



VIRGIN ISLANDS

BVI HEALTH SERVICES AUTHORITY ACT, 2004

ARRANGEMENT OF SECTIONS

Section

PART I

PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.
4. Act binds Crown.

PART II

BVI HEALTH SERVICES AUTHORITY

5. Establishment of the Authority.
6. Functions of the Board.
7. Powers of the Board.
8. Appointment of top managers.
9. Appointment of Corporate Secretary, Executive Secretary and other staff.
10. Committees and sub-committees of the Board.

PART III

FINANCIAL PROVISIONS

11. Funds and resources of the Authority.
12. Establishment of special fund.
13. Application of funds of the Authority.
14. Board to meet expenses out of revenue.
15. Power to borrow.
16. Guarantee of loans.
17. Power to invest.
18. Exemption from taxes.
19. Vesting of Hospital and certain lands, premises, property rights and liabilities in the Authority.

20. Certain assets to be free of interest or capital obligations.
21. Restrictions on disposal of lands.
22. Financial year of the Authority.
23. Budget and annual work plan.
24. Accounts and audit.
25. Annual report.

PART IV

MISCELLANEOUS PROVISIONS

26. Minister may require returns.
27. Inspection of Hospital.
28. Transfer of Government officers and employees to the Authority.
29. Transfer of Government contracts of employment and service to the Authority.
30. Transfers of staff between the Authority and the Government.
31. Privileges for private medical practitioners.
32. Regulations.
33. Repeal and savings.

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

I Assent

Acting Governor
, 2004

VIRGIN ISLANDS

No. 14 of 2004

An Act to establish the BVI Health Services Authority, to provide for the administration of the Peebles Hospital and community health services, to repeal the Public Hospital Ordinance (Cap. 195) and to provide for other matters connected therewith.

[Gazetted , 2004]

ENACTED by the Legislature of the Virgin Islands as follows:

PART I
PRELIMINARY

1. This Act may be cited as the BVI Health Services Authority Act, 2004. Short title.
 2. This Act comes into force on such date as the Governor may, by Proclamation published in the *Gazette*, appoint. Commencement.
 3. In this Act, unless the context otherwise requires, Interpretation.
- “allied health practitioner” means a person registered as an allied health practitioner under the Medical Act, 2000; No. 4 of 2000
- “Authority” means the BVI Health Services Authority established under section 5(1);

“Board” means the Board of the Authority referred to in section 5(3);

“Chief Executive Officer” means the person appointed under section 8(a);

“Chief Nursing Executive” means the person appointed under section 8(f);

“Chief of Medical Staff” means the person appointed under section 8(d);

“Corporate Secretary” means the person appointed under section 9(1)(a);

“Director of Health Services” means the person holding, or acting in, the post of Director of Health Services in the public service;

“Director of Hospital Services” means the person appointed under section 8(b);

“Director of Primary Health Care Services” means the person appointed under section 8(c);

“Financial Comptroller” means the person appointed under section 8(g);

“Hospital” means the several buildings erected in Road Town, Tortola now generally known as “the Peebles Hospital” together with all ways, paths, walls, drains, buildings, erections, rights, easements and appurtenances thereto;

“medical practitioner” means a person registered as a medical practitioner under the Medical Act, 2000;

“Minister” means the Minister to whom responsibility for health is assigned;

“Minister of Finance” means the Minister to whom responsibility for finance is assigned;

“nurse” means a person registered under the Nurses, Midwives and Assistant Nurses Registration Ordinance.

No. 4 of 2000

Cap. 192

Act binds
Crown.

4. This Act binds the Crown.

PART II BVI HEALTH SERVICES AUTHORITY

Establishment of
the Authority.

5. (1) There is established an authority to be known as the BVI Health Services Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and may hold or dispose of property, enter into contracts and perform such acts as a body corporate may legally perform.

(3) The Authority shall be managed by a Board which shall comprise

- (a) not less than seven or more than nine members appointed by the Minister, with the approval of the Executive Council, from among persons with knowledge, experience and expertise in medicine, law, accounting, nursing, insurance, social work or other professions and persons representing the BVI Chamber of Commerce and Hotel Association, academia and the religious community; and
- (b) the Chief Executive Officer and the Financial Comptroller as *ex officio* members, with the Financial Comptroller not being entitled to vote at meetings of the Board.

(4) The Authority may for any particular meeting co-opt the Director of Health Services, Director of Hospital Services, Director of Primary Healthcare Services, Chief of Medical Staff, Chief Nursing Executive or such other senior officers of the health services to assist with its deliberations.

