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HEALTH SERVICES AUTHORITY LAW

(2005 Revision)

Law 7 of 2002 consolidated with Laws 2 of 2003 and 28 of 2004, and as amended by the Cayman Islands (Constitution) (Amendment) Order 2003 (U.K.S.I. 2003 No. 1515).

Revised under the authority of the Law Revision Law (1999 Revision).

Originally enacted-

Law 7 of 2002-28th June, 2002
Law 2 of 2003-26th March, 2003
Law 28 of 2004-13th December, 2004.

Originally made-

U.K. Order-12th June, 2003.

Consolidated and revised this 12th day of July, 2005.

Note (not forming part of the Law): This revision replaces the 2003 Revision which should now be discarded.

HEALTH SERVICES AUTHORITY LAW

(2005 Revision)

ARRANGEMENT OF SECTIONS

PART I-Introductory

1. Short title
2. Definitions

PART II-Establishment, Capital and Administration of Authority

3. Establishment of Cayman Islands Health Services Authority and vesting of property
4. Use of seal and authentication of documents
5. Authority to have general management of health care facilities
6. Capital and borrowing powers of Authority
7. Reserve fund
8. Constitution of Board of Authority
9. Meetings of Board
10. Disclosure of directors' interests
11. Directors' pecuniary interests
12. Immunity
13. Indemnity
14. Chief Executive Officer
15. Power to employ staff, etc.
16. Transfer of public servants to Authority
17. Fees
18. Responsible financial management
19. Powers of the Authority regarding funds, gifts, land, etc.
20. Application of funds by Authority
21. Budget
22. Accounts of Authority
23. Governor in Cabinet's power to direct
24. Audit of accounts
25. Power of Director of Internal Audit Department
26. Reports and agreements of Authority
27. Annual ownership agreement
28. Half yearly report
29. Annual report
30. Exclusion of commercially sensitive matters
31. Minister and Financial Secretary may require returns, etc.

PART III-General

32. Disposal of premises no longer required by Authority
33. Minister may give general directions
34. Regulations
35. Rules
36. Pension fund
37. Medical care for employees of Authority and applicability of Health Insurance Law (2005 Revision)
38. Fees at health care facilities
 - First Schedule: Property to be vested in Authority
 - Second Schedule: Budget process
 - Third Schedule: Ownership performance measures
 - Fourth Schedule: Forecast financial statements
 - Fifth Schedule: Half-year financial statements
 - Sixth Schedule: Annual financial statements

HEALTH SERVICES AUTHORITY LAW

(2005 Revision)

PART I- Introductory

1. This Law may be cited as the Health Services Authority Law (2005 Revision). Short title

2. In this Law- Definitions

“Audit Office” means the department, including all of its staff and physical resources, of which the chief officer is the Auditor-General;

“Authority” means the Cayman Islands Health Services Authority established under section 3;

“Board” means the Board of directors of the Authority established under section 8;

“capital withdrawal” means the withdrawal of equity investment from an entity;

“Chief Executive Officer” means the person appointed as such under section 14;

“coercive revenue” means revenue earned by the Government using the coercive power of the state and for which no direct exchange of service occurs;

“contracted officer’s supplement” means the supplement paid to employees of the Government and of statutory authorities pursuant to local or overseas contracts;

“director” means a director of the Authority appointed under section 8;

“entity” means any body and includes a ministry, portfolio, statutory authority, and government company;

“entity assets” means all assets controlled by the Authority for the purpose of producing its outputs, but does not include any assets of the Government declared by the Financial Secretary not to be assets of the Authority ;

“equity investment” means an amount invested in a ministry, portfolio, statutory authority or government company by the Governor in Cabinet on behalf of the Government;

“executive assets” means all assets of the Government other than entity assets, and includes the equity investments of the Government in ministries, portfolios, statutory authorities and government companies, but does not include assets held by the Government as trustee for another person;

“executive expenses” means all expenses incurred by the Government other than entity expenses, and includes expenses incurred by the Governor in Cabinet in purchasing outputs from ministries, portfolios and other suppliers, but does not include expenses incurred by the Government as trustee for another person;

“fees” includes any fees or charge prescribed to be paid by patients of the health care facilities, (whether in-patients or out-patients), for treatment, nursing, accommodation, attendance, food, dressings, drugs, medicines or other supplies or services of whatever kind rendered to such patients by the health care facilities, but does not include fees payable to members of the medical staff whose services are not paid for by Authority;

“funds” includes monies, stocks, shares and other securities;

“financial year” means a year ending on the 30th June;

“generally accepted accounting practice” means-

- (a) International Public Sector Accounting Standards issued by the International Federation of Accountants; or
- (b) where no guidance is provided by those standards, International Accounting Standards issued by the International Accounting Standards Committee; or
- (c) where no guidance is provided by the standards referred to in paragraphs (a) and (b), accounting practice that is generally accepted within the accounting profession in the United Kingdom as appropriate for reporting by the entire public sector, or ministries, portfolios, statutory authorities or government companies;

“General Orders” means the General Orders (2005 Revision) of the Cayman Islands;

“Governor in Cabinet” means the Governor acting in accordance with the advice of the Cabinet of the Islands;

“health care facilities” mean the Cayman Islands Hospital in Grand Cayman, the Faith Hospital in Cayman Brac and any other public health facilities, clinics and hospitals established or operated in the Islands by the Authority;

“Medical Director of the Authority” means the medical director appointed by the Authority from time to time;

2002 Revision

“Medical Officer of Health” has the meaning assigned to it by the Public Health Law (2002 Revision);

“Minister” means the Minister for the time being charged with responsibility for health;

“outputs” means the goods or services that are produced by an entity or other person;

“property” includes money, goods, things in action, land and every description of property, whether real or personal; also obligations, easements and every description of estate, interest and profit, present or future, vested or contingent, arising out of or incident to property as above defined;

“public health programme” means any programme or service mandated and paid for by the Government in the interests of the general good health of the population; and

“trust assets” means assets (including money, but not money belonging to the Government) transferred or paid to the Government or a ministry, portfolio, or the Audit Office in trust for any purpose or to hold for or on behalf of any person, and includes any such assets-

- (a) to be held pending the completion of a transaction or dispute; or
- (b) that belong or are due to any person and are collected under any agreement with that person.

