for the appeal to the Relief Board, would be set by the legislation.

Again, the question is whether the Relief Board would have the discretion, if someone who is truly experiencing hardship, trust me, it is hard to even get to the point of appeal. But, even when you get to the point of appeal, you are told, *“Whoops. Your 14 days are gone. Your 28 days are gone.”* Is there any discretion in the true case of hardship that someone can come and it allows discretion on the very basis of hardship for someone who maybe out of time? I am just putting that out there.

Our next comment is in respect to the appeals at Section 10(8) which is the last section under Appeals. Under Section 10(8):

“a person aggrieved by a decision of the Relief Board made in accordance with this

regulation may, within 14 days of receipt of the decision, appeal to the High Court.”

In our view, we once again appeal on that timeframe. For ordinary citizens, 14 days is very short. You may have just got a decision from the Relief Board; you are told you must pay or told that your property may be sold. You must figure out what you are going to do and have 14 days to figure that out and determine what your next step may be. If you are going to be appealing to the High Court, the likelihood is that you must then retain an attorney-at-law and must get that appeal in 14 days.

We would respectfully ask for the timeframe to be 28 days. Why? When you look at the Civil Procedure Rules, Rule No. 60(5), generally provides that any appeals from tribunals typically, you have 28 days. Just for consistency and tidiness, I think, it would be good if the time limited for appeals in the amendment to the Health Services Act is also similar to the time limited for appeals under the Civil Procedure Rules.

It states at Civil Procedure Rule 60.1:

“This Part deals with appeals to the High Court from any tribunal or person under any enactment other than an appeal by way of case stated.”

If an enactment has its own rules, you have to turn to the rules for that enactment. But, just understand that we believe that the timeframe of 14 days to that property owner who has just been told by the Tax Relief Board that regrettably “no”, and they now have to figure out their next step; we are asking for 28 days instead of 14 days for them to figure out their next step; to retain counsel and to still be within the time limit, if they are seeking to take it to the next level.

I believe that the 28 days should not in any way significantly prejudice either the State or the party involved. The other note I wanted to make was that I was not clear on how the penalties would be calculated. If I could go back, in the First and Second Schedule the administrative penalty is not that high. It is \$300 but we noticed that there is a penalty for continuing contravention which is \$10 per day.

When you consider that you have an administrative penalty of \$300 and then, for every day that you continue to be in contravention, you are charged \$10 per day, bear in mind that this penalty; the actual administrative fine plus the

penalty, will be added to the land tax bill and the bill itself is now subject to interest and penalties for every period that that bill is not paid. I do not know whether that is an accumulated tax, compounded or whether it is separate.

Again, our heart goes out to the elderly; the incapacitated and those who were suffering perhaps with dementia and fudging through, and do not quite have the support. They could be in contravention for years, literally. Is there a Cap?

For example, in the Corporate Affairs Department, there are per day penalties but after coming to the Corporate Affairs Department and making certain representations, they agree that there will be a Cap. In other words, there is a Cap which does not exceed, I believe, \$3 000 and something per year. The penalty is \$10 per day but with a Cap of "X" amount per year for every year that you have not complied.

At least, if someone is regrettably in a position either for technical reasons, resource reasons or otherwise, you know that if you have been in contravention two (2) years, at least it will not exceed a certain Cap because the idea, I would think, is to foster compliance, not necessarily to disenfranchise simple persons from their properties.

I again would ask whether we can consider that. We also want to consider that the penalty not be compounded unnecessarily because if it is an estate, for example, there are difficulties with getting the estates done. There are delays in getting the estates sorted so that we can pay out the beneficiaries or sell it and so on. By the time we get to selling the property to divide it up among the beneficiaries, between the tax and interest and penalties, and then it may have been in bush and so on. By the time you are done you wonder whether there is anything left for a beneficiary of the estate.

Again, we want the penalties because it is clear that Barbadians need to be responsible; that Barbadians cannot just be looking after properties and not playing their roles; but on the other hand, we do not wish necessarily – I would think we do not – to disenfranchise or to make taxes so onerous that they would have to sell just to pay the taxes. That is in addition to all the other obligations that they would have as a property owner.

I think that then brings our comments as a BAR, to a close at this point. I do not know whether you have any questions but those are our

observations in respect of the Bill and the regulations. Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much. There is a lot for us to think about and I am sure that everyone at the table has been listening attentively, so I am going to open the Floor now for any questions that you may have for the representative from the Bar Association.

Mr. RONALD CHAPMAN: Good afternoon, my name is Ronald Chapman, the Acting Chief Environmental Health Officer and Ministry of Health and Wellness. I really appreciated the presentation and the points that you made. I do not have questions as such, but I would like to address a couple of the issues that you mentioned. I am going to start from the bottom and come up with respect to persons who are indigent and so on.

There is a facility there within the Ministry of Health and Wellness' inspectorate where we consider those people. If we find people in those conditions, we do not generally serve notice on them. Those people are referred to the medical officers of health who then go ahead to provide the necessary social services for their upkeep, so generally you will not find people who are old-age pensioners and people who are indigent and so on getting notices.

The Ministry of Health also has a labour force which is there that is assigned to those people to clean around their houses and for their upkeep. My Minister would tell you that he is quite happy to have recommended an increase in the number of labourers that we have, so we are working on that. There is the welfare office that we refer them to. Sometimes we have to refer them to the Geriatric Hospital or the other agencies, so there is that mechanism there for them.

In terms of the number of days with which persons have to remedy a nuisance, legally speaking, your points I take them and I think they are very valid. I think that we need to also look not only at the overgrown vegetation, but the nuisance also speaks to the breeding of flies, mosquitoes and other vermin.

The average *Aedes Aegypti* mosquito takes seven to 14 days in which to breed, a fly takes three (3) to five (5) days and if we leave those conditions unattended for 28 days, for another 14 days; you can see how a neighbourhood can be inundated and how disease can spread. The Health Services Regulation is there to prevent the

spread of environmentally driven health hazards and diseases, so there must be some sort of balance between the amount of time that it takes for that environmental health risk to be generated and the time of remedying that.

Sometimes what we found in the past is that you would give some person some time because what happens normally is that the health inspector will give some person some time and it is usually done verbally first and if when they come back it is not done; you then serve a notice according to law. That is not necessarily the way the legislation is written. The legislation basically says that from the time you give that instruction, that instruction had to be in writing; but for the purpose of business and to make things easy, sometimes you tell a person, "*Go ahead and take care of it because if I come back I will have to do something with you.*"

They usually comply but sometimes they do not. The second and third notice sometimes will take you well beyond what is environmentally safe, in terms of preventing a nuisance or causing a further problem. If you have a person with a 65-gallon drum or maybe an underground tank and they are providing mosquitoes for a whole neighborhood; you are going to have dengue fever or whatever else spreading in that period of time.

The last thing I want to mention, in terms of serving notices on people overseas is that we usually like to get those notices registered and sent out. A lot of the times we get movement, sometimes we get no movement and, as you would appreciate, sometimes the house is in dispute; they are under distress or whatever the case may be and you have those issues.

Daddy may leave you a piece of property but you had no intention of coming back to Barbados and the property is there. Normally when those people are contacted, as I said, you get some movement. I honestly believe that the attachment of this (penalty) onto the Land Tax, will sometimes drive that movement forward because it is very, very difficult, as you can appreciate, to overstretch into another jurisdiction to get people to come back home and clean a piece of property, especially if they are overseas struggling. Sometimes they do not even know they have the property or what the property is worth or they have no intentions of coming back to Barbados. There are iterations of the legislation that, strictly speaking, by law, as you had mentioned, there are issues that are relevant but

presently we work within the legislation and the other structures to address those areas.

The last thing I want to mention, in terms of the continuing penalty, the present legislation that has not yet been amended, allows for \$200 per day and this is now as opposed to the \$10 per day this is recommending; that is determined by the Magistrate's Court and that is usually after I think in this case, the question then is, after the person has exceeded all appeals, when does that start? I believe that is something that I will be guided on where that is concerned. Presently, it is \$200 per day as opposed to \$10 per day and that is levied within the Magistrate's Court. Thank you.

Mr. CHAIRMAN (Ag.): Thank you, Mr. Chapman. The floor is open for any other questions. CPC?

Mr. SHAQUILLE NEWTON: Good afternoon. Shaquille Newton, Parliamentary Counsel (Acting), from the Office of the Chief Parliamentary Counsel. I noted your comment about the catch-all provision for general nuisances and I just wanted to draw your attention to Regulation Three (3) of the draft Health Services (Nuisances) Regulations. When Regulation 3(1)(a) and 3(1)(b) are read in conjunction, it does have the effect of catering to almost every imaginable situation which could constitute a nuisance; that in and of itself can be used as a catch-all provision within the legislation.

I also noted your comments about the multiple amendments to the Health Services Act. I believe you are referring to the multiple Health Services Regulations, and

Asides.

Mrs. KAYE WILLIAMS: I did make that distinction, that most of the amendments were to the regulations and not to the Act.

Mr. SHAQUILLE NEWTON: Yes, and that is normal in the course of things for a matter such as this. If you look at the principal legislation, the Health Services Act Cap. 44, you would see that under the enabling provision, Section 10 of the principal Act, that there are paragraphs A to Z, which enables the Minister to make regulations subject to negative resolution. These paragraphs A to Z catered to a whole variety of situations which the Minister can make regulations for. In the normal course of things, regulations are used to flesh out the principal legislation; to add the matters of detail, which can

all be added within the principal legislation. This is quite normal, and in the context of public health and a fluid situation, one would expect to find a lot of regulations.

Mr. CHAIRMAN (Ag.): Any response Mrs. Williams?

Mrs. KAYE WILLIAMS: Yes, I will start with my colleague from CPC and then my colleague from the environmental department. Yes, I agree that I would expect that when it comes to public health, we are always having to respond. The wider question I asked was, given the age of the legislation and I kept saying it has served us very well and continues to serve us very well, whether the time is right for any form of reform or policy paper, as to how we are going to take ourselves into the next 50 years?

It has served us well for the past 55 years and the question is, do we need to relook it? Does Republic Barbados, do we now need to look at it again for the next 50 years? If it is fine and the vehicle is fine and does not need further thinking through that is fine, but the question is, ought we not to at least address our minds to that exercise to see whether the vehicle works well for us today? That is one. Thank you.

I understand with respect to my colleague that deals with environmental services, yes, I understand what you are saying in terms of public health and nuisances and the fact that very often you may not have a lot of time; the balance must be there. The balance must be there where the message must go out to Barbados that we have to take this very seriously.

Barbadians are house proud, we know that and we are very home proud, and the question is, why then are there so many areas which are derelict that we do not attach the same level of pride to? Once we get to the bottom of that; we have to realise that we have to pull everybody up and for the ordinary Barbadian, you have to recognise that if there is a piece of property family land, *et cetera*, that with every right, which is the right to ownership comes a responsibility and that responsibility now is a matter of public health which concerns us all.

The right to ownership comes with the responsibilities and the responsibilities have regrettably a price tag attached to them and we have to get that message out that as Barbadians, we have to take that even more seriously than we are taking now. Not only where we just live but

the other properties for which we may have to be looking after for family members, *et cetera*.

With respect to the welfare, I am very glad to hear that, and I just wonder, it is not encoded regrettably in the legislation for references or a reference to the Welfare Department, for those who are indigent or struggling. I do not know whether we would want to. Again, it all depends on the policy underpinning this piece of legislation and for the amendment in general. Whether we want to balance the social services against that responsibility and that price tag that comes with the right of ownership of property. Is that something that perhaps is in the next iteration of the Health Services Bill for another 50 years, balancing the social services and taking care of our people against our people stepping up to their responsibility when it comes to property ownership? Thank you, I appreciate that.

Mr. CHAIRMAN (Ag.): Thank you very much, Mrs. Williams. I want to go **online** to Ms. Toni Moore who has a question.

MADAM CHAIRMAN: Mine is more of a comment and I want to say a very special thanks to the BAR Association, and as well to Mr. Chapman for the comments and responses that have been forthcoming because the question that I really had, was responded to in large part, by the BAR in its response just now because the concern repeatedly through the comments from the BAR is: "*How do we strike the balance? How do we address whether we are trying to curb behaviours or whether we are trying to be punitive?*"

Depending on how you look at the legislation, it may appear to be one or the other. I think that in responding to the welfare components, to a very large extent, Mr. Chapman addressed the issue of how we care for our people; something that I would think we have to be very careful about how we try to encode what should be a policy position, into law. There are so many factors that can be considered.

One of the things that we find very often, let us take elderly people for instance, they have no support and need welfare assistance. That person dies and so many different people are coming forward to claim what they have not been contributing to. I think that policy positions should remain to a very large extent and that we should be very careful about how we put them into law.

One thing that Mr. Newton mentioned in his response regarding the catch-all phrase that can be

provided is that when you read one part in conjunction with another part, it provides the catch-all. I think that one of the things we should want to do is simplify legislation. People may not even read legislation but if there is going to be any reference, you go to the law and regulations, except for you attorneys, and so would seldom be picked up by regular people.

If we can simplify the language within the legislation to address the catch-all provision that the BAR has called for, I think that it will be useful. The other important take-away that we have coming out of this discussion, I think, was captured so beautifully by the BAR just now with the right to ownership comes responsibility. In order for Barbadians to take this seriously, I think that it is an emphasis on something we said at our initial meeting when we were contemplating these particular amendments, is that we really have to do a public relations campaign.

We had while growing up, I know there was a clean-up campaign. You had the tourism campaigns but we have to teach people responsibilities. It is not only the house that you live in but it is the property you own that you do not yet live in. Maybe, you do not currently have the wherewithal to expand it but the reality is that it is yours. I do not feel a way about repeating. Very often, when people do not clean up around them, it becomes somebody else's responsibility.

I say this as a person who has said before that I lived between two open lots and had the responsibility for my safety and security to be maintaining those lots.

In striking the balance, we also have to be very attentive not only to the welfare and hardship of those who are owners, but the welfare and hardship of those who are not owners but who also have responsibility. I welcome some of the comments about the fourteen-day (14) period versus twenty-eight-day (28) period and that has to be taken in line with the very useful comments that came from Mr. Chapman, as it relates to public health risks and how we balance those.

I think that considering the comments, environment can go back - I think that this exchange has been really useful - and examine further, because I know it has been at the heart of their considerations in having these amendments proposed. They can go back to see where we can give more in terms of striking the balance, bearing in mind not only those people who may have the penalties applied to them but also the people who

are being compromised by their properties not getting the kind of attention that they should give.

The issue of balance and public relations, are the two big takeaways that I think will inform our consideration as we try to report back and see if we can make any improvements to these amendments.

I thank you all.

Mr. CHAIRMAN (Ag.): Thank you very much. Are there any other questions or comments from Members of the Committee? Mr. Chapman.

Mr. RONALD CHAPMAN: Yes, please. I have just one more comment. In terms of policy and law, when I speak of policy I am talking about health policy. Within the Ministry of Health, we talk about health promotion. One of the tenets of health promotion is behavioural modification and the empowerment of people to take

responsibility for their own surroundings. That has to do with capacity building, skill building and things such as that. We try to use the health promotion aspect to move people along, which is the carrot sort of concept and then, it must be backed up by the legislation.

As you would all appreciate, there are people and most people, I might say, will move along with just the carrot. There is then the odd few that it may seem punitive in the legislation but the fact of the matter is that there are those that no matter how persuasive you are or gentle you are; they will not move until they are faced with the law. Even those who have been faced with the law -- because only a few days ago, I was in the law court where there was a man who got charged. He pled guilty, I should say. He had derelict vehicles on one side of the road on someone's property.

He was instructed to move them by the court. He moved them from one side of the road to the next. It is those people you must deal with.

Finally, I would like to say thank you very much for your first comment, in terms of the amendments to the regulations and to the Act because you will see even more amendments or should I say, more applications for amendments because health is living and breathing. Due to that, the Act must change. There are a number of areas presently that we have no legislation to govern.

I will just give you an example. Things such as tattooing; there is no legislation anywhere in the Health Services Act that governs tattoo artists. You could appreciate the health risks in someone

who is charlatan doing tattooing. Fortunately, we have not come across any tattoo artists who have not availed themselves of additional training in terms of health and so on but, that is the individual; that does not mean that there is not someone out there. You understand and then, there are number of other things.

So, I really appreciate the plug for the health services amendments and as we go forward, we continue to make those amendments to strengthen the Act and regulations so that we can serve Barbadians better.

Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much. I just have one query also. When we looked at the General Nuisances, you wanted a definition or my understanding was further definitions in it. I wanted to find out from you from a legal perspective, when you look at the word “thing”, what does that cover? The word “thing”.