(5) The Minister shall recommend to the Executive Council

- (a) the persons who are to be appointed under subsection (3)(a), two of whom shall be nominated by the Leader of the Opposition;
- (b) after consultation with the Leader of the Opposition, the appointment of one of the persons referred to in paragraph (a) as Chairman whose appointment shall be subject to the approval of the Legislative Council; and
- (c) the appointment of one of the persons referred to in paragraph (a) as Deputy Chairman.

(6) In approving appointments to the Board,

- (a) the Legislative Council shall, in the case of the Chairman, and
- (b) the Executive Council shall, in the case of the other members,

ensure that the persons to be so appointed are fit and proper.

(7) A person is disqualified for appointment as a member of the Board if he

- (a) is a member of the Legislative Council;
- (b) is an undischarged bankrupt or has compounded with his creditors;
- (c) has been convicted of an indictable offence or any offence involving dishonesty;
- (d) has, after being previously appointed as a member, been removed in accordance with Schedule 1; or
- (e) has been certified by a psychiatrist to be of unsound mind.

Schedule 1

(8) The non-ex officio members of the Board shall be paid such remuneration as may be determined by the Executive Council.

Schedule 1

(9) Schedule 1 has effect with respect to the Board.

Functions of the Board.

6. (1) The functions of the Board are

- (a) to set the strategic direction for the administration of the Hospital and community health services through the development of a strategic plan and to determine policies for the provision of health services based on the healthcare needs of the Territory;
- (b) to manage the operations of the Hospital and community health services and to control the activities at the Hospital and other public healthcare facilities to ensure continuous improvement in the quality of the care to patients;
- (c) to make modern methods of treatment of the sick and infirm available to the public so far as sufficient funds are at its disposal to do so;
- (d) to establish within the Hospital and other public healthcare facilities such departments or divisions as it considers necessary for the provision of effective care to patients;
- (e) to establish and manage programmes and services that promote, protect and maintain good health in communities throughout the Territory;

- (f) to ensure that all premises occupied by, or under the control of, the Authority are kept as resistant to disaster as possible and that there is a disaster preparedness plan for such premises that is known to all relevant members of staff;
- (g) to develop and maintain a pension scheme for employees that is no less favourable than that of employees in the public service;
- (h) to make recommendations to the Minister on the development of the Hospital and community health services and such other matters as the Minister may refer to the Board;
- (i) recruit, appoint, train, promote and exercise discipline, including power to suspend and terminate employment, over members of its staff;
- (j) to ensure that the highest performance is realised by all members of its staff and that professional standards are maintained at all times;
- (k) to develop a marketing plan that promotes the services of the Hospital and community health services and attracts individuals to utilise those services with a view to creating such partnership and encouraging such involvement with the community as will serve the best interest of the Authority;
- (l) to prescribe and collect all fees payable to the Authority for services provided;
- (m) to ensure the development and implementation of a customer service programme in relation to all the services of the Authority, with a view to creating such partnership and encouraging such involvement with the community as will serve the best interest of the Authority and the community;
- (n) to ensure that the services offered by the Authority are appropriate to the Territory, effectively and efficiently delivered and cost-effective to its customers;
- (o) to ensure the development and implementation of a quality assurance programme for the Authority and the attainment

by the Authority of accreditation from an appropriate accrediting body;

- (p) to ensure adequate financing and control of expenses through a well planned annual budget;
- (q) to develop plans and procedures that enable access to and use of the facilities of the Hospital by medical and dental practitioners in private practice.

(2) In the performance of its functions, the Board shall give effect to such general policy directions as the Minister may give, including directions pertaining to the provision of services by the Authority, the determination of the principles on which the fees payable for services rendered by the Authority are imposed and any other matter concerning the Authority and integral to the protection of the public interest.

Powers of the Board.

7. Subject to this Act and any other enactment, the Board may do all things necessary for, or reasonably ancillary or incidental to, the pursuance of the carrying out of its duties, functions or powers under this Act, including

- (a) establish and institute policies for the efficiency, good order and management of the Authority, including policies in relation to
 - (i) the admission and discharge of patients, the identification of patients and the protection of the privacy and other interests of patients;
 - (ii) the conduct of visitors and patients;
 - (iii) the hours during which members of the public or any class thereof, may have access to the Hospital;
 - (iv) the control and supervision of clinical work and the use of the facilities of the Board in the course of such work;
- (b) determine the duties of its members;
- (c) enter into such contracts as the Board may consider necessary or expedient for the due performance of any duty imposed, or the effective exercise of any power conferred, upon the Board by or under this Act;

- (d) draw, negotiate and accept bills of exchange, cheques and promissory notes;
- (e) create a Health Services Trust Fund or a charitable trust for the benefit of the Authority or for purposes relating to the provision of healthcare services;
- (f) conduct fund-raising activities for the benefit of the Authority;
- (g) assist with collecting facts regarding allegations of misconduct of medical and dental practitioners, allied health practitioners and nurses and forward information to the relevant disciplinary body for further investigation and action.

