

BAHAMAS AGRICULTURAL HEALTH AND FOOD SAFETY AUTHORITY BILL, 2015

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OBJECTS AND REASONS



BAHAMAS AGRICULTURAL HEALTH AND FOOD SAFETY AUTHORITY BILL, 2015

A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE BAHAMAS AGRICULTURAL HEALTH AND FOOD SAFETY AUTHORITY, FOR THE FUNCTIONS OF THE AUTHORITY AND FOR MATTERS INCIDENTAL THERETO

Enacted by the Parliament of The Bahamas

PART I - PRELIMINARY

1. Short title and commencement.

- (1) This Act may be cited as the Bahamas Agricultural Health and Food Safety Authority, 2015.
- (2) This Act shall come into force on a day to be appointed by the Minister by notice published in the Gazette and different dates may be appointed by such a notice for the coming into force of particular sections or parts of this Act.

2. Interpretation.

In this Act—

- “**agricultural health services**” includes plant health, animal health and veterinary and quarantine services and registration;
- “**Bahamas Agricultural Health and Food Safety Authority**” or “**the Authority**” means the Authority established under section 4;
- “**Board**” means the Bahamas Agricultural Health and Food Safety Authority Board established under section 10;

“**Chairman**” means the Chairman of the Bahamas Agricultural Health and Food Safety Authority Board;

“**enforcement agency**” means a Ministry, Department, agency or other body responsible for administering legislation relevant to food safety and food trade; animal health or plant health;

“**Minister**” means the Minister responsible for Agriculture;

“**Sanitary and Phytosanitary Appeal Tribunal**” means the Appeal Tribunal established under section 25;

“**President**” means the President of the Appeal Tribunal;

“**the SPS Agreement**” means the World Trade Organization Agreement on the Application of Sanitary and Phytosanitary Measures.

3. Objectives of the Act.

The objectives of this Act are—

- (a) for the Authority to serve as the regulatory body to provide for a more efficient, effective, transparent and coordinated administration of matters dealing with food safety, animal and plant health;
- (b) to provide a framework to ensure that there is harmonization among public sector agencies in order to attain the highest levels of food safety and protection of animal and plant health; and
- (c) for the Authority to take the lead in coordinating and harmonizing —
 - (i) food safety activities at all stages of the production, manufacture and distribution of food;
 - (ii) animal health; and
 - (iii) plant protection.

PART I - BAHAMAS AGRICULTURAL HEALTH AND FOOD SAFETY AUTHORITY

4. Bahamas Agricultural Health and Food Safety Authority.

- (1) There shall be established a body to be known as The Bahamas Agricultural Health and Food Safety Authority which shall be governed by the provisions of this Act.
- (2) The *First Schedule* has effect with respect to the incorporation of the Authority.

- (3) The Authority shall be responsible for overseeing the administration and enforcement of—
 - (a) the Food Safety and Quality Act, 2015;
 - (b) the Animal Health and Production Act, 2015; and
 - (c) the Plant Protection Act, 2015.

5. Principles for implementing objectives of the Act.

In carrying out the objectives of this Act, the Authority shall operate in accordance with the principles contained in the SPS Agreement, namely—

- (a) necessity;
- (b) harmonization with international standards;
- (c) risk assessment and science-based actions;
- (d) transparency;
- (e) equivalence; and
- (f) proportionality.

6. Appointment of Executive Director of Authority.

- (1) There shall be an Executive Director of the Authority who shall—
 - (a) be appointed by the Board with the prior approval in writing of the Minister;
 - (b) have experience in business and management or shall have shown capacity in matters relating to business and management; and
 - (c) subject to the provisions of this section hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment provided that such appointment or re-appointment shall not exceed a period of five years each.
- (2) The Executive Director shall not while holding office, be otherwise employed or hold any other office, whether or not he is remunerated, without the prior approval of the Minister.
- (3) A person may not be appointed or remain Executive Director who—
 - (a) is a member of either House of Parliament; and
 - (b) is a director, officer or servant of, or has a controlling interest in, any business regulated by this Act.
- (4) Where the Executive Director is absent or unable to act, the Board may, with the prior approval in writing of the Minister, appoint an eligible person to act temporarily as Executive Director.