Mrs. KAYE WILLIAMS: Thing?

Mr. CHAIRMAN (Ag.): Yes.

Mrs. KAYE WILLIAMS: That is the point. As attorneys, vagueness is something that only spawns further debate. “Thing” is something that would likely spawn further debate. The question is typically when you look at any piece of regulation and you see something that is relatively vague, as attorneys-at-law at the private Bar, the first thing we do is that we look to precedent. So, we would be looking for example to a jurisdiction within the Commonwealth that may have a similar piece of legislation and see how the courts or the tribunals have interpreted that particular word.

That is why I asked: Does it include gases? I built up some sort of gas. Does gas fall under “thing”? Do deposits or accumulation of liquid or solid matter? Does it include a frequency which annoys or upsets the neighbours, does that fall under “thing”? Typically, when we, when in order to answer you, when we look to define something, a word that in its common sense or ordinary meaning may not necessarily assist us, if we were bringing something under the Act, then we look to how it is interpreted.

Again, that is why we asked whether in drafting; whether there was a particular jurisdiction or something that we were looking at so we could better understand the word. I do know that “thing” probably is part of what they wanted to do to be able, to not be limited. If I

find something that does not otherwise fall under, I should be able still to exercise that authority. Yes, when it comes to “thing”, that is a word that is very wide and I believe the wideness, the vagueness of it was done purposely, but we attorneys will look to other pieces of legislation to see how that would be likely interpreted.

Mr. CHAIRMAN (Ag.): Thank you very much. CPC, you want to add to that?

Mr. SHAQUILLE NEWTON: Good afternoon again. Yes, agreed and yes, “thing” was included so that it would be sufficiently wide to capture a variety of situations and matters.

ADJOURNMENT

Mr. CHAIRMAN (Ag.): Thank you very much, ladies and gentlemen. If there are no further questions, comments, I would like to thank all of you for joining us this afternoon. Your contributions are invaluable and we look forward to your help and we hope that if anything else arises as we go through this process, that we can contact you for any further help that we may need.

So I am going to ask the Committee if we can have a motion to have the adoption of Minutes deferred to the next meeting, which would be next Thursday.

A motion to defer the Minutes and to adjourn the meeting to Thursday, 07 November, 2024, was moved by Senator Rev. Canon Dr. J. A. ROGERS and seconded by Her Honour C. Y. FORDE.

Mr. CHAIRMAN (Ag.) adjourned the meeting as so moved.

**FOURTH MEETING
OF THE
JOINT SELECT COMMITTEE (STANDING) ON THE
SOCIAL SECTOR AND THE ENVIRONMENT
ON THE
HEALTH SERVICES (AMENDMENT) BILL 2024
AND THE
HEALTH SERVICES (NUISANCES) REGULATIONS 2024,
HELD IN THE
SENATE CHAMBER**

Thursday, 7th November, 2024

PRESENT :

Senator JOHN. A. KING., J.P., B. S. S.
(Deputy CHAIRMAN) (Acting as Chairman)

Her Honour Miss CYNTHIA Y. FORDE, J.P.,
M.P. (Deputy SPEAKER)

Hon. COREY A. LANE, J.P., M.P.

Mr. TREVOR A. PRESCOD, J.P., M.P.
(*Online*)

Senator Rev. Canon Dr. JOHN A. ROGERS,
B.Sc., B. A. (Hons.), M. Phil., Ph.D.

ABSENT:

Ms. TONI N. S.-A. MOORE, J.P., M.P.
(CHAIRMAN)

Senator ANDRÉ R. WORRELL, J.P.,
B.A.(Hons.) (*Online*)

ALSO IN ATTENDANCE:

Ms. BEVERLEY S. GIBBONS, J.P. (Deputy
Clerk of Parliament)

Mr. NIGEL JONES, Q.C. (Deputy Clerk of
Parliament)

Miss SUZANNE HAMBLIN, (Journal
Department)

Mr. SHAQUILLE NEWTON, (Parliamentary
Counsel (Ag.), Office of the Chief
Parliamentary Counsel)

Hon DAVIDSON I. ISHMAEL, M.P. (Minister
of State in the Ministry of Health and
Wellness)

Mr. RONALD CHAPMAN (Chief
Environmental Health Officer (Ag.)), Ministry
of Health and Wellness)

Mr. ANTHONY HEADLEY (Director,
Environmental Protection Department),
Ministry of Health and Wellness)

PRESENTERS

Mr. ANDERSON CHERRY (Chief Executive
Officer, José Y José; representative, Barbados
Waste Haulers' Association) (online)

Mr. CALVIN NOEL (Member of Waste
Haulers' Association) (online)

Mr. TREVOR MANNING (Member of Waste
Haulers' Association)

Mr. MICHAEL FORDE (Member of Waste
Haulers' Association)

*The Acting Chairman called the meeting to order
at 10:16 a.m.*

Prayers were led by Her Honour C. Y. Forde.

Mr. CHAIRMAN (Ag.): I am asking for a motion to be moved for the Minutes to be deferred until the end of the meeting. We are having a late start, and it is because there has been a lot of traffic on the road, and it is very difficult for some of the persons to be here. Therefore, since we are starting late, I am just going to ask that someone move the motion that the Minutes be deferred.

Her Honour C. Y. FORDE: I beg to move that the Minutes be deferred until the end of the meeting.

Senator Rev. Canon Dr. J. A. ROGERS: I beg to second that.

Mr. CHAIRMAN (Ag.): Today we have an oral presentation and examination from Mr. Anderson Cherry, Chief Executive Officer and his team. That team will comprise of Mr. Michael Forde and Mr. Michael Manning. As mentioned earlier, those two who are supposed to be with us may have difficulties getting here, due to the weather and traffic on the road, but I think we should still start. Mr. Cherry should be **online**, so I am just going to ask the technical team to verify that he is **online**. Mr. Cherry, are you there? We had some difficulties the last time.

Mr. Anderson CHERRY: Yes, Sir.

Mr. CHAIRMAN (Ag.): Good morning. How are you? Can you hear us clearly?

Mr. Anderson CHERRY: Yes, Sir. Good morning to everyone. Yes, I can hear you.

Mr. CHAIRMAN (Ag.): What we would like, is for you to again raise the volume on your end for us. I also need to mention that MP Trevor Prescod, a Member of this Committee, is also **online**.

Mr. Anderson CHERRY: Good morning, Mr. Deputy Chairman, is this better?

Mr. CHAIRMAN (Ag.): Yes, that is perfect. Thank you so very much. I think a member of your team Mr. Trevor Manning is here. We are going to ask that he can come in. Good morning, Sir. Thank you very much Mr. Manning. We understand how difficult it is out there on the road with the traffic.

We also want to welcome with us, Mr. Anthony Headley, Director of the Environmental Protection Department, and he is here to also lend technical support for anything that we may encounter as we go through.

At this point in time, I am going to ask Mr. Anderson Cherry to begin. The floor, so to speak, is open to you Sir, and you can go.

Mr. T. A. PRESCOD: Let me interrupt you, Mr. Deputy Chairman. Good morning. I am just identifying myself as being present.

Mr. CHAIRMAN (Ag.): Good morning, Mr. Prescod. That is fine. We identified that you were **online**, but that is okay.

Just before we get started, I just want to let everyone know, we have only just received the statement from your group, on the Health Services (Amendment) Act. We have not had a chance to go through it as such, as we have only received it a few minutes ago. However, we are going to allow you, Mr. Cherry, and team, as much time as humanly possible to go through this, so that at the end of it all, everyone is totally satisfied and clear as to what the suggestions are, and what could be the issues coming out of this, so that we can ensure equity, so to speak, in this matter. Therefore, I will hand over to you, Mr. Cherry. Welcome again.

Mr. Anderson CHERRY: Thank you Mr. Deputy Chairman and team. First, let me introduce myself for those who do not know me. I am Anderson Cherry, managing director of José Y José, and also the Chairman of the Waste Haulers' Association. A little background about myself. I have been in business for about 36 years. I started when I was 16 years old. However, going back to when I was about 11 years old, I was privileged to hear an interview on the radio, with Mr. Charles Williams (deceased Sir Charles) at the time, when he said that among black people, there were not many second and third generation businesses. At that point in time, I knew I wanted José Y José to be a second generation business. Fast forward to today, I find that a lot of businesses, especially black businesses, do not have the opportunity that others have.

My presentation today is presenting an alternative in terms of putting a fee or a charge for cleaning a lot onto the land tax bill, and also presenting an opportunity for enfranchisement. At this time, I am going to Mr. Calvin Noel, I have prepared a document. I am sorry that it was not sent before so that everyone could have read it yesterday. Calvin, could you share the document on the screen?

Mr. Calvin NOEL: Good morning, team, panel and Members of Parliament. Forgive me if my protocol is off. I have never done this before.

Mr. CHAIRMAN (Ag.): That is fine Mr. Noel. Go right ahead.

Mr. Anderson CHERRY: This is what I shared with everyone.

Mr. CHAIRMAN (Ag.): We are not hearing it. We have our copies here, so you can go right ahead. However, I am just going to ask everyone, whenever you are finished speaking, please mute your microphone, so that we do not have any feedback or problems as we go through this process. Thank you.

Mr. Calvin NOEL: Okay. I will start from the beginning.

Mr. CHAIRMAN (Ag.): Mr. Noel.

Mr. Calvin NOEL: Yes, please.

Mr. CHAIRMAN (Ag.): Are you ready? Will you be speaking to us or Mr. Cherry?

Mr. Anderson CHERRY: We are not hearing it all.

Mr. Calvin NOEL: You are not?

Mr. Anderson CHERRY: No. I am not hearing it.

Mr. Calvin NOEL: Okay. Give me one second. What I will do is log in using a second account and will drive that through the phone. You can give me a few seconds. I will do that if that is okay.

Mr. Anderson CHERRY: Yes, it is.

Mr. CHAIRMAN (Ag.): Okay. So, gentlemen, we are having a little challenge trying to figure who is going to be presenting on behalf of the association.

Mr. Anderson CHERRY: I will be presenting, Sir.

Mr. CHAIRMAN (Ag.): This is Mr. Cherry?

Mr. Calvin NOEL: I am just in the visual aids capacity.

Mr. Anderson CHERRY: Just give us one second, please.

Mr. CHAIRMAN (Ag.): I would like to acknowledge the presence of Minister Ishmael from the Ministry of Health. Thank you for joining us, Sir.

Mr. Calvin NOEL: Okay.

Mr. CHAIRMAN (Ag.): Are we ready gentlemen? Good morning. Is this Mr. Michael Forde? Thank you for joining us, Sir. So, we really need to get a move on and I would like to be very clear. Is it Mr. Calvin Noel who is going to be presenting on behalf of the group or is it going to be you, Mr. Cherry, because we really do need to start?

Mr. Calvin NOEL: Mr. Cherry will be presenting. The issue here is....

Mr. CHAIRMAN (Ag.): As I mentioned earlier, once you are not going to be speaking, please mute your device and we will allow Mr. Cherry to begin. This is in effort to make it easier for the technical team to not have the feedback and the different things that can interrupt the session. Thank you.

Mr. Calvin NOEL: Yes, Sir.

Mr. Anderson CHERRY: Alright. Calvin, could you please pull up the PowerPoint, please?

Mr. Calvin NOEL: I am working on it.

Mr. Anderson CHERRY: Okay. Gentlemen and ladies, I am sorry about this.

Mr. Calvin NOEL: Alright gentlemen. I will have to read it. I am having internal problems with the speaker, so I will read the summary. It reads as follows:

“The Health Services (Amendment) Act (2024) in Barbados, introduces new administrative penalties within the Health Services Act, Cap. 44, aims to enhance the regulatory enforcement. The Act establishes definitions such as filth and offensive matter, and designates the Minister of Health as the official responsible for managing public health, including creating health districts across Barbados. The legislation permits penalties for health violations to be attached as charges to the property owners or occupants, recoverable as land tax.

Affected parties can appeal these charges to the judge or a Relief Board, ensuring a structural process for dispute. The amendment also includes related provisions within the Land Tax Act to streamline enforcement and appeals. However, the Waste Haulers’ Association (WHA) have two critical points for presentation associated with the Health Services (Amendment) Bill which should require some closer examination.

Number one, with the assignment of enforcement to the Ministry of Health, the Bill places the Minister of Health at the centre of the regulatory enforcement, managing penalties and overseeing health violations.

However, there is a strong argument that the Chief Medical Officer (CMO) with his/her medical expertise and operational role in public health, would be better suited because of his/her academic speciality to handle these responsibilities, ensuring more efficient and objective enforcement of health regulations.

Number two, administrative penalties: The Act allows penalties for health violations to be recovered as a land tax, adding financial burden to already struggling landowners.

WHA suggests an alternative approach that would not further burden landowners and at the same time enfranchise black-owned businesses, stimulating economic growth, while maintaining public health goals.

The key points for the Chief Medical Officer being best suited to be at the helm under the Health Services (Amendment) Act, 2024 are as follows:

- **The medical expertise in public health focus.** The CMO is a senior public health professional with extensive medical knowledge and experience in the field of public health. His/her role is directly tied to the day-to-day monitoring and management of health issues, making him/her the most qualified person to understand the technical aspect of health violations, including identifying filth and offensive matter that could pose a public health risk. The Minister of Health, though a key figure in shaping health policies, is often a political appointee who may not have the same depth of public health experience. Decisions related to administrative penalties which have direct health implications would benefit from the technical and medical expertise of the CMO, rather than being driven by a political appointee figure.
- **Operational Efficiency.** The Chief Medical Officer is already responsible for overseeing the implementation of public health policies and enforcing Health Regulations. He/she is more closely involved with local health officers, environmental health inspectors and public health departments, giving them direct operational control over the health service. The operational oversight makes the Chief Medical Officer better positioned to ensure that administrative penalties for health violations are applied fairly and consistently. Delegating the responsibilities of the Ministry of Health could lead to delays in inefficiency, as the Minister's primary focus is on broader health policies and government-wide initiatives. The Chief Medical Officer focuses on more localised and operational, allowing for a faster

response time and a more effective enforcement of penalties.

- **The separation of policies and enforcement:** In good governance models there is a clear separation between policy-making and enforcement, while the Ministry of Health is tasked with setting some policies and providing strategic directions. It is the role of the CMO to enforce the policies. This separation ensures that enforcement is objective, scientifically informed and free from political influence by assigning the enforcement responsibilities, including penalties and health violation charges to the Chief Medical Officer, the Government would promote a more balanced system where public health decisions are rooted in medical science and practical expertise, reducing the risk for politically motivated actions that could undermine the fairness of health enforcement process.”

Mr. Anderson CHERRY: What I am basically saying here is that the Minister, I believe you do have a lot more stuff to do, and the simple task of looking at a lot, clearing a lot and ensuring the lot is cleared, I believe that that responsibility should be at the officer, the Chief Medical Officer and not the Minister. Continue Mr. Noel.

Mr. Calvin NOEL: (*Reading Mr. Cherry's presentation*)

“Responsibilities for a public health outcome:

- The Chief Medical Officer is directly responsible for the health outcome of the population, assigning responsibility of managing health violations and the imposing of penalties to the Chief Medical Officer ensures greater accountability and alignment with public health goals. As the official tasked with overseeing the overall health of Barbados, the Chief Medical Officer has a vested interest in ensuring that health violations are swiftly addressed and that penalties act as an effective deterrent to behaviour that would harm public health. The Minister of Health, on the other hand, may have competing priorities related to health budgeting, legislative advocacy and government affairs, which could divert attention away from the day-to-day enforcement of health regulations. Having the Chief Medical Officer in charge of

enforcement ensures continuous focus on health outcomes and regulatory complaints.”

Mr. Calvin NOEL (*Reading Mr. Cherry's presentation*): **Streamline Appeals Process:**

- “The Health Services Amendment Act, 2024 allows affected parties to appeal health violation penalties to a judge or a relief board. The Chief Medical Officer, given the hands-on involvement in health administration would be more knowledgeable about the specific circumstances surrounding a violation and better equipped to handle appeals or provide relevant evidence during the appeal process. The Minister of Health lacks the technical background to handle detailed appeals based on the medical or environmental health data. Assigning this role to the Chief Medical Officer would ensure faster, fairer resolution in the appeals process, based on expert understanding in the public health risk.