8. The Board shall, with the approval of the Executive Council, appoint, on such terms and conditions of service as are approved by the Executive Council, fit and proper persons with relevant knowledge, experience and expertise as Appointment of top managers.

- (a) the Chief Executive Officer who shall be responsible for the overall supervision and management of the operations of the Authority;
- (b) the Director of Hospital Services who shall be responsible for the day-to-day management of the Hospital;
- (c) the Director of Primary Healthcare Services who shall be responsible for the day-to-day management of community health services;
- (d) the Chief of Medical Staff of the Hospital, who
 - (i) shall be a medical practitioner; and
 - (iii) shall be responsible for the medical and dental staff organisation of the Hospital and the supervision of the medical and dental care given to patients at the Hospital, which care shall be in accordance with policies established by the Board;
- (e) the Senior Medical Officer of Health who
 - (i) shall be a medical practitioner; and

- (ii) shall be responsible for the community health services' medical and dental staff organisation and the supervision of the medical and dental care given to patients through community health services, which care shall be in accordance with policies established by the Board;
- (f) the Chief Nursing Executive who shall be a nurse and shall be responsible for the planning and management of nursing initiatives and the overall implementation of nursing services;
- (g) the Financial Comptroller who shall be responsible to the Board, through the Chief Executive Officer, for the efficient management of the financial administration of the Board; and
- (h) the Human Resources Manager, who shall be responsible for all human resources matters, including recruitment, employment and termination of employees, disciplinary matters, training and succession planning.

Appointment of
Corporate
Secretary,
Executive
Secretary and
other staff.

9. (1) The Board shall appoint

- (a) a Corporate Secretary who shall be responsible for establishing and maintaining the records of the Authority, including the recording and distribution of minutes of meetings of the Board, and such other duties as the Chief Executive Officer may assign to him; and
- (b) an Executive Secretary who shall be responsible for such administrative and secretarial duties as the Chief Executive Officer or the Corporate Secretary may assign to him.

(2) The Board may appoint such officers, employees and agents as it considers necessary and proper for the effective and efficient administration, management and operation of the Board.

(3) Appointments under this section shall be on such terms as to remuneration, expenses, pensions and other conditions of service as the Board thinks fit.

(4) The Board may establish and maintain such schemes or make such other arrangements as it thinks fit for the payment of pensions and other benefits in respect of its officers and employees.

(5) The Board shall ensure that all its officers and employees who are required to be registered under the Medical Act, 2000 as medical practitioners, dental practitioners or allied health practitioners, or to be registered under the Nurses, Midwives and Assistant Nurses Registration Ordinance, in order to carry out the duties of their employment, are so registered.

No. 4 of 2000
Cap. 192

10. (1) The Board shall establish the following committees to assist with the efficient performance of its functions:

Committees and sub-committees of the Board.

- (a) an Executive Committee which shall comprise the Chairman, the Deputy Chairman, one other non-*ex officio* member, the Chairman of the Finance Committee referred to in paragraph (b) and the Chief Executive Officer;
- (b) a Finance Committee;
- (c) an Ethics Committee;
- (d) a Medical Staff Committee;
- (e) a Quality Assurance Committee;
- (f) a Building and Properties Committee;
- (g) an Education Committee.

(2) In addition to the committees specified in subsection (1), the Board may appoint such other committees as it thinks fit.

(3) A committee shall be composed of at least one member of the Board with knowledge, expertise or experience in the matter referred to the committee.

(4) The Board may co-opt to any committee such persons with relevant knowledge, expertise or experience as it thinks fit.

(5) The Board may delegate the performance of any duty imposed, or the exercise of any power conferred by or under this Act on the Board to a committee composed of members of the Board only or members of the Board and other persons, provided that no act of any such committee shall have effect unless it is ratified by the Board.

(6) A committee may refer any matter within its terms of reference to a sub-committee composed of members of the committee only or members of the committee and other persons, provided that no act of any such sub-committee shall have effect unless it is ratified by the committee.

**PART III
FINANCIAL PROVISIONS**

Funds and
resources of the
Authority.

11. (1) The funds and resources of the Authority shall consist of

- (a) such monies as may be appropriated by the Legislative Council for the purposes of the Authority;
- (b) fees and other charges payable for services rendered by the Authority;
- (c) monies borrowed by the Authority in accordance with this Act;
- (d) monies or property that may become payable to or vested in the Authority pursuant to this Act or in relation or incidental to the performance of its functions;
- (e) monies derived from the disposal of, or dealing with, real or personal property held by the Authority;
- (f) monies paid to the Authority by way of rent, interest and other income derived from the investment of the Authority's funds;
- (g) monies or property lawfully received or made available to the Authority;
- (h) monies paid and property provided to the Authority from sources, other than those referred to in paragraphs (a) to (g), that are approved by the Minister.

