



BELIZE

**BORDER MANAGEMENT AGENCY ACT
CHAPTER 144**

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CHAPTER 144

BORDER MANAGEMENT AGENCY

50 of 1999.
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[18th January, 2000]

PART I

Preliminary

Short title.

1. This Act may be cited as the Border Management Agency Act.

Interpretation.

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

“Agency” means the Border Management Agency established in accordance with this Act;

“Board” means the Board of Directors of the Agency constituted in accordance with this Act;

“border point” or “prescribed border point” means the entry and exit points at Belize’s border with Guatemala at Benque Viejo Del Carmen in the west, and Belize’s border with Mexico at Santa Elena in the north and any other entry or exit point at Belize’s borders which the Minister may hereafter declare by Order published in the *Gazette* to be a border point for the purposes of this Act;

“Chairperson” means the Chairperson of the Board;

“director” means a director of the Agency;

“financial year” means the period of twelve months ending on the thirty-first day of March, inclusive;

“functions” includes powers and duties;

“Minister” means the Minister to whom the subject of Tourism is assigned by the Governor-General acting under section 41 of the Belize Constitution, Cap. 4;

“Secretary” means the Secretary to the Board.

PART II

Establishment of the Agency

3.—(1) There is hereby established for the purposes of this Act a body to be called the Border Management Agency.

Establishment of the Border Management Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and with power as such to enter into contracts, to sue and be sued in its corporate name and may for all purposes be described by such name, to acquire, hold, mortgage, lease and dispose of all kinds of property movable and immovable, and to do and perform such acts and things as bodies corporate may by law do and perform subject to the provisions of this Act.

4.—(1) There shall be a Board of Directors of the Agency with powers to manage the business of the Agency, subject to the provisions of this Act, including responsibility for the policy and general administration of the affairs of the Agency.

Board of Directors.

(2) The Board shall consist of such number of directors, not being less than five nor more than nine, as the Minister may appoint from time to time from persons appearing to the Minister to have ability and experience in matters relating to tourism, transport, finance, economics, engineering, accountancy, law, industrial relations, commerce, immigration, customs and other related subjects. Of the members, one shall be a senior representative of the Ministry for the time being responsible for Tourism.

(3) The General Manager of the Agency shall be an *ex officio* director of the Board but without any right of vote.

5. The Minister may appoint any person to act temporarily in the place of any director in the case of the absence or inability to act of such director.

Temporary appointments.

Chairperson and Deputy Chairperson.

6.—(1) On the commencement of this Act and thereafter during the month of January in every year the Minister shall appoint one of the members of the Board to be Chairperson of the Board, and the members shall elect one of their number to be deputy Chairperson of the Board.

(2) The Chairperson and deputy Chairperson of the Board shall hold office as such until the appointment or election of his successor but he shall cease to be Chairperson or deputy Chairperson, as the case may be, if he ceases to be a member of the Board.

(3) A retiring Chairperson or deputy Chairperson shall be eligible for re-appointment or re-election, as the case may be.

(4) In the absence or inability to act of the Chairperson, the deputy chairperson shall perform the functions of the Chairperson.

(5) The Minister shall appoint a fit and proper person to be Secretary to the Board.

Tenure of office of members.

7.—(1) A member of the Board other than an *ex officio* member shall, subject to subsections (2) and (3) of this section, hold office for such period, not exceeding three years, as the Minister may direct in the instrument appointing such member, but such member shall be eligible for reappointment.

(2) Any member of the Board other than an *ex officio* member may at any time resign his office by instrument in writing addressed to the Minister, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Board.

(3) The Chairperson or deputy Chairperson of the Board may at any time resign his office as such Chairperson or deputy Chairperson by instrument in writing addressed to the Minister and such resignation shall take effect from the date of receipt by the Minister of such instrument.

(4) The Minister may at any time for good and sufficient cause revoke the appointment of a member of the Board other than an *ex officio* member if he thinks it expedient so to do.

8. The names of all directors as first constituted and every change in the composition thereof shall be published in the *Gazette*.

Publication of composition of Agency.

9.—(1) The seal of the Agency shall be authenticated by the signatures of the Chairperson, or one director authorized to act in that behalf, and the Secretary.