PART II - Establishment, Capital and Administration of Authority

3. (1) There is established the Cayman Islands Health Services Authority having the powers and duties conferred or imposed upon it by this Law and any other law.

Establishment of
Cayman Islands Health
Services Authority and
vesting of property

(2) The Authority shall be a body corporate having perpetual succession and a common seal and, subject to this Law, shall have power to buy, sell, hold, deal and otherwise acquire and dispose of land and other property of any kind and to enter into contracts and to do all things necessary or desirable for the purposes of its duties and functions.

(3) The Authority may sue and be sued in its corporate name and it shall have exclusive right to use the name “the Cayman Islands Health Services Authority”.

(4) The Authority shall establish and maintain its head office and principal place of business within the Islands, and shall cause details thereof to be gazetted, and service of all documents on the Authority shall be deemed to be effective if delivered at the head office.

(5) The property belonging to the Government specified in the First Schedule and such property, if any, as may remain vested in the Health Services Authority on the 30th December, 1993 shall, on the 1st July, 2002, vest in the Authority without further assurance.

- Use of seal and authentication of documents
4. (1) The seal of the Authority shall be authenticated by the chairman or deputy chairman and one other director of the Board authorised to act in that behalf and shall be judicially noticed.
- (2) The Authority may, by resolution, appoint an officer of the Authority or any other agent either generally or in a particular case to execute or sign on behalf of the Authority any agreement or other instrument not under seal in relation to any matter coming within the powers of the Authority.
- Authority to have general management of health care facilities
5. (1) The Authority shall, subject to this Law and any other law, manage the health care facilities and any property appurtenant thereto.
- (2) It shall be the duty of the Authority-
- (a) to provide health care services and facilities in the Islands in accordance with the National Strategic Plan for Health prepared from time to time by the Government;
 - (b) to administer the health care facilities in an efficient manner and in such a way as to maintain and promote the health and wellness of the patients of those facilities;
 - (c) to co-ordinate the administration and operation of the health care facilities;
 - (d) to make recommendations to the Minister on the development of the health care facilities and the health care services in the Islands and on such matters as the Minister may refer to the Authority for advice;
 - (e) to give effect to any direction given by the Minister or the Governor in Cabinet under this Law;
 - (f) to provide public health programmes as determined by the Minister acting on the recommendations of the Board; and
 - (g) to provide health care for employees of the Government, indigent persons and such other persons as may be agreed from time to time with the Minister.
- (3) The Government shall pay the Authority fees for the programmes and services specified in subsection (2) (f) and (g).
- (4) Subject to subsection (5), it shall also be the duty of the Authority to-
- (a) supply outputs that the Governor in Cabinet has agreed that it will purchase from the Authority;
 - (b) supply outputs to entities or individuals other than the Governor in Cabinet for payment and in accordance with agreements with those entities or individuals; and

- (c) achieve the ownership performance that it has agreed with the Governor in Cabinet that it will achieve during the year.
- (5) The Authority shall not produce an output during a financial year unless-
 - (a) the output is within the nature and scope of the activities that are set out in the annual ownership agreement of the Authority; and
 - (b) the Governor in Cabinet, or another entity or person has, by way of formal agreement, agreed to pay for the full cost of the output to be produced.
- 6. (1) The Governor in Cabinet shall provide the Authority with initial capital, and the Governor in Cabinet shall establish an appropriate mechanism for determining such initial capital and on-going injections of capital into the Authority and the continuing operational funding requirements of the Authority. Capital and borrowing powers of Authority
- (2) The Authority shall have the power to borrow subject to the provisions of the Second Schedule.
 - (3) In accordance with a resolution of the Legislative Assembly, the Governor in Cabinet may guarantee the payment of the principal and interest on any authorised borrowings of the Authority.
- 7. (1) The Authority shall maintain a reserve fund in accordance with this Law. Reserve fund
- (2) Subject to the power of the power of the Governor in Cabinet to give directions to the Authority under section 23, no part of the reserve fund shall be applied otherwise than for the purposes of the Authority.
- 8. (1) The Authority shall have a board of directors which shall be responsible for the policy and general administration of the affairs and business of the Authority. Constitution of Board of Authority
- (2) The Board shall be responsible for the financial performance of the Authority including for ensuring that the Authority-
 - (a) delivers the outputs specified in the purchase agreement prepared in accordance with section 26; and
 - (b) achieves the ownership performance specified in the ownership agreement prepared in accordance with section 27.
 - (3) The Board shall have power to-
 - (a) act by sub-committee; and

- (b) delegate any of its daily administrative duties and powers from time to time to such sub-committees and to any of their own number and to the employees and agents of the Authority,

except that where the Board sets up a sub-committee which consists of members other than directors and employees of the Authority, it may only act or delegate its duties or powers to such sub-committee with the approval of the Governor in Cabinet.

- (4) The Board shall consist of -

- (a) the Financial Secretary or his nominee;
- (b) the Permanent Secretary to the Ministry of Health or his nominee;
- (c) the Chief Executive Officer;
- (d) the Medical Director of the Authority;
- (e) the Medical Officer of Health; and
- (f) not less than eight nor more than ten other directors appointed by the Governor in Cabinet.

(5) A person appointed under subsection (4)(f) shall hold office for a term of not more than three years and shall be eligible for re-appointment.

(6) There shall be a chairman and a deputy chairman of the Authority, each of whom shall be appointed by the Governor in Cabinet from among the directors.