- (5) The Executive Director may at any time by notice in writing to the Minister resign his office.
- (6) If the Minister is satisfied that the Executive Director—
 - (a) has become bankrupt or made arrangements with his creditors; or
 - (b) is incapacitated by physical or mental illness; or
 - (c) is otherwise unable or unfit to discharge his functions,the Minister may declare the office of Executive Director vacant and shall publish that fact in such manner as the Minister thinks fit, and thereupon that office shall become vacant.
- (7) The Executive Director shall receive such remuneration as the Board shall determine.

7. Functions of executive director.

- (1) The Executive Director shall be the chief executive officer of the Authority and shall be responsible to the Board for the day to day administration of the affairs of the Authority.
- (2) The Executive Director shall furnish the Chairman with any returns, accounts and other information as he may from time to time require with respect to the property and activities of the Authority and shall afford to the Chairman facilities for verifying the information in any manner and at such time as he may reasonably require.

8. Functions of the Authority.

- (1) The functions of the Authority are to—
 - (a) monitor the performance of enforcement agencies in administering the legislation for which they are responsible;
 - (b) formulate strategies and policies on food safety and quality, including procedures for emergency response, and to monitor their implementation;
 - (c) protect human or animal life or health from food-borne risks arising from additives, contaminants, toxins or disease-causing organisms in foods, beverages or feedstuffs;
 - (d) protect animal and plant life or health from the entry, establishment or spread of pests, disease-carrying or disease-causing organisms;
 - (e) protect human life and health from diseases carried by animals, plants or products thereof;

- (f) ensure that there is wide consultation with all sectors of the food industry, animal health and plant health in carrying out its activities under this Act;
 - (g) provide advice, information or assistance to any relevant body in relation to food safety and quality and food trade;
 - (h) obtain, compile and keep under review information concerning, food safety and other sanitary and phytosanitary matters;
 - (i) to coordinate training programs for food safety; animal health and plant health; and
 - (j) carry out any other matters in connection with or reasonably incidental to the foregoing.
- (2) For the purpose of performing its functions, the Authority may carry out any or all of the following activities—
- (a) setting standards of performance whether for enforcement agencies generally or for particular enforcement agencies in relation to the administration of any relevant legislation;
 - (b) collecting information from any member, officer or employee of the relevant enforcement agency;
 - (c) reporting to any enforcement agency on its performance in the administration of legislation for which it is responsible;
 - (d) providing guidance to any enforcement agency as to actions which the Authority considers would improve the agency's performance with regard to the administration of legislation for which it is responsible.

9. Powers of the Authority.

The Authority shall have power for the purpose of carrying out its functions to do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of its functions or to be incidental to their proper discharge and may carry on any such activities either alone or in association with any other person or body whether public or private and in particular may—

- (a) enter into agreements with any government agency or private sector organization in order to carry out its functions;
- (b) enter into technical cooperation agreements with other regional or international organizations with similar objectives;
- (c) publish reports, recommendations and other information relating to any functions of the Authority or the agricultural sector;
- (d) appoint officers and other persons to carry out its duties under this Act; and

- (e) fix fees and charges for services provided by the Authority.

10. Establishment of Board.

- (1) There shall be a board to be known as the Bahamas Agricultural Health and Food Safety Authority Board (hereinafter referred to as the “Board”).
- (2) The Board shall be the governing body of the Authority.
- (3) The Board shall advise the Minister on—
 - (a) the work of the Authority and in particular on matters which affect public policy; and
 - (b) the priorities, programmes and policies of the Authority.
- (4) The *Second Schedule* has effect with respect to the constitution and procedure of the Board.

11. Powers of Minister.

- (1) The Minister may give the Board directives of a general character in writing as to the policy to be followed in the performance of any of the Board's functions, and the Board shall give effect to such directions.
- (2) The Minister may by instrument in writing delegate to a public officer any of the functions under this Act, other than the making of regulations, and any such delegation—
 - (a) may be made subject to such terms and conditions as the Minister thinks fit;
 - (b) while in force, shall not prevent the discharge, by the Minister, of the function thereby delegated; and
 - (c) may at any time be revoked by the Minister.
- (3) The Minister may by Order amend the *Second Schedule*.

