



ST. CHRISTOPHER AND NEVIS

CHAPTER 9.12

INSTITUTION-BASED HEALTH SERVICES (MANAGEMENT) ACT

Revised Edition

showing the law as at 31 December 2002

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This edition contains a consolidation of the following laws—

**INSTITUTION-BASED HEALTH
SERVICES (MANAGEMENT) ACT**

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CHAPTER 9.12
**INSTITUTION-BASED HEALTH
SERVICES (MANAGEMENT) ACT**

AN ACT TO PROVIDE FOR THE MANAGEMENT AND ADMINISTRATION OF INSTITUTION-BASED HEALTH SERVICES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

PART I
PRELIMINARY

Short title.

1. This Act may be cited as the Institution-Based Health Services (Management) Act.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Authority” means the Institution-Based Health Services Authority constituted under section 4;

“Commission” means the Public Service Commission established under section 77 of the Constitution;

“designated institution” means an institution in respect of which an Order has been made under section 3;

“Director of Institution-Based Health Services” means the person appointed or performing for the time being the functions under section 22(1);

“financial year” means the calendar year, except that the first financial year shall be the period commencing with the commencement of this Act and ending with such day as shall be fixed by the Minister;

“Institution” means any institution established and maintained out of public funds for the admission and treatment of the sick and injured, rehabilitative institutions for geriatrics, and hospices set out in the Schedule to the Act;

“Minister” means the Minister to whom the responsibility for health is assigned and the expression “Ministry” shall be construed accordingly.

Application of Act.

3. The Minister may, by Order, apply the whole or any part of this Act to any Institution.

PART II

ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF AUTHORITY

Establishment and constitution of Authority.

4. (1) There is established, for the purposes of this Act, a body to be known as the Institution-Based Health Services Authority constituted as specified in subsection (2) of this section.

(2) The Authority shall consist of—

(a) the following five ex-officio members—

- (i) the Permanent Secretary in the Ministry of Health as Chairperson;
- (ii) the Chief Medical Officer;
- (iii) the Health Planner;
- (iv) the Director of Institution-Based Health Services;
- (v) the Chief Nursing Officer;

(b) three members appointed by the Minister of whom two shall be from the civil society.

(3) A member of the Authority appointed under subsection (2)(b) of this section shall hold office for such period as is specified in his or her instrument of appointment not exceeding two years, but shall be eligible for reappointment.

(4) Where, for any reason, the Chairperson is unable to carry out his or her functions under this Act, the Chief Medical Officer shall perform the functions of the Chairperson.

(5) Where a member, other than the Chairperson, is granted leave in accordance with subsection (7) of this section or is otherwise unable to perform the functions of his or her office, the Minister may appoint some other person to act as a temporary member during such absence or inability.

(6) A member of the Authority appointed under subsection (2)(b) of this section may resign his or her office in writing addressed to the Chairperson who shall forward it to the Minister.

(7) The Minister may, on application of a member, grant such member leave of absence for a period not exceeding three months.

(8) Notwithstanding subsection (5), the Minister may, if he or she thinks it expedient to do so, at any time revoke the appointment of any member appointed pursuant to subsection (2)(b) of this section.

(9) The names of all the members of the Authority as first constituted and every change thereof shall be published in the *Gazette*.

(10) The Authority may, on an *ad hoc* basis, co-opt any person whose service or assistance the Authority may desire.

(11) There shall be paid to the Chairperson, and other members of the Authority such, if any, allowances or reasonable expenses as the Authority, with the approval of the Minister, may determine.

Meetings.

5. (1) The Authority shall meet at least once per month and at such times as may be necessary for the official performance of its functions.

(2) The Chairperson may, at any time, call a special meeting of the Authority, and shall call such a meeting within seven days of the receipt by him or her of a receipt by him or her of a request in writing addressed to him or her by any three members of the Authority.

(3) The Chairperson or in his or her absence the person appointed to be Chairperson shall preside at all meetings of the Authority.

(4) The quorum of the Authority shall consist of the Chairperson or in his or her absence the person deputising as Chairperson and four other members.

