



ST. CHRISTOPHER AND NEVIS

CHAPTER 22.16

GOVERNMENT AUXILIARY EMPLOYEES ACT

Revised Edition

showing the law as at 31 December 2017

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GOVERNMENT AUXILIARY EMPLOYEES ACT

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CHAPTER 22.16

GOVERNMENT AUXILIARY EMPLOYEES ACT

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CHAPTER 22.16**GOVERNMENT AUXILIARY EMPLOYEES ACT**

AN ACT TO MAKE PROVISION RESPECTING GOVERNMENT AUXILIARY EMPLOYEES, FORMERLY KNOWN AS NON-ESTABLISHED WORKERS, SO AS TO STREAMLINE AND COORDINATE THEIR APPOINTMENT, TERMS AND CONDITIONS OF EMPLOYMENT, DISCIPLINE AND DISMISSAL, AND FOR THAT PURPOSE TO ESTABLISH THE GOVERNMENT AUXILIARY EMPLOYEES' COMMISSION; AND TO MAKE PROVISION EXTENDING PENSION COVERAGE TO SUCH EMPLOYEES; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

Short title.

1. This Act may be cited as the Government Auxiliary Employees Act.

Interpretation.

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

“Commission” means the Government Auxiliary Employees Commission established by section 4 of this Act;

“Government Auxiliary Employees” means a person employed by the Government on a week to week or month to month basis who is not specified in the official estimates of Saint Kitts and Nevis and whose wage or salary is paid from the Wages Vote in the official estimates of Saint Kitts and Nevis.

Application of Act.

3. The provisions of this Act shall apply to a person who—

- (a) is employed in Government employment as a Non-Established Worker before or at the coming into force of this Act;
- (b) is employed in Government employment after the coming into force of this Act.

Establishment of Commission.

4. (1) There is established a Commission to be known as the Government Auxiliary Employees Commission, which Commission shall consist of a Chairperson and not less than two and not more than four other members, all of whom shall be appointed by the Minister with the approval of Cabinet:

Provided that, for the purposes of discharging its functions in relation to Government Auxiliary Employees of the Nevis Island Administration, the Commission shall consist of the Chairperson appointed in accordance with the provisions of this subsection and not less than two and not more than four other members all of whom, except the Chairperson, shall be appointed by the Minister responsible for Human Resources in the Nevis Island Administration.

- (2) A person shall not be qualified to be appointed as a member of the Commission—

- (a) unless he or she is a Commonwealth citizen ordinarily resident in Saint Christopher and Nevis;

- (b) if he or she is a member of the National Assembly; or
- (c) if he or she is a public officer.

(3) Subject to the provisions of this section, the office of a member of the Commission shall become vacant—

- (a) at the expiration of such period (not being less than two years and not more than five years from the date of his or her appointment) as the Minister may specify, acting in accordance with the advice of Cabinet;
- (b) if any circumstances arise that, if he or she were not a member of the Commission, would cause him or her to be disqualified to be appointed as such under the provisions of subsection (2).

(4) A member of the Commission may be removed from office only for inability to exercise the functions of his or her office, whether by arising from infirmity of body or mind or any other cause, or for misbehavior, and shall not be so removed except in accordance with the provisions of this section.

(5) A member of the Commission shall be removed from office by the Minister if the question of his or her removal has been referred to a tribunal appointed pursuant to the provisions of subsection (6) and the tribunal has recommended to the Minister that the member ought to be removed from office for inability or misbehavior as aforesaid.

(6) If the question of removing a member of the Commission under the provisions of this section ought to be investigated, then—

- (a) the Minister shall appoint a tribunal which shall consist of a Chairperson and not less than two other members selected from among persons who hold or have held office as a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from such a court; and
- (b) the tribunal shall enquire into the matter and report on the facts thereof to the Minister and recommend to the Minister whether the member ought to be removed from office pursuant to the provisions of this section.

(7) If the question of removing a member from the Commission has been referred to a tribunal pursuant to the provisions of this section, the Minister, acting on the advice of Cabinet, may suspend the member from the exercise of his or her functions, and such suspension may, at any time, be revoked by the Minister, acting on the advice of Cabinet, and shall in any case cease to have effect if the tribunal recommends to the Minister that the member should not be removed.

(8) If the office of Chairperson of the Commission is vacant or if the holder of that office is for any reason unable to exercise the functions of that office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding that office has resumed those functions, as the case may be, those functions shall be exercised by such other member of the Commission as may for the time being be designated by the Minister, acting in accordance with the advice of Cabinet.

(9) If at any time there are less than two members of the Commission beside the Chairperson or if any such member is acting as Chairperson or is for any reason unable to exercise the functions of his or her office, the Minister may, acting on the

advice of Cabinet, appoint a person who is qualified to be appointed as a member of the Commission to act as a member.

(10) A person appointed pursuant to the provisions of subsection (9) shall, subject to subsection (4), continue to act until—

- (a) the office in which he or she is acting has been filled;
- (b) the holder of the office has resumed his or her functions;
- (c) his or her appointment to act has been revoked by Minister, acting in accordance with the advice of Cabinet.

(11) A member of the Commission shall not enter upon the duties of his or her office until he or she has taken and subscribed the oath of allegiance and of office.

(12) The Commission shall, in exercise of its functions under this Act, not be subject to the direction or control of any other person or authority:

Provided that the Minister may give to the Commission directives of a general nature as regards the policy to be followed by the Commission when carrying out its functions under this Act.

(13) The Commission may, by regulations or otherwise, regulate its own procedure, and with the consent of the Minister, the Commission may confer powers or impose duties on a public officer or any authority of the Government for the purpose of the exercise of its functions.

(14) The Commission may, subject to its rules of procedure, act notwithstanding any vacancy in its membership or the absence of any member, and its proceedings shall not be invalidated by the presence or participation of any person who is not entitled to be present at or to participate in those proceedings:

Provided that the decision of the Commission shall require the concurrence of a majority of all its members.

Functions of the Commission.

5. (1) The Commission shall have power to—

- (a) appoint Government Auxiliary Employees;
- (b) exercise disciplinary control over the employees referred to in paragraph (a);
- (c) suspend and dismiss such employees.

(2) The Commission shall, in carrying out its functions under this Act, ensure that its decisions are in compliance with the provisions of the following Acts or any enactment that may replace any or all of them—

- (a) Labour (Minimum Wage) Act, Cap. 18:19;
- (b) Protection of Employment Act, Cap. 18:27; and
- (c) Protection of Wages Act, Cap. 18:28.

Recruitment etc of Government Auxiliary Employees.

6. (1) In recruiting Government Auxiliary Employees the Commission shall use a recruitment procedure that will be set out in regulations made by the Minister under this Act.

(2) The procedure to be followed in disciplining, suspending and dismissing a Government Auxiliary Employee shall be set out by the Minister in regulations made by the Minister under this Act.

Extension of Pension Plan to Government Auxiliary Employees.

7. Upon the coming into force of this Act, Government Auxiliary Employees shall become eligible to be members of the Defined Contribution Pension Plan provided for in the Pensions Act, Cap. 22.06.

Regulations.

8. The Minister may generally make regulations to give effect to the provisions of this Act.
