

The Commonwealth of the Bahamas NATIONAL PRODUCTIVITY COUNCIL

ARRANGEMENT OF SECTIONS

SECTION

1. Short title.
2. Interpretation.
3. Establishment of Council.
4. Functions of the Council.
5. Board of Directors.
6. Information gathering.
7. Remuneration.
8. Disclosure of directors' interest.
9. Directions of Prime Minister.
10. Appointment of Executive Director.
11. Appointment of staff.
12. Pension rights and service.
13. Funds of the Council.
14. Accounts and audit.
15. Access by auditor.
16. Annual report.
17. Fees.
18. Exemption.
19. Regulations.

SCHEDULE

An Act to provide for a National Productivity Council.

Commencement. [Date]

Short title.

1. This Act may be cited as the National Productivity Council Act.

Interpretation

2. For the purposes of this Act

"Board" means the Board of Directors of the Council established under section 5;

"business" includes any trade, profession or vocation;

"Council" means the National Productivity Council established under section 3;

"income" means income from any source including wages, salaries, allowances, payments in kind, fringe benefits, lump sum payments and professional fees;

"Prime Minister" means the Prime Minister of the Commonwealth of The Bahamas;

"productivity" means the relationship between the output generated by a production or service system and the input provided to create that output;

"public service"

(a) has the meaning assigned to it by chapter VIII of the Constitution, and (b) includes

(i) bodies corporate established by law for public purposes which are funded by monies provided by Parliament;

(ii) the Central Bank of The Bahamas established under the *Central Bank of The Bahamas Act*,

(iii) any other body

(A) the funds of which, comprise or include such monies as under an enactment may be voted by Parliament for the purpose; or

(B) all or any of the expenses of which are charges on, or are met from the Consolidated Fund;

but does not include a body by reason only that a donation or *ex gratia* payment is made from the Consolidated Fund to that body.

Establishment of Council.

3. (1) There is established a body to be known as the National Productivity Council.

Deleted 3. (2)

Functions of the Council.

4. The functions of the Council are

(a) to create and develop methodologies for productivity measurement, management and improvement in the public service and the private sector;

(b) to provide technical advice and assistance in employee related productivity matters for devising productivity related payment schemes;

(c) to engage in consultations with any fact-finding body or arbitration tribunal on any matter relating to the functions of the Council;

(d) to promote and monitor all aspects of productivity growth;

(e) to assist in the development of improved methods of work organisation geared to the enhancement of productivity levels;

(f) to design, advise on, and conduct, educational programmes;

(g) to disseminate information intended to stimulate public awareness and promote understanding of the need to improve the quality of work performance nationally and in the context of international trends and standards;

(h) to assist in creating a climate which would maximise the use of productivity gains in collective bargaining exercises; and

(i) to do such further things as are necessary to carry out effectively the purposes of this Act.

Board of Directors

5. (1) There is hereby established a Board of Directors of the Council which is responsible for the policy and general administration of the Council.

5. (2) The Schedule has effect with respect to the constitution of the Board and otherwise in relation thereto.

Information gathering.

6. (1) In the performance of its functions the Board may request and collect any relevant information, **from social partners** including **but not limited to** information relating to wages, salaries, **benefits and emoluments** and other income.

6. (2) The Board shall examine the information referred to in subsection (1) and **shall** report its findings to the **Prime** Minister.

Remuneration.

7. The Directors of the Council are entitled to such remuneration and allowances as the **Prime** Minister determines.

Disclosure of directors' interest.

8. (1) A director of the Council who has any interest in a company or concern with which the Council proposes to make a contract or transact any other business shall disclose to the Council the particulars of that interest and details of the disclosure shall be recorded in the minutes taken at the meeting at which the disclosure is made.

(2) A director referred to in subsection (1) shall not take part in any deliberation or discussion of the Board relating to that contract or business.

Directions of Prime Minister etc.

9. (1) The Prime Minister may, after consultation with the Chairman of the Board, give directions of a general nature in respect of the policy to be followed by the Board in the performance of its functions under this Act and the Board shall comply with the directions.

9. (2) The Prime Minister may refer any relevant matter to the Board and the Board shall examine the matter and report to the Prime Minister.

Appointment of Executive Director

10. (1) The Board shall, with the approval of the Prime Minister, appoint an Executive Director, who shall be an employee of the Council.

10. (2) The Executive Director is subject to the directions of the Board and is responsible to the Board for the execution of its policy and the management of the Council.

Appointment of staff.

11. (1) The Board may, subject to subsection (2), employ at such remuneration and on such terms and conditions as it thinks fit, such persons as it deems necessary for the proper discharge of the functions of the Council.