(7) The Board shall appoint a person, not being a member, to be the secretary of the Authority, who shall be present at all meetings and shall take minutes of the business transacted.

(8) The Board shall be deemed to be properly constituted notwithstanding that there is a vacancy in the office of chairman, deputy chairman or any other director.

(9) There shall be paid to the appointed directors such remuneration as the Governor in Cabinet may determine.

(10) The Governor in Cabinet shall terminate the appointment of any director who-

- (a) resigns his office;
- (b) becomes of unsound mind or incapable of carrying out his duties;
- (c) becomes bankrupt or suspends payment to or compounds with his creditors;
- (d) is convicted in the islands or elsewhere of any offence involving dishonesty or fraud;

- (e) is guilty of serious misconduct in relation to his duties;
- (f) is absent without leave of the chairman from three consecutive board meetings, or
- (a) fails to comply with his obligations under section 10.

(11) If any director dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, another person may be appointed by the Governor in Cabinet for the unexpired period of the term of office of the director in whose place he is appointed.

9. (1) The chairman of the Board shall summon regular meetings of the Board as often as may be required but not less than ten times in any one year. Meetings of Board

(2) Meetings of the Board shall be held at such places, on such days and at such times as the chairman shall determine, and due notice of such place, date and time shall be given to each director in writing at least seven days before the time at which the meeting is to be held.

(3) The chairman may, at any time, call a special meeting of the Board within two days of receipt of request for that purpose addressed to him in writing and signed by any three directors.

(4) A meeting of the Board shall be presided over by -

- (a) the chairman;
- (b) in the absence of the chairman, the deputy chairman; or
- (c) in the absence of both the chairman and deputy chairman, such director as the directors present elect to act as chairman at that meeting.

(5) The quorum of the Board shall be seven including the director of the Board presiding at that meeting.

(6) Every question or matter to be determined by the Board at any meeting shall be decided by a majority of the votes of the directors present and voting on the question or matter and, in the event of any equal division of votes on any question or matter, the person presiding at the meeting shall give a second or casting vote.

(7) The decisions, resolutions, orders, policies and rules made by the Board shall be recorded in the minutes and kept by the secretary to the Board; and the Board shall cause any decision, resolution, order, policy or rule which affects the members of the public to be published in the Gazette, in a website or in a newspaper of the Islands.

Disclosure of directors' interests

10. (1) If a director has any pecuniary interest, direct or indirect, in any contract, proposed contract, licence or other matter and is present at a meeting of the Board at which any of the foregoing is to be considered, he shall, at or before the meeting or before the matter is considered, disclose the fact and shall leave the meeting for the duration of and not take part in the consideration or discussion of or vote on the matter.

(2) Any director who fails to comply with subsection (1) is guilty of an offence and liable-

- (a) on summary conviction, to a fine of twenty thousand dollars and to imprisonment for two years; or
- (b) on conviction on indictment, to a fine of fifty thousand dollars and to imprisonment for three years,

unless he proves that he did not know that the matter in which he had a pecuniary interest was the subject of consideration at that meeting.

(3) A disclosure under subsection (1) shall be recorded in the minutes of the Board's meetings.

(4) No act or proceeding of the Board shall be questioned on the ground that a director contravened this section.

(5) This section does not apply to an interest in a contract or licence or proposed contract or licence or other matter which a director has as a member of the public, or to an interest in any matter relating to the terms on which the right to participate in any service is offered to the public.

Directors' pecuniary interests

11. (1) For the purposes of section 10, a director shall be treated as having an indirect pecuniary interest in a contract, proposed contract, licence or other matter if –

- (a) he, or any nominee of his, is a member of a company or other body which has a direct or indirect pecuniary interest in the contract, proposed contract licence or other matter under consideration;
- (b) he is a partner, or in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct or indirect pecuniary interest in the contract, proposed contract, licence or other matter under consideration; or
- (c) he, or any partner of his, is a professional adviser to a person who has direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration.

(2) Subsection (1) does not apply to membership of, or employment by, any public body.

(3) In the case of married persons, the interest of one spouse shall be deemed for the purpose of section 10 to be also the interest of the other.

(4) Where a director has an indirect pecuniary interest in a contract or licence or proposed contract or licence or other matter by reason only of a beneficial interest in securities of a company or other body, and the nominal value of those securities does not exceed one thousand dollars or one-thousandth of the total nominal value of the issued securities or of any class of issued securities, section 10 shall not prohibit him from taking part in the consideration or discussion of or voting on the contract or licence or proposed contract or licence or other matter, without prejudice however to his duty to disclose his interest.

(5) The Governor in Cabinet may, subject to such conditions as he may think fit, appoint persons to act as directors for any specified period in any case in which the number of directors disabled by section 10 at any one time would be so great a proportion of the whole as to impede the transaction of business by the Board.

12. Neither the Authority, nor any director or employee of the Authority, shall be liable in damages for anything done or omitted in the discharge of their respective functions or duties unless it is shown that the act or omission was in bad faith. Immunity

13. The Authority shall indemnify a director against all claims, damages, costs, charges or expenses incurred by that director in the discharge of his functions or duties except claims, damages, costs, charges or expenses caused by the bad faith of that director. Indemnity

14. (1) The Board shall appoint, at such remuneration and on such terms and conditions as the Board may think fit, a Chief Executive Officer who shall be - Chief Executive Officer

- (a) a full time officer and employee of the Authority; and
- (b) the principal executive officer of the Authority entrusted with the day to day management and administration, to the extent of the authority delegated to him by the Board.

(2) The Chief Executive Officer shall render his services exclusively to the Authority and shall be answerable to the Board for his acts and decisions.

(3) In the absence or inability of the Chief Executive Officer to fulfil his duties, the Board may appoint a senior employee of the Authority to discharge the

duties and functions of the Chief Executive Officer during the period of his absence or disability.

Power to employ staff,
etc.

