

DRAFT BELIZE AGRICULTURAL HEALTH AUTHORITY BILL

Be it enacted by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same as follows -

PART I - PRELIMINARY

Title and commencement

1. (1) This Bill may be cited as the Belize Agricultural Health Authority Bill.
- (2) This Bill shall come into force on a date to be appointed by the Minister by order in the Gazette.

Interpretation

2. In this Bill, unless the context otherwise requires -

“agricultural health” means animal health, plant health and food safety, and “agricultural health services” means the performance of official controls in those areas;

“Authority” means the Belize Agricultural Health Authority re-established in section 3(1) of this Bill;

“Board” means the Board of Directors established in section 11 of this Bill;

“food control” means official oversight of the food production chain, in order to ensure that all food conforms to prescribed quality, safety and labelling requirements;

“food safety” means the assurance that food will not cause harm to the consumer when it is prepared or eaten according to its intended use;

“Government” means the Government of Belize;

“international reporting requirements” means obligations of the Authority, under the WTO Agreement on the Application of Sanitary and Phytosanitary Measures and other applicable international agreements and treaties, to make reports to competent national and international authorities of Belize’s trading partners;

“Managing Director” means the Managing Director appointed pursuant to section 9(1) of this Bill;

“memorandum of understanding” means a written agreement between the Authority and any other public or private entity under section 6(2)(c) of this Bill;

“Minister” means the Minister responsible for agriculture and “Ministry” shall have a corresponding meaning;

“official” means established, authorised or performed by the Authority;

“prescribed” means prescribed by this Bill or by any accompanying regulations;

“this Bill” means this Bill and any regulations, orders or notices made under it.

PART II – ESTABLISHMENT AND FUNCTIONS OF THE AUTHORITY

Re-establishment of the Belize Agricultural Authority

3. (1) The Belize Agricultural Health Authority is hereby re-established as an autonomous institution governed by the provisions of this Bill.
- (2) The Authority may exercise any of the functions entrusted to it under this Bill or other legislation in force in Belize, and may exercise any other duties necessary for the performance of its functions.
- (3) The Authority shall be the competent authority for agricultural health services in Belize.

Body corporate

4. (1) The Authority shall be a body corporate having perpetual succession and a common seal and, subject to the provisions of this Bill, shall have power to acquire, hold and dispose of movable and immovable property of whatever kind and to enter into contracts and to do all things necessary for the fulfilment of its objectives.
- (2) The Authority may sue and be sued in its corporate name and shall for all purposes be described by that name.
- (3) The seal of the Authority shall be authenticated by the signatures of the Chairperson or the Managing Director and one other Director authorised by the Board to act for that purpose, and the seal thus authenticated shall be judicially and officially noticed.
- (4) All agreements to be entered into by the Authority, other than those required by law to be made under seal, shall be signified under the hand of the Chairperson and the Managing Director or by a Director and the Managing Director.
- (5) The Authority shall have its principal office in the Cayo District or at such other place or places in Belize as the Board may decide.
- (6) The Authority may establish regional or local offices in any location within Belize as it considers necessary.

Functions of the Authority

5. The principal functions of the Authority shall be to -

- (a) to establish and maintain animal health services, including the inspection and testing of animals for the purpose of disease surveillance, animal traceability and the issuance of official movement permits for monitoring internal animal transport;
- (b) to establish and maintain plant health services, including inspection, surveillance and the imposition of phytosanitary measures;
- (c) to establish and maintain food control and food safety services;
- (d) to regulate and control the importation and exportation of animals, including live aquatic animals, and animal products, including aquatic animal products, into and out of Belize;
- (e) to regulate and control the importation and exportation of plants and plant products into and out of Belize;
- (f) to regulate and control the importation and exportation of food into and out of Belize;
- (g) to establish and maintain national and international quarantine services in order to prevent the introduction and control the spread of animal diseases and plant pests in Belize;
- (h) to implement and enforce biosafety controls in Belize;
- (i) to regulate the certification of organic farms, commodities and production systems in Belize;
- (j) to regulate and control veterinary drugs;
- (k) to regulate and control animal feeds;
- (l) to regulate and control fertilisers;
- (m) to carry out risk analysis;
- (n) to establish central and regional laboratories for agricultural health services;
- (o) to develop and maintain information systems for agricultural health services;
- (p) to undertake training and development of staff and establish minimum qualifications for staff appointed under section 10(1) of this Bill or authorised officers appointed under other legislation implemented by the Authority;
- (q) to maintain contacts and liaise with foreign, regional and international bodies dealing with agricultural health, trade in agricultural products and other matters within the mandate of the Authority, and to fulfil Belize's international reporting requirements in respect of these matters;