(2) The Board may assign remuneration to any post within salary scales which are approved by the Prime Minister in writing.

(3) All officers and other employees who are members of the staff of the National Productivity Board upon the (Date...), shall upon that date, comprise the staff of the Council.

Pension rights and service.

12. (1) Where a public officer or public employee is seconded or temporarily transfers from a pensionable office within the meaning of **The Pensions Act, Chapter 35 (now Chapter 43) of the Statute Laws of The Bahamas** as the case may be to perform any service with the Council, his service with the Council, shall, unless the Governor-General otherwise decides, count for pension under this Acts as if the officer had not been so seconded or transferred.

12. (2) If the services of a person employed by the Council are on loan to the Government he is entitled to such benefits and terms of employment as are applicable to the post which he occupies, and the service with the Council shall be taken into account as continuous service with the Government and **The Pensions Act**, as the case may be, shall apply to him as if his service with the Council were service within the meaning of **this Act**.

12. (3) Where a public officer or a public employee is transferred to the service of the Council in accordance with subsection (4), the Council shall refund to the Consolidated Fund all moneys payable as pension in respect of the service of that officer with the Council.

12. (4) Where

(a) a public officer or a public employee is transferred to an office in the service of the Council; or

(b) an officer of the Council is transferred to an office in the public service,

the **The Pensions Act** as the case may be shall apply to him as if his service with the Council was other public service within the meaning of **this Act**, shall apply to him accordingly as if the Council were a

Scheduled Government within the meaning of **The Pensions Act (2008)**.

Funds of the Council

13. The funds of the Council shall consist of
(a) moneys voted by Parliament for the purposes of the Council;
(b) moneys that may accrue from the operations of the Council;
(c) moneys payable to, or property vested in the Council;
(d) moneys borrowed by the Board for the purposes of the Council;
and (e) moneys that may become available from any other source.

Accounts and audit.

14. (1) The Council shall keep proper accounts of its transactions in relation to the administration of the resources of the Council in accordance with the directions of the Auditor-General or any auditor appointed under subsection (2) and shall prepare a statement of accounts in respect of each financial year.

14. (2) The accounts of the Council shall be audited annually by an auditor appointed by the Board with the approval of the **Prime Minister**.

14. (3) The Auditor-General may at any time, and shall on the direction of the Minister of Finance, carry out an investigation into or special audit of the accounts of the Council.

Access by auditor.

15. (1) A director, officer or employee of the Council shall afford the Auditor- General or other auditor appointed under section 14, access to all books, documents, cash and securities of the Council and on request shall give to the Auditor-General or auditor, any information within the knowledge of that director, officer or employee that relates to the operations of the Council.

15. (2) A person who willfully fails to comply with this section is guilty of an offence and is liable on summary conviction to a fine of \$(?) or imprisonment for (?) months or both.

Annual report.

16. (1) The Board must not later than 3 months after the end of each fiscal year, submit to the Prime Minister a report containing, in respect of the Authority

(a) a summary of the decisions of the Council in respect of any matter it acted upon;

(b) detailed information in respect of any matter that the Board considers to be of public importance in relation to national productivity; and

(c) a statement of the accounts of the Council for that financial year in accordance with section 14.

16. (2) The Prime Minister shall lay before Parliament a copy of the report referred to in subsection (1) within 1 months of receiving that report.

Fees.

17. The Council may on the advice of the Board, charge such fees for any service performed by it as is prescribed by order made by the Minister of Finance.

Exemption.

18. The Council is exempt from

- (a) the payment of income tax or other tax imposed on the income or profits of persons; and
- (b) the payment of stamp duty on any document.

Regulations.

19. The Prime Minister may make regulations generally for the carrying out of the purposes of this Act.

SCHEDULE

Constitution, Procedure and Functions of the Board

Constitution of the Board.

(Section 5(2))

1. (1) The Board shall comprise of nine (9) persons, namely a Chairman and 8 other persons appointed by the Prime Minister by instrument in writing from among the following categories of persons

- (a) two representatives nominated by organisations representing employees in the private and public sectors;
- (b) two representatives nominated by organisations representing employers or private sector interests;
- (c) a representative of professional or academic interests;
- (d) the Permanent Secretary in the Ministry of Labour, ex officio, or his nominee;
- (e) the Permanent Secretary in the Ministry of Public Service, ex officio, or his nominee; and
- (f) the Executive Director of the Council.

(2) For the purposes of this Schedule, a reference to any director includes a reference to his nominee where that director is unable to attend.

Appointment of Chairman and Deputy Chairman.