12. Appointment of staff.

- (1) The Board, in consultation with the Minister, shall appoint—
 - (a) a Director of Food Safety and Quality;
 - (b) a Director of Veterinary Services;
 - (c) a Director of Plant Health;
 - (d) a legal counsel;
 - (e) a public accountant; and
 - (f) a human resource manager.

- (2) The Board shall appoint for the proper functioning of the Authority, such other persons with the relevant qualifications and experience in—
 - (a) food safety and quality management;
 - (b) animal health and production; and
 - (c) plant protection.
- (3) The *Third Schedule* has effect with respect to matters relating to staff of the Authority.

13. Appointment of National Sanitary and Phytosanitary Committee.

- (1) The Board, in consultation with the Minister, shall appoint a committee to be known as the National Sanitary and Phytosanitary Committee.
- (2) The Committee shall comprise—
 - (a) the directors appointed in accordance with section 12(1);
 - (b) a representative from the respective departments of agriculture, fisheries, health and environmental health;
 - (c) a representative of the Bureau of Standards established by section 3 of the Standards Act (*Ch. 338A*); and
 - (d) three representatives of the private sector.
- (3) The Committee shall advise the Board—
 - (a) on technical matters arising from the Agreement and any other relevant agreements; and
 - (b) on all matters related to agricultural health and food safety and quality matters.

14. Appointment of liaison officers.

- (1) For the purposes of facilitating the carrying out of the objectives of this Act, the head of department who has responsibility for food, public health, plant health, animal health and environmental health shall—
 - (a) ensure that there is at all times an officer of his ministry, department or public body designated as the liaison officer for communication with the Executive Director in relation to the procedures of that ministry, department or public body as it relates to the functions under this Act;
 - (b) ensure to the greatest extent possible that there is collaboration between his ministry, department or public body and the Executive Director and his officers and that they render the necessary support to the Authority;
 - (c) on an annual basis, supply the Executive Director in such form and by such date, such information as may be requested by the

Executive Director for the purposes of carrying out the functions of this Act.

- (2) The Executive Director shall in carrying out the objectives of the Authority, collaborate with the heads of all of the enforcement agencies and ensure that the provisions of any law with respect to food, public health, plant health, animal health and environmental health are being observed.
- (3) The Executive Director shall provide the heads of the enforcement agencies with a comprehensive report of the Authority's work.

15. Executive Director to liaise with private sector.

The Executive Director shall liaise with such organisations in the private sector as he thinks fit for the purpose of establishing communication links in order to achieve the objectives of this Act.

PART II – FINANCIAL PROVISIONS

16. Funds and Resources of the Authority.

The funds of the Authority shall consist of—

- (a) such sums as from time to time are provided by Parliament;
- (b) fees and charges imposed by the Authority and any monies as from time to time accrue to the Authority from its operations;
- (c) any monies as from time to time are borrowed by the Authority pursuant to section 17;
- (d) any monies as from time to time are advanced to the Authority pursuant to section 18; and
- (e) any monies and property as from time to time may in any manner be lawfully paid to or vested in the Authority whether or not in respect of any matter incidental to its functions.

17. Borrowing powers.

- (1) Subject to this section, the Authority may with the approval of the Minister of Finance borrow sums required by it for meeting any of its obligations or discharging any of its functions and may in respect of any borrowing, issue debentures in such forms as the Authority may determine.

- (2) Any borrowing of the Authority pursuant to subsection (1) shall be subject to the approval of the Minister, given with the consent of the Minister of Finance as to the amount to be borrowed, the source of the borrowing and the terms on which the borrowing may be effected.
- (3) An approval given for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.
- (4) A lender is not bound to inquire whether the borrowing of money is within the power of the Authority.