- (r) to formulate, in consultation with other national commissions, councils and bodies, strategies and policies on matters within the mandate of the Authority;
- (s) encourage, promote and conduct research on matters within the mandate of the Authority;
- (t) to cooperate with and assist in the co-ordination of the work of other government institutions regarding matters within the mandate of the Authority;
- (u) to plan and organise programmes and activities with the participation of the private sector and consumers as appropriate and, for this purpose, to establish national executive or advisory committees with members drawn from the private sector, consumers and other authorities, covering matters within the mandate of the Authority;
- (v) provide advice, information or assistance to any public or private entity in relation to matters within the mandate of the Authority;
- (w) to educate the public on matters within the mandate of the Authority;
- (x) propose, prepare and amend regulations, orders, standards and notices under this Bill and other relevant legislation;
- (y) carry out any other matters in connection with or reasonably incidental to the foregoing.

Powers of the Authority

- 6.**
- (1) The Authority shall have all the powers necessary to carry out its functions under this Bill and any other laws.
 - (2) In particular, but without limiting the generality of the foregoing, the Authority may -
 - (a) acquire by purchase, lease, exchange, bailment, gift or otherwise, any interest in land or any other form of property;
 - (b) engage any person or body to undertake the management, alteration, development, improvement, repair or maintenance of any of its property;
 - (c) enter into agreements or memoranda of understanding with any government agency or private sector organisation in order to carry out any of its functions, or in order to delineate the entities' respective roles;
 - (d) approve, register and supervise the management of establishments and individuals to carry out specified activities and withdraw such approvals, if appropriate;

- (e) enter into technical co-operation agreements with other regional or international organisations with similar objectives;
- (f) publish reports, recommendations and other information relating to any functions of the Authority or the agricultural sector;
- (g) set, charge and collect fees for services carried out under this Bill and any other law under the responsibility of the Authority;
- (h) set, charge and collect fines for violations of the provisions of this Bill and any other law under the responsibility of the Authority.

Implementation of legislation

- 7. (1) The Authority shall have all necessary powers to implement all legislation for which it is assigned implementation authority.
- (2) Legislation referred to in subsection (1) may cover any of the subject matters referred to in paragraphs 5(a)-(l).

Policy directions

- 8. The Minister may, after consultation with the Chairperson, give to the Board directions of a general character as to the policy to be followed in the performance of any of its functions, and the Board shall give effect to such directions.

PART III – APPOINTMENT OF STAFF

Appointment of staff and declaration of pensionable posts

- 9. (1) The Board shall, with the approval of the Minister, appoint and employ, at such remuneration and subject to such terms and conditions as it thinks fit, a suitably qualified Managing Director, who shall be the chief executive officer of the Authority and shall be responsible, subject to section 10, for managing the day-to-day affairs of the Authority.
- (2) The post of Managing Director, and the posts of the administrative, technical, professional, clerical and secretarial staff, shall be pensionable under the Pensions Act, notwithstanding anything to the contrary in that Act or any other enactment. Persons holding ancillary posts of the semi-skilled or unskilled category shall be entitled to retirement benefits under the Government (Open Vote) Workers Regulations.
- (3) Where an officer in the public service is transferred to an office under the Authority and he or she retires or resigns on pension from, or dies while in service of, the Authority, that officer's service in the public service shall rank as qualifying service or pensionable service, as the case may be, for purposes of determining his or her eligibility for a gratuity or pension under the Pensions Act.