Authentication of seal and documents.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the Chairperson or any director authorized to act in that behalf, and the Secretary.

10.—(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business (but not less than twice per annum) and such meetings shall be held at such places and on such days as the Board shall determine.

Procedure and meetings.

(2) Minutes in proper form of each meeting of the Board shall be kept by the Secretary.

(3) The Chairperson may at any time call a special meeting of the Board and shall call a special meeting to be held within seven days of a written request for that purpose addressed to him by any two directors.

(4) The decisions of the Board shall be by majority vote.

(5) The Chairperson or, in case of the absence or inability to act of the Chairperson, the deputy Chairperson shall preside at the meetings of the Board, and when so presiding the Chairperson or the deputy Chairperson, as the case may be, shall in addition to an original vote have a casting vote in any case in which the voting is equal.

(6) The quorum of the Board shall be four members with voting rights.

(7) Subject to the provisions of this Act, the Board may regulate its own proceedings.

(8) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the directors or by any defect in the appointment of a director.

Remuneration of directors.

11. There shall be paid to the Chairperson and to other directors, other than *ex officio* directors, such remuneration, if any (whether by way of salaries, or travelling or other allowances) as the Minister may determine.

Protection of Agency.

12. Notwithstanding anything to the contrary in this Act, no act done or proceedings taken under this Act by the Agency shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case,

Provided that any person aggrieved by a decision of the Agency may appeal to the Minister who may, if he thinks fit, direct the Agency to rectify any such omission, defect or irregularity.

Protection of directors.

13.—(1) No director shall be personally liable for any act or default of the Agency done or omitted to be done in good faith in the course of the operations of the Agency.

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

Functions of the Agency.

14.—(1) It shall be the duty of the Agency,

- (a) to administer, control and manage prescribed border points and any other property vested in it under this Act;
- (b) to provide and maintain such services and facilities as are in its opinion necessary or desirable for the efficient operation of prescribed border points or as the Minister may require;
- (c) to provide, or to coordinate the provision of emergency services, including rescue and fire fighting services, at prescribed border points.

- (2) In the exercise of its functions, the Agency may,
- (a) construct, alter and maintain buildings at prescribed border points;
 - (b) purchase land or buildings;
 - (c) grant, on such terms and conditions as the Agency thinks fit, authority to carry on any trade or business at any border points;
 - (d) grant leases, subleases, or other interests or concessions in respect of land or buildings within a prescribed border point, on such terms and conditions and subject to the payment of rent or other consideration as the Agency may think fit;
 - (e) carry on such activities as appear to it advantageous, necessary or desirable for or in connection with the exercise and performance of its functions.

15. The Minister may, after consultation with the Chairperson, or in the event of Chairperson being absent, the deputy Chairperson, give to the Agency directions of a general character as to the policy to be followed in the exercise and performance of its functions in relation to matters appearing to him to concern the public interest, and the Agency shall give effect to any such directions.

Power of Minister to give policy directions.

16.—(1) It shall be the duty of the Agency so to conduct the affairs of the Agency as to ensure that, so far as practicable, the annual revenues of the Agency are, taking one financial year with the other, sufficient to meet all charges properly chargeable to revenue and the establishment of reserves necessary for its operations.

General duties of the Agency.

(2) The Agency shall furnish the Minister with such returns, statistics and other information with respect to the property and other activities of the Agency as the Minister may from time to time require, and shall afford him facilities for verifying such information in such manner and at such times as he may reasonably require.

(2) If any member of the Board or some other person present at a meeting of the Board is directly or indirectly interested in any contract or proposed contract or other matter he shall, at the meeting and as soon as is practicable after the commencement of the meeting, disclose the fact of his interest and shall not take part in the discussion, consideration or voting on such a contract or other matter.

Long range development plans to be approved by Minister.

17.—(1) Except in so far as may be allowed by general directions of the Minister, the Agency shall not proceed with the implementation of any long range plans for the development of any prescribed border point except in accordance with the provisions of a scheme made by the Agency and approved by the Minister.

(2) For the purpose of this section “long range development plans” means plans,

- (a) which have been formulated on the basis of statistics compiled in respect of movements of traffic, cargo, passengers and visitors within the prescribed border points;
- (b) which have been projected to meet estimated requirements for development five years or more after the formulation of such plans.