18. Advances and guarantee of borrowings by the Government of The Bahamas.

- (1) The Minister of Finance may at the request of the Minister, make advances to the Authority for the purposes of enabling the Authority to defray expenditure properly chargeable to its capital account, including provision of working capital.
- (2) The Minister of Finance may at the request of the Minister, guarantee in any such manner and on any such conditions as the Minister of Finance thinks fit, the repayment of the principal of, and the payment of interest and other charges on any authorized borrowings of the Authority made under section 17.
- (3) No guarantees shall be given under this section unless prior approval thereof has been signified by the House of Assembly in accordance with section 18 of the Financial Administration and Audit Act (*Ch. 359*).
- (4) Where any sum is paid pursuant to a guarantee given under this section, the Minister of Finance shall as soon as possible after the end of each financial year beginning with the year in which the sum is issued and ending with the year in which all liability in respect of the principal of the sum and in respect of interest thereof is finally discharged, lay before the House of Assembly a statement relating to that sum.
- (5) Any sums required by the Minister of Finance for making, advancing and discharging any guarantees under this section shall be charged on and issued out of the Consolidated Fund.

19. Repayment of interest on advances and sums issued to meet guarantees.

- (1) The Authority shall make to the Minister of Finance at such times and in such manner as the Minister may with the approval of the Minister of Finance direct, payments of any amount as may be so directed in or towards repayment of any sums issued in fulfilment of any guarantee

given under section 18 and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister may direct, and different rates of interest may be directed as respects different periods.

- (2) The Minister shall lay before the House of Assembly a statement of any payment due from the Authority under subsection (1) that is not duly paid.

20. Balancing of revenue account.

- (1) The Authority shall discharge its functions to secure that its revenues are sufficient to meet all sums properly chargeable to its revenue accounts taking one year with another.
- (2) Subject to the approval of the Minister of Finance, any excess of the revenue of the Authority for any financial year over the sum properly chargeable to its revenue account for that year shall be applied by the Authority for the purposes of the Authority.

21. Annual budget of Authority.

- (1) The Authority shall, upon the approval of the Minister of Finance, make annual budget estimations in respect of its work in such form as the Minister directs.
- (2) The Authority shall submit to the Minister its annual budget on or before the first day of March of each year and provide such justification necessary for subvention for the fiscal period.
- (3) The expenses of the Authority, including the remuneration of members of staff thereof, shall be paid out the Consolidated Account.

22. Accounts and audit of Authority.

- (1) The Authority shall keep proper accounts of all transactions and shall prepare in respect of each financial year a statement of accounts in such form as the Minister may with the approval of the Minister of Finance direct.
- (2) Such accounts must be audited annually by an auditor appointed by the Board with the approval of the Minister.
- (3) As soon as the accounts have been audited, the Chairman shall submit a copy thereof to the Minister together with a copy of any report made by the auditor.
- (4) The Board shall prepare for each new financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least two months prior to the commencement of the financial year.

23. Annual report.

- (1) The Authority shall, within ninety days after the end of each financial year submit to the Minister a report containing—
 - (a) an account of its transactions throughout the preceding financial year in such detail as the Minister may direct; and
 - (b) a statement of the accounts of the Authority audited in accordance with section 22.
- (2) The Minister shall cause a copy of the report together with a copy of the auditor's report to be laid on the table of both Houses of Parliament.

PART IV - MISCELLANEOUS

24. Conflict of interest.

A Board member who is directly or indirectly interested in any matter which is being dealt with by the Board—

- (a) shall as soon as possible after the relevant facts have been have come to his knowledge, disclose the nature of his interest at a meeting of the Board; and
- (b) shall not be present during the deliberations of the Board on the matter or take part in the decision of the Board with respect thereto.

25. Liability.

No action shall lie against the Minister, Executive Director, Board, Officers or any person acting under the direction of the Board or Executive Director for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act.

26. Establishment of the Sanitary and Phytosanitary Appeal Tribunal.

- (1) There shall be established a Sanitary and Phytosanitary Appeal Tribunal (hereinafter referred to as “the Appeal Tribunal”) which shall hear appeals dealing with food safety, sanitary and phytosanitary matters.
- (2) The *Fourth Schedule* shall have effect with respect to the constitution of the Appeal Tribunal.