- (4) Notwithstanding any contrary provision in the Pensions Act or any other enactment amending or replacing that Act, where a person employed in a pensionable office by the Authority is transferred to a pensionable office in the public service, or her his service under the Authority shall rank as qualifying service or pensionable service, as the case may be, for purposes of determining eligibility for a gratuity or pension under the Pensions Act.
- (5) When making payment for a pension or gratuity in respect of officers referred to in subsections (3) and (4), the Government shall pay the whole pension or gratuity, but the Authority shall contribute to the Government for the portion representing the number of years of pensionable service rendered by the officer in the employment of the Authority.
- (6) The Authority may provide for the establishment of a pension scheme, social security scheme or provident fund scheme, and without prejudice to the generality of the foregoing, such schemes may enable the Authority to -
 - (a) contribute to the government the moneys referred to in subsection (5);
 - (b) grant gratuities, pensions or superannuation allowances to, or to the widows, families or dependents of, its employees and officers;
 - (c) establish contributory and superannuation schemes and establish and contribute to superannuation funds for the benefit of its employees and officers;
 - (d) enter into and carry into effect agreements for providing to any such employees or officers, widows, family or dependents any gratuities, pensions or allowances to which they are entitled under this section.

PART IV – ADMINISTRATION

Duties of the Managing Director

10. (1) The Managing Director shall, subject to the general policy decisions of the Board, be responsible for the management of the Authority, including the appointment of staff in accordance with the general terms and conditions of service established by the Board.
- (2) The Managing Director shall have authority -
 - (a) to sign jointly with another Director, reports, balance sheets and other financial statements;
 - (b) to delegate the powers provided for in paragraph (a) to other officers of the Authority;
 - (c) to appoint or designate, with the approval of the Board, officers and other persons with the required qualifications to carry out assigned duties under this Bill and other laws.

Board of Directors

- 11.** There shall be a Board of Directors of the Authority, appointed by the Minister, which shall be constituted as provided in section 12, and which shall be the policy-making and advisory organ of the Authority.

Composition of the Board

- 12.** (1) The Board shall consist of the following persons -
- (a) a representative of the Ministry responsible for agriculture or his or her designee;
 - (b) a representative of the Ministry responsible for trade or his or her designee;
 - (c) a representative of the Ministry responsible for health or his or her designee;
 - (d) a representative of the Ministry responsible for economic development or his or her designee;
 - (e) one Director appointed by the Minister in his or her discretion from among persons having knowledge or experience in the agricultural or commercial sectors;
 - (f) four Directors appointed by the Minister from the Citrus Growers Association, the Banana Growers Association, the Belize Livestock Producers Association, the Sugar Cane Association, the Belize Chamber of Commerce and Industry and other agribusiness associations;
 - (g) one Director having knowledge and experience in the fisheries sector nominated by associations in the fishing industry;
 - (h) the Managing Director, who shall not have the right to vote.
- (2) The Directors referred to in subsection (1) shall be appointed by the Minister for such period not exceeding two years as may be specified in the instruments appointing them, provided that any such Director retiring on the expiration of his or her first term, subject to section 14, shall be eligible for reappointment.
- (3) The Minister shall appoint one of the Directors to be Chairperson of the Board, who shall hold office for a period of two years and be eligible for reappointment for one further term.
- (4) The Directors shall elect from their number a Deputy Chairperson who shall hold office for a period of two years and be eligible for reappointment for one further term.

- (5) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board, he or she shall disclose the nature of that interest in writing in a timely fashion before the meeting of the Board, and the Chairperson may request that member's absence from a meeting and/or recusal from decision-making in relation to that matter.

Meetings of the Board

13. (1) The Board shall meet as often as its business requires but not less than once per month.
- (2) The Chairperson, or in his absence, the Deputy Chairperson, shall summon a special meeting of the Board within seven days of receipt of a request for that purpose addressed to him or her in writing by any three Directors.
- (3) A quorum for any meeting of the Board shall be six Directors, one of whom shall be the Managing Director.
- (4) Decisions of the Board shall be by a majority of the votes cast; provided that in any case in which the voting is equal, the person presiding at the meeting shall have a second or casting vote.
- (5) The Board shall employ the services of an official or other member of the staff of the Authority to act as secretary of the Board and to ensure that records are kept of its acts and decisions.
- (6) Where for any reason, the Chairperson is unable to preside at any meeting of the Board -
 - (a) the Deputy Chairperson shall preside if he or she is present and able; and
 - (b) if the Deputy Chairperson is absent or unable to preside, then the Directors present shall elect one of their number to preside.