15. (1) The Board may employ, at such remuneration and on such terms and conditions as may be approved, from time to time, by the Board, such employees and engage under contract for services such professional, technical or other assistance, as it considers necessary to carry out its functions.

(2) Subject to this Law, the Board shall determine the executive, management and administrative structure of the Authority for the necessary and proper discharge of the duties and functions of the Authority including, without limitation, the delegation of functions to directors, employees and sub-committees of the Board.

(3) The Board shall also determine -

- (a) the professional qualifications and requirements of the employees of the Authority and persons under contracts for services with the Authority;
- (b) the terms and conditions of employment and contracts for services;
- (c) the medical staff structure relating to registered doctors, dentists and such other health practitioners, and the professional qualifications, eligibility criteria, accreditation requirements and procedures, clinical privileges and disciplinary procedures for such practitioners who are not employees of, or under contract of services with, the Authority; and
- (d) disciplinary procedures for employees of and for persons under contracts for services with the Authority.

Transfer of public
servants to the Authority

16. (1) Any public servant employed in any of the health care facilities on the 1st July, 2002 shall become an employee of the Authority on that date on the same terms and conditions as those applicable to him on the day immediately preceding except –

- (a) to the extent other terms and conditions are agreed between such employee and the Authority; and
- (b) that disciplinary matters shall be dealt with in accordance with the disciplinary rules and procedures of the Authority and not under General Orders.

(2) Pension arrangements and medical benefits relating to any employee specified under subsection (1) shall be subject to sections 36 and 37 respectively.

Fees

17. (1) The Board shall, from time to time, determine the fees to be charged for the services provided by the Authority, which shall become effective ninety

days after their submission to the Minister unless disallowed by the Governor in Cabinet.

(2) The Board shall publish in the Gazette the fees in effect from time to time.

18. (1) The Board shall manage the financial performance of the Authority in accordance with the principles set out in this section. Responsible financial management

(2) The policies and decisions of the Board shall be consistent with the principles of responsible financial management set out in subsection (3), and the impact of those decisions on the Authority's financial performance and position shall be measured using accrual accounting.

(3) The Authority shall administer the health care facilities and programmes according to the following principles of financial management-

- (a) the Authority's revenue (inclusive of any amounts received as continuing operational funding requirements obtained in accordance with section 6(1) and inclusive of any revenue arising from the Authority's ability to vary its fees in accordance with section 17(1)), less the Authority's total expenses (measured using generally accepted accounting practice) shall be positive, subject to the fact that in accordance with section 17(1), fee increases that may be required to ensure that revenue exceeds expenses, do not take effect until ninety days after the announcement of the intended fee increases;
- (b) the Authority's total assets (inclusive of any amount of capital injections obtained in accordance with section 6(1)) less the Authority's total liabilities (measured using generally accepted accounting practice) shall be positive;
- (c) cash reserves in the reserve fund shall be maintained at a level no less than the estimated expenses (measured using generally accepted accounting practice) for ninety days, subject to the fact that the Authority has until the 1st July, 2004 to comply therewith or such other date as the Governor in Cabinet may decide; and
- (d) the financial risks, including contingent liabilities, facing the Authority should be managed prudently so as to minimise the likelihood of any such risk resulting in an expense or liability to the Authority or the Government.

19. (1) The Authority shall have power -

- (a) to receive all funds or gifts in kind given or bequeathed to the health care facilities, or to the Government for the purposes of the

Powers of Authority regarding funds, gifts, land, etc.

health care facilities, or given or bequeathed by words showing an intention that the funds or gifts should inure to or for the benefit of the health care facilities; and

- (b) to acquire by purchase, gift or demise, and hold in their corporate capacity, with the previous sanction in each case of the Governor in Cabinet but not otherwise, any land in the Islands required to further the purposes of the health care facilities or programmes.

(2) Subject to this Law, the Authority shall apply all such funds or gifts specified in subsection (1)(a) or, if such funds are invested, the income derived therefrom, to furthering the purposes of the health care facilities in such manner as the Authority thinks fit.

(3) The powers conferred by subsection (1) shall not be exercised in any manner inconsistent with any condition or action imposed or given by the donor or testator with respect to such fund or gift.

(4) The following shall have effect with respect to funds received by the Authority by way of gift or bequest for the purposes of the health care facilities-

- (a) the Authority may invest liquid funds in such securities as the Authority may determine, and shall so invest any such funds that are given or bequeathed for the endowment of the health care facilities;
- (b) the Authority may realise any funds that are in a state of investment; and any funds so realised which are given or bequeathed for the endowment of the health care facilities or programmes shall, as soon as may be practicable or expedient, be reinvested by the Authority; and
- (c) funds which, when received by the Authority, are in any investment, may be retained by the Authority in that investment.

Application of funds by the Authority

20. (1) Subject to sections 18 and 19 and without prejudice to section 23, any funds appropriated by the Legislative Assembly for the purposes of the health care facilities or programmes, any income derived from fees and any other income of the Authority shall be held and applied to furthering the purposes of the health care facilities or programmes in such manner as the Authority may think fit.

(2) Any funds appropriated by the Legislative Assembly for the purposes of the health care facilities and programmes shall be applied by the Authority in accordance with the terms of the appropriation.

Budget

21. (1) The Governor in Cabinet, no later than the 1st October in each year, in accordance with the advice of the Financial Secretary, shall establish the exact

timing and process for preparing the budget for the Authority's next financial year, including the timing of the phases referred to in subsection (2), and shall cause the timetable to be Gazetted immediately after the 1st October in each year, and the Authority shall comply with the timetable and provide such information and documents as are required during such phases.

(2) The budget process shall include a "strategic phase", a "detailed planning and budgeting phase", a "Cabinet collective review phase", a "Legislative Assembly review phase" and a "documentation phase".

(3) The Second Schedule has effect with respect to the budget process.