27. Regulations.

The Minister may make Regulations for the purpose of carrying this Act into effect and for the better carrying out of the object and purpose of this Act.

FIRST SCHEDULE

(section 4 (2))

PROVISIONS RELATING TO THE INCORPORATION OF THE AUTHORITY

A Body Corporate

Incorporation.

1. (1) The Authority is a body corporate having perpetual succession and a common seal, with power to purchase, lease or otherwise acquire and hold and dispose of land and other property of whatsoever kind.

(2) The Authority may sue and be sued in its corporate name and may for all purposes be described by such name, and service upon the Authority of any document of whatsoever kind must be made by delivering the document to, or sending it by prepaid registered post addressed to, the secretary of the Authority at the office of the Authority.

Seal of Authority.

2. (1) The seal of the Authority must be kept in the custody of any officer of the Authority as the Authority may approve, and may be affixed to instruments pursuant to a resolution of the Authority and in the presence of the Chairman or the Deputy Chairman and one other member.

(2) The seal of the Authority must be authenticated by the signature of the Chairman or Deputy Chairman and another member, and the seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Authority may be signified under the hand of the Chairman or Deputy Chairman.

Taxation.

3. It is hereby declared that nothing in this Act exempts the Authority from liability for any tax, duty, rate, levy or other charge whatsoever.

SECOND SCHEDULE

(section 10(4))

THE CONSTITUTION AND PROCEDURE OF BOARD

Membership.

1. The Board shall consist of—

- (a) a Chairman appointed by the Minister and shall hold office for such period, not exceeding three years, as may be specified in the instrument of appointment, unless the appointment is sooner revoked by the Minister; and the Chairman shall be eligible for one re-appointment;
- (b) a Deputy Chairman who shall be elected from among the members of the Board;
- (c) the Executive Director of the Authority *ex officio*;
- (d) the three Directors appointed in accordance with section 12(1);
- (e) a representative of the Ministry of Health with expertise in public health;
- (f) a representative of the Department of Environmental Health;
- (g) a representative of the Department of Marine Resources; and
- (h) such number of other members, not being less than two or more than four, as the Minister may from time to time determine, from amongst persons appearing to him to be qualified as having had experience of or having shown capacity in matters relating to industry, commerce, agriculture, the processing or marketing of agricultural produce and in finance.

Term of office.

2. A member appointed pursuant to paragraph 1(g), subject to the provisions of paragraphs 4 and 5, shall hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member, and such member shall be eligible for re-appointment.

Temporary members.

3. The Minister may by instrument in writing appoint some suitable person as a member of the Board of the Authority to act temporarily in the place of any appointed member of the Board in the case of the absence or inability of such member to act.

Resignation.

4. (1) Any member of the Board other than the Chairman may at any time resign his office by instrument in writing addressed to the Chairman.

(2) Where the Chairman desires to resign, he shall do so in writing to the Minister.

Removal.

5. The Minister by instrument in writing may at any time revoke the appointment of any appointed member of the Board if he —

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

- (b) is otherwise unable or unfit to discharge the functions of a member of the Board.

Publication.

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

Remuneration.

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

Meetings.

8. (1) The Board shall meet quarterly and at any other times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Chairman may determine.

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

(3) The Chairman and four other members of the Board respectively shall form a quorum.

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

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

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

(7) The validity of any proceeding of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Regulation of proceedings.

9. Subject to the provisions of this *Schedule*, the Board has the power to regulate its own proceedings.

THIRD SCHEDULE

(section 12(3))

PROVISIONS RELATING TO THE STAFF OF THE AUTHORITY

Transfer of and offer of permanent employment to public officers.