In conclusion: **Expertise efficiency and focus on health outcomes:**

Assigning the role of enforcing health penalties and overseeing the health violations to the Chief Medical Officer under the Health Services Amendment Act, 2024, would provide significant advantages in terms of medical expertise, operational efficiency and separation of policy from enforcement. The Chief Medical Officer, as a dedicated public health official, is better equipped to manage the day-to-day intricacies of public health enforcement, ensuring that penalties are applied fairly and in line with public health best practices. The Minister of Health should focus on broader strategic direction and health care while the Chief Medical Officer should be entrusted with the crucial enforcement roles creating a more balanced effective and science-based approach to managing Barbados' public health with the oversight of the Ministry of Health.”

Mr. Calvin NOEL: (*Reading Mr. Cherry's presentation*) So I will go onto the financial, sustainable and socially empowering alternative to the administrative penalties and goals.

- **Government funded structure:** The concept of the initial investment is that the government creates a six-million-dollar fund allocated to 20 black owned businesses,

with each business employing no less than five workers.

- **Job creation and stability:** Steady, meaningful employment, ensuring stable income for over 100 people -- twenty businesses and five employees.
- **The economic flow. Daily wages.** Each worker would earn \$120 per day for five days a week, creating a reliable wage-based economy within the communities. Total weekly payroll per business is \$3 000 -- \$120 multiplied by five workers, with the monthly payroll reaching \$12,000 per business. Tax revenue both on employer and employee are deducted from the salaries, sustaining revenue flow to the Government before the proposed administrative penalties are imposed on the land owners directly.
- **The loan structure:** Each business takes out a loan for essential equipment, bobcat, truck and tools with monthly repayments of \$4 000. This promotes responsible capital use and asset ownership, whilst stimulating local lending markets.
- **The business viability and revenue generation. Service fees.** Each property clean-up is priced at around \$5 000. This pricing could yield substantial revenue. Revenue from each business, assuming 100 there are clean-up jobs weekly, each business generates \$25,000 per month, \$5 000 per job by four weeks after payroll and loan repayment; this model sustains the business profitability and potentially scaling further.
- **Profitability.** Post expenses, businesses would retain a minimum of \$5 000, which could support business growth, equipment maintenance and reinvestment into business or community, with the benefits of and no administrative penalties in courts.
- **Community empowerment. Financial relief.** By not having administrative penalties imposed on landowners, particularly those with fixed, or modest incomes such as our schoolteachers, nurses and police officers, while they will not be further burdened with the annual tax payments. This allows them to redirect funds towards essential living expenses, such as housing, utilities and childcare.
- **Economic reallocation:** Instead of further taxing individual landowners, the fund will

be derived directly from local businesses and workers through the government's investment, and the community clean-up service.

- **Encouragement of black-owned businesses' growth. Consistent work opportunities:** The Government's investment in the clean-up initiative allows small black-owned businesses and local contractors to benefit from consistent work. These businesses, empowered by government contracts, can build financial stability and foster entrepreneurship within the communities, nurturing entrepreneurship by not burdening land owners. They can then redirect their funds back into local businesses, driving demand for services and enhancing community participation in economic growth.
- **Sustainable revenue model. Tax revenue replacement:** Rather than relying on administrative penalties imposed through Land Tax, the Government generates revenue through PAYE (Pay As You Earn), NIS (National Insurance Scheme) and VAT (Value-Added Tax) from the businesses and the workers involved in the clean-up operation. These deducted taxes can better replace the proposed administrative penalties on land tax collections, creating a self-sustainable model where economic activity from businesses contribute to Government's revenue while enfranchising Black-owned businesses.
- **Long-term economic stability:** For landowners who are also part of the workforce, this system recycles economic value within the community, ensuring that wages are spent locally and contribute to sustainable economic growth.
- **Improved public health. Direct benefits to property owners:** Properties are cleaned without property owners bearing the direct financial burden of a clean-up operation. The Government directly enhances public health aligning with the goals of the Health Services Act, ensuring that public health is prioritised without imposing additional costs on already struggling landowners.
- **Environmental improvement:** Clean, well-maintained properties not only alleviate our health concerns, but also our safety concerns of the community, with increased overall

livability of neighbourhoods, providing landowners with a cleaner, safer environment that may also increase property value over time.

- **Government revenue:** This information is calculated in Barbadian dollars; PAYE using the following structure in Barbados income up to \$50 000, 12.5 per cent; income above \$50 000, 28.5 per cent. VAT 17.5 per cent.
- **Tax revenue from business:** The assumption is revenue per clean-up - \$5 000; jobs per month per business - five; the monthly gross per business is 5 000 jobs by \$5 000 by five jobs equals \$25 000. Daily wages per worker \$120, weekly payroll five workers by \$120 by five days gives us \$3 000; so the monthly payroll per business would be \$12 000. Fuel and maintenance cost \$2 500 per month, equipment, loan repayment and miscellaneous \$4 000 a month.
- **PAYE tax calculations for Barbadians:** The PAYE rate is 12.5 per cent for income up to \$50 000 and 28.5 per cent for income above \$50 000. Each worker's annual salary is \$600 per worker by 52 weeks, equals \$31 200. Since each worker's income is below \$50 000, the 12.5 PAYE rate is applied. Annual PAYE per worker \$31 200 over 12.5 which equals \$3 900. The total annual PAYE per business \$3 900 by five workers equalling \$19 500. Annual PAYE revenue from 20 businesses by \$19 500 is \$390 000.
- **National Insurance contributions:** The NIS rates are 6.75 per cent for employees, 11.25 for employers. Employees' contribution per week \$600 by 6.75 equals \$40.50 per week. Contributions per employer \$600 by 11.25 per week is \$67.50 per week. The total weekly contributions per worker is \$108. The total weekly contribution per business per worker is \$540. Monthly NIS contributions per business is \$540 by four weeks which is \$2 160. Annual NIS contribution per business is \$2 160 by 12 months equalling \$25 920. The total annual NIS revenue from 20 businesses is 20 businesses by \$25 920 totalling \$518 400.
- **VAT:** Property clean-up per job \$5 000, VAT rate 17.5 per cent per job is \$5 000 by 17.5 equalling \$875. Monthly VAT per

business from five jobs equals \$875 by five which equals \$4 375. Annual VAT per business is \$4 375 by 12, equalling \$52 500. So the total annual VAT revenue from 20 businesses by \$52 500 equals \$1 050 000.”

Mr. Anderson CHERRY: Let me chime in here. Gentlemen, what I am saying here is we need to look at a model, not to add taxes onto a landowner, because we already have a tax structure in place with National Insurance, VAT and PAYE. If we can get more people employed, more tax would be coming out of those people’s pockets, where then we could get enough money to clear the land. We are going to look at different types of land. First, we are going to look at the regular householder, such as a schoolteacher, a policeman and so on. These people’s lands are overgrown because they just do not have the money to build or to clean the land in the first place.

Looking back at my situation, I have a lot of properties and having a lot of properties puts me at a huge disadvantage in life because you have a net worth that is high because of your real estate, but your land is not producing anything. If the land is not producing anything, the land is not earning anything so it becomes a liability. We think that the land is really an asset because you bought it at \$100 000 and now it is valued at \$150 000 three to five years down the line, but now when you take out the bank’s interest, the Land Tax and if it has a water meter on it and you add the water cost, now you are adding a clean-up cost on that land. You are putting the landowner at a huge disadvantage.

Therefore, I am saying here, Government, let us clear the land free for the people. Let us enfranchise 20 businesses which would hire more people, and if these 20 businesses only clear one lot per week for Government, you would have over one million dollars in taxes. Let me use a modest \$5 000 rate to clear a lot, being in the construction business also. Now, we know lots will vary in sizes, costs and debris, but the more debris or the more cost it is, would be better for the Government to clear the lot with the model of the Government paying while kick-starting small businesses. There are five days in a week and, being in the business, I know I can clear more than one lot per day. These numbers are based on one lot.

Therefore, imagine those young entrepreneurs, going and finding other, additional work on the outside, for their bobcat and their little trucks and stuff, and they can do five lots in one week. Based on the tax structure, government will get way more tax and still not burden the landowner.

Now, if you look at our structure, we are paying a lot of land tax, sewage tax; it is very expensive to live and to do business in Barbados. So, if we can empower entrepreneurs to hire people and go out there and do more work, I think that we can achieve a goal based on the existing tax structure rather than trying to implement a new structure, a new penalty.

Now, this presentation has not taken into consideration the recent tax at the pump. These vehicles are going to use a lot of fluid, which is going to increase government’s revenue. As I said, one of the key things when I shared what started me out in business when I was 11 years old and heard that interview by Sir Charles, is that we need to empower black people, and no better person to do it than the Government of Barbados.

I often tell my kids, and I think I did good for myself thanks to God and my father who mentored me early, but I started life with a huge disadvantage. I was born in Barbados, and I was born black. I would love to see this Government, who when I look at this Government have so many people that look like me who run the Government, to really look and see how we can enfranchise us as a people and put us to work and give us an equal opportunity. This Bill right now is a very good opportunity. Look at my numbers, numbers cannot lie. Government can get the experts to look at them and look at a way that we can enfranchise people, while getting the lots cleared with no additional burden, while the government still makes way more revenue from the existing tax structure.

That is my presentation. You all have the numbers to look at, and I am open to questions.

Mr. CHAIRMAN (Ag.): Thank you very much Mr. Cherry for your presentation. I am going to open the floor now and I am going to go to Minister Ishmael.

Hon. D. I. ISHMAEL: Thank you very much, Mr. Deputy Chairman, and you Mr. Cherry, for your presentation this morning. Let me also extend good morning greetings to the members of the Chamber and the Committee, and all of the guests who are here as well.

I would like to start out with where the presentation started, which questions the role of the Minister of Health in the proposed legislation, and also proposes that it be changed to the Chief Medical Officer, who is one of the more senior technocrats in the ministry relative to public health.

I think that some assumptions are being made that are not in alignment with how our legislation typically operates within Barbados. I believe we do have the team here from CPC, who can confirm that there is fairly standard and common way of drafting legislation that allows for critical decisions to be made by a Minister responsible for that area within the responsibilities of the executive and the framework of the executive, which is the Cabinet of Barbados. I do not believe that the legislation contemplates that a Minister has to have all of the technical expertise within himself or herself; but I do not believe that as has been the custom across the many decades of governance, that a Minister is advised and guided by technical human resources within his or her portfolio.

Therefore, I think that this is in keeping with standard drafting protocols within our legislation. I also think that an assumption that is being made, and maybe inaccurately so, is that a Minister is the person who has to have and hold all of the technical expertise within himself or herself. That is not how it works. Ministers are guided by technical officers within the ministry. They are supported by technical officers within their ministry. A decision that a minister makes is often at its core, led by, advised by, recommended by, proposed by, technical officers within his or her ministry. Therefore, I would not want to encourage us to depart from what has been a standard procedure from many years in drafting, to then change this to being the remit of Chief Medical Officer, or a senior technical person.

I also want to highlight the fact that whilst the recommendations that are being made do offer some benefits, in terms of the CMO being able to move quicker and different things like as I would have heard in the presentation, I do believe that there is significant benefit in having this responsibility continue to be vested in a person who sits within the executive. This is because the way that Cabinet works, is that each of those persons who sit around that table, bearing varying responsibilities and areas across the landscape of Barbados, they can benefit from each other's

expertise, and they actually have the authority to be able to make decisions a lot quicker, and also being able to allocate the financial resources of that ministry to address any issues that may be presented.

In addition to that, I think what is not being covered in the proposal is that a minister ultimately delegates his responsibility and his authority to those same head technical officers within the ministry as well. Therefore, the authority flows from the Cabinet, where once again they sit, and they can see the entire landscape of what is happening in Barbados. Therefore, a public health issue is not just within the Ministry of Health, it sometimes affects the Ministry of Agriculture, it may affect the Ministry of Education, it may affect the Ministry of Transport and Works, and because of the Minister, by the very nature of how Cabinet works and how the executive works and functions, I believe that the Minister is best placed to being able to address emergency matters and even matters of public health as we are discussing today, when the need arises.

I think I am going to stop there. I really have a lot of questions. I just wanted to deal with that one first, but I think in terms of the financial proposals, I do have a lot of questions. I will come back in, but I will let other persons, and maybe if Mr. Chapman would like to jump in here as well, if he wants to, but I will allow other members to be able to weigh in on the first part of your presentation or to give their first views. However, I do have some very serious challenges with the assumptions that are being made within this financial proposal that is before us. I believe the assumptions are very ambitious. I do believe that they do favour the businesses that will be involved, but I am not entirely sure, and I am not sold from this first presentation that the economic benefit to the country is as rosy as it is being presented within the proposal. I have specific questions that I will delve into later on, but I will leave this as my first and opening contribution to the discussion. Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much, Minister Ishmael. I would like to ask EPD if they would comment at this point.

Mr. Anthony HEADLEY: Thank you, Mr. Deputy Chairman, and Mr. Cherry. Good morning to the Honourable Chamber.

Mr. CHAIRMAN (Ag.): Before you go, please, for the record, state your name.

Mr. Anthony HEADLEY: My name is Anthony Headley, and I am the Director of the Environmental Protection Department. Thank you.

This is a very interesting presentation, I must say. In terms of the comments made by Minister Ishmael, I am in full agreement. At this point in time, the only thing I would like to draw to the attention of the Chamber would be Section 9 of the Health Services Act, in reference to the first point made by Anderson Cherry that speaks to the delegation of authority from the Minister to the CMO and other technical officers within the Ministry of Health. Therefore, the issue with respect to the efficiency and the functioning, all of that has been addressed since 1969. The examples are there before us from the inception of the Ministry of Health in terms of how they have been operating and their ability to address the various public health issues.

Yes, there have been some limitations, in terms of how we have been addressing some of the more modern-day

challenges that are confronting us. However, in terms of the delegation of authority and the arrangements within the Ministry of Health, I think that those are adequate at this point in time. On the issue of the financial mechanism, my first question would be that you have made the recommendation regarding a six-million-dollar fund, how is this fund going to be capitalised? This is my main question at this point in time.

Thank you, Mr. Deputy Chairman.

Mr. CHAIRMAN (Ag.): Thank you. Mr. Cherry, would you like to answer?

Mr. Anderson CHERRY: Yes. Firstly, the fund is already capitalised. Secondly, the revenue that can be derived from the tax, the VAT or P.A.Y.E of businesses. It is the existing model that is being used right now. We collect P.A.Y.E., VAT and corporation tax that run the country. It is just that you are circulating that money amongst small businesses right now. These small businesses are able to hire more people and you will get

the same (*inaudible*) effect, in terms of revenue coming back to the Government. This is the model that the Government uses now. It is the standard model right now.

Mr. CHAIRMAN (Ag.): Thank you very much. I would like to ask the other members of your team for their comments at this point in time,

Mr. Forde and Mr. Manning. I will start with Mr. Manning.

Mr. Trevor MANNING: Good morning. I am Trevor Manning, General Manager of Garbage Master Limited (GML). Good morning, everyone. I could speak for Mr. Forde and I; but we also have this document in front of us from just this morning, so we just had a speed read. Yes, there are quite a few things I have underlined as we went through, so we are not fully up on it. However, we are here with Mr. Cherry but as we go along, if you point out some of the same areas, we will expand on that as well.

Mr. CHAIRMAN (Ag.): Okay. Thank you. CPC, in terms of, and I think someone made mention of it, but I would like you to reinforce it for the benefit of those persons who may be looking in with us, in terms of the legislation and how it is drafted to ensure that the Minister who is responsible for any particular area, would be the person who does most of the delegating and things like that in these circumstances.

Mr. SHAQUILLE NEWTON: Good morning. I am Shaquille Newton, Acting Parliamentary Counsel, from the Office of the CPC. Just to underpin what the Honourable Minister would have said regarding delegation with some legal analysis. In the normal course of things, the Minister does not act personally in these matters. The basis of this is in *Carltona v Commissioner of Works [1943]* which established the *Carltona* principle, otherwise known as the alter ego principle. When legislation references the Minister, essentially what it means is that the Minister is advised by the technocrats within his Ministry and it

is automatically assumed that the persons within the Ministry will be carrying out these functions in their professional capacity on behalf of the Minister.

I would have made this point at previous meetings of this Joint Select Committee. I am reiterating the point for the benefit of everyone, and to make it abundantly clear that the Minister is not responsible for the administration of the Act personally.

Mr. CHAIRMAN (Ag.): Thank you very much. I am hoping that that would clear up any misconceptions that persons watching **online** may have on this matter or other related matters as it comes to the ministries and the ministers. I want to ask though, Mr. Cherry, a bit about the \$5,000-charge that you are proposing. Could you go a bit

deeper into how you came to the numbers that you have? You mentioned earlier that you were aware that some lots would be larger than others, how would that in turn affect how you as the businessperson, how your business either profits or does not profit from doing this particular work?