2. (1) The Prime Minister shall appoint a chairman of the Board.

(2) [The person appointed pursuant to paragraph 1(1) (c) shall be the Deputy Chairman].

Commented [ZL1]: For Consideration

Temporary appointment to Board

3. The Prime Minister may, in respect of appointments made under paragraph 1(1) (a) or (b), and on the advice of the relevant organisation, appoint any person to act temporarily in the place of any director who is absent from The Bahamas or is unable to act.

Tenure.

4. (1) A director holds office for a period of 3 years unless he resigns or his appointment is revoked in accordance with paragraph 7 before the end of that period.

(2) Every director is, on the expiration of the period of his appointment, eligible for re-appointment for a further period.

(3) Where a vacancy is created by the death, resignation or removal of a director, a person may be appointed in accordance with paragraph 1 to fill that vacancy but shall hold office only for the unexpired portion of the period of the former director.

Resignation of directors.

5. (1) The Chairman may, at any time by instrument in writing addressed to the Minister, resign his office, and from the date of the receipt of such instrument by the Prime Minister the Chairman ceases to be Chairman and if the instrument so specifies, ceases to be a director of the Council.

(2) A director other than the Chairman may resign his office by instrument in writing addressed to the Prime Minister, transmitted through the Chairman and from the date of the receipt of the instrument by the Prime Minister that director ceases to be a director of the Council.

Automatic termination of membership.

6. (1) Any director appointed under paragraph 1(1)(a), (b) or (c) or his nominee who fails, without reasonable excuse, to attend 3 consecutive meetings of the Board, ceases to be a director and is not eligible for appointment to the Board until the expiry of 3 years from the date when he ceased to be a director.

(2) Where a person ceases to be a director under sub-paragraph (1), the relevant organisation shall be required to nominate a replacement.

Revocation of membership.

7. The Prime Minister may, at any time, on the advice of the appropriate organisation, by instrument in writing revoke the appointment of any director.

Notice in Official Gazette.

8. The appointment and the cessation of appointment of a director shall be published in the *Official Gazette*.

Signature of documents, etc.

9. All decisions made by and documents of the Board shall be signed

- (a) the Chairman or any other director so authorised to act;
- (b) one director appointed under paragraph 1(1)(a); and
- (c) one director appointed under paragraph 1(1)(b).by

Seal.

10. The Seal of the Council shall be kept in the custody of the Chairman or the Deputy Chairman or such other officer of the Council as the Council may approve and may be affixed to instruments pursuant to a resolution of the Council and in the presence of the persons specified in paragraph 9.

Meetings.

11. The Board shall meet at least once a month and at such other times as may be necessary or expedient for the transaction of its business.

Special meetings.

12. The Chairman or in the event of his absence from **The Bahamas** or inability to act as such, the Deputy Chairman, may at any time call a meeting of the Board and shall call a meeting within 7 days of the receipt by him of a request for that purpose addressed to him in writing and signed by at least 3 other directors.

Presiding at meetings.

13. The Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Board and, in the case of the absence of both the Chairman and Deputy Chairman, the directors present and constituting a quorum shall elect either of the directors appointed under paragraph 1(1)(d) or (e) to be a temporary Chairman.

Quorum.

14. A majority of directors shall constitute a quorum, but one director appointed under paragraph 1(1)(a), one director appointed under paragraph 1(1)(b), and one director appointed under 1(1)(d) or (e) shall be among the members present and constituting the quorum.

Decisions.

15. Subject to paragraph 14, the decisions of the Board shall be unanimous.

Minutes.

16. Minutes in proper form of each meeting shall be kept by the Secretary or such officer as the Board appoints for the purpose and shall be confirmed in writing at the next meeting.

Attendance of persons at meetings.

17. (1) The Chairman may invite any person to attend a meeting of the Board where the Board considers it necessary to do so.

(2) A person referred to in sub-paragraph (1) may take part in the deliberations of the Board but shall not vote on any matter.

Remuneration.

18. (1) The Board may appoint committees to assist with the proper discharge of its functions subject to such conditions or restrictions as the Board imposes.

(2) The number of directors of a committee appointed by the Board and the terms of the office of the directors shall be fixed by the Board.

(3) A committee appointed by the Board under this paragraph may include persons who are not directors but the committee shall be chaired by a director of the Board.

Appointment of Committees.

19. Where a person other than a director is appointed to a committee under paragraph 18, the Board may, with the approval of the Prime Minister, determine the remuneration and allowances to be paid to that person.

Procedure

20. Subject to this schedule the Board may regulate its own procedure.

DRAFT