(2) Notwithstanding section 32, the Authority may charge a fee in respect of costs reasonably incurred in the performance of its functions under this Act.

(3) The Board shall open and maintain an account in the name of the Authority with a reputable bank licensed and operating in the Territory and approved by the Minister of Finance and, subject to section 12, shall ensure that all monies received by the Authority are paid into that account as soon as practicable after receipt.

Establishment of
special fund.

12. The Board shall establish a special fund into which shall be paid

- (a) monies resulting from the sale of any property of the Authority;

- (b) monies received by way of devise, bequest, gift, grant or donation;
- (c) monies realised from fund-raising activities; and
- (d) subject to the approval of the Minister of Finance, the whole or part of the surplus on the budget approved for the Authority's expenditure for any financial year,

and such monies shall be retained by the Authority for its own use.

13. The funds of the Authority shall be applied in accordance with this Act and in the payment of the following:

Application of funds of the Authority.

- (a) the principal of, and any interest and other charges on, any sums borrowed by the Authority;
- (b) the salaries, remuneration, allowances, pensions, gratuities, provident fund and other superannuation benefits of the officers and staff employed in or in connection with the activities carried on by the Authority;
- (c) the working and establishment expenses of the Authority, including expenses relating to the maintenance of the property and installations of the Authority and the discharge of the functions of the Authority properly chargeable to revenue;
- (d) such sums as the Board may deem appropriate to set aside for the purposes of the future removal, replacement or renewal of property or installations due to obsolescence and depreciation;
- (e) the cost, or any portion thereof, of any new works, property or installations, not being a replacement or renewal of property or installations, as the Board may determine to be properly charged to revenue;
- (f) any other expenditure authorised by the Board and properly chargeable to revenue.

14. So far as practicable, the Board shall carry out its functions and shall levy such fees and other charges for hospital and community health services as, together with such funds as may be appropriated by the Legislative Council for the purposes of the Authority, will result in the revenue of the Authority being

Board to meet expenses out of revenue.

sufficient to meet the expenditure and liabilities of the Authority, including allocations to reserve for replacement of plant and provision for depreciation of assets.

Power to borrow.

15. The Authority may, with the written approval of the Minister of Finance,

- (a) borrow monies by way of loan, advance or overdraft for the purpose of meeting any of its obligations or performing any of its functions; and
- (b) secure the repayment of any monies borrowed by mortgaging or pledging any property of the Authority or by the issue of debentures, debenture stock or scrip or otherwise.

Guarantee of loans.

16. (1) The Minister of Finance, acting for and on behalf of the Government, may, with the approval of the Legislative Council, guarantee, in such manner and on such terms and conditions as the Legislative Council thinks fit, the payment of the principal of, and any interest and other charges on, any sums borrowed by the Authority.

(2) A guarantee given under this section shall be given in writing in the name of the Government, and may be signed for or on behalf of the Government by the Minister of Finance or any person authorised in writing by the Minister of Finance to do so.

Power to invest.

17. The Board may, with the approval of the Minister of Finance, invest any monies standing to the credit of the Authority in the account maintained under section 11(3) or in the special fund established under section 12 and which are not immediately required to meet the expenses of the Authority.

Exemption from taxes.

18. Notwithstanding any other enactment, the Authority is exempt from the payment of

- (a) customs duties, taxes, port wharfage and other fees applicable with respect to goods imported for its own use;
- (b) taxes in respect of lands and buildings owned or leased by the Authority;
- (c) stamp duty; and
- (d) income tax and any other tax imposed on the income or profits of the Authority.

19. (1) Subject to section 20, upon the commencement of this Act, the Hospital, the lands and premises specified in Schedule 2 and all property and interests therein of whatever nature, belonging to the Crown, and used or acquired exclusively for the purposes of the Hospital or community health services shall be transferred to and vested in the Authority on such terms and conditions as the Executive Council, the Board and any other interested party may agree upon in writing.

Vesting of Hospital and certain lands, premises, property rights and liabilities in the Authority. Schedule 2

(2) Where a question arises as to whether any property, lands or buildings to which subsection (1) applies were used or acquired exclusively for the purposes of the Hospital or community health services, a certificate to that effect under the hand of the Minister shall be conclusive.

(3) Before and after the coming into force of this Act, the Minister may, by Order published in the *Gazette*, amend Schedule 2.