(2) Nothing in subsection (1) of this section shall be construed as precluding the grant of any authority under section 14(2)(c) of this Act, or of any lease, sublease or other interest or concession under section 14(2)(d) of the Act, for a period in excess of five years.

PART III

Financial Provisions

18.—(1) The Minister responsible for Finance may, by Order, transfer to the Agency any property belonging to the Government which appears to him to be necessary or useful to the Agency for carrying out its functions

Transfer of property.

under this Act, and such property shall vest in the Agency by virtue of the Order and without further assurance.

(2) An Order under subsection (1) of this section,

- (a) may contain such incidental, consequential or supplemental provisions as the said Minister thinks necessary or expedient for the purposes of the Order;
- (b) shall be subject to negative resolution of the House of Representatives.

19. The Government may lend the Agency such sum as the Minister responsible for Finance certifies is required to enable the Agency to commence its functions, to be repaid by the Agency at such times and by such methods as the said Minister may determine.

Loans by Government.

20. The funds and resources of the Agency shall consist of,

Funds and resources of the Agency.

- (a) such sums as may be provided for the purpose from time to time by the National Assembly;
- (b) all sums borrowed by the Agency;
- (c) all sums received by the Agency as payment for advertisements;
- (d) all sums collected under the authority of regulations made under this Act or under any other law; and
- (e) all other sums or property which may in any manner become payable to or vested in the Agency in respect of any matter incidental to its powers and duties.

21.—(1) Subject to the provisions of subsection (2) of this section, the Agency may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

Borrowing powers.

(2) The power of the Agency to borrow shall be exercisable only with the approval of the Minister as well as the Minister of Finance as

to the amount, as to the sources of the borrowing, and as to the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

Accounts and audit.

22.—(1) The Agency shall keep accounts of its transactions according to international accounting standards and such accounts shall be audited by the Auditor-General or by an auditor appointed by the Minister.

(2) The members, officers, agents and servants of the Agency shall grant to the Auditor-General or the auditor appointed to audit the accounts of the Agency under subsection (1) of this section access to all books, documents, cash and securities of the Agency and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Agency.

(3) The Agency may with the approval of the Minister write off bad debts.

Submission of
budget estimates.

23.—(1) The Agency shall, in such form and by such dates as may be prescribed by the Financial Secretary, prepare and submit to the Minister responsible for Finance, through the Minister responsible for Tourism, estimates of income receivable and the expenditure to be incurred during each financial year (including any supplementary estimates), and the Minister responsible for Finance shall present the said estimates to the National Assembly with such amendments and modifications, if any, as he may consider necessary.

(2) All new or special expenditure shall receive the approval of the Minister before being included in the estimates.

Advances and
guarantee of bor-
rowings.

24.—(1) The Minister responsible for Finance may from time to time make advances to the Agency out of moneys provided by the National Assembly for the purpose.

(2) The Minister responsible for Finance may guarantee, in such manner and on such conditions as he thinks fit, the repayment of the

principal and the payment of interest on any authorized borrowings of the Agency made otherwise than by way of advance under subsection (1) of this section.

(3) Where the Minister responsible for Finance is satisfied that there has been default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Revenue Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Revenue Fund.

25. All moneys of the Agency not immediately required to be expended in the meeting of any obligations or the performance of any functions of the Agency may be invested in such securities or other investments as may be approved generally or specifically by the Minister, and the Agency may, with the approval of the Minister of Finance, sell all or any of such securities or other investments.

Power to invest money.

26.—(1) The Agency shall, not later than six months from the end of each year, submit to the Minister a report containing,

Report to Minister.

- (a) an account of its transactions throughout the preceding year in such detail as the Minister may direct; and
- (b) a statement of the accounts of the Agency audited in accordance with section 22 of this Act.

(2) A copy of the auditor's report shall be printed and laid on the table of both Houses of the National Assembly and published in the *Gazette*.

27. The Agency shall appoint a Tenders Committee from amongst the Board of Directors and all contracts above forty thousand dollars awarded by the Agency shall require the prior approval of the Minister.

Tenders Committee.

PART IV

Management and Staff

Appointment of staff.