22. The Authority shall cause proper accounts of its financial affairs to be prepared and maintained on an accrual accounting basis and in accordance with generally accepted accounting practice. Accounts of Authority

23. (1) The Governor in Cabinet may, by written notice to the Board, direct the Authority to- Governor in Cabinet's power to direct

- (a) pay a dividend for an amount, and at a time, specified in the notice; and
- (b) provide, at a time and in a manner specified in the notice, such information as is specified in the notice,

and the Authority shall comply with the directions except where such directions would result in the Authority being in breach of section 18(3)(c).

(2) The dividend referred to in subsection (1) shall be calculated by a method determined by the Financial Secretary after consulting the Minister and the Governor in Cabinet, and such method of calculation shall be so determined before any request for a dividend from the Authority is made by the Governor in Cabinet.

24. (1) The Auditor General shall- Audit of accounts

- (a) conduct audits of the annual financial statements of the Authority;
- (b) conduct investigations into the financial management of the Authority
- (c) conduct economy, efficiency and effectiveness studies of the Authority;
- (d) for the purposes of carrying out an audit or an investigation, be given the right of access to all relevant information held by any public officer or employee of the Authority and the right of access to all premises occupied by the Authority;
- (e) have the right to take copies of any statements or other information referred to under this subsection; and

- (f) have the right to require explanations from directors or employees of the Authority.

(2) The Minister may, at any time, require the examination of and report on the accounts of the Authority or any part thereof and may request the Auditor General to conduct such examination.

Powers of Director of Internal Audit Department

25. (1) For the purposes of reviewing the financial management systems operated by the Authority, the Director of the Internal Audit Department shall have the right-

- (a) of access to all information held by the Authority;
- (b) to take copies of any information referred to in paragraph (a);
- (c) to require explanations from the directors or employees of the Authority; and
- (d) of access to all premises occupied by the Authority.

(2) The Director of the Internal Audit Department may direct in writing a director or an employee of the Authority to provide information to the Internal Audit Department within the time and in the manner specified in the direction.

Reports and agreements of Authority

26. (1) Pursuant to the duty of the Authority to deliver outputs to the Governor in Cabinet, the Authority shall prepare and execute an annual purchase agreement with the Governor in Cabinet for each financial year in accordance with this section.

(2) A purchase agreement executed under subsection (1) shall specify all the outputs the Governor in Cabinet is to purchase from the Authority including for each output-

- (a) a description of the output to be purchased;
- (b) the quantity of the output to be purchased;
- (c) the quality of the output to be purchased;
- (d) the delivery dates for the output to be purchased;
- (e) the place of delivery of the output to be purchased;
- (f) the price to be paid for the output to be purchased;
- (g) the evidence of delivery to be provided for the output to be purchased; and
- (h) the payment schedule.

(3) The draft purchase agreement for a financial year shall be-

- (a) prepared in accordance with the timetable established each year by the Governor in Cabinet;
- (b) available for review by the Governor in Cabinet as part of the Governor in Cabinet's collective review phase of the budget process; and

- (c) presented to the Legislative Assembly by the Minister or by another member of Cabinet on his behalf at the same time as the annual plan and estimates for that financial year are presented to the Legislative Assembly, which shall occur no later than the 1st May each year.
- (4) A finalised purchase agreement shall be-
 - (a) prepared immediately the legislative review phase of the budget process has been completed;
 - (b) signed by a member of Cabinet on behalf of the Governor in Cabinet, and by the chairman on behalf of the Authority, no later than the beginning of the financial year; and
 - (c) presented to the Legislative Assembly by the Minister or by another member of Cabinet on his behalf on the next sitting day of the Legislative Assembly after it has been signed.

(5) As soon as the draft purchase agreement or the finalised purchase agreement is presented to the Legislative Assembly it shall be a public document, and the Authority shall provide a copy to any person requesting one on payment of a charge prescribed by regulations made by the Governor in Cabinet.

(6) The Authority's purchase agreement may be modified at any time by agreement between the Authority and the Governor in Cabinet.

(7) Any amendments to a purchase agreement made under subsection (6) shall be in writing and presented to the Legislative Assembly by the Minister, and subsection (5) shall apply to the amended agreement.

27. (1) The Authority shall prepare an annual ownership agreement for each financial year.

Annual ownership agreement

- (2) An annual ownership agreement shall contain-
 - (a) a description of the nature and scope of the activities of the Authority during that financial year;
 - (b) the strategic goals and objectives of the Authority for that financial year and the following two financial years;
 - (c) ownership performance targets of the Authority for the financial year, including the targets for those aspects of ownership performance set out in the Third Schedule;
 - (d) forecast financial statements of the Authority for the financial year, which shall-
 - (i) be consistent with the forecast financial statements in the annual plan and estimates for that financial year; and

- (ii) contain the statements and information set out in the Fourth Schedule;
 - (e) details of any equity investment to be made by the Government in the Authority planned for the financial year;
 - (f) details of any capital withdrawals to be made by the Government from the Authority planned for the financial year;
 - (g) details of any dividends or profit distributions forecast to be paid by the Authority during the financial year;
 - (h) details of any loans to the Authority proposed to be made by the Government during the financial year; and
 - (i) details of any guarantees relating to the Authority proposed to be made by the Government during the financial year.
- (3) A draft ownership agreement for a financial year shall be-
- (a) prepared in accordance with the timetable established each year by the Governor in Cabinet which shall be established by the Governor in Cabinet by the 1st October each year;
 - (b) available for review by the Governor in Cabinet as part of the Governor in Cabinet's collective review phase of the budget process; and
 - (c) presented to the Legislative Assembly by the Minister or by a member of Cabinet acting on his behalf at the same time as the annual plan and estimates for that financial year which shall occur by the 1st May of each year.
- (4) A finalised ownership agreement shall be-
- (a) prepared immediately the legislative review phase of the budget process has been completed;
 - (b) signed by a member of the Cabinet on behalf of the Governor in Cabinet, and by the chairman on behalf of the Authority, no later than the beginning of the financial year; and
 - (c) presented to the Legislative Assembly by the Minister or by a member of Cabinet acting on his behalf on the next sitting day of the Legislative Assembly after it has been signed.
- (5) As soon as the draft ownership agreement or the finalised ownership agreement is presented to the Legislative Assembly it shall be a public document and the Authority shall provide a copy to any person requesting one on payment of a copying charge prescribed by regulations made by the Governor in Cabinet.
- (6) The Authority's annual ownership agreement may be modified at any time by agreement between the Authority and the Governor in Cabinet.