- (1) The Authority may offer to any public officer transferred to the Authority under this section, permanent employment with the Authority at a remuneration and on terms and conditions not less favourable than those which are attached to the service under the Government held by such officer at the commencement of this Act or which would have become attached to such appointment, during such period as aforesaid, had such officer continued in the service of the Government.
- (2) Where a person employed by the Authority is released by the Authority to provide services within the public service, he is entitled to such benefits and terms of employment as are applicable to the post which he occupies; and his service with the Authority shall be taken into account as continuous service with the Government and the Pensions Act shall apply to him as if his service with the Authority was service within the meaning of that Act.
- (3) Every public officer who accepts permanent employment with the Authority offered to him under subsection (1) shall, for all purposes be deemed to have ceased to be in the service under the Government and to have entered into service with the Authority on the date of his acceptance.
- (4) Where —
 - (a) a public officer is transferred to an office in service of the Authority; or
 - (b) an officer of the Authority is transferred to an office in the public service,the Pensions Act shall apply to him as if his service with the Authority was other public service within the meaning of that Act, and the Pensions Act shall apply to him accordingly.
- (5) Every public officer who —
 - (a) having been offered permanent employment with the Authority under subsection (1), refuses to accept such employment; or
 - (b) has not been offered permanent employment with the Authority under subsection (1),

may, at the expiration of the two year period referred to in paragraph (1) be transferred from the service of the Authority back to the service under the Government.

Pension of persons transferred from the public service to the Authority.

(1) Where any public officer holding a pensionable office under the Government ceases to be the holder of such office by reason of his transfer with his consent to the service of the Authority and such person subsequently retires from the service of the Authority in such circumstances that, had he remained a public officer, he would have been eligible for pension under the provisions of the Pensions Act, then in any such case the following provisions of this paragraph shall have effect.

(2) Any pension payable to any such person, as is mentioned in sub-paragraph (1), by the Authority to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the Authority taken together and such service shall be reckoned as continuous for pension purposes.

(3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Authority as contribution to every pension paid in accordance with sub-paragraph (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act, (*Ch. 43*) if such person had retired from the public service and if he had been granted a pension under the Pensions Act upon the date of his ceasing to be a public officer.

FOURTH SCHEDULE

(section 26)

SANITARY AND PHYTOSANITARY APPEAL TRIBUNAL

1. The Sanitary and Phytosanitary Appeal Tribunal shall consist of a President who shall be appointed by the Minister along with two other members with a scientific background.

2. The members of the Tribunal shall, subject to the provisions of this *Schedule*, hold office for such period not exceeding three years as the Minister may determine, and shall be eligible for reappointment.

3. The Minister may appoint any person to act in the place of any other member of the Tribunal in case of the absence or inability to act of the President or other member.

4. (a) Any member of the Tribunal other than the President may at any time resign his office by instrument in writing addressed to the President, who shall forthwith cause it to be forwarded to the Minister, and from the date of the receipt by the President of such instrument such member shall cease to be a member of the Tribunal.
- (b) The President may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt by the Minister of such instrument, such person shall cease to be President or to be a member of the Tribunal.
5. The Minister may, if he thinks it expedient so to do, at any time revoke the appointment of the President or any other member of the Tribunal.
6. If any vacancy occurs in the membership of the Tribunal, such vacancy shall be filled by the appointment of another member, who shall, subject to the provisions of this *Schedule*, hold office for the remainder of the period for which the previous member was appointed.
7. The names of members of the Tribunal as first constituted and every change in the membership thereof shall be published in the Gazette.
8. The Minister may make rules—
 - (a) as to the procedure for appeal to the Tribunal;
 - (b) as to proceedings before the Tribunal and matters incidental to or consequential on such proceedings, and, subject to any rules so made, the Tribunal may regulate its own procedure.

OBJECTS AND REASONS

The Bahamas Agricultural Health and Food Safety Authority (or “the Authority”) establishes a single regulatory body for the more efficient, effective, transparent and coordinated administration of matters dealing with food safety, animal and plant health. The legislation seeks to provide a framework to ensure that there is harmonization among public sector agencies in order to ensure the highest levels of food safety and protection of animal and plant health.

The objectives of the Bill is to provide an institution which would take the lead in coordinating and harmonizing food safety activities at all stages of the production, manufacture and distribution of food. The institution would also be responsible for establishing, maintaining and coordinating animal health and plant health services to protect agriculture and wildlife species and systems from the introduction and spread of exotic pests and diseases.