Termination of Director's term

14. (1) No person who is a member of the National Assembly shall be appointed or remain a Director.
- (2) The Minister may terminate the appointment of the Director if he or she -
 - (a) resigns in writing to the Minister;
 - (b) becomes subject to the disqualification specified in subsection (1);
 - (c) becomes bankrupt or insolvent, compounds with his or her creditors or benefits under the law for the relief of a bankrupt or makes any assignment in whole or in part of his or her income for the benefit of such creditors;

- (d) is convicted of an offence involving dishonesty, or of any other offence punishable with not less than three years imprisonment (whether or not the convicted person actually serves the sentence);
 - (e) becomes totally or permanently incapable of performing his or her duties;
 - (f) absents him- or herself from three consecutive meetings of the Board without permission; or
 - (g) is found by the Minister to have committed gross misconduct.
- (3) The names of all members of the Board as first constituted, their terms of office and every change in the membership shall be published in the Gazette.

Board to be protected by the Public Authorities Protection Act

- 15.** The Board shall be entitled to the same protection under the Public Authorities Protection Act as if it were included in the definition of “Public Authority” given in section 2 of that Act, and the place at which the Board shall hold its meetings shall be deemed to be the “abode” of the Board within meaning of that Act.

Delegation of powers

- 16.** (1) The Board may from time to time, in respect of any particular matter or class of matters, and in writing, delegate to any other Director or to the Managing Director, any of its functions under this Bill except this power of delegation, as well as the following functions -
- (a) approving annual budgets or programmes of activities;
 - (b) carrying out activities which require off-budget expenditures.
- (2) Subject to any general directions given by the Board, the person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred on him or her directly by this Bill and not by delegation.
- (3) Every person purporting to act pursuant to a delegation under this section shall, in the absence of proof to the contrary, be presumed to be acting in accordance with the terms of the delegation.
- (4) Every delegation under this section shall be revocable at will, and no such delegation shall prevent the exercise of any power by the Board.

Protection of Directors

- 17.** No Director shall be personally liable for any act or omission of the Authority, or of the Board or of any Director or officer of the Authority, if that act or omission was made in good faith in the course of the operations of the Authority or of the Board.

Rules of the Authority

- 18.** (1) The Board may from time to time make rules of the Authority not inconsistent with this Bill, for all or any of the following purposes -
- (a) regulating the proceedings of the Board;
 - (b) providing for the custody of the property of the Authority, and the custody and use of the common seal of the Authority;
 - (c) regulating the terms and conditions of employment of persons appointed under section 9 or 10;
 - (d) regarding the preparation of the annual audits of the Authority referred to in section 24;
 - (e) providing for such other matters as may be necessary or expedient for the better carrying out of the functions of the Authority.
- (2) Notice in writing of the Board's intention to make rules under this section or for the amendment or revocation of any rule, including a copy of the proposed rule, amendment or revocation, shall be given to every Director not less than twenty-one days before the meeting at which the proposal is to be made, but an inadvertent failure to comply with this subsection shall not invalidate the making, amendment or revocation of any rule at that meeting.

PART V – FINANCIAL PROVISIONS, ACCOUNTS AND REPORTS

Revenues of the Authority

- 19.** The revenues of the Authority shall consist of the following -
- (a) revenues allocated from the Consolidated Revenue Fund;
 - (b) fees and charges imposed and collected by the Authority;
 - (c) fines imposed and collected by the Authority;
 - (d) any other money lawfully contributed, donated or bequeathed to the Authority or received by the Authority from any other source.

Expenses of the Authority

- 20.** The expenses of the Authority, including the remuneration of Board members and staff, shall be paid out of the funds and resources of the Authority.

Borrowing powers

- 21.** (1) Subject to the provisions of subsection (2), the Authority may borrow money needed to meet any of its obligations or discharge any of its functions, including on-lending to groups approved by the Board, if necessary.
- (2) The power of the Authority to borrow in excess of such limits as the Minister responsible for finance may fix from time to time shall be exercisable only with the approval of the Minister responsible for finance as to the amount, source of borrowing and the terms on which the borrowing may be effected, and an approval given for the purposes of this subsection may be general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.
- (3) With the approval of the House of Representatives, the Minister responsible for finance may guarantee, in such manner and on such conditions as he or she thinks fit, the repayment of the principal and the payment of interest on any authorised borrowings by the Authority.
- (4) Where the Minister responsible for finance is satisfied that there has been a default in the repayment of any principal moneys or the payment of interest guaranteed under the provisions of this section, he or she shall direct the repayment or, as the case may be, the payment, out of the Consolidated Revenue Fund, of the amount defaulted.