(7) Any amendments to the annual ownership agreement made under subsection (6) shall be in writing and presented to the Legislative Assembly, and subsection (5) shall apply to the amended plan.

28. (1) The Authority shall produce a half-yearly report not later than four weeks after the end of the first half of each financial year. Half yearly report

(2) The half-yearly report shall report the performance of the Authority and shall compare it with that proposed in the ownership agreement for that financial year and shall include-

- (a) a summary of the nature and scope of the activities of the Authority during that financial half-year;
- (b) a summary of the extent to which the ownership performance targets set out in the Authority's annual ownership agreement for that financial year have been achieved in that financial half-year;
- (c) financial statements of the Authority for the financial half-year, which shall-
 - (i) be prepared on a basis consistent with the forecast financial statements in the Authority's annual ownership agreement for that financial year; and
 - (ii) contain the statements and information set out in the Fifth Schedule;
- (d) the amount of any equity investment made by the Government into the Authority during the financial half-year;
- (e) the amount of any capital withdrawals made by the Government from the Authority during the financial half-year;
- (f) the amount of any dividends or profit distributions paid by the Authority during the financial half-year;
- (g) the amount of any loans to the Authority by the Government during the financial half-year; and
- (h) details of any guarantees relating to the Authority made by the Government during the financial half-year.

(3) The half-yearly report shall be presented to the Governor in Cabinet for review no later than four weeks after the end of the half-year.

(4) The half-yearly report of the Authority shall be presented for review to the Legislative Assembly by the Minister or a member of Cabinet acting on his behalf at the same time as the next entire public sector quarterly report is presented; which must occur no later than eight weeks after the quarter has ended.

(5) As soon as the half-yearly report is tabled it shall be a public document and the Authority shall provide a copy to any person requesting one on payment of a copying charge prescribed by regulations made by the Governor in Cabinet.

- Annual report
29. (1) The Authority shall prepare an annual report in respect of each financial year.
- (2) The annual report shall report the performance of the Authority and compare such performance with that proposed in the ownership agreement for that financial year, and shall include-
- (a) a summary of the nature and scope of the activities of the Authority during that financial year;
 - (b) a summary of the extent to which the strategic goals and objectives of the Authority described in the annual ownership agreement were achieved;
 - (c) a summary of the extent to which the ownership performance targets set out in the Authority's annual ownership agreement for that financial year have been achieved in that financial year;
 - (d) audited financial statements of the Authority for the financial year, which shall-
 - (i) be prepared on a basis consistent with the forecast financial statements in the Authority's annual ownership agreement for that financial year; and
 - (ii) contain the statements and information set out in the Sixth Schedule;
 - (e) the amount of any equity investment made by the Government in the Authority during the financial year;
 - (f) the amount of any capital withdrawals made by the Government from the Authority during the financial year;
 - (g) the amount of any dividends or profit distributions paid by the Authority during the financial year;
 - (h) the amount of any loans to the Authority by the Government during the financial year; and
 - (i) details of any guarantees relating to the Authority made by the Government during the financial year.
- (3) The financial statements referred to in subsection (2) shall be prepared within two months of the end of the financial year and submitted to the Auditor General for auditing, and the Auditor General shall provide a written report on such statements within two months of receipt of the financial statements.
- (4) The annual report shall be presented to the Governor in Cabinet by the Minister no later than four months after the end of the financial year.
- (5) The annual report of the Authority shall be presented to the Legislative Assembly no later than four months and two weeks after the end of the financial year, or on the first sitting day thereafter, by the Minister.

(6) As soon as the annual report is tabled it shall be a public document and the Authority shall provide a copy to any person requesting one on payment of a copying charge prescribed by regulations made by the Governor in Cabinet.

30. The annual ownership agreement, half-yearly report or annual report for the Authority shall not include any matter which the Financial Secretary determines to be of a commercially sensitive nature.

Exclusion of commercially sensitive matters

31. Notwithstanding section 30, the Authority shall forward to the Minister or the Financial Secretary such returns, statistics or other information as the Minister or the Financial Secretary, may by notice in writing, reasonably require; and the Authority shall supply the returns, statistics or such information requested by the date and in the format required.

Minister and Financial Secretary may require returns, etc.

PART III- General

32. (1) The Authority shall each year review its requirements for premises, and any premises in the possession of the Authority which are no longer required for the purposes of the Authority shall be disposed of in accordance with this section.

Disposal of premises no longer required by Authority

(2) Premises which were transferred to the Authority by the Government for no consideration or for a nominal consideration shall be transferred by the Authority to the Government for no consideration or for the same nominal consideration, as the case may be.

(3) Premises, other than those to which subsection (2) applies, shall be offered to the Government for purchase at a fair market value; and any appraisal of real property in relation to this subsection shall be made according to the principles of valuation used by the Ministry responsible for lands.

(4) Where Government does not wish to purchase the premises offered to it under subsection (3), it shall notify the Authority in writing within twenty-one days of the receipt of the offer, after which the Authority may dispose of the premises on the open market to the Authority's best advantage.

33. (1) The Minister may, after consultation with the Authority, give such general and lawful directions in written form as to the policy to be followed by the Authority in the performance of its duties and functions as appear to the Minister to be necessary in the public interest.