Mr. Anderson CHERRY: Okay. First, the numbers that were presented was \$5,000 to clear a lot just as an average that we could have a number to work with. The number of \$4,000 for someone like a teacher or a police officer, was just a number to work with. You know that it is way less than the officers, nurses or teachers receive {in monthly salaries}. Based on my expertise on clearing the lot that is just overgrown with bush around an average house spot of 7,000 square feet, could run around \$5,000 or less, to clear it.

Now, we know it is dependent upon the debris, if there are a lot of trees or bush. We know all of that kind of stuff. However, it is in the Government's interest that the lots cost \$20,000, \$30,000, \$40,000 or \$50,000 to clear because the higher the cost, the more VAT, tax and P.A.Y.E. in terms of time, hours, loads, tipping fee and diesel that is being burnt. The more

expensive it becomes, the more revenue comes back into Government's hand.

If you look at our entire tax structure from an average person and you add NIS, tax, VAT, P.A.Y.E., land tax, diesel at the pump, water and sewage contribution, we are over sixty-something per cent - I think it is like 67 per cent when I first looked at it - and when I add in a mortgage and the six per cent for a loan mortgage, about 60 per cent of our income goes into taxes. Over 60 per cent. If you are like me who is shopping **online** now and have that additional tax, we have a lot of taxation.

I am saying that the more money we spend, the more revenue for Government. All governments, as the person who is collecting these taxes needs to be doing, is to spread it among as much people as possible and not let it go into the hands of a privileged few. The more that it circulates, the more the economy will stimulate and the more money that will be spent. The more revenue the Government will get. That is how Government is supposed to operate.

In this case and if we use this as a model, and Government continues to use it in many more areas such as garbage collection, there are many more areas that the waste haulers see that the Government could use this model to stimulate the

economy and get people off of welfare because we can hire a lot of people in cleaning these lots and drains. We can get them off of welfare. Government is going to save a bulk of money in the welfare. Government is going to save.

There are so many different spin-offs that are going to come by enfranchisement or kickstarting the economy like this. There is so much. We do not have to be giving people so much millions of dollars in welfare. This is how this can be funded. We get those people that are on welfare who are able to work, you get them to work. We give them jobs. We give them simple jobs that can bring revenue and make them feel a lot better about themselves. They can then take care of their children themselves. You look at the welfare system and you see the mother is on welfare, the grandmother and it is becoming generational. We need to break those generational curses, or should I say, traditions. We need to break that. We need to get people employed and teach them. Teach them how to earn money and let it work for them. We need to let people understand how this economic machine works, and I really would like to dive into the numbers with Minister Ishmael. And one more thing, Minister. In reference to the powers with the Minister and what is tradition, is it right? Does that make it right? Let me just say what I think should happen and how government probably needs to look at it. Let us say that we have ten ministries out there. I think the persons in the ministry should be versed in the ministry even before they come to Parliament. Why is that? Okay, let us look at Minister Edghill. He was in tourism all of his life. I think that he is a good minister there. Similarly, you have some person in the health sector leading that ministry, I think it could be good minister, so when the permanent secretaries and the technical team are guiding them, they already have knowledge in the area. We are going to debate the numbers shortly and I am really strong at numbers, so when Mr. Ishmael will be debating the numbers I will have a view...
...(audio break)

Mr. CHAIRMAN (Ag.): I think we have a bit of a technical problem at the moment. Mr. Cherry seems to be stuck. What I am going to do, I am going to go to Mr. Chapman from the Ministry of Health, and come back to him afterwards.

Mr. Ronald CHAPMAN: Thank you. Good morning. I am Ronald Chapman, Chief

Environmental Health Officer, Ministry of Health and Wellness. The present legislation allows for a summary conviction of up to 12 months in prison and a fine of up to \$5 000. The proposed changes to the regulations would allow for a \$300 fine. It has removed the imprisonment. It is now an administrative fine as opposed to having to go to a Magistrate's Court and then it adds \$10 per day for every day that the nuisance is not addressed. It is far less punitive than it was before. I believe it is a much more humane piece of legislation and though \$300 is still a lot of money for somebody to find, so it still does provide the necessary motivation for persons to clean their lots and so on. But, I also want to add that I know we have pretty much stressed the cleaning of lots but the legislation is a nuisance legislation. It also deals with other nuisances, so if an inspector goes to someone's premises and they have water running from their premises on to somebody else's premises, that is also a nuisance. Yes, overgrown vegetation is a nuisance. Having refuse on your premises can be considered a nuisance, in fact the nuisance regulations, when you read them, it is extremely wide piece of legislation. It states anything, accumulation and so on, that is in a condition that is hazardous to health, so the width of this legislation and the changes that are being made, allow for the inspectors to carry out their work and to carry it out much more efficiently. I must say that, and I will speak for myself personally, as one of the persons who places information before the law court, and prosecute persons before the court, it takes an inordinate amount of time to bring a case to fruition. A lot of the times lawyers do not turn up because they have other cases in High Court and it's not their fault, they have to eat, so they have other cases in the High Court and the High Court takes precedence over the Magistrate's Court. Sometimes for some reason, there are lots of other reasons that it takes a while, so it is easy to get the charges read and so on; but now, this legislation will allow us to bring it to an end and to move quickly and to really get persons to associate the nuisance with the fine. I believe that this piece of legislation will work very well in helping us to bring Barbados to where it is supposed to be.

Mr. CHAIRMAN (Ag.): Thank you very much, but before I go to Minister Ishmael, I also want to reiterate that at the last sitting of this Committee you also raised the point, Mr. Chapman, about the ability of your department to

deal with what could be very hazardous situations in terms of health. If you have a build-up of any matter or any other things other than bush on properties and stuff like that, and this legislation also gives you the opportunity then to actually get those things done quickly and speed that process along; but I am going to go to Minister Ishmael at this point in time.

Hon. D. I. ISHMAEL: Thank you, Mr. Chairman.

Mr. T. A. PRESCOD: Chairman. I would like to make an important...

Mr. CHAIRMAN (Ag.): Mr. Prescod, I will let you in after Mr. Ishmael.

Mr. T. A. PRESCOD: Okay. Thank you very much.

Mr. D. I. ISHMAEL: Thank you very much comrade. Sorry. Thank you very much Chair. I am not sure if you have Mr. Cherry back because my comments would be more directed towards him, but hopefully, if he is not back on, he will be able to catch back up, and follow on. I wanted to say here, Mr. Chairman, that I believe that the Government is very supportive of business, in Barbados. We do believe strongly in the enfranchisement and empowerment of our people. We have done that through many different examples from agriculture with the FEED Programme, which is the Farming Empowerment Enfranchisement Drive (FEED), and we have done that through many of our different educational pursuits as well in terms of even providing the Trust loans, UWI being able to allow our young aspiring students to be able to pursue their academic dreams with limited financial strain. We have done quite a bit as an administration to demonstrate that we are supportive of entrepreneurship and the empowerment and enfranchisement of our people whether black, white, brown, green. It does not matter. All Barbadians have a chance to eke out a living in this society so I am very supportive of Mr. Cherry's thrust, which is largely business oriented.

However, I do believe that it is not well placed within the current scope of this legislation to try to form out a business model that will enfranchise these 20 businesses.

I believe, ultimately, we have to remember what this legislation is about. It is actually, these regulations that we are in enabling or enacting eventually, will allow us to be able to better

regulate the behaviour of our people relative to one another.

At the end of the day as my colleague in the Ministry, our Acting Chief Environmental Health Officer, Mr. Chapman, would have just alluded to, there is a broad range of nuisances that can impact upon the lives and the social well-being of many of our citizens and whilst we are speaking in this case and based on this proposal on the overgrown lots and debushing, there are so many different areas that people can encroach upon other people's sensibilities, and we want to make sure that we understand, appreciate and continue to centre the discussions on these proposed amendments on ensuring that our citizens are better able to live with each other in a very civil way. That is the bedrock of what this is about.

We must appreciate that at the end of the day, the penalties that are being enforced come after a breach of the legislation. As long as each person is taking their full responsibility seriously of maintaining their lots, they will not come into contact with these regulations; they will not come into contact with this legislation; they will not come into contact with the \$300 penalty or the \$10-a-day fine.

As long as our citizens take personal responsibility for their property – and I want to encourage our people to take personal responsibility for their land holdings – that will ensure that this legislation never is even applied. It just comes down to persons and that is what we are trying to get to at the end of the day. We want to create a society where everybody takes responsibility for what they own, for their assets, for their personal space.

The next point that I will make is aligned to what Mr. Cherry would have shared in terms of his large number of landholdings across the island. He sees it as a disadvantage because many of those properties are not productive, and therefore I want to use that as a sounding board for encouraging the people of Barbados to ensure that your landholdings are productive. If that means putting a property on it, even if it is not your own private dwelling and you can use it to generate some rental income, that is productive use of your property. If it is to plant some crops on it, that is productive use of your property. You can sell it to get some income or some profit from it, that is a productive use of it as well; and let somebody else then develop it.

So, I want to encourage the people of Barbados that the legislation does not set out to be punitive. You only get to feel the punitive side of it if you are lacking in, or breaching in, or defaulting in your responsibility as a landholder in the country; and not taking care of your property, and/or if there is any other nuisance that you collide with as it relates to the legislation and the regulations. Therefore, I want him to come back on so we can really delve into the financial matters because that part is juicy for me, because as a businessman myself I really want to have a business conversation with him as to these assumptions. I will leave that there for now. Thank you so much, Mr. Chair.

Mr. CHAIRMAN (Ag.): Thank you. I will go directly to Mr. Prescod.

Mr. T. A. PRESCOD: Thank you, Mr. Chair. I understand Minister Ishmael's view. I heard the view of the parliamentary counsel also, first of all about what traditionally is on the statute books and the methodology that is being used for constructing these new forms of legislation. I think what Mr. Cherry is trying to say to those persons sitting around the table – those who are present there and myself – is that the legislation is fixed in its methodology and therefore we do not want to move away from the traditional design of what the people in the legal fraternity and what the people within the halls of Parliament believe is eternally designed, an eternal form of jargon that must be accepted by the average man. Legislation has to have clarity. If the average man does not understand the legislation and the powers that be, know that he does not understand the constructs within legislation, then the powers that be have a responsibility to simplify legislation so that all persons are fully aware of what the legislation means. I understand some of the terms that were used, and I am just a layman, but I also believe that we are at a point now that where we witness any legal inhibitions or injustices in the legislation, we need to be able to respect the views of a businessman. When it comes to the jargon of the law, a businessman is really a neophyte in the circumstances. I am not saying that in any pejorative way about Mr. Cherry's presentation.

Mr. Cherry is making a call for affirmative action in law, which is not something that is normal. We call here for affirmative action, especially if we live in a post-colonial and a post-slavery environment. The laws were made at a specific time. The counsel made reference to the

1940s regarding the legislation itself. When those instruments were put in place, the average man had very little. The legislation was made in such a way to preserve the rights of people that do not look like us. By now we should be thinking differently, and it comes from a different philosophy, a different philosophical position of thought and also a different understanding of jurisprudence itself, based on what happens in the law courts in relation to these matters. I know what we are seeing around the table is that when you see the word 'Minister' there is some preamble or some explanatory section within the law itself, even if it is just the historical part of it, that is saying to you that the ultimate decision rests with the Minister and that all the other persons are delegated responsibilities of agents to the Minister.

Mr. Cherry is saying that if the information is coming from the public servant who has the technical and scientific skills to make the analysis, that is the point of contention. Can we put into legislation something that if the average man picks up the Laws of Barbados or even if he is referring to precedent from somewhere in the Commonwealth, can we not have it written in the legislation? Today's draftsmen do not need to operate like robots, but draftsmen operating in a post-colonial period, a period where we are now moving into being a Republic; simplification of the actual meaning of all of these terms that are complicated in the law itself. I think that he is saying something completely different to what everybody else is saying there. He is asking for affirmative action. He is asking to redress the imbalances in the law that stop Black people from making progress. If you do not have that philosophical thought, then you will continue to say, "*This is what we drafters in 19-so-and-so said, and historically this system has proven to be correct,*" and all you are doing is tinkering and making minor adjustments within the system itself.

I want you all to take that into consideration because obviously these things are hurting people. While Mr. Cherry and a few may come to express their views, there are many other persons expressing the same views as Mr. Cherry, so it is about philosophical thought and it is about simplifying. It is about affirmative action being applied to whatever it is that we are discussing here today. I just want to make that brief contribution.

Mr. CHAIRMAN (Ag.): Thank you very much, Mr. Prescod. I want to say here, though, for the record that although I understand exactly where Mr. Cherry is coming from and I understand where you are also coming from, this particular piece of legislation that we are talking about really goes left-field of affirmative action. If you really want affirmative action in this particular legislation, that action would have to come from the individuals in terms of ensuring that the properties that they are maintaining, or the persons who engage in illegal dumping and all of these things, take affirmative action to stop it. This is not necessarily about affirmative action in terms of business. This is in terms of the health of the people of this country, and the reason why we are at this juncture – and let me make it really clear, because everybody likes to run away from the truth: Values in Barbados have fallen and standards have changed.

I made this point at the last meeting, and I am going to reiterate it again: Those of us who grew up in a Barbados and who said that cleanliness was next to Godliness, knew what that meant. It meant that you were responsible for taking care of the surroundings, and yourself. Those of us who went to school many years ago know that there was a time when you had to stand up in front of the teachers and put out your fingernails for them to look at them, to make sure that your clothes were clean when you were going in and out of school. We have abandoned these things.

In my opinion, based on what I always call cultural penetration, because now you have from television to social media, to people following all sorts of "trends", that did not exist in this country before. Therefore, let us think seriously when we talk about the nuisances and things like that, it is as wide as humanly possible. It is not just about cleaning land, because you have people who move things and things drop off of trucks, and end up on other people's property, and the trucks are gone, nobody stops, and nobody looks back at it. The landowner is left with the responsibility to clean up a mess that he or she did not create. Or, I have seen it before, people, whom if you rent a skip, they come from all over the place and bring all sorts of things and throw into your skip that you rent, no responsibility whatsoever. Therefore, this legislation really is an attempt to bring back some sort of order, where health and the responsibility to each other as human beings, is concerned.

Therefore, I do not want us to stray too far away from what it is that we are really doing, to discuss and to get as much feedback as you need possible on, so that these regulations, whenever they come into being, are given the widest possible criticism, new advice, or whatever; so that when we are settled on it that people are aware. Mr. Prescod, I would, however, agree with you that we need to do a better job in terms of when legislation is passed, to explain to the general public. We need to explain a lot of the things that goes into them, and also at the beginning as to why we are here, what is the problem that you are trying to solve, and these sorts of things

However, at this point in time, I am going to now ask if there are any other comments, questions, queries... I am not sure if Mr. Cherry has been able to get back on, and if he is back on, if there is anything else that Mr. Cherry would like to say before we move on.

Mr. Anderson CHERRY: Good afternoon, everyone. Sorry about that. I had another power outage. I missed a lot, so I am not sure if you can just give a quick recap.

Mr. CHAIRMAN (Ag.): When you were absent, we had from the Ministry of Health, Mr. Chapman, who responded to some of your queries, based on the relevance of the Minister as opposed to the CMO being the one dealing specifically with this particular Bill, because of the expertise that you referenced. It was then explained that the expertise within the various Ministries is also responsible for advising the Minister, who is the chief administrator of the Ministry in question, and that the decisions are not his personal decisions, but that also, of all of those persons within there -- the technocrats would become part and parcel by law -- if you look at it, of that ministerial decision. Hence, you have no fear of thinking that the Minister can make a willy-nilly decision and then it comes down to the general public. I put that in the simplest terms as humanly possible, so that you should be able to grasp the magnitude of what it is that they were saying, but it was a lot. I am not sure if I am clear enough or if I need to say anything else.

Mr. Anderson CHERRY: No, you do not. I know Mr. Chapman very personally, so I could trust his judgement on this one.

Mr. CHAIRMAN (Ag.): Thank you very much. I do want to commend you on being one of the persons who has been able to bring forward

alternative ideas, because this is how I believe government and the general public should always have these types of conversations, where we are free to express our ideas. I really want to thank you on behalf of this Committee for being with us today, and for putting forward what you have. Unfortunately, we did not get a chance to go through as deeply as we would like to, because of the lateness within which we got it, but I believe that Minister Ishmael wanted to also query you on a number of things. Conscious of the time, I am going to allow him to do so at this point.