Biosecurity fund

- 22.** There is hereby established a Biosecurity Fund which the Authority may draw upon to meet urgent and unforeseen needs arising from a plant or animal health or food safety emergency as declared under conditions to be established by regulations.

Submission of budget estimates

- 23.** (1) The Authority shall, on or before the 30th of November each year, prepare and submit to the Minister responsible for finance, through the Minister, estimates of the income receivable and the expenditures to be incurred during the financial year commencing on the next 1st of April.
- (2) The Authority shall submit the estimates in the form required by the Minister responsible for finance.
- (3) All new or special expenditures shall receive the approval of the Minister before being included in the estimates.
- (4) Except with the approval of the Minister responsible for finance, given after consultation with the Minister, no further sum shall be expended during any financial year other than as provided in the estimates relating to such financial year.

Accounts and audit

24. (1) The Authority shall keep accounts and other records in relation to its business and shall prepare annually a statement of accounts in a form directed by the Minister and conforming to the best commercial and accounting standards.
- (2) The accounts of the Authority shall be audited annually by an independent auditor appointed each year by the Board with the approval of the Minister.

Annual report

25. Within six months after the end of each financial year, the Authority shall cause to be made and shall submit to the Minister -
- (a) a statement of its accounts audited in accordance with section 24(2);
- (b) a report dealing generally with the proceedings of the Authority during that financial year.

Transfer of property

26. (1) The Minister responsible for finance may, by order, transfer by lease or otherwise to the Authority, under such terms and conditions as he or she deems fit, any property belonging to the Government which appears to him or her to be necessary or useful to the Authority for carrying out its functions under this Bill, and such property shall vest in the Authority by virtue of such order and without further assurance.
- (2) An order under subsection (1) -
- (a) may contain such incidental, consequential or supplemental provisions as the Minister responsible for finance thinks necessary or expedient for the purposes of the order;
- (b) shall be subject to negative resolution by the House of Representatives.

PART VI – MISCELLANEOUS AND GENERAL PROVISIONS

Validity of Board's acts

27. No act done or proceeding taken under this Bill shall be questioned or invalidated on the ground of -
- (a) the existence of any vacancy in the membership, or of any defect in the constitution, of the Board; or
- (b) any omission, defect or irregularity.

Exemption from income tax, property tax, stamp duty and import duty

- 28.** (1) The Authority shall be exempt from the payment of income tax, property, and import duty on all purchases including but not limited to fuel purchases.
- (2) All instruments executed by or on behalf of the Authority shall be exempt from stamp duty.
- 29.** No member of the Board, authorised officer or other representative of the Authority shall be liable to suit or to prosecution in respect of anything done in good faith in the performance of official functions under this Bill.

Powers of the Minister to make regulations

- 30.** (1) The Minister may, on the advice of the Authority, make regulations for the purpose of carrying out the provisions of this Bill.
- (2) Without prejudice to the generality of subsection (1), the Minister may by order make regulations providing for any of the following -
- (a) all activities undertaken in the agricultural health services area in Belize;
 - (b) the certification of organic farms, commodities and production systems;
 - (c) the control of veterinary drugs;
 - (d) the control of animal feeds;
 - (e) the control of fertilisers;
 - (f) the operating procedures of the Board, insofar as not already regulated by the Board itself;
 - (g) the operation of the Biosecurity Fund established under this Bill;
 - (h) the level of fees and costs for official actions taken under this Bill and other legislation implemented by the Authority;
 - (i) the forms to be used for the purposes of this Bill and other legislation implemented by the Authority, including applications, registrations, permits, notices and receipts, as well as the relevant application procedures;
 - (j) any other matters deemed necessary to achieve the purposes of this Bill.

Savings and repeal

- 31.** (1) The following enactments are hereby repealed -
- (a) Belize Agricultural Health Authority Act Cap. 211;

(b) ...

- (2) Any regulations or other subsidiary instruments passed under prior legislation shall remain in force unless and until specifically repealed.
- (3) Every permit, registration or other document issued under Cap. 211 shall, insofar as it is not inconsistent with the provisions of this Bill, continue to be effective for such period and subject to such terms and conditions as may be stated therein.
- (4) Without prejudice to subsections (1), (2) and (3), in the event of any conflict or inconsistency between the provisions of this Bill and any other enactment in force in Belize, the provisions of this Bill shall prevail.