Minister may give general directions

(2) Neither the Authority nor its directors or employees shall be liable or responsible for any loss or damage resulting from any directions of the Minister.

(3) A direction given by the Minister shall not apply in respect of a matter pending before the Authority on the day on which the directions are given to the Authority.

Regulations

34. The Governor in Cabinet may make such regulations as are required for the effective implementation of this Law.

Rules

35. The Authority may, subject to this Law, make such rules as it thinks fit to regulate its own internal management.

Pension fund
2004 Revision

36. (1) The Authority shall subscribe to the Public Service Pensions Fund in accordance with the Public Service Pensions Law (2004 Revision) for the payment of pensions to all employees of the Authority.

(2) Notwithstanding subsection (1) -

- (a) where an employee transferred in accordance with section 16 is entitled to a contracted officer's supplement, the Authority shall not subscribe to the Fund in respect of such employee during the period in which the employee remains entitled to such supplement;
- (b) with respect to employees employed by the Authority after the 1st July, 2002 and who have not been transferred in accordance with this Law, the Authority has the option of subscribing to the Public Service Pensions Fund or of creating and maintaining or subscribing to a fund in accordance with the National Pensions Law (2000 Revision); and
- (c) the Authority shall not subscribe to any fund in respect of those employees who are employed under contracts which are six months or less in duration.

2000 Revision

(3) The Authority shall be considered to be an employer for the purposes of the Public Service Pensions Law (2004 Revision), and an employee referred to under subsection (1) (a) shall not be considered to have retired from Service for the purposes of that Law.

Medical care for
employees of Authority
and applicability of
Health Insurance Law
(2005 Revision)

37. The Health Insurance Law (2005 Revision) shall apply to the Authority except that-

- (a) the Authority may elect to provide free or subsidised medical benefits in lieu of, or in addition to, insurance coverage under the Health Insurance Law (2005 Revision); and
- (b) any person described in section 16 shall, unless otherwise notified by the Authority, be entitled to receive from the Authority the medical benefits provided to him on the day preceding his transfer to the Authority.

38. The Authority shall charge, for services provided at health care facilities, the fees imposed by the Health Services (Fees) Law (2002 Revision) and the regulations made thereunder until new fees are imposed under section 17.

Fees at health care facilities
2002 Revision

FIRST SCHEDULE

section 3

PROPERTY TO BE VESTED IN AUTHORITY

Real/immovable

PROPERTY	LOCATION
Bodden Town Health Centre	Block 43D Parcel 3
East End Health Centre	Block 72B Parcel 66
**North Side Health Centre	Block 49C Parcel 20
**West Bay Health Centre	Block 4E Parcel 43
**Little Cayman Health Centre	Block 81A Parcels 21 &22
Cayman Brac Dental Clinic	Block 98D Parcel 129
Faith Hospital, Cayman Brac	Block 98D Parcel 48
Cayman Islands Health Service Complex	Block 14E Parcel 675

*** Does not include land occupied by other Government buildings.*

Moveable

Any moveable property as may be agreed between the Government and the Authority.

SECOND SCHEDULE

section 21

BUDGET PROCESS

1. During the strategic phase, the Governor in Cabinet shall-
 - (a) determine for the next financial year and the following two financial years-
 - (i) its broad outcome objectives;

- (ii) its specific outcome objectives;
 - (iii) the forecast total amount of executive revenue and expenses for each financial year;
 - (iv) the forecast amount of executive expenses for each ministry and portfolio for each financial year;
 - (v) the forecast total amount of equity investments, acquisition of other executive assets, and loans for each financial year; and
 - (vi) the forecast total amount of entire public sector revenue, expenses, borrowing and net worth; and
 - (b) prepare a strategic policy statement incorporating a summary of the broad outcomes, the specific outcomes and the links between them, that the Governor in Cabinet intends to achieve in the next financial year and for at least the following two financial years.
2. During the detailed planning and budgeting phase the Minister shall-
- (a) determine the outputs, transfer payments, equity investments, changes to fees for Government services and legislative measures relating to the Authority that he proposes to influence the specific outcomes agreed by the Governor in Cabinet;
 - (b) have due regard to the resolution of the Legislative Assembly on the strategic policy statement; and
 - (c) ensure that-
 - (i) a draft purchase agreement; and
 - (ii) a draft ownership agreement, has been prepared for the Authority.
3. During the collective review phase, the Governor in Cabinet shall-
- (a) review, and either agree or amend, the outputs, transfer payments, equity investments and legislative measures that the Minister proposes to pursue in regard to the Authority for the next financial year;
 - (b) review the draft performance agreements, purchase agreements and ownership agreements and ensure that they are consistent with the decisions made under paragraph (a);
 - (c) arrange for the preparation of the annual plan and estimates relating to the Authority, which should incorporate the specific outcomes that the Governor in Cabinet seeks to influence in the financial year to which the annual plan and estimates relate and the manner in which it intends to achieve those specific outcomes and ensure that they are consistent with the decisions made under paragraph (a); and
 - (d) ensure that the annual plan and estimates prepared under paragraph (c) are consistent with the strategic policy statement.

4. During the Legislative Assembly review phase-
 - (a) the Financial Secretary, on behalf of the Governor in Cabinet, shall outline the annual plan and estimates relating to the Authority to the Legislative Assembly; and
 - (b) the Legislative Assembly shall review the annual plan and estimates and authorise the Governor in Cabinet to give effect to that plan (amended as required by the Legislative Assembly) by-
 - (i) authorising, by law, changes to types of coercive revenue or rates of coercive revenue;
 - (ii) authorising, by an Appropriation Law, the executive expenses, borrowing and other executive financial transactions of the Authority; and
 - (iii) authorising by resolution, the giving of any guarantees by the Government.
5. During the documentation phase, the Governor in Cabinet shall agree-
 - (a) a finalised purchase agreement with the Authority;
 - (b) a finalised ownership agreement with the Authority; and
 - (c) a final annual plan and estimates relating to the Authority,taking into account the authorities provided by the Legislative Assembly.