20. All assets transferred to and vested in the Authority by the Crown, whether under section 19 or otherwise, shall be free of any interest or capital obligations, except such as are being financed by loans raised by the Government or unless the Government, the Board and any other interested party agree otherwise in writing.

Certain assets to be free of interest or capital obligations.

21. (1) Notwithstanding the provisions of this Act, the Board shall not make a disposition of any land of the Authority, whether by sale or otherwise, except by way of mortgage or in accordance with subsections (2) and (3).

Restrictions on disposal of lands.

(2) Where the Board intends to dispose of any land of the Authority, other than by way of mortgage, the Board shall offer the land to the Government for purchase by agreement.

(3) Where the Government does not wish to purchase land offered under subsection (2), the Board may, with the prior approval of the Executive Council, dispose of the land on the open market to the Authority's best advantage.

(4) In this section, "land" includes premises.

22. The financial year of the Authority shall be the period commencing on 1st October and ending on 30th September of the following year.

Financial year of the Authority.

23. (1) The Board shall, not later than three months before the commencement of each financial year, prepare in respect of the financial year, and submit to the Executive Council

Budget and annual work plan.

(a) estimates of

(i) the expected expenditure of the Authority; and

(ii) the expected income of the Authority, if any, arising from any source; and

(b) a work programme containing a general description of the work and activities that it plans to undertake in the year.

(2) The Executive Council shall, as soon as practicable, consider the estimates and work programme submitted by the Board with a view to

(a) approving them, or either of them, with or without modification; or

(b) remitting them, or either of them, to the Board without approval.

(3) Where the Executive Council remits the estimates or the work plan to the Board, it shall provide the Board with the reasons for its non-approval of the estimates or work plan, including any specific recommendations for modification.

(4) Where the estimates and work plan are approved, the Minister shall, within three months of the approval, lay them before the Legislative Council.

24. (1) The Board shall

(a) keep proper books of accounts of the income and other receipts and expenditure of the Authority; and

(b) ensure that

(i) all monies received are properly brought to account;

(ii) all payments out of those monies are correctly made and properly authorised; and

(iii) adequate control is maintained over the property of, and the incurring of liabilities by, the Authority.

(2) The books of account kept under subsection (1) shall be maintained in such form and manner that they

(a) are sufficient to record and explain the Authority's transactions;

(b) enable the Authority's financial position to be determined with reasonable accuracy at any time; and

Accounts and
audit.

- (c) are sufficient to enable the Authority's financial statements to be prepared and audited in accordance with this section.

(3) Within three months after the end of each financial year, the Board shall prepare and approve accounts containing

- (a) a statement of the assets and liabilities of the Authority at the end of the financial year;
- (b) a statement of the revenue and expenditure of the Authority during the financial year;
- (c) such other financial statement for the financial year as may be specified by the Executive Council; and
- (d) proper and adequate explanatory notes to the financial statements.

(4) The accounts of the Authority shall, within four months after the end of each financial year, be audited by such person as may be appointed in respect of each financial year by the Board, but until such appointment is made the Auditor General shall be responsible for auditing the accounts of the Authority.

(5) The Auditor General may, at the request of the Minister of Finance, carry out an investigation into or a special audit of the accounts of the Authority, and for this purpose the provisions of the Audit Act, 2003 shall apply.

No. 13 of 2003

(6) Where the Auditor General or an auditor appointed under subsection (4) is carrying out his duties under this section, the members, officers and employees of the Authority shall

- (a) allow the Auditor General or the auditor access to all books and documents relating to accounts and to all cash and securities of the Authority; and
- (b) upon request, provide the Auditor General or the auditor with all information within their knowledge that relates to the activities of the Authority.

25. (1) Within two months of the completion of the audit of the Authority's accounts in respect of any financial year, the Board shall submit to the Executive Council through the Minister

Annual report.

- (a) a copy of the audited accounts of the Authority; and

- (b) an annual report of the operations and activities of the Authority for that financial year, together with a copy of the audited financial statements.

(2) Within two months of the submission to Executive Council of the Authority's audited accounts, report and audited financial statements, the Minister shall lay them in the Legislative Council.

PART IV MISCELLANEOUS PROVISIONS

Minister may
require returns.

26. The Board shall forward to the Minister such returns, statistics or other information as the Minister may require in writing.

Inspection of
Hospital.

27. (1) At the request of the Minister, the Permanent Secretary to the Minister or any officer or person authorised in writing by that Permanent Secretary may, at all reasonable times, enter and inspect the premises of the Hospital and other premises under the control of the Authority and report to the Minister upon the state of such premises.

(2) The Minister shall cause a copy of a report referred to in subsection (1) to be forwarded to the Board.