(5) Decisions of the Authority shall be adopted by a majority of the votes and in any case in which the voting is equal, the Chairperson or the person acting as Chairperson presiding at the meeting shall, in addition to an original vote, have a casting vote.

(6) The Director of Institution-Based Health Services shall be Secretary to the Authority and may partake in deliberations of the Authority, except that he or she shall have no voting rights.

(7) Subject to the provisions of this section the Authority may regulate its own proceedings.

(8) The minutes of every meeting of the Authority shall be transmitted by the Secretary through the Chairperson to the Minister within fourteen days after the holding of any meeting.

Members to declare interest.

6. (1) A member of the Authority who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Authority or in any other matter whatsoever in which the Authority is concerned, shall declare the nature of his or her interest at the first meeting of the Authority at which he or she is present after the relevant facts have come to his or her knowledge.

(2) A member shall not take part in any deliberation or decision of the Authority with respect to any transaction with the Authority or any other matter with which the Authority is concerned in which he or she has, whether directly or indirectly, any interest.

(3) A member who fails to comply with the provisions of this section commits an offence and is liable, on summary conviction, to a fine not exceeding three thousand dollars or to a term of imprisonment not exceeding three months, or both, unless he or she proves that he or she did not know that a contract, proposed contract or other matter in which he or she had a personal interest was the subject of consideration at the meeting.

(4) A disclosure under subsection (1) shall be recorded in the minutes of the Authority.

Validity of proceedings.

7. The validity of any proceedings of the Authority shall not be affected by any vacancy amongst the members thereof or of any defect in the appointment of a member thereof.

Protection of members of Authority.

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

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

Functions and powers of the Authority.

9. Subject to the provisions of this Act, the principal function of the Authority shall be to undertake the general management and administration of any institution and shall have power to do all such things as are in its opinion necessary or conducive to the proper discharge of its functions, and in particular and without prejudice to the generality of the foregoing provisions, it shall have power—

- (a) through its officers, to equip, furnish, manage, control, operate and maintain any institution and all property thereof;
- (b) to cause to be prepared an annual estimate of revenue and expenditure in respect of any institution;
- (c) to ensure the collection of fees payable under this Act;
- (d) to make recommendations and report to the Minister with regard to any matter directly or indirectly affecting any institution or the efficiency or improvement of the medical and support services, including patient's rights;
- (e) to perform such other functions in relation to any institution as the Minister may require to be performed by the Authority.

Delegation of Functions.

10. (1) The Authority may, for the purpose of the due discharge of its functions, delegate any of its functions to the Chairperson or to the Secretary, as the circumstances warrant at the time of the delegation, or to any other members of the Authority or to the Executive Management Committee.

(2) Where a delegation is made to the Executive Management Committee under subsection (1) the Committee may co-opt other persons whose assistance or service the Committee may desire.

(3) A delegation under this section may be made in respect of any matter or class of matters or generally or may be made subject to such terms and conditions as the Authority thinks fit.

(4) A delegation under this section may at any time be revoked by the Authority and while in force shall not prevent the discharge by the Authority of any of its functions previously delegated.

Directions to the Authority.

11. The Minister may, after consultation with the Chairperson, give to the Authority such directions, whether of a special or general nature, as to the policy to be followed by the Authority in the exercise and performance of its functions and the Authority shall act in accordance with those directions.

Estimates of Revenue and Expenditure.

12. The Authority shall cause to be prepared and submit no later than the 30th day of April each year estimates of revenue and expenditure in respect of its functions for the next ensuing financial year, except that the initial expenditure incurred in the performance of any of the functions of the Authority after the coming into effect of this Act and the submission of the first estimate shall be defrayed out of moneys appropriated by the National Assembly.

Accounts.

13. The Authority shall keep proper accounts and records in relation to the functions of the Authority in a form satisfactory to the Minister and a statement of accounts shall be kept and made up in respect of each financial year.

Audit.

14. (1) The accounts of the Authority shall be audited in each financial year by the Audit Department.