Hon. D. I. ISHMAEL: Thank you very much, Mr. Deputy Chairman. I would not go into the questions. What I will just say in closing, in my final contribution on this, is that as I opened, I would have opined that the assumptions within the proposal are quite ambitious. For example, the \$5,000 per lot. I represent a constituency, where the land holdings and property holdings are not at that level, where persons would have to be paying \$5,000 to clear their lots. It is significantly lower than that, but I imagine that Mr. Cherry is more familiar with the larger land holdings, and therefore \$5,000 may be where he is setting his average, but I think that assumption is a bit high.

I am also challenged by the assumption of 100 clean-up jobs per week, which is about 400 lots at that size in a month, and I think that also is a very exuberant and ambitious assumption. Therefore, if I scaled your proposal down, and the million dollars-plus in tax revenue that you are projecting at the end of your calculations, and I start to whittle away some of those assumptions and let us make them smaller; I think that what you are proposing as a significant benefit at the end for government, may not be as significant as you think it will be.

Ultimately, just to say in conclusion, from just those two points alone, I do think that there is merit in a cost benefit analysis and a further analysis of your proposal. I think that is not well placed within what we are discussing here in terms of these amendments. However, I do think that from a business perspective that it is something that can be fleshed out further. You can do some more analyses to find out for example how many properties across Barbados we are having this particular challenge with. What will be a more accurate average cost per clean-up? The number of times those clean-ups will have to be done per year, or within a quarter, *et cetera*, and maybe use all that research data that will feed

into your proposal to then come back to maybe the Ministry of Environment or maybe the Ministry of Energy and Business. It may be better to place this proposal at the feet of one those agencies for them to be able to then have a real conversation with you and a real discussion with the technocrats of those ministries and the Ministry of Finance, to see if there is actual merit in being able to have this proposal become something that can be that empowering and enfranchising tool that you are looking for it to be. However, I do not think it will sit well within the current amendments and what we are trying to do here to address some of our environmental challenges and public health challenges in the country.

However, I do applaud and commend you for the proposals, and with some more work and with some research and some more accurate data, I do believe that it is something that you can come back to the Government of Barbados with, for further consideration. Thank you, Mr. Deputy Chairman.

Mr. CHAIRMAN (Ag.): Thank you very much. I would like to support you on that. I think like most things there is always merit. It is just sometimes we need to stick a little bit closer to the thing at hand.

At this point in time ladies and gentleman, I am going ask that we take a fifteen-minute break. At the end of that when we come back, we will continue with the business but I know that the live stream will probably be finished at that time. So, we are going to take a fifteen-minute break. I want to thank Mr. Cherry and his team for being with us this morning. Clearly, you have given us some food for thought.

Even outside of dealing with the Bill itself, some of the things that you have put forward are things, as was mentioned earlier, that can be considered in a different place in order to make sure that the enfranchisement of people remains very possible and at the forefront of what is done in Barbados. Again, thank you and your team very much. I want to set a motion that we take a fifteen-minute break.

SUSPENSION

On the motion of SENATOR Rev. Canon Dr. J. A. ROGERS, seconded by Her Honour C. Y. FORDE, the Committee was suspended until 11:58 a.m.

RESUMPTION

Mr. CHAIRMAN (Ag.): Now we have resumed ladies and gentlemen, here is where we want to go through the Minutes of the first meeting. I believe everyone has a copy of those. Page 1, I do not see any corrections. Now you get to Page 2, Page 3, Page 4. I would like someone to move a motion that the Minutes be adopted as they are.

Madam Forde, can we have a motion to adopt these Minutes and seconded by Senator John Rogers. Thank you and these Minutes are adopted. Now, Matters Arising out of these Minutes. Is there anything from the Committee? If not, we can move on.

At this juncture, ladies and gentlemen, we are now going to go through and examine the Health Services Amendment Bill Clause by Clause, and after that we will then go through the Health Services (Nuisance) Regulations also. I am going to ask Mr. Newton from CPC to take us through the Health Services Amendment Bill, Clause by Clause.

Mr. SHAQUILLE NEWTON: Good afternoon. Commencing first with the **Objects and Reasons**.

The Objects and Reasons state that the Bill would amend the Health Services Act, Chapter 44, to make provision for administrative penalties and revise the provisions concerning the removal and sanitary disposal of offensive matter.

Coming first to Clause 1, the short title. This Act may be cited as the **Health Services Amendment Act, 2024**.

Clause 2. Amendment of Section 2 of Chapter 44. Section 2 of the Health Services Act, Chapter 44. In this Act, referred to as a Principal Act, it is amended by:

(a) **deleting the definition of "district" and substituting the following:**

"*district*" means a Health District established by the Minister within an area under Section 3.

(b) **deleting the full stop at the end of the definition National Assistance Board and substituting the semi-colon and;**

(c) **inserting the following definitions in the appropriate alphabetical order:**

"Chief Medical Officer" means the person assigned to the post of Chief Medical Officer, Ministry of Health and Wellness, as established

by the Public Service (General) Order, 2020 No. 41 of 2020;

“filth” includes any decomposing animal matter and vegetable matter;

“Medical Health Officer” means the person assigned to the post of Medical Officer of Health, Ministry of Health and Wellness, as established in the Public Service General Order 2020 No. 41, 2020.

“Minister” means the Minister with responsibility for Health;

“night soil” means human excreta.

“offensive matter” includes filth, animal excreta and night soil;

“Relief Board” means Land Taxation Relief Board established by Section 18 of the Land Tax Act Chapter 78 (A).

Clause 3 is the repeal and replacement of Section 3. Of Chapter 44. The principal Act is amended by deleting Section 3 and substituting the following:

It allows for (1) “The Minister to be responsible for the Health of the inhabitants of Barbados and may divide Barbados into areas and districts and that is stated at Clause 3, Subsection 1.

(2) The Minister may by order:

(a) divide Barbados into such areas as he may determine;

(b) establish such Health Districts within any area and;

(c) assign duties to such officers in relation thereto as he thinks necessary, to facilitate the preservation of the health of the inhabitants of Barbados.

(3) The order made under Subsection 2 shall be subject to negative resolution.”

Amendment of Section 10 of Chapter 44.

Section 10 (1) of the principal Act is amended by inserting immediately after paragraph Y, the following paragraph.

“(y.1) annexing to the contravention of, or the failure to comply with, regulations made under Section 10, 1 (f) of the Health Services Act, Chapter 44 an administrative penalty”.

Mr. SHAQUILLE NEWTON: So that introduces the concept of the administrative penalty into the law.

Section 11A of the principle Act is amended by deleting subsection 3 and substituting the following:

(3) “Where any:

(a) costs incurred in the execution of work on a property; or

(b) administrative penalty is imposed for the contravention of, or failure to comply with the regulations made under Section 10, 1 (F) of the Health Services Act, Chapter 44 is due to the act or omission of the owner of that property, and be added to the land tax imposed under Section 5, (2) of the Land Tax Act, Cap. 78A.”

Mr. SHAQUILLE NEWTON: This allows for:

“(a) Any cost for work done on properties and unpaid administrative penalties to be added to land tax bills, or where any costs incurred in the execution of work on property or

(b) an administrative penalty to be imposed for the contravention of, or failure to comply with, regulations made under section 10, 1 (f) of the Health Services Act, Chapter 44.

It shall be subject to the penalty and interest payable under Section 28, (3) of the Land Tax Act Chapter 78 (A).”

Mr. SHAQUILLE NEWTON: So this clause allows for the penalties and interest rates under the Land Tax Act to be imposed upon unpaid administrative penalties and for costs incurred in the execution of work on property.

Section 5 where “(a) any costs incurred in the execution of work on property or,

(b) an administrative penalty imposed for the contravention of, or failure to comply with, regulations made under Section 10, 1 (F) of the Health Services Act Chapter 44,

is due to the Act or omission of an occupier of that property, it shall be a debt to the State recoverable in the Magistrate’s Court for District ‘A’.”

7

Mr. SHAQUILLE NEWTON: This makes the administrative penalties and the costs incurred for the execution of work on the property become a debt to the State, so that an action may be brought in the Magistrate’s Court to recover that debt.

(6): “Where there is a dispute between the owner of property and an occupier of the property

in relation to the Act or omission which results in any

(a) costs incurred in the execution of work on property; or

(b) an administrative penalty imposed for the contravention of, or failure to comply with, regulations made under Section 10, 1 (F) of the Health Services Act Cap. 44,

the Relief Board shall hear and determine the dispute.”

Mr. SHAQUILLE NEWTON: Essentially, where there is a disagreement between an owner of a property or another person, such as a renter, as to whose fault it was for the breach, the Relief Board has the power to hear the complaint and determine where the fault is.

Repeal and Replacement of Section 11 B of Chapter 44.

The principle Act is amended by deleting Subsection 11 B and substituting the following:
Appeal

“11B. (1) The owner and occupier of any property upon which work is executed by the Minister, may within 42 days after the receipt of the demand for repayment of costs incurred in the execution of work under section 11 A, appeal to a Judge in Chambers against the cost for any such work.

Mr. SHAQUILLE NEWTON: Essentially, where the owner or occupier of a property receives a demand to repay the Government for work done on his property, the right of appeal is granted to a Judge in Chambers to make a decision.

“(2) The owner or occupier of any property upon which an administrative penalty is imposed for contravention of, or failure to comply with, regulations made under Section 10(1)(f) of the Health Services Act may, within 14 days of receipt of an administrative penalty notice, appeal to the Relief Board.”

Mr. SHAQUILLE NEWTON: Essentially, where an administrative penalty notice is served upon the owner or occupier of a property, they may then appear to the Relief Board to have the administrative penalty declared null and void.

Amendment to certain enactments:

(7) The enactments set out in the first column of the Schedule are amended in the manner set out opposite thereto in the second column.

Mr. SHAQUILLE NEWTON: This consequentially amends the Land Tax Act, Chapter 78, and by virtue of this amendment, section 27 of the Land Tax Act is amended to state:

The Relief Board shall hear and determine appeals made pursuant to regulations under Section 10(1)(f) of the Health Services Act, Chapter 44, in accordance with Section 10(1)Y(1) of the Health Services Act.

Mr. SHAQUILLE NEWTON: In essence, this consequential amendment empowers the Land Taxation Relief Board to hear appeals arising on matters under the Health Services Nuisances Regulations.

Mr. CHAIRMAN (Ag.): Thank you very much, ladies and gentlemen. This would be the appropriate time that if there is anything that you do not understand or anything that you want to make a comment or query about, this is the time to do so. I take it then that we are all in agreement? Okay. We can therefore move on to the Health Services Nuisances Regulations.

Mr. SHAQUILLE NEWTON: **The Health Services Nuisances Regulations, 2024.** These regulations will be made upon the passage of the Health Services (Amendment) Bill. As previously stated, the Health Services (Amendment) Bill lays the framework for which these regulations can now be made. It is as follows:

“The Minister in exercising the powers conferred upon him/her by section 10(1)(f) of the Health Services Act makes the following Regulations:

1. **The citation:** These regulations may be cited as the Health Services Nuisances Regulations, 2024.

Definitions: In these regulations:

- Agricultural land has the meaning assigned to it in section 2(1) of the land Tax Act, Chapter 78A.
- Relief Board means the Land Taxation Relief Board established by section 18 of the Land Tax Act, Chapter 78A.
- Chief Environmental Health Officer means the person assigned to the post of the Chief Environmental Health Officer, Ministry of Health

and Wellness, as established in the Public Service General Order 2020, No. 41 of 2020.

- Environmental Health Officer means the person assigned to the post of Environmental Health Officer, Ministry of Health and Wellness, as established in the Public Service General Order 2020, No. 41 of 2020.
- Officer means the person assigned to the post of (a) Environmental Health Officer 1, Ministry of Health and Wellness;
- or (b) Environmental Health Officer 2, Ministry of Health and Wellness, as established with the Public Service General Order 2020, No. 41 of 2020.

Part 2 of the Regulations Nuisances: Nuisances under Health Services Regulations.

For the purposes of these regulations and in addition to nuisances specified in Regulations 4 and 6, any

- (a) act not authorised by law,
- (b) failure to discharge the legal duty, or
- (c) contravention of the provisions of any other regulations made under the Health Services Act, Chapter 44, of which the act, the failure or the contravention prejudicially affects, or is liable to prejudicially affect, public health or safety, is deemed to be a nuisance.

Mr. SHAQUILLE NEWTON: This clause creates 'nuisance' under the Health Services Regulations. It states generically what are the actions that create a nuisance, and those are:

- (a) any act not authorised by law;
- (b) failure to discharge a legal duty, or;
- (c) contravention of the provisions of any of the regulations made under the Health Services Act which are likely to affect public health; and are deemed to be nuisances.

Regulation 2: This is the general prohibition. No person shall commit a nuisance or permit a nuisance referred to in this regulation, and this imposes the obligation not to commit nuisances.

General nuisances: This clause states explicitly what may be considered nuisances. For the purpose of these regulations on any premises, the following are deemed to be nuisances:

- (a) Any place, matter, thing, deposit or accumulation of liquid or solid matter that is

found in such a state or so placed, made or left as to be unsanitary, injurious or dangerous to the health or likely to become so.

Mr. SHAQUILLE NEWTON: I recall at our last meeting that there was discussion on the word "thing".

The word "thing" is included there to capture a wide variety of situations.

(b) *The existence of flies, mosquitoes or other insects capable of transmitting or causing diseases; bed bugs, cockroaches or other vermin; mice or rats;*

c) *the existence of any condition, matter or thing which in the opinion of an officer, provides or may provide food or harbourage or act as a breeding place for (1) insects capable of transmitting or causing disease, or (2) are vermin or rodents.*

Mr. SHAQUILLE NEWTON: I remember in previous discussions that there were some concerns about the use of the language "which in the opinion of an officer" and this can be changed to "which in the professional opinion of an officer".

Other nuisances include:

(d) *Any grass, bush or weeds which are more than two feet in height;*

(e) *the presence of branches, uprooted tree stumps which have been cut and accumulated, which constitute a health and safety hazard, or which can block a water course;*

(f) *the presence of empty bottles -- broken or otherwise -- empty tins, coconut shells, uncovered barrels, boxes, or any other thing which may serve as a receptacle for water which creates a breeding place for mosquitoes or other insects capable of transmitting or causing disease;*

(g) *any sanitary convenience which is not properly constructed or maintained;*

(h) *any discharge except in accordance with a permit granted by the Minister or Chief Environmental Health Officer, of any industrial waste or other noxious matter to any beach, into the sea or into any river, ravine or water course, pond, ditch, drain or other place;*

(i) *any stack which emits smoke or grit in such a quantity or of such density so as to be prejudicial or injurious to public health;*

(j) *any serious disregard for general maintenance or upkeep of premises so as to*

be prejudicial or injurious to public health and;

(k) any water supply system, in such a condition, that the water passing through when used for domestic purposes, can be injurious to health.

Mr. SHAQUILLE NEWTON: Therefore, (a) through (k) make explicit statements on various acts which can be considered nuisances, and I think that they are pretty self-explanatory.

General Prohibition: No person shall:

(a) commit a nuisance referred to in this regulation; or

(b) aid or abet another person to commit a nuisance referred to in this regulation; or

(c) being the owner occupier of any premises permit a nuisance referred to in this regulation, to continue on the premises.

Mr. SHAQUILLE NEWTON: This therefore imposes an obligation on persons not to commit a nuisance in this regulation, not to help other persons to commit nuisances and not, being the owner or occupier of any premises, to allow nuisances to occur on the premises.

Application for an Exemption; Notwithstanding Regulation 7, any owner or occupier of premises may at any time, in writing, apply to the Relief Board for an exemption from Regulation 4 which simply allows any person in the circumstances, to be granted an exemption from complying with any of the matters of nuisances stated under Paragraph (4).

5(2) "An owner or occupier may be exempted on grounds of hardship." The word 'hardship' there is used to

allow a discretion on the part of the Land Taxation Relief Board to assess the circumstances.

5(3) "An application made pursuant to paragraph (2) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application."

Mr. SHAQUILLE NEWTON: This is pretty self-explanatory. When applying for an exemption, a person must give reasons.

5(4) "Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within seven days of receipt of the application."

Mr. SHAQUILLE NEWTON: This is also pretty self-explanatory, with the timeline given to the Relief Board to respond to the application.

5(5) "Where the Relief Board approves an application, the Relief Board may state terms and conditions concerning the maintenance of the premises."

Mr. SHAQUILLE NEWTON: Essentially, this allows the Relief Board to impose conditions upon the exemption.