Transfer of
Government
officers and
employees to the
Authority.
Schedule 3

28. (1) Subject to subsection (2), every officer or employee of the Government who, immediately before the coming into force of this Act, is holding a post specified in Schedule 3 shall, upon the coming into force of this Act, be deemed to be transferred from the service of the Government to the service of the Authority upon terms and conditions (including any tax benefits) not less favourable in aggregate than those which were attached to the appointments held by such officers and employees under the Government.

(2) Every officer and employee who is deemed to have been transferred under subsection (1) shall, within six months of the coming into force of this Act, have the option of electing

- (a) to continue in the service of the Authority, in which case such service shall be retrospective from the date of his transfer and he shall be entitled to such pension, gratuity and other allowances and rights, if any, as he would have received had he been retired from the service of the Government on the abolition of his office on the date of his transfer to the Authority;

- (b) to be transferred to another department of the Government, subject to a suitable vacancy existing, with his service with the Authority counting as service with the Government in respect of his pension, gratuity and other allowances and rights, if any; or
- (c) to be deemed to have retired from the service of the Government on the abolition of his office
 - (i) on the date he ceases to be in the service of the Authority, or
 - (ii) where his service with the Authority has not been broken, on the date that he would have completed thirty-three and a third years' continuous service with the Government had he remained in the service of the Government,

whichever is earlier.

(3) Where any officer or employee referred to in this section fails to elect as provided under subsection (2), he shall be deemed to have elected under subsection (2)(a) and he shall be treated accordingly.

(4) The Authority shall reimburse the Government with the cost of any pension, gratuity and other allowances and rights, if any, arising from the period which any such officers or employees who elect not to continue with the Authority did serve with the Authority.

(5) Nothing in this section shall be deemed to affect the right of the Board

- (a) to terminate the employment of any officer or employee transferred to the service of the Authority, or
- (b) to vary the rate of pay or conditions of service of an officer or employee,

in the manner and to the extent that the Government could have done had he continued in the service of the Government.

(6) Subject to subsection (7), where any officer or employee has elected to continue in the service of the Authority under subsection (2) or has been deemed to so continue under subsection (3), he shall not be entitled to be paid any pension, gratuity or other allowance that may have accrued to him whilst in the service of the Authority, until the time when he would have qualified for a

pension, gratuity or other allowance under the Pensions Act had he continued in the service of the Government.

(7) Subsection (6) shall not be construed as requiring a person to cease to be in the service of the Authority in order for him to be entitled to be paid any pension, gratuity or other allowance pursuant to that subsection.

(8) Nothing in this section prevents a person who

- (a) has elected to continue in the service of the Authority under subsection (2) or has been deemed to so continue under subsection (3), and
- (b) is or may become entitled to be paid any pension, gratuity or other allowance by virtue of this section,

from participating in and benefitting from any scheme or arrangement for the payment of pensions and other benefits established by the Authority, or from being re-employed by the Authority on contract while receiving any pension, gratuity or other allowance by virtue of this section.

(9) Before the coming into force of this Act, the Minister may, by Order published in the *Gazette*, amend Schedule 3 to effect corrections to the Schedule.

Transfer of Government contracts of employment and service to the Authority.

29. Where, immediately before the coming into force of this Act, the Government had

- (a) a contract of employment with a person, other than an officer or employee referred to in section 28, who is assigned duties at the Hospital or in relation to community health services; or
- (b) with any person a contract for the provision of a service at the Hospital or in relation to community health services, which has not been discharged,

then, upon the coming into force of this Act, such contract shall continue to have effect in accordance with its terms as if it was originally made between such person and the Authority, and all the rights, powers, duties and liabilities which accrued under or in connection with such contract shall be enforceable by or against the Authority as if it were originally made between that person and the Authority.

30. (1) The Board may make appropriate arrangements for the transfer or secondment of an officer or employee of the Government to the service of the Authority.

Transfers of staff between the Authority and the Government.

(2) Where an officer or employee of the Government is transferred or seconded to the service of the Authority

(a) his rights to any pension, gratuity or other allowance for which he would have been eligible had he remained in the service of the Government are preserved; and

(b) his service with the Authority shall, unless the Governor otherwise decides, be pensionable under the Pensions Act as if the officer had not been so transferred or seconded.

Cap. 161

(3) The Board may make arrangements for the loan to the Government of the services of an officer or employee of the Authority.

(4) Where the services of a person employed by the Authority are on loan to the Government for the purpose of providing services within the public service, the person providing such service is entitled to the benefits and terms of employment that are applicable to the post of that person in the service of the Authority, and the service with the Government shall be taken into account as continuous service with the Authority.

31. The Board may, on such terms and conditions as it thinks fit, allow medical and dental practitioners in private practice, to have access to and utilise any of the facilities at the Hospital, when the use of such facilities is not immediately required by the Authority.