(2) The Authority shall cause to be granted to the officers designated by the Audit Department all books, contracts, accounts, vouchers or other documents which they may deem necessary to call for and such officers may require any information necessary for the purpose of carrying out of the Audit.

(3) The Audit Department shall, as soon as practicable and not later than three months after the accounts for the financial year have been submitted for audit, send an audited statement of accounts together with a report on its audit to the Authority.

Report.

15. The Authority shall, as soon as practicable and not later than one month of the receipt of the accounts and report, cause to be made and transmitted to the Minister a report generally on the activities of the Authority during the preceding financial year, which report shall be in such form as the Minister may, from time to time, direct.

Service of notice.

16. (1) Service upon the Authority by any person of any notice, order or other document shall be effected by delivering the same or sending it by registered post addressed to the office of the Secretary to the Authority.

(2) Service of any notice, order or other document by the Authority on any person shall be served by delivering it to the person or sending it by registered post addressed to the person at his or her usual or last known address.

PART III**CLINICAL AND SUPPORT SERVICES ADMINISTRATION, AND STAFFING****Chief Medical Officer.**

17. The Chief Medical Officer shall be responsible for the medical and health standards in the Federation and shall perform such duties in respect thereof as may be prescribed in regulations made under this Act.

Medical Chief of Staff.

18. The Governor-General shall, on the recommendation of the Commission, appoint a duly qualified medical practitioner as Medical Chief of Staff who shall be responsible for the clinical administration of all health institutions and who shall perform such duties as may be prescribed in regulations made under this Act.

Appointment of Specialists, medical officers, etc.

19. The Governor-General may, on the recommendation of the Commission, appoint specialist medical officers and other institutional medical officers for the performance of services at any health institution.

Nursing and other personnel.

20. The Governor-General may, on the recommendation of the Commission, appoint the Director of Institution-Based Nursing Services, other nursing personnel, laboratory technicians, dispensers, supervisors and other officers for the performance of services at any health institution.

Student nurses.

21. The Minister shall—
make arrangements for the appointment of nurses at any hospital; and
in collaboration with the Minister of Education, provide for the training of nurses.

PART IV**ADMINISTRATION OF INSTITUTION-BASED HEALTH SERVICES****Director of Institution-Based Health Services.**

22. (1) The Governor-General may, on the recommendation of the Commission, appoint a Director of Institution-Based Health Services who shall be the Chief Executive Officer of the Institution.

(2) The Director shall—

- (a) manage the day to day administrative matters of the Institution; and
- (b) perform such duties as shall be prescribed in regulations under this Act.

(3) The Director shall not engage in the clinical administration of hospitals.

Validation.

23. (1) Any act done or decision taken by the Director in the performance of his or her duties prior to the coming into force of this Act is hereby validated.

(2) An office that was established within the Ministry of Health before the coming into force of this Act, and that office had not been provided for by the existing law, shall be deemed to have been established at the date such office was established.

(3) Anything done in relation to the establishment of the office referred to in subsection (2) or otherwise in relation to that office is hereby validated.

(4) Any act done or decision taken by a holder of the office referred to in subsection (2), other than the person mentioned in subsection (1), in the performance of his or her duties prior to the coming into force of this Act is hereby validated.

Executive Management Committee.

24. (1) There is established a committee to be known as the Executive Management Committee (hereinafter referred to as the Committee).

(2) The Committee shall consist of—

- (a) the Director as Chairperson;
- (b) the Medical Chief of Staff;
- (c) the Director of Institution-Based Nursing Services;
- (d) the Operations Manager; and
- (e) such other medical and allied health officers on the staff which the Chairperson, in the circumstances prevailing in any department of medicine, surgery and allied services in the Hospital, may see fit to summon to attend.

(3) The Committee shall meet at least twice per month but the Director may summon a meeting of the Committee at any other time when he or she thinks it necessary so to do.

(4) The quorum of the Committee shall consist of the Director and three other members.

Functions of the Committee.