THIRD SCHEDULE

section 27

OWNERSHIP PERFORMANCE MEASURES

Financial Performance

1. (1) Amounts for-
 - (a) revenue from trading with the Governor in Cabinet;
 - (b) revenue from trading with ministries, portfolios, statutory authorities and government companies;
 - (c) revenue from trading with any other person;
 - (d) surplus/deficit from outputs;
 - (e) ownership expenses (such as major losses on sales of fixed assets and downward asset revaluations);
 - (f) net surplus/deficit;
 - (g) net worth;
 - (h) cash from operating activities;
 - (i) cash from investing activities;
 - (j) cash from financing activities; and
 - (k) change in cash balances.
- (2) Ratios of-

- (a) current assets to current liabilities; and
- (b) total assets to total liabilities.

Capital Maintenance

- 2. (1) Details of human capital, including-
 - (a) total full time equivalent staff;
 - (b) staff turnover;
 - (c) average length of service; and
 - (d) significant changes to personnel management system.
- (2) Details of physical capital, including-
 - (a) value of total physical assets;
 - (b) asset replacements as a percentage of total assets;
 - (c) ratio of book value of depreciated assets to initial cost of depreciated assets;
 - (d) ratio of depreciation to cash flow on asset purchases; and
 - (e) any changes in asset management policies and systems.
- (3) Details of capital expenditure, including-
 - (a) description and amount of major new capital expenditure projects; and
 - (b) description and amount of existing major capital expenditure projects, and details of whether-
 - (i) all development projects are likely to be completed on due date;
 - (ii) all development projects are within budget; and
 - (iii) there are any external changes which threaten the viability of any development projects.

Risk Management

- 3. Details of key risks to the activities of the Authority, including-
 - (a) an explanation of each risk;
 - (b) any change in status of each risk; and
 - (c) financial quantification of each risk.

FOURTH SCHEDULE

section 27

FORECAST FINANCIAL STATEMENTS

- 1. Forecast financial statements shall include-
 - (a) a forecast operating statement;

- (b) a forecast balance sheet statement;
 - (c) a forecast statement of changes in net worth;
 - (d) a forecast statement of cash flows;
 - (e) such other statements as may be required to fairly reflect financial performance and position;
 - (f) a statement of accounting policies;
 - (g) a statement of responsibility prepared in accordance with paragraph 2; and
 - (h) in respect of each statement referred to in subparagraphs (a) to (e)-
 - (i) comparative estimated actual figures for the immediately preceding financial year;
 - (ii) comparative forecast figures for the immediately preceding financial year, being the forecast figures published at the beginning of that year; and
 - (iii) comparative actual figures for the financial year preceding the financial year referred to in sub-subparagraph (i).
2. Every statement of responsibility required by this Schedule shall-
- (a) be signed by the chairman on behalf of the Board; and
 - (b) include-
 - (i) a statement acknowledging responsibility for the accuracy of the information in the forecast financial statements; and
 - (ii) a statement that the forecast financial statements fairly reflect the forecast financial position and performance of the Authority for the period concerned.

FIFTH SCHEDULE

section 28

HALF- YEAR FINANCIAL STATEMENTS

1. Half-year financial statements shall contain for the half year in question-
- (a) an operating statement;
 - (b) a balance sheet statement;
 - (c) a statement of changes in net worth;
 - (d) a statement of cash flows;
 - (e) such other statements as may be required fairly to reflect financial performance and position;
 - (f) a statement of accounting policies;
 - (g) a statement of responsibility prepared in accordance with paragraph 2; and

- (h) in respect of each statement referred to in subparagraphs (a) to (e), comparative actual figures for the half year period in the preceding financial year.
2. Every statement of responsibility required by this Schedule shall-
- (a) be signed by the chairman of the Board; and
 - (b) include-
 - (i) a statement acknowledging responsibility for the accuracy of the information in the financial statements;
 - (ii) a statement acknowledging responsibility for establishing and maintaining a system of internal controls designed to provide reasonable assurance that the transactions recorded in the financial statements are authorised by law and properly record the financial transactions of the Authority and
 - (iii) a statement that the financial statements fairly reflect the financial position and performance of the Authority for the financial year concerned.

SIXTH SCHEDULE

section 29

ANNUAL FINANCIAL STATEMENTS

1. Annual financial statements shall include-
- (a) an operating statement;
 - (b) a balance sheet statement;
 - (c) a statement of changes in net worth;
 - (d) a statement of cash flows;
 - (e) such other statements as may be required to reflect fairly, financial performance and position;
 - (f) a statement of commitments;
 - (g) a statement of contingent liabilities;
 - (h) a statement of accounting policies;
 - (i) a statement of responsibility prepared in accordance with paragraph 2; and
 - (j) in respect of each statement referred to in subparagraphs (a) to (e)-
 - (i) comparative figures for the preceding financial year; and
 - (ii) comparative forecast figures for the financial year, and an explanation of all significant differences between actual and forecast figures.

2. Every statement of responsibility required by this Schedule shall-
 - (a) be signed by the chairman on behalf of the Board; and
 - (b) include-
 - (i) a statement acknowledging responsibility for the accuracy of the information in the annual financial statements;
 - (ii) a statement acknowledging responsibility for establishing and maintaining a system of internal controls designed to provide reasonable assurance that the transactions recorded in the financial statements are authorised by law and properly record the financial transactions of the Authority; and
 - (iii) a statement that the financial statements fairly reflect the financial position and performance of the Authority for the financial year concerned.

Publication in consolidated and revised form authorised by the Governor in Cabinet this 12th day of July, 2005.

Carmena Watler
Clerk of Cabinet

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