The Authority will also monitor the performance of the agencies which enforce the Food Safety and Quality Act, the Plant Protection Act and the Animal Health and Production Act. The Authority will also ensure, through its Board, that

strategies and policies on food safety and quality, plant health and animal health including procedures for emergency response, are coordinated and implemented to protect consumers and domestic flora and fauna.

Part I of the Bill provides for the establishment of the Authority and describes its objectives, functions and powers. Part I also provides for the appointment of staff and their duties.

Clause 3 of the Bill outlines the objectives of the Act. Clause 4 of the Bill provides for the Authority to operate in accordance with WTO principles, specifically the Agreement on Sanitary and Phytosanitary Measures. Clause 5 of the Bill provides for the establishment of the Authority. Clause 6 provides for the of the principal functions of the Authority. Clause 7 of the Bill outlines the Authority's power to coordinate with other agencies when necessary to carry out its mandate.

Clause 8 outlines the powers of the Minister. Clause 9 provides for the establishment of the Board as the governing authority of the Authority and outlines its duties which will include advising the Minister on—

- (a) the work of the Authority and in particular on matters which affect public policy; and
- (b) the priorities, programmes and policies of the Authority.

Clause 10 deals with the appointment of an Executive Director who is appointed by the Board with the Ministers approval. The Executive Director's functions are outlined in Clause 11 of the Bill.

Clause 12 deals with the appointment of the Authority's staff, who will be appointed by the Board in consultation with the Minister.

Clause 13 outlines the composition and the duties of the National Sanitary and Phytosanitary Committee which is to be appointed by the Board in consultation with the Minister.

Clause 14 provides for every Ministry that has responsibility for food, including public health and environmental health, and the Ministry responsible for plant health and animal health, shall—

- (a) ensure that there is at all times an officer is designated as the liaison officer for communication with the Executive Director in relation to the procedures of the Ministry, Department or public body;
- (b) ensure to that there is collaboration between the respective Ministries and the Executive Director and his officers and that they render the necessary support to the Authority.

Clause 15 provides that the Executive Director shall establish a liaison with such organisations in the private sector as he thinks fit for the purposes of establishing communication links with them for the purpose of achieving the objects of this Act.

Part III of the Bill deals with financial provisions. Clause 16 outlines the various sources of funding for the Authority.

Clause 17 of the Bill seeks to grant the Authority borrowing powers. It provides that the Authority may with the approval of the Minister of Finance borrow sums required by it for meeting any of its obligations or discharging any of its functions and may in respect of any borrowing, issue debentures in such forms as the Authority may determine.

Clause 18 provides that the Minister of Finance may at the request of the Minister make advances to the Authority for the purposes of enabling the Authority to defray expenditure properly chargeable to its capital account, including the provision of working capital.

Clause 19 of the Bill provides for the the Authority to repay interest on advance and sums issued to meet guarantees. Clause 20 seeks to make provision for the Authority to discharge its functions to secure that its revenues are sufficient to meet all sums properly chargeable to its revenue accounts taking one year with another.

Clause 21 provides that the expenses of the Authority, including the remuneration of its staff, shall be paid out the Consolidated Account.

Clause 22 of the Bill deals with the accounts and audit of Authority. Clause 23 provides for the Authority to submit an annual report to the Minister, within one hundred and eighty days after the end of each financial year.

Part IV deals with miscellaneous matters. Clause 24 seeks to provide for the members of the Board to declare, in writing, to the Board, any conflicts of interest.

Clause 25 of the Bill provides that the Minister, Executive Director, Board, Officers or any persons acting under the direction of the Board or Executive Director is exempt from liability for anything done or omitted to be done in good faith in the administration or discharge of any functions, duties or powers under this Act.

Clause 26 provides for the establishment of the Sanitary and Phytosanitary Appeal Tribunal which shall hear appeals dealing with food safety, sanitary and phytosanitary matters and the Tribunal shall be constituted and exercise its functions in accordance with the *Fourth Schedule*.

Clause 27 of the Bill makes provision for the Minister to make regulations.