5(6) "Where an owner or occupier is served with

(a) a contravention notice in accordance with regulation 8; or

(b) an administrative penalty notice in accordance with regulation 9, and thereafter he applies for and is granted by the Relief Board an exemption in respect of the nuisance committed, the contravention notice or administrative penalty notice shall be null and void."

Mr. SHAQUILLE NEWTON: Essentially, upon being granted an exemption under this regulation, any administrative penalty notice then becomes null and void once an exemption is granted.

5(7) "Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination."

Mr. SHAQUILLE NEWTON: This is self-explanatory where the Relief Board denies an application, it shall give reasons.

Derelict Buildings: Clause 6(1) "A building or structure on premises which is in a derelict condition so as to be insanitary, injurious or dangerous to health or likely to become so, is deemed to be a nuisance."

Mr. SHAQUILLE NEWTON: That is the statement of law that makes derelict buildings which are prejudicial to public health nuisances.

General prohibitions:

6(2) "No person, being the owner or occupier of any premises, shall permit a nuisance referred to in this regulation."

Mr. SHAQUILLE NEWTON: That imposes obligations on persons not to allow derelict buildings to become nuisances.

6(3) "Notwithstanding paragraphs (1) and (2) and regulation 7, an owner or occupier may, in writing, apply to the Relief Board for an exemption from this regulation."

Mr. SHAQUILLE NEWTON: Therefore, it allows for an exemption for derelict buildings.

6(4) "Subject to paragraph (3), an owner or occupier may be exempted on grounds of hardship."

Mr. SHAQUILLE NEWTON: Once again, this allows the Relief Board a discretion to consider the circumstances.

6(5) "An application made pursuant to paragraph (3) shall state the reasons for the application and shall contain any documentation or other information relied upon in support of the application."

Mr. SHAQUILLE NEWTON: Once again, where you are applying for an exemption, a person must give reasons.

6(6) "Where an application is received pursuant to this regulation, the Relief Board shall respond in writing to the application within seven days of receipt of the application."

Mr. SHAQUILLE NEWTON: Once again, the Relief Board must respond within seven days for an application for an exemption.

6(7) "Where the Relief Board does not approve the application, the Relief Board shall, in writing, notify the applicant of its determination and state the reasons for the determination."

Mr. SHAQUILLE NEWTON: Thus, this obligation is imposed upon the Relief Board which does not grant an exemption under this regulation, to give reasons for not doing so.

Part three of the Regulations - Administrative penalties

Clause 7(1) "A person who

- (a) contravenes a regulation appearing in the first column under the heading "Regulation" of the First Schedule; and
- (b) fails to comply with a contravention notice under regulation 8, shall pay to the Chief Environmental Health Officer the administrative penalty in

the second column appearing opposite thereto under the heading "Administrative Penalty".

Mr. SHAQUILLE NEWTON: In essence, the regulation which is convened is in the first column of the First Schedule, and the penalty for the contravention is in the second column in the First Schedule; so reference can be made to the Schedules to see the regulation and the consequential sanction for breach of the regulation.

Contravention notice:

Clause 8(1) "Where a person contravenes a regulation specified in the First Schedule, an officer shall first serve a contravention notice, in such form as the Chief Environmental Health Officer determines, to the person."

Mr. SHAQUILLE NEWTON: Therefore, before the administrative penalty can be imposed, one must be given a contravention notice.

8(2) "The notice referred to in subparagraph (1) shall

- (a) specify the regulation which has been contravened;
- (b) specify the nature of the act constituting the contravention; and
- (c) require a person in contravention of the specified regulation to remedy the contravention within a period specified by the Chief Environmental Health Officer, such period not exceeding 21 days."

Mr. SHAQUILLE NEWTON: Therefore, the contravention notice must tell the person which regulation they contravened, how they contravened it and then finally require them to remedy the contravention within 21 days.

8(3) "An administrative penalty shall be imposed where a person fails to remedy the contravention within 21 days of the date of the contravention notice."

Mr. SHAQUILLE NEWTON: This is self-explanatory, that the administrative penalty shall only be imposed where a person does not remedy the breach within 21 days.

Administrative penalty notice:

Clause 9(1) "Subject to regulation 7 where a person contravenes a regulation specified in the First Schedule, an officer shall serve an administrative penalty notice, in such form as the Chief Environmental Health Officer determines, to the person."

Mr. SHAQUILLE NEWTON: This clause allows for the imposition of the administrative penalty via the administrative penalty notice.

9(2) "An administrative penalty notice shall specify

- (a) the regulation which has been contravened;*
- (b) the nature of the act constituting the contravention; and*
- (c) the penalty to be paid."*

Mr. SHAQUILLE NEWTON: Put simply: Which regulation was contravened, how the person contravened it, and the sum of money to be paid.

9(3) "The penalty shall be paid to the Chief Environmental Health Officer within 30 days of the date of the administrative penalty notice."

Mr. SHAQUILLE NEWTON: This is self-explanatory, one must pay the administrative penalty within 30 days of its imposition.

9(4) "A person who is in receipt of an administrative penalty notice shall pay the penalty to the Chief Environmental Health Officer, on or before, the date specified in the administrative penalty notice."

Mr. SHAQUILLE NEWTON: This essentially allows you to pay right up to the date of the administrative penalty notice, or before. Therefore, it gives the person some means of latitude.

9(5) "A person in receipt of an administrative penalty notice shall pay a further penalty, as set out in the Second Schedule, to the Chief Environmental Health Officer for every day or part thereof for which the contravention is continued."

Mr. SHAQUILLE NEWTON:

Essentially, upon the administrative penalty notice being served for the period for which the contravention remains in place, a subsequent penalty shall be imposed, and that subsequent penalty is set out in the Second Schedule.

Part four – Appeals:

Clause 10(1) "Where the Relief Board does not approve an application made pursuant to regulation 5 or 6(3), the relevant applicant may appeal to the High Court."

Mr. SHAQUILLE NEWTON: In essence, where the Relief Board does not approve an exemption application, then there is an appeal to the High Court.

10(2) "The decision of the High Court in respect of an appeal made under paragraph (2) shall be final."

Mr. SHAQUILLE NEWTON: This is self-explanatory, that at this point, whatever decision the High Court makes, it shall be final.

10(3) "A person who receives an administrative penalty notice pursuant to regulation 9, may, within 14 days of receipt of the notice, appeal to the Relief Board."

Mr. SHAQUILLE NEWTON: This is self-explanatory, where the administrative penalty notice is imposed, a person may then, within 14 days, appeal to the Relief Board to have the administrative penalty notice declared null and void.

10(4) "An appeal:

- (a) shall be made in such form as the Relief Board determines;*
- (b) and state the grounds on which the appeal is based."*

Mr. SHAQUILLE NEWTON: This is procedural in nature. It allows the Relief Board to basically determine the form in which the appeal may be made and makes the requirement that there is a statement of reasons for the appeal.

Clause 10(5) states as follows: "A person shall submit with the appeal, any documentation or other information relied upon in support of the appeal."

Mr. SHAQUILLE NEWTON: Essentially, this allows a person to produce any evidence relied upon in respect of the appeal.

Clause 10(6) states as follows:

"Where the Relief Board receives an appeal in accordance with this regulation, it shall

- a) make a determination within 21 days of receipt of the appeal; and*
- b) in writing, notify the applicant of the determination.*

Mr. SHAQUILLE NEWTON: In essence, the Relief Board shall hear the appeal within 21 days and then, send notice to the applicant as to its decision. It goes on to state at Clause 10(7):

"Subject to paragraph (3), the Relief Board may

- a) impose the administrative penalty;*
- b) mitigate or remit the administrative penalty; or*
- c) revoke the administrative penalty and declare the administrative penalty notice to be null and void."*

Mr. SHAQUILLE NEWTON: So, these are the three categories of discretion which the Relief Board may utilise in dealing with an administrative penalty.

Firstly, it can decide that the administrative penalty is to be flat-out imposed. Secondly, it can mitigate, meaning lessen the administrative penalty to be imposed. Thirdly, it can right out just declare the administrative penalty notice null and void.

At Clause 10(8), it states that:

"A person who is aggrieved by a decision of the Relief Board made in accordance with this regulation may, within 14 days of receipt of the decision, appeal to the High Court."

Mr. SHAQUILLE NEWTON: Thus, where a person is in disagreement with the decision of the Relief Board, they can then further appeal to the High Court.

Clause 10(9) states as follows:

"The decision of the High Court in respect of an appeal made under paragraph (8) shall be final."

Part V, Miscellaneous.

Mr. SHAQUILLE NEWTON: The specified Regulations bind the State. So, the State

is obligated and bound by Regulations 4 and 6 which deal with general nuisances and derelict buildings.

At Clause 12, entitled **Revocation**, it states that the Health Services (Nuisances) Regulations, 1969 (S.I. 1969 No. 159) are revoked, which in essence, repeals the former Regulations to allow for these new Regulations to be made.

As previously mentioned, there is the *First Schedule* which states the Regulation which is breached and the corresponding administrative penalty to be imposed with the breach of the Regulation.

In the *Second Schedule*, it is a statement of the Regulation which is breached and the continuing administrative penalty for every day which the Regulation continues to be in breach.

Mr. CHAIRMAN (Ag.): Thank you very much. Ladies and gentlemen, I want to ask, do you feel, and we will need this for the record, that the \$300 proposed, is a reasonable fee to be charged?

Mr. RONALD CHAPMAN: I am Ronald Chapman, the Chief Environmental Health Officer. I believe that the \$300 in most cases is quite adequate. However, there were two pieces of legislation where persons may dump noxious stuff on the beaches and so on, and I think the charge for that which is \$300 and \$10 per day does not treat to the amount of the clean-up and the damage that could be done by someone who does such an act.

So, for the most part, the \$300 per day would treat to the nuisances and so on, but in some cases where we are dealing with particularly onerous acts, it does not treat to that.

Mr. CHAIRMAN (Ag.): Thank you very much. Any other comments? Anyone else? Okay. Go right ahead.

Mr. RONALD CHAPMAN: I am not sure if this comment should have come earlier in the discussion, as opposed to where we are just looking at the legislation, but it just dawned on me to ask a question. How often does the Relief Board meet? I do not know.

Mr. CHAIRMAN (Ag.): Unfortunately, we do not have that information either, but that is something that we will definitely make some representation to find out what the policymakers were thinking....

Mr. RONALD CHAPMAN: With those seven days and 14 days as appellate dates to the

Relief Board, it is important in terms of how often that Board meets. Thank you very much.

Mr. CHAIRMAN (Ag.): Thank you. Any further comments from CPC? No. Okay. Mr. Headley? Go right ahead.

Mr. ANTHONY HEADLEY: Thank you, Mr. Chairman. I am Anthony Headley, the Director of Environmental Protection Department (EPD). I just wanted a clarification from the CPC regarding the arrangements for payments of both the penalty and cost of clean-up of a property. It appears to be establishing two payment streams -- one to land tax which I believe would be BRA and then another one to the Chief Environmental Health Officer. That may be a bit confusing for the public in that regard and whether or not there could have been an easier way in terms of the payments associated with this particular piece of legislation. Thank you.

Mr. SHAQUILLE NEWTON: Yes. For the record, I am not the CPC. I am Acting Parliamentary Counsel within the Office of the Chief Parliamentary Counsel. Okay. So, there are two different concepts. Where there is a cost incurred for work in terms of cleaning up the property, that is going to be added to the land tax bill if the person defaults on the payment to the Government.

In terms of the administrative penalties, that is supposed to be paid within 30 days to the Chief Environmental Health Officer. Where there is a default in the payment to the Chief Environmental Health Officer, then the sum of money becomes firstly, a debt due and owing to the State and then, secondly, it is added to the land tax bill.

Mr. CHAIRMAN (Ag.): Does that help?

Mr. ANTHONY HEADLEY: Alright.

Mr. CHAIRMAN (Ag.): At this point, I would just like to thank all of the persons....

Hon. C. A. LANE: Mr. Chairman, there was a question that would have been raised before in terms of persons who are exempt from land tax. How would that be dealt with? People who do not pay, but then, there are some that are exempt under a certain threshold. That was a question I wanted to raise before.

Mr. SHAQUILLE NEWTON: First of all, I will endeavour to do some further checks when I get back to the office but at this stage, what I believe would happen is that this would be worked out administratively. Even if you are exempted from the land tax, this is not land tax.

So, you would be receiving a bill in respect of the outstanding administrative penalty or the cost incurred for the work done.

Mr. CHAIRMAN (Ag.): Does that in any way help?

Hon. C. A. LANE: Not really, but I am sure that they would get it to work. It sounds like it is hedging. So, I figure that it might be an omission or oversight and it would be corrected. I am at a bit of a disadvantage, Mr. Chairman, but I will beg for your indulgence. I was unable to be here last week because I was in Cabinet, but I really asked for the Ministry of Health and EPD to be here because I too was listening through the discussion to see how we would regularise some of the things that we had discussed the previous week, in relation to how these things actually work on the road.

So, I had the good fortune to be on the road with the EPD director last week and noticed that there are various areas for each section to do. For me, as a layman, again as I think Mr. Cherry and his colleagues said, sometimes the Minister does not have the technical capacity; so I am going to claim my ignorance now, and try to put some scenarios out there. Hopefully, it was answered last week and if it was, it is for the benefit of those that are watching the stream today.

The EPD used to be in the Ministry of Health. Everybody knows that. It has been out for about twenty-plus years now. The EPD serves notice on properties that have to be demolished. They deal with the demolition of properties part of it.

The Environmental Health Department in the Ministry of Health as I understand it, has the responsibility to do the inspections, to do the walk-throughs. Some of the charges are being done and paid, as highlighted by the EPD Director, to the Environmental Health department. Then some is being done, as highlighted by the CPC, through the Relief Board, and so on. To me, when on the road and I am looking at how this thing actually functions, I think it can get a little messy and this is a golden opportunity now for us to make sure that everything is streamlined properly. There is a property we checked recently, at Mason Hall Street, and I can bring this out. The property is a derelict building, which will fall under the Derelict Building regulations and so on, but the building is also a dump. It has a literal dump inside of it, so Barbados has a sixth dump

now, and that does not fall under the EPD now; that falls under The Ministry of Health. Remember that they used to be together and that would have been able to work smoothly; but now that they are separated, it is a little confusing.

I do not know if this is the time or the place, but I do not want this to be the white elephant in here that we do not address if we have the opportunity to do so now. Mr. Parliamentary Counsel, I hope I got it right, but is it okay for us, the Joint Select Committee, to say that this is where the lines go? There is already a consideration of putting the EPD back with Health or is it that we put the Director of EPD as the authorised agent in the Bill to be able to serve notice, to bring charges, *et cetera*. I do not think that we have settled on that, but parts of those Clauses are actually in the Clauses that we are discussing under this legislation so I think it would be a crying shame if we do not address it, if not here and now, but under this particular overall discussion that we are having, because there is some confusion there for me and a lot of people.

Mr. CHAIRMAN (Ag.): Thank you very much Minister. I totally agree with you. Maybe once the report is done, that can be placed as part of the observations made during these sessions that there needs to be some structural changes in order to not have confusion where this is concerned, but I will go to Mr. Chapman.

Mr. RONALD CHAPMAN: I just need, just forgive me because I have seen the different iterations regarding changes of the Bill so I am just trying to grasp where I am here, on this one. I know within the Act, if some person does not pay the administrative penalty, there is a process where that money can be placed onto the land tax bill. I think at the time we spoke about persons who do not own the land but are occupying the land and they are the persons who are responsible; so if they refuse to pay, then putting it onto the land tax bill does not achieve the objective. I think there was something in there that spoke to, I think, further action within the court. I cannot remember, so I am just trying to bring out that point.

Mr. SHAQUILLE NEWTON: In response to that, yes -- that the money will constitute a debt to the State which is recoverable then, in the Magistrate's Court.

Hon. C. A. LANE: In terms, Chairman, of that being a deterrent in the past, the thought was that the government would take over the land. I don't think that has been done in practice because

when you set these legislations and these regulations, what we are trying to do, is to deter people. I have come across lands recently, where the owed land tax was as high as \$64,000. So in practice, it means that we are not acting on persons who are not paying. So if we put it on to the land tax bill, I don't think it would be a deterrent in terms of this legislation, that's the truth. I don't think it will have the teeth. I think we will have the legal authority, but if we are not enforcing it, I don't think it will cause the people to do what they are supposed to do? So I don't know, I just wanted to flag that because MP Forde has been saying the same thing. There are a lot of people that just do not care, that's just the reality.

Mr. CHAIRMAN (Ag.): Madam Forde.