28.—(1) The Agency shall, with the approval of the Minister, appoint a chief executive officer to be called the “General Manager” at such remuneration and on such terms and conditions as the Minister may approve.

(2) Subject to subsection (1) of this section, the Agency may appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, such other officers, agents and servants as it deems necessary for the proper carrying into effect of this Act,

Provided that,

- (a) no salary in excess of the rate of twenty thousand dollars per annum shall be assigned to any post without the prior approval of the Minister;
- (b) no appointment shall be made to any post to which a salary in excess of the rate of twenty thousand dollars per annum is assigned without the prior approval of the Minister; and
- (c) no provision shall be made for the payment of any pensions, gratuities or other like benefits to any officers, agents or servants, or to others by reference to their service, without the prior approval of the Minister.

(3) The Agency may, with the approval of the Minister, formulate schemes for the grant of pensions, gratuities or other like benefits to its officers, agents or servants.

Secondment.

29. The Governor-General, acting in accordance with the advice of the Prime Minister in the case of public officers to whom section 107 of the Belize Constitution, Cap. 4 applies, and the Public Services Commission in the case of all other public officers, may, subject to such conditions

as the Governor-General acting as aforesaid, or, as the case may be, the Public Services Commission, may impose, approve the secondment of any public officer in the service of the Government to any office with the Agency and any public officer so seconded shall, in relation to pension, gratuity or other retiring benefit, be treated as continuing in the service of the Government.

30.—(1) Subject to this Act, the Board may, by a two-thirds majority vote of the members thereof, delegate to any member or committee of the Board the power and authority to carry out on its behalf such duties as the Board may determine.

Power to delegate.

(2) Every delegation under this section shall be revocable by the Board and no delegation shall prevent the exercise by the Board of any of the functions so delegated.

PART V

Miscellaneous

31.—(1) The Minister may, in consultation with the Agency, make such Regulations as he considers necessary or expedient for giving effect to the provisions of this Act, and without prejudice to the generality of the foregoing, such Regulations may,

Regulations.

- (a) provide for the most effective management of border points and for co-ordinating the activities of all public and private sector agencies operating in the border points;
- (b) provide for securing the safety of vehicles and persons using any prescribed border point as aforesaid and preventing danger to the public arising from the use and operation of the border point;
- (c) make provision for preventing or minimizing obstruction of traffic or otherwise within the border point;

- (d) make provision for preserving order within the border point and preventing damage to property therein;
- (e) regulate or restrict advertising within the border point;
- (f) regulate, promote or restrict the movement of persons into, or out of, the border point;
- (g) prohibit or regulate, in relation to the whole or any part of the border point,
 - (i) the presence of persons or classes of persons;
 - (ii) the presence of animals or classes of animals;
 - (iii) the use of vehicles of any class or description; and
 - (iv) acts which might endanger any property or persons;
- (h) regulate vehicular traffic anywhere within the border point, and in particular may impose speed limits on vehicles therein.
- (i) appoint and regulate the use, including charges to be made for the use, of parking places for motor vehicles in the border point;
- (j) make provision for the removal to such place as the Agency may think fit of vehicles parked in a place other than a place appointed for the parking of such vehicle or vehicles which have broken down or vehicles which have been left in any place,
 - (i) in contravention of any provision made by or pursuant to this Act, in so far as it relates to roadways in a prescribed border point, or in contravention of the Motor Vehicles and Road

Traffic Act, Cap. 230 and the Regulations made thereunder;

- (ii) in such a position or in such condition or in such circumstances as to cause obstruction to other persons using the prescribed border point or as to be likely to cause danger to such other persons; or
- (iii) in such a position or condition or in such circumstances as to appear to have been abandoned,

and for the safe custody of vehicles removed and any goods which they contain at the time of such removal and for the charges to be imposed for the removal and safe custody of such vehicles or goods;

- (k) prescribe and regulate the conditions for use of the border point and its facilities including the charges to be made for the use of the border point and for services or facilities provided therein;
- (l) provide for the disposition of unclaimed property in the custody of the Agency;
- (m) provide for security arrangements.

(2) All regulations made under this section shall be subject to negative resolution.

(3) Every person contravening any Regulation made under this section shall be guilty of an offence and liable on summary conviction to a fine not exceeding one thousand dollars, or in default of payment, to imprisonment for a period not exceeding six months.