Privileges for private medical practitioners.

32. (1) The Minister may, with the advice of the Board, make regulations

Regulations.

(a) prescribing the services to be provided by the Authority;

(b) prescribing the fees to be charged for the services provided by the Authority;

(c) for securing the proper, efficient and economic maintenance, management, organisation, administration and operation of the Hospital and of any clinic, out-patients department, laboratory or other department operated by the Authority;

- (d) for securing the proper, efficient and economic maintenance, management, administration, organisation and use of any facilities or services of any description provided by the Authority;
- (e) for securing the health and safety of all persons upon any premises occupied by or under the control of the Authority;
- (f) for the preservation of all property vested in the Authority and for the proper and economic use of all such property;
- (g) for affording access to free medical care to such persons as may be considered necessary;
- (h) generally for giving effect to this Act.

(2) Regulations under this section may create summary offences and impose a penalty not exceeding a fine of one thousand dollars in relation to the commission of any such offence.

(3) Regulations under this section shall be subject to a negative resolution of the Legislative Council.

Repeal and savings.
Cap. 195

33. (1) The Public Hospital Ordinance is repealed.

(2) Notwithstanding subsection (1), the Hospital Regulations shall remain in force until revoked and replaced by regulations made under this Act, except that references therein to "the Chief Medical Officer" shall be construed as references to "the Director of Hospital Services".

SCHEDULE 1

[Section 5].

PROVISIONS RELATING TO THE BOARD

Tenure of office.

1. (1) The appointment of the Chairman shall be for a term not exceeding three years.

(2) The appointment of the Deputy Chairman and the other members of the Board referred to in section 5(3)(a) shall be for a term not exceeding three years.

(3) A person appointed to the Board under section 5(3)(a) is eligible for reappointment, but not for more than three consecutive terms.

(4) The name of a person appointed to the Board under section 5(3)(a) shall be published in the *Gazette* and at least twice in a local newspaper circulating in the Territory.

(5) If a member of the Board dies, resigns, is removed from or otherwise vacates his office prior to the expiry of the term for which he has been appointed, the Executive Council shall appoint a new member to replace him.

(6) An appointment of a person under subparagraph (5) may be for the unexpired period of the term for which he has been appointed or for a new term.

2. (1) The Chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation becomes effective upon receipt by the Minister. Resignation.

(2) A person appointed to the Board under section 5(3)(a), other than the Chairman, may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and such resignation becomes effective upon receipt by the Minister.

3. (1) The Minister with the approval of the Executive Council may, by instrument in writing, remove a member of the Board, other than an *ex officio* member, from office if satisfied that the member Removal from office.

(a) has, without the consent of the Board, been absent from three consecutive meetings of the Board or for periods exceeding one third of the regular meetings held in a year;

(b) is or becomes disqualified from being appointed as a member of the Board under section 5(7);

(c) is unable or unfit to discharge his functions as a member of the Board; or

(d) is in breach of any condition imposed upon his appointment.

(2) For the purposes of subparagraph (1)(a), a special meeting convened under paragraph 4(2) shall not be counted towards a member's absence from meetings.

4. (1) The Board shall meet at least once every month at such place and time as may be designated by the Chairman. Meetings of the Board.

(2) The Chairman, or in his absence the Deputy Chairman, shall at any time convene a special meeting of the Board upon receipt of a requisition signed by at

least four members calling upon him to do so, and such meeting shall be held not later than fourteen days after receipt of the requisition.

(3) At every meeting of the Board, the Chairman, or in his absence the Deputy Chairman, shall preside.

(4) The quorum of the Board shall be six.

(5) In the conduct of its meetings, the Board shall establish its own rules of procedure, subject to the provisions of this Act.

Decisions of the Board.

5. (1) At any meeting for the conduct of its business, the Board shall take its decisions by a majority vote of the members present and voting and in the event of a tie the Chairman, or in his absence Deputy Chairman, shall have a casting vote.

(2) No decision, act or proceeding of the Board shall be invalid by reason only of the existence of a vacancy among its members or of any defect in the appointment of a member.

Minutes.

6. (1) Minutes of each meeting of the Board shall be kept in proper form by the Corporate Secretary to the Board or such other officer as the Board appoints for the purpose and shall be confirmed at the meeting next after the meeting at which they were recorded, by a majority of the members who were present and voting at that meeting.

(2) A copy of the confirmed minutes of each meeting of the Board shall be submitted to the Minister within seven days after the date of the meeting at which they were confirmed.

Seal of the Board.