25. The committee shall—

- (a) consider from time to time the functioning, efficiency and improvement of the medical, surgical and allied services at any institution from the point of view of the patient and clinical and support services;
- (b) make recommendations to the Authority the action to be taken in respect to any of the above matters;
- (c) cause to be prepared the annual estimate of revenue and expenditure of institutions;
- (d) recommend, develop and update strategic long-range plans to support the institutions' philosophy and goals;
- (e) recommend the institutions' policy positions regarding administrative and legislative matters;
- (f) coordinate with the Ministry, heads of departments in the monitoring of activities to ensure the fulfilment of the community's needs for quality health care;
- (g) advise the Minister on the recruitment, development, evaluation and retention of the administrative and professional staff; and

- (h) develop, upgrade and implement human resource policies and practices including the selection, promotion or discharge of administrative, support and ancillary staff.

PART V

MISCELLANEOUS

Chief Medical Officer may restrain persons suffering from contagious or infectious diseases.

26. Where a person who is hospitalised is suffering from a contagious or infectious disease, the Medical Chief of Staff or the Medical Officer in charge of the hospital may restrain the person from leaving the hospital for such time as may in his or her judgment be necessary for the purpose of protecting the public against the spread of the disease.

Power to apprehend.

27. A staff of a hospital or a member of the police force or any environmental health officer may, without warrant, apprehend any person who may have left the hospital contrary to the provisions of section 26 and return that person to the hospital.

Fees to be paid into Consolidated Fund.

28. All fees received on account of the Government pursuant to this Act shall be paid into the Consolidated Fund.

Recovery of Fees.

29. (1) Notwithstanding anything to the contrary contained in the Crown Proceedings Act, Cap 5.06, any proceedings for the recovery of fees under this Act may be brought by the Director of Institution-Based Health Services for and in the name of the Authority and such proceedings shall not be invalidated or lapse by reason of any change as to the holder of the office of Director of Institution-Based Health Service.

(2) The proceedings referred to in subsection (1) shall not be dismissed by reason of the failure of the Director of Institution-Based Health Services to appear in person or by counsel or solicitor, provided the Director is represented by a person authorised by him or her 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 by virtue of section 13 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.

Regulations.

30. The Minister may, from time to time, make regulations for the management and conduct of hospitals, and for carrying out of the provisions of this Act, and

without prejudice to the generality of the foregoing, may make regulations with respect to—

- (a) the duties of persons appointed under sections 17, 18, 19, 20, 21 and 22;
- (b) the suspension, dismissal, reinstatement or resignation of persons under section 21;
- (c) the establishment and functioning of laboratories and dispensaries thereat, the carrying out of tests at such laboratories and the sale and supply of drugs at such dispensaries;
- (d) the admission for treatment at and the discharge from any hospital of any class of persons;
- (e) the admission and regulation of visitors and vehicles therein;
- (f) fixing the fees to be paid in respect of persons obtaining medicines or surgical appliances or receiving attendance or treatment at any hospital and the conditions under which fees may be remitted or reduced;
- (g) for executing the general purpose of this Act.

Transitional provisions.

31. (1) Nothing in any other Act or regulation thereto shall affect the rights or claims of any person appointed to any office in any hospital or the pension or gratuity of any person who, prior to the coming into operation of this Act, shall have been entitled to such a pension or gratuity by virtue of service under this Act and such person shall be deemed to have been appointed under this Act and all such rights and claims to such pension or gratuity shall be preserved and settled in accordance with the provisions of that Act.

(2) Any sums outstanding as charges and due under any previous Act or regulation thereto may be recovered under and in accordance with the provisions of the Act.

(3) Nothing contained in this section shall affect the validity of any proceeding for the recovery of sums as charges which were howsoever begun under a previous Act or regulations thereto before the date on which this Act came into operation and any such proceeding may be continued as if this Act had not been passed.

SCHEDULE

(Section 2)

The Joseph N France General Hospital, Buckleys Site, Basseterre

The Mary Charles Hospital, Molinux

The Pogson Hospital, Sandy Point

The Cardin Home, Cardin Avenue, Basseterre