Her Honour C. Y. FORDE: Let me go onto this matter before you conclude because I want to ask a final question that will not be answered here I believe, but I think it needs to be put on the table. This has to do with what I am witnessing across rural Barbados, but it is generally, but I have to speak of the parish in which I live, and I am not seeing many efforts being made to assist in curtailing some of the madness that is taking place.

I would have raised it here and elsewhere before, but it is now becoming worse than ever before, where many plantations in the parish, and I counted 16 while I was sitting here, that are now out of operation. They are not doing any sugar cane, any vegetables; persons seem to be just waiting to get the opportunity to sell some land to put up some houses, and therefore we have no chickens in Barbados. Today we have to import. We have less sugar canes and less sugar, and less vegetables and so on, and it really is not the culture of Barbados that we knew, or that I knew, because I am so much older than you are, Sir.

I have about 1 000 photographs of these plantations that are out of operation where the illegal dumping is so tremendous and it is so dangerous and highlights a lot of what would have been discussed here in the proposed upgrades to the legislation.

As you know, at Christmas time we are cleaning out everything and persons may give some money towards a truck for two loads of garbage. But, unfortunately, this is adding to the illegal dumping. I want to know how soon, it depends on our work here and in the Other Place...But what can we do in the meanwhile as citizens? Can we just walk around with our

cameras, take some pictures and try to send them wherever? Because, it is getting worse by the minute. There are some roads that I do not go through anymore, although there are not many roads I can travel through anyhow, because of the {work of} the Barbados Water Authority and the Ministry of Transport and Works; and also what I see that is not Barbadian -- illegal dumping.

You pay a hauler to take away 20 mattresses and the mattresses end up in Vacluse, less than three minutes away from the Mangrove landfill. And this just seems like a normal practice. It is not the garbage of the people of St. Thomas as far as I am aware, or even of the adjoining parishes, but it is put there, all kinds of garbage and as I said last time, including human beings. The last body they found in the Vacluse area was a young man from St. Philip, who had gone to Kadooment and they found him there in the most expensive shoes, and that poor child's body was left there. Then there was a young lady from Airy Cot, her body was left there half naked and the Police even shot at the van that was carrying the body and the person got away. That is another matter that has to be dealt with.

However, I am saying that because of the abandonment of the plantations and the overgrowth, some roads are such that two vehicles cannot pass at the same time going in opposite directions. How can we destroy the heart of Barbados? Because that's what St. Thomas is. St. George is also the centre. But in other areas as well, as was mentioned here by the Member for The City -- and nobody seems to be treating to it. You can call some governmental offices and nobody answers the phone and if they do answer, they link you to somebody else and somebody else, and then you have to go off the phone. We have to be more collaborative in what we do as a country and hold people responsible. Should the teachers not go to work and teach the people's children, we can deal with it. Yes, the unions also play their part, but it has to be an overall consciousness of the people of Barbados. It is not poor people, generally, who go and do the illegal dumping. Perhaps, it may be like that in The City, because they are enclosed and they do not have the transportation; but when people pay waste haulers and they dump the garbage illegally, and you can go through Vacluse, you can go through Canefield, Lion Castle, and you are just seeing the garbage, and also Jack-in-the-Box Gully that is the only good road that I can get to and from

home. The garbage is in there all the time, and we do not know what to do.

Can I ask a question through you, Sir? Do we still have health inspectors? Do we still have persons who will come around and check on the derelict cars and the vans and the washing machines and the other household appliances? I live in the middle of the Vault Road and if there are not 150 (items of garbage) in the road to make it a one-way now, there is not one. How do I go about it, and the residents of Barbados generally? Because, illegal dumping is not only concentrated in the rural areas, but it is across the length and breadth of Barbados. How can we get to know how to make direct contact to the person who I would call responsible, such as a health inspector? This would be so that we can know what to do in order to be able to help to mitigate.

I finally call again on people in the communities to still make an effort, because I know that the Ministry of Environment and the NCC (National Conservation Commission) and so on, you can do a community clean-up day, as I have done before, and help to remove some of it. We have to hold the regular public to account because they are going to come back and put the garbage again, and it is not only now using up the general resources of the Government, but the efforts and money of the taxpayers who may move something today and go back next week and you see a bigger pile there. To my mind that is not the Barbados we know.

Therefore, now I will close my big mouth because I will get my platform where I will be able to speak, but I am really very disappointed with the culture that Barbados now is, as compared to the culture when my colleague here, would have been a young boy, because he is young enough to be my son. I am now in my old age, past three score and ten, but in my youth, Barbadians did not have 'pipe water' in their houses. They had one standpipe and had to walk really far to get water. We did not have any electricity but we "made do" with what we had.

At that time, we would peel the vegetables, and feed the skins to the pigs. They are those who would cut the sugar cane and they would heap up the trash and sometimes they would burn them, but all of a sudden, we have thrown out the culture of Barbados through the window and we are using all kinds of styles and activities and doing all kinds of strange, negative things that will impact, not only on the health of those who live in the

village, but all across Barbados where we are having this problem.

We need to get back to basics and we need to make sure that the right kind of education is extended from our nursery schools right through the system, because it is not necessarily the ordinary man or woman that might be doing it; but these people with degrees and those with the resources like the trucks, lorries and whatever they have, which are impacting on the lives of ordinary poor people who really cannot cope anymore because they are not accustomed to it.

I speak as an elderly person and I know where we came from and what we had to do, but we had to do it with an element of cleanliness, making sure that around our houses the grass was pulled, not only at Christmas time. Everything was clean, and you took a coconut limb, cut out the coconut bone and you made a broom, or you cut down some bush and you swept around your house. You did not dump it on anybody else's property although we were limited. I believe that unless we get back to talking about the way we were – not only for education and all of that but for the environment – we have to make sure that we do it right, because whatever we do that is wrong inland will impact on what is going to happen across the rest of this small island. That is my final contribution.

Mr. CHAIRMAN (Ag.): Thank you very much, Madam Forde. I am going to go to Senator John Rogers now, and then when we come back, I want to go directly to persons from the Ministry of Health and the Environmental Protection Department (EPD) who may be able to clarify some areas for you. Senator Rogers.

Senator Rev. Canon Dr. J. A. ROGERS: Thank you very much, Deputy Chair. Coming back to your first question whether we thought the penalties imposed were fair. Yes, we want this legislation to serve as a deterrent but I just want to raise something that the Bar Association raised, which was whether the notice period is long enough for persons to act, because there may be times when, as was said, persons may be overseas, they may not get the notice in time, or a person may not have the funds to mobilise the type of work that needs to be done. I think they raised the question as to whether you should have a first notice and a second notice before the penalties are imposed, so I just wanted to bring that back on the table and see how we felt about that.

Mr. CHAIRMAN (Ag.): Thank you very much. I believe that the mitigating factors for those things would lie basically with the Relief Board, to which most people can make an application in order to have those things looked at. I think there is something already there established that can help, but at the same time I remember, I think, it was maybe last week, when we also discussed the urgency within which some of these things needed to be done; so that you do not have a spread of disease or further contamination. Hence the reason for keeping it at that length of time. So I think the Relief Board would be able to mitigate and deal with those particular issues. However, I am going to ask the gentlemen on this side, to help us clarify some of the queries of Madam Forde.

Mr. RONALD CHAPMAN: Yes, please. First let me say yes, there are still health inspectors, and these would be the same persons who will be enforcing this piece of legislation that we have spent this time refining. Illegal dumping is a significant issue in Barbados, and no one can make light of that, and the challenge with illegal dumping is that it is usually done at an hour and in places where persons are not. You would find a lonely road somewhere out in the country, and I would see these places because I usually go hiking, myself and Mr. Headley. You would be walking through a very lonely area and you find a load of refuse. Not only that; as I said, persons do this sort of thing late at night or very early in the morning. When we have found evidence of a person's name and other personal items by which we can trace the material back, we were able then to find out who was the person who did the dumping and we have dealt with it from that angle. I must also say that if you see someone dumping and you take a photo of that, the number of the vehicle and so on, then we, in the Environmental Health Department, can take it from there.

What we also have established is a complaints hotline. That number is 536-4169, and what that does is concentrate all the complaints in one area; because sometimes persons call, and they are not sure which polyclinic is responsible for their area. That number helps them. It does not matter where your complaint is, once you lodge the complaint at that number, that complaint would then be dispatched to the responsible area.

We are taking this matter seriously and we are taking steps to ensure that persons who do such things, are brought to justice. I do not want to speak out of turn but I am hoping that we can propose some additional legislation to deal with illegal dumping in the same vein as we have dealt with it here in the Nuisance Regulations, but it would come under the Collection of Disposal of Refuse Regulations, which would give us a little more power and latitude in dealing with those issues. Hopefully, I will be bringing that very soon.

Mr. CHAIRMAN (Ag.): Thank you very much. Mr. Headley.

Mr. ANTHONY HEADLEY: Thank you, Mr. Deputy Chairman. In response to the questions with particular respect to the derelict programme, which would include both buildings and vehicles. Yes, we do have a programme in place. Unfortunately, our resources at the EPD are not as extensive as those at the Environmental Health Department.

However, what we have in place at present, is that we have taken on board some consultants and they are actively using a digital platform to report in. This digital platform is also available to the public, and when the information is submitted it will go directly into our database and our inspectors then verify the information, and then go out and do the inspections.

If you saw the newspapers last week Monday, you would have seen that we have a tender for the derelict vehicle programme. That tender will close on Friday, after that, we will mobilise some resources to remove those vehicles for which notices have been served.

On the issue of illegal dumping, most persons in Barbados do not recognise, or perhaps do not understand, the significant implications of illegal dumping to our drinking water supply, particularly when we are dealing with locations within the heart of Barbados, such as St. Thomas, in our gully systems that lead to the Belle, which is our largest drinking water supply. That is around 27 to 30 per cent of our drinking water. The type of material that is being disposed of, not only the organic matter, but we are seeing electronic items, as Mr. Chapman indicated, from our hiking; and that carries with it some risks, which can impact on the cost of our drinking water if those risks are not dealt with.

We do believe that promotion and educating the public is one avenue. The Ministry of

Environment has also worked on a draft Solid Waste Management Policy, and we have made recommendations for a Solid Waste Management Act. We have also made recommendations for standards for waste management facilities, for the regulation of waste management facilities.

The idea within this whole framework for managing solid waste would include a waste manifest system. We need to bring a waste manifest system into being in law to allow for greater control and registration of waste haulers. That legislation, as envisioned, would ensure that waste haulers use a waste manifest system, so that both public health, Ministry of Health and the Ministry of Environment, would have the ability to track -- not only those who are registered to transport waste -- but also to track origin and destination, which is very important in trying to control illegal dumping.

Therefore, if we can have those persons who haul waste registered within a specific framework, and then we have a manifest system, where we then have the ability to track where the waste is coming from and how it is going, we believe that would certainly improve waste management in Barbados. I believe it will take some time to have a good handle on the illegal dumping, but I believe it will certainly contribute to addressing or contributing to addressing that particular problem. Thank you.

Mr. CHAIRMAN (Ag.): Thank you very much. Just listening to you guys talk about the problems, obviously, it is a clear indication of the breakdown of, I will use the term, ethics within our society, where people no longer have any respect, not only for the environment, but for the health and the well-being of themselves. I do not think the people who engage in this realise that the waste problem will come back to haunt them at some point in time. You mentioned it in terms of the water. On many occasions, we have heard people talk about it in terms of the mosquitoes and the other things that can carry diseases. We are still at a point where it does not seem like things are getting any better.

However, next year is the year of *We Gathering*, and I am wondering if that presents an opportunity for us, for the EPD and the Ministry of Health to come out and work with the communities in terms of finding some of these spots and have each parish go on a parish clean-up as part and parcel of the programme for 2025 *We Gathering*. I think this is something that if we

agree on, we may be able to put forward to the organisers of *We Gathering* to help with this particular problem.

Asides

Mr. CHAIRMAN (Ag.): We are gathering garbage, correct. Therefore, I just put that on the table for us to have some thought, because obviously it would need coordination from the various entities, but I think once you all sit down with your officers and see if this is something that can happen, you may be able to help us to work out how we would do it, and simply choose a particular weekend or whatever, that is the same for each parish, so we would know, let us say, it is the last Saturday in the month or whatever it is, we agree on it, and we can work out something like that. That is just my little thought for today to put out there on this.

However, I think as was also mentioned, Government and the various entities, we need to step up, not only just in terms of penalties, but also the educational aspects of dealing with this particular matter.

I have always said that unfortunately, this country has a nice way of throwing away the baby with the bathwater. I think Senator Rogers, as a lover of calypso, would understand when we talk about this. There was a song once called "**The Price of Progress**", and I believe that this is the price of progress that we are dealing with, because when people become more affluent and they can buy more things, they create more garbage, and then if they decide, '*I do not want it anymore, I want a new one*', they do not care where they throw it.

Therefore, you are going to get the fridge, stove and all kinds of things, '*just get it away from me*'. I think we really have to work on re-educating people as to the dangers that these things pose.

However, I now want to take the opportunity to thank all of you who have contributed to this Committee. Your expertise in these areas have been invaluable. Even just from a personal standpoint, I have learnt a lot. If there is anything more that was not said in here today, you can always send that information to Beverley {Deputy Clerk}. So, once again, on behalf of all Barbadians, we want to thank you for being with us and for lending your support to this Committee.

So we now go to item No. 6. Any Other Business. The floor is open.

Madam Deputy CLERK: Mr. Deputy Chairman, I would just like to enlighten the Committee that the report is due to be debated in the House on the 26th of November, therefore, our next scheduled meeting would be the 21st of November so that we could peruse the draft report.

Mr. CHAIRMAN (Ag.): Okay. Thank you, Madam Deputy Clerk. Mr. Headley.

Mr. ANTHONY HEADLEY: Thank you. I just want to clarify when would be the last date for making submissions. I know there are other persons who want to make written submissions, so I just want to clarify if there is a....

Mr. CHAIRMAN (Ag.): Unfortunately, that date has passed. So, we are at the stage now where it is closing time to get the legislation on-board. You still want to be able to see what people are saying, so I would still encourage them, even if it is on the radio programmes, to the newspapers or wherever, to please put it there so that a wider public can get a grasp of what people are thinking. I would like to have a motion now for our next meeting which would be the fifth, to be scheduled for 21 November 2024. Could I have a motion?

ADJOURNMENT

On the motion of Hon. C. A. LANE, seconded by SENATOR Rev. Canon Dr. J. A. ROGERS, the Committee was adjourned until Thursday, November 21, 2024, and Mr. CHAIRMAN (Ag.) adjourned the Committee accordingly.

FIFTH MEETING
OF THE
JOINT SELECT COMMITTEE (STANDING) ON THE
SOCIAL SECTOR AND THE ENVIRONMENT
ON THE
HEALTH SERVICES (AMENDMENT) BILL 2024
AND THE
HEALTH SERVICES (NUISANCES) REGULATIONS 2024,
HELD IN THE
SENATE CHAMBER

Friday, 13th December, 2024

PRESENT :

Ms. TONI N. S.-A. MOORE, J.P., M.P.
(CHAIRMAN)

Senator JOHN. A. KING., B. S. S. (Deputy
CHAIRMAN)

Her Honour Miss CYNTHIA Y. FORDE, J.P.,
M.P. (Deputy SPEAKER) (online)

Hon. COREY A. LANE, J.P., M.P.

ABSENT:

Mr. TREVOR A. PRESCOD, J.P., M.P.

Senator Rev. Canon Dr. JOHN A. ROGERS,
B.Sc., B. A. (Hons.), M. Phil., Ph.D.

Senator ANDRÉ R. WORRELL, J.P.,
B.A.(Hons.)

ALSO IN ATTENDANCE:

Ms. BEVERLEY S. GIBBONS, J.P. (Deputy
Clerk of Parliament)

Mr. NIGEL R. JONES, Q.C. (Deputy Clerk of
Parliament)

Miss J'ANNE C. GREENIDGE, (Typist,
Journal Department)

Mr. SHAQUILLE NEWTON, (Parliamentary
Counsel (Ag.), Office of the Chief
Parliamentary Counsel)

*The Chairman called the meeting to order at 2:14
p.m.*

Madam CHAIRMAN: Good afternoon
Members. Good afternoon everyone. Welcome to
what we hope would be our final session
examining this particular piece of legislation
before us: The Health Services (Nuisances)
Regulations, 2024 and the Health Services
(Amendment) Bill, 2024.

At the outset, I would wish to make
excuses for two Honourable Members who are
unable to join us today -- Senator Rev. Canon Dr.
John A. Rogers, who is overseas at the current
time and Senator André Worrell, who had hoped
to join us but on account of a family emergency,
was unable to do so at the last minute. We wish
him well.