7. (1) The common seal of the Board

- (a) shall be kept in the custody of the Corporate Secretary or such member or other officer as the Board approves;
- (b) may be affixed to instruments, pursuant to a resolution of the Board, by the Corporate Secretary or such member or other officer as the Board approves; and
- (c) shall be authenticated by the signatures of the Chairman, or the Deputy Chairman, and the Corporate Secretary or such member or other officer as the Board authorises to act in that behalf.

(2) All documents or instruments, other than those required by law to be under seal, made by and all decisions of, the Board may be signified under the

hand of the Chairman, or the Deputy Chairman, and the Corporate Secretary or such member or other officer as the Board authorises to act in that behalf.

SCHEDULE 2

[Section 19]

LANDS AND PREMISES TRANSFERRED TO THE AUTHORITY

1. Peebles Hospital, Road Town: Road Town Registration Section, Block 2837B, Parcel 214 (4.0551 Acres)
2. Iris Penn Clinic, East End: East End Registration Section, Block, 3539B, Parcel 291 (0.145 Acres)
3. Rosalind Penn Clinic, Long Look: Long Look Registration Section, Block 3339F, Parcel 16 (Less than 0.15 Acres)
4. Iris O'Neal Clinic, the Valley, Virgin Gorda: Virgin Gorda South Registration Section, Block 4840B, Parcel 94 (0.4 Acres)
5. Anegada Clinic: Anegada Registration Section, Block 6170B, Parcel 43 (0.322 Acres)

SCHEDULE 3

[Section 28]

STAFF TRANSFERRED TO THE AUTHORITY

HOSPITAL SERVICES

Established Employees

- 1 Chief of Medical Staff
- 1 Hospital General Manager
- 1 Support Services manager
- 2 Administrative Officers
- 1 Senior Accounts Officer
- 5 Accounts Officer
- 1 Medical Records Officer I
- 1 Medical Records Officer II
- 1 Hospital Maintenance Supervisor
- 1 Assistant Hospital Maintenance Supervisor

1 Senior Storekeeper
1 Senior Executive Officer
2 Executive Officers
8 Clerical Officer I/II/III
3 Clerical Trainees
1 Hospital Domestic Supervisor
1 Food Services Manager
1 Assistant Hospital Domestic Supervisor
1 Assistant Hospital Dietary Supervisor
4 Cooks
1 Dietary Cook
10 Dietary Aides
3 Security Guards
9 Orderlies
1 Store Clerk
12 Emergency Medical Technicians
1 Porter/Messenger
1 Social Worker

Professional

13 Medical Specialists
10 Medical Officers I/II
1 Nutritionist
1 Histotechnologist

Nursing

1 Nursing Director
1 Assistant Nursing Director
1 Quality Assurance Officer
1 Nurse Anesthetist
2 Clinical Nurse Specialists
6 Ward Sisters
33 Staff Nurses
35 Registered Nurses
16 Assistant Nurse/Senior Assistant Nurse
2 Central Sterilization Services Department Attendants
4 Ward Clerks
1 Nurse Trainee
1 Junior Assistant Nurse

Technical

1 Biomedical Technician
1 Laboratory Director

5 Laboratory Technologists
2 Laboratory/Pharmacist Trainees
1 Senior Pharmacist
1 Clinical Pharmacist
4 Pharmacists
1 Senior Medical Imaging Technologist
5 Medical Imaging Technologist
1 Physiotherapist II
2 Physiotherapists I
1 Allied Health Technician
2 Clerical Officers I/II/III
1 Phlebotomist

Non-Established Employees

7 Hospital Cleaners
4 Nursing Trainees
3 Porter /Messengers
9 Security Guards
4 Maintenance Officers
1 Gardener
3 Orderly Drivers

COMMUNITY HEALTH SERVICES

Established Employees

Administration

1 Senior Administration Officer
1 Senior Accounts Officer
1 Senior Executive Officer
1 Security Guard
8 Executive Officers
4 Clerical Officer I/II/III
1 Clerical Officer/Receptionist
1 Clerical Trainee

Technical

1 Dental Nurse
1 Dental Hygienist
1 Dental Auxiliary
1 Dental Assistant
2 Audiometric Technicians

1 Emergency Medical Technician

Professional

1 Director of Primary Health Care

5 Medical Officer II

2 Dental Officer I/II

1 Clinical Psychologist

2 Mental Health Officer I

1 Mental Health Officer II

1 Social Worker

1 Speech Therapist

1 Nutritionist

1 Community Health Pharmacist

Nursing

1 Nursing Tutor

1 Nursing Director

10 Public Health Nurses

1 Public Health Nurse (Manager, Road Town Clinic)

9 District Staff Nurse

1 Family Planning Nurse

6 District Assistant Nurses

7 Registered Nurses

1 Senior Assistant Nurse

Maintenance

3 Maintenance Officers

Non-Established Employees:

1 Occupational Therapist

1 