(4) Regulations made under this section in relation to the use of roadways in any border point shall take effect notwithstanding that the roadways are subject to the Motor Vehicles and Road Traffic Act, Cap. 230, and regulations made thereunder.

(5) Subject to subsection (6) of this section, where by virtue of any provision made by or pursuant to this Act or the Motor Vehicles and Road Traffic Act, Cap. 230, a vehicle has been, or could at any time be, removed from a place in a prescribed border point, the Agency may, if it appears to it that the vehicle had been abandoned, sell or otherwise dispose of it and its contents (if any) and,

- (a) apply the proceeds of any such sale in or towards satisfaction of any costs incurred by them in connection with the disposal thereof or any charge or payment to which they are entitled as regards the vehicle or contents under any provision made by or pursuant to this section, so, however, that the Agency, in its discretion, may waive, in whole or in part, the amount of such costs, charges or payment;
- (b) recoup from the owner or person in charge of the vehicle any costs mentioned in paragraph (a) of this subsection insofar as such costs are not satisfied by virtue of that paragraph;
- (c) dispose of, in such manner as the Agency may by Order prescribe, any sum received by the Agency on a sale of the vehicle after deducting any sum applied there out by virtue of paragraph (a) of this subsection.

(6) A power of disposal conferred by subsection (5) of this section shall not be exercisable in the case of a vehicle unless there have been taken by the Agency such steps (including provisions for publication) and there has elapsed such period (not being less than six weeks) beginning with the taking of the first of such steps, as may be prescribed by the Agency by Order, being steps and a period whose respective taking and lapse shall, in the opinion of the Agency, together suffice for securing adequate opportunity for enabling the vehicle to be claimed.

(7) Different provisions may be made under subsection (6) of this section with respect to vehicles of different classes or descriptions or with respect to vehicles of the same class or description in different circumstances.

32. The Agency is not, with respect to anything entrusted to its care, a bailee for reward and has no liability for loss or damage occasioned thereto unless such loss or damage is due to the gross negligence or default of the Agency.

Agency not a bailee for reward.

33.—(1) The Agency has a lien on every vehicle for the recovery of border point dues remaining unpaid for over seven days.

Lien on and detention of vehicles.

(2) The Agency may enter, take control of and detain any vehicle over which it has a lien.

34. Notwithstanding any other provision of this Act to the contrary, a police officer or a person authorized by the Agency in that behalf (hereinafter referred to as “the authorized person”) may, within any prescribed border point, arrest, with or without a warrant, any person who,

Power of arrest.

- (a) contravenes or is suspected on reasonable grounds of contravening or having contravened any provision of this Act or of any Regulations made thereunder;
- (b) having been so requested under section 36 of this Act, fails or refuses to correctly state his name and address or the purpose of his being at the border point; and
- (c) having been removed from a border point under section 36, returns or attempts to return thereto without the approval of a police officer or an authorized person,

Provided that any person arrested under this section by an authorized person shall as soon as practicable be handed over by him to a police officer or taken by him to a police station.

35. Where an offence is alleged to have taken place at a border point it shall be deemed to have taken place thereat unless the contrary is proved.

Presumption of venue.

36. Any person suspected on reasonable grounds of having contravened or of being about to contravene any of the provisions of this Act or

Penalty for failure to disclose identity.

of any Regulations made thereunder shall upon being requested so to do by a police officer or an authorised person correctly state his name and address and the purpose of his being at the border point, and upon his failure so to do may be removed from the border point or any part thereof.

Savings of powers conferred under other laws.

37.—(1) The Agency shall perform its functions in close cooperation with the Belize Police Department, the Department of Immigration and Nationality Services and the Customs Department.

(2) This Act shall be read and construed as being in addition to, and not in derogation of, the provisions of the Immigration Act, Cap. 156, the Police Act, Cap. 138, the Customs and Excise Duties Act, Cap. 48, the Customs Regulation Act, Cap. 49, and any Regulations made thereunder.

Exemption from income tax, property tax and stamp duty.

38.—(1) The Agency shall be exempt from income tax and property tax.

(2) All instruments executed by or on behalf of the Agency shall be exempt from stamp duty.