Just getting into the agenda; we have to
examine Minutes for meetings held on 17
October, 31 October and 07 November, 2024. If
we can take the Minutes as read and proceed
through them page by page. Firstly, the Minutes
of Thursday, 17 October, 2024, at Page one (1),
which just gives the attendance. Page two (2);
Page three (3); Page four (4). Then pages five (5),
six (6), seven (7), eight (8) ... Page nine (9) and
Page ten (10). Can we have a motion, since there

are no amendments, for acceptance of the Minutes?

On the motion of Hon. C. A. Lane, seconded by Senator J. A. KING, the Minutes of Thursday, 17 October, 2024, were taken as read and confirmed.

Madam CHAIRMAN: The next set of Minutes. The Minutes of Thursday, 31 October, 2024. Page one (1); Page two (2); Page three (3); Page four (4) and Page five (5); Is there a motion for confirmation of these Minutes?

On the motion of Senator J. A. KING, seconded by Her Honour Ms. C. Y. FORDE, the Minutes of Thursday, 31 October, 2024, were taken as read and confirmed.

Madam CHAIRMAN: Thank you. The final Minutes.

Her HONOUR Ms. C. Y. FORDE: Allow me to interrupt you, Madam. After you have finished the Minutes, could we say a prayer, Madam Chairman?

Madam CHAIRMAN: Yes, please.

Her Honour Miss C. Y. FORDE: Thank you.

Madam CHAIRMAN: Minutes of Thursday, 07 November, 2024. Page one (1); Page two (2); Page three (3); Page four (4). Alright, that brings us to the end of Minutes but before we move into Matters Arising, a motion?

On the motion of Hon. C. A. Lane, seconded by Senator J. A. KING, the Minutes of Thursday, 07 November, 2024, were taken as read and confirmed.

Madam CHAIRMAN: Before we move into Matters Arising, we should pause and welcome God's presence in and among us. We are going to ask Her Honour if she would lead us in prayer.

Prayers were led by Her Honour Miss C. Y. FORDE.

Madam CHAIRMAN: Thank you. We can pick up on the Matters Arising from the Minutes. There are three (3) sets of Minutes before us, as I said -- Minutes of 17th October, 31st October and 07th November, 2024. The question before the Committee is whether there

are any Matters Arising from these Minutes. Recalling that the first one before us is 17th October, 2024. These were the Minutes where we examined the presentations from the written submission of Mr. Mark Durant, and then we resumed with the examination of submissions from Ms. Shaunelle Bryan; Mrs. Ruth McLean and Mrs. Christine Toppin-Allahar.

Seeing that there are no Matters Arising from these particular Minutes; we move on to an examination of the Minutes of 31st October, 2024, where we had oral submissions from Mrs. Christine Toppin-Allahar and The BAR Association.

Seeing there are no matters arising from those Minutes; the final Minutes before us are of 07th November, 2024, and this one was the final examination of submissions. The Committee examined the oral submission from Mr. Anderson Cherry, representing the Waste Haulers' Association. Any matters arising? I see none.

We have before us the consideration of the Draft Report. A short report in comparison with the last two that had to be considered by the Committee. Since it is short enough, I think we can go through page by page.

Page one (1) is the attendance page, which confirms the Members of the Committee.

Page two (2), no matters that need amendment, expansion or clarification.

On Page three (3). You would note under bullet five (5), there is a space and that space is being left for this meeting, Friday, 13 December, 2024.

Pages four (4) and five (5). Most of these pages relate to the associations that the Committee considered should be invited. These invitations were sent out and Members of the Committee should keep this information in memory, as I am sure when the amendments are considered later, we will be able to say that these organisations were reached out to, outside of the public notice to make submissions; oral or written.

Page six (6). Where we started the presentation by the representative from the Chief Parliamentary Counsel's (CPC's) Office, Mr. Shaquille Newton. Written submissions, I think we captured all the written submissions. We had a written submission from Mr. Anderson Cherry? That is on Page six (6). Page seven (7). Page eight (8).

Asides.

Madam CHAIRMAN: Mr. Newton has a comment on Page eight (8).

Mr. SHAQUILLE NEWTON: Good afternoon. It would appear that there is some conflict in the report because at Page seven (7), with respect to the submission of Mr. Durant, concerning matters related to pesticides, it was agreed that these matters would be best addressed under other pieces of legislation, such as the Marine Pollution Control Act, Cap 392 A; then at Page eight (8), there is the comment:

Additionally, the Committee agreed to have CPC re-examine a refined Regulation 4(1)(h), so that it could be further expanded on to capture the specific agricultural nuisances as raised by Mr. Durant.

Mr. Durant's submissions spoke to agricultural nuisances such as pesticides, so essentially there is conflict. It was agreed that it was better placed in the Marine Pollution Control Act in one (1) part of the report and then in another part of the report, it is stated that CPC would re-examine and refine the Regulation; so I believe that there needs to be a determination as to which approach is going to be adopted. The CPC, if there is a need, can further consider it but it is still best placed in other pieces of legislation.

Madam CHAIRMAN: The question that it raises in my mind is whether or not we had said that we would want CPC to capture the specific nuisances raised. I mean it is a while ago and I am not recalling that. We would need to go back to the Minutes to cross reference at the point where we examined Mr. Durant's submission. I know we discussed it but I do not recall the final position. The position that I recall is us saying that it is best placed under other legislation.

Madam Deputy CLERK: Madam Chairman, you may have to re-examine the transcript and not the Minutes per se.

Madam CHAIRMAN: Okay.

Madam Deputy CLERK: Miss Greenidge is checking the transcript.

Madam CHAIRMAN: Could we pause just for a minute while we cross-check? What we have here in the Report is that the Committee agreed to have CPC re-examine and refine Regulation 4(1)(h), so that it could be further expanded to capture the specific agricultural nuisances as raised by Mr. Durant.

But what the transcript is suggesting is that we said we would look to see if they can be included and what we are hearing from the CPC, in any event, is that following their examination, they are still of the view that it is best placed under other pieces of legislation.

I would recommend that we delete that paragraph in the report but 4(1)(h) would be left hanging, so that would also have to be taken out. Anything else on Page eight (8)? Let us move onto Page nine (9). This is the submission by Mrs Ruth McClean.

Page 10. Page 11. Page 12 and most of Page 13 takes us to the end of the written submissions and where we begin the oral presentations. At the bottom of Page 13, the first one (1) up was Mrs. Christine Toppin-Allahar, taking us into Pages 14, 15, 16 and Page 17.

We move onto Page 18. Page 19. Page 20. Page 21. Page 22. Page 23. Page 24. Page 25. Page 26. Page 27.

Mr. SHAQUILLE NEWTON: I just want to note for the record that it is agreed that the term 'Minister' should be removed from the Amendment Bill.

Madam CHAIRMAN: We note the correction to the Report, where at Bullet 18, on Page 27 it is stated no amendments were made that in fact, there would be one (1) amendment which makes reference to the deletion of the word 'Minister' in the amendment to the Bill.

Anything else on Page 27? No. We move onto Page 28. Page 29. Page 30 and then the final Page 31. This just ends where we began with the list of the names on the Committee. This is the Page for our signatures on this 13th day of December, 2024. Okay, a request for us to go back to Page 27.

Mr. SHAQUILLE NEWTON: In relation to Regulation 3 (1), Madam Chairman, you indicated that you wished for CPC to examine whether the Regulation could be simplified and in the closing words, there was repetition of the words:

"of which the act, failure or contravention prejudicially affects, or is liable to be prejudicial to health and safety, or is deemed to be a nuisance."

In light of your suggestion, it was thought that Paragraphs (a), (b) and (c) are sufficiently clear that they do not need to be repeated in the closing words. So, the words "the act", "the failure" or "the contravention" were removed and it now reads as follows:

"which prejudicially affects or it is liable to prejudicially affect public health or safety is deemed to be a nuisance."

Madam CHAIRMAN: Okay. The deletion of ...

Mr SHAQUILLE NEWTON: The words "of", "the act", "the failure or the contravention". It just now reads as follows:

"which prejudicially affects or is liable to prejudicially affect public health or safety is deemed to be a nuisance."

Madam CHAIRMAN: Fewer words so that we could reduce the potential for confusion. One (1) of the cases where less is more.

That brings us to the end of the Report; Page 31. The transcripts will be also attached. Recommendations were on Page 28 and out of an abundance of caution and for the avoidance of doubt, we are being asked to look specifically at the Recommendations to see if all Members of the Committee are satisfied with the Recommendations. There are three (3).

The first is, there is a need for some public education.

I think we said so from meeting No. 1: *"There is a need for some public education through the use of the Government Information Service (GIS) and community sessions, whereby the first principles of 'Cleanliness is next to Godliness' which we learned as we grew up, would be enforced and thriven to continue putting it into practice."*

I think Her Honour made this recommendation very early on at the first meeting we had.

The second recommendation that the Committee is agreeing to submit, reads as follows:

"There must be a continuous public relations campaign going forward for each land and property owner who possesses ownership rights. They also have to be looking after properties for family members, et cetera and must be responsible and serious about their surroundings and environs. A balance must therefore be struck not only between the welfare and hardship of those who are owners but the welfare and hardship of non-owners who also have the responsibility to curb their behaviours."

Madam CHAIRMAN: Is this sufficiently clear, the last sentence, which reads:

"A balance must therefore be struck not only between the welfare and hardship of those who are owners but the welfare and hardship of non-owners who also have the responsibility to curb their behaviours."

Madam CHAIRMAN: Non-owners; this would include people who are what? People who are renting?

Senator J. A. KING: Renting. Yes.

Madam CHAIRMAN: Okay. Do we want to make an example by putting it in brackets? For example, (occupants), so that it will be clear?

Her Honour Miss C. Y. FORDE: Excuse me, Madam Chairman. Would occupants include, mean or spell out those persons who may be renting the land for agriculture or whatever? I am seeing occupants, yes, to mean if you are renting the property and your house is on it. I believe the attorney will explain it to me with this old head.

Madam CHAIRMAN: So, occupiers and renters.

Her Honour Miss C. Y. FORDE: Yes. I believe that might be....

Madam CHAIRMAN: Renters or just occupiers? For consistency with the Bill, then "occupiers" are being proposed and that would include renters as well.

The third recommendation reads as follows:

"As a consequence of the robust discussions, the Committee recognised that the Environmental Protection Department (EPD) which is governed by Cap.44, is devoid of a proper piece of legislation vesting them with the necessary jurisdiction."

Madam CHAIRMAN: To do what? The Committee can make a recommendation and if it is found that the Committee's recommendation does not make sense, they can challenge us.

Hon. C. A. LANE: EPD does lack jurisdiction. The EPD used to be in the Ministry of Health, so then this Bill would have covered them. They are no longer covered under this, so they have to depend on Health, Mr. Chapman, and all types of things.

I act as Minister of Environment quite often and can tell you that it has me in “potter”, to use a non-parliamentary word. So, it is true. There is no debate about that. As I said, I do agree that something may need to be inserted in the sentence because, we, being conscious of it and reading it, understand what it means.

In one (1) of the Minutes, I could probably point to it also. Ms. Senhouse, who is the Deputy Director, also made a point about that too. Anybody picking up the report, should understand what I mean by the jurisdiction. The word in the Ministry of Environment and Ministry of Health, some kind of distinction may need to be made in order for anybody picking up this report to understand exactly what it is we are talking about.

Asides.

Madam CHAIRMAN: Madam Deputy Speaker, we are just trying to clarify the language for people who are taking up the report, who were not party to the discussions that we had within the Committee. For the avoidance of conflict, EPD should be governed by its own piece of legislation; so, that goes on now to further strengthen the point. Were there any other recommendations made by the Committee that are not captured here? The Deputy Clerk is satisfied that she captured all.

Can I take it then that this has brought us to the end of the consideration of the report? Having come to the end of our examination of the report, we are left with one (1) final item on the Agenda and that is Any Other Business.

Hearing none, I would wish to start by thanking all you Members of the Committee, particularly for this Session, for responding at very short notice. I also say thanks to the officer from the Chief Parliamentary Counsel's Office, who was put under pressure but who made sure that he found the time to do the work that we have undertaken for the last few months.

Our work is somewhat delayed but it is important that having been given the leave from the Lower House to continue our work and have it concluded during this month, I want to thank you for your best efforts in ensuring that we can be in a position to lay this before the Parliament of Barbados, having completed our work, next Tuesday, 17 December, 2024. That is not only for this meeting but for all the meetings, I want to

thank you for the very robust discussions and useful discussions that we have had.

I want to say a special thanks to you, Mr. Newton, for facilitating a clearer understanding of the amendments for our own benefit and the Regulations; and finally, from me at least, to wish all of you, who I will not have the privilege of seeing again before the 25th December, 2024, a very Merry Christmas.

As we come back into the New Year, I anticipate that there will be a number of Bills and a number of Amendments that will come before this Committee. There were many that were anticipated during 2024 that we have not seen, so it just means that 2025 will be rough. I look forward to our continued cooperation as we consider all the assignments that are handed down to us.

Merry Christmas to everybody and see you in the new year with God's will and blessing.

Her Honour Miss C. Y. FORDE: Thank you very much and I appreciate the guidance and the support, especially with Mr. Newton, that young attorney. I am so pleased with his professionalism and his brilliance. I did not tell him to his face because that was not appropriate but I think that we are on good footing. I want to thank you all as well and pray for me here in the heart of Barbados because it is Christmas time and everybody is going to be celebrating and you do not want to pass through St. Thomas at Christmas time because of the illegal dumping of furniture and coconut shells. So pray for us up here in the centre, as I will pray for all of you across Barbados; and thank you for your guidance and your support. God bless you.

Madam CHAIRMAN: Thank you, Her Honour Forde and last Wednesday night while driving home, I almost drove over a suitcase in the road and the following morning, I realised that it was a suitcase with old curtains, shoes, everything. Someone seemed to want to throw it in the bush but their hand was not strong enough and it fell in the road and almost made me run off the road trying to avoid it at the last minute.

Her Honour Miss C. Y. FORDE: I am glad you did not stop. Some of them were put in there as obstacles too.

Madam CHAIRMAN: There is a lot of that going on in in our country parts and if you must know, I was through your area already for the morning and fortunately, I have not seen what

you have spoken to, so maybe I have been in the right areas.

Her Honour Miss C. Y. FORDE: You have to watch the road to make sure you do not run off or something.

Madam CHAIRMAN: It is true.

Her Honour Miss C. Y. FORDE: But to God be the glory.

Madam CHAIRMAN: I went through Bridgefield and came through Jack in the Box Gully, Bridgefield; so I know.

Her Honour Miss C. Y. FORDE: But Jack-in-the-Box is good but if you go through Canefield and those other roads, it is not good; but thank God that you are safe and I pray that all other road users across Barbados will be safe because our society is beginning to look as though nobody cares about anybody else but themselves. Look at the death of that poor man two (2) days ago. The guy got out of his vehicle and what do you call that thing that is at the bottom of the car? The bumper?

Asides.

Her Honour Miss C. Y. FORDE: He took it up, put it in his vehicle and left that poor man who was walking, dead and has not looked back yet. We have to make sure that the police check the mechanics and when we see something, say something, discreetly, because to say something openly you never could tell who will follow you home and because you witnessed something, they may want to "take you out".

Trinidad has just over five hundred and eighty something murders so far this year. Let us pray that Barbados in 2025 will be a place where people have verbal exchanges, whatever, but there is no need for stabbing and fighting and killing. That seems to be the pattern across the world and we are trying to do it here.

So let us pray for one another and have a safe, happy and blessed Christmas and for those of you who are very rich people, remember the neighbour next door who may not have a meal on Christmas Day. Let us reach out and touch their lives and make a difference.

God bless you all and thank you so much for having me in this particular exercise because it has enlightened me in a way that I never thought I would have been able to capture it before. So thanks for all the services which were extended not only to me but will be extended to the rest of

Barbados as we go forward. God bless you all and Merry Christmas, and blessings in 2025 and beyond.

ADJOURNMENT

Madam CHAIRMAN: Can I entertain a motion for us to adjourn, *sine die*?

The question was put before the Committee by Senator J. A. KING and seconded by Her Honour Miss C. Y. FORDE and resolved in the affirmative without division.

**REPORT OF THE JOINT SELECT COMMITTEE (STANDING)
ON THE SOCIAL SECTOR AND THE ENVIRONMENT ON THE
HEALTH SERVICES (AMENDMENT) BILL, 2024 AND THE
PROPOSED HEALTH SERVICES (REGULATIONS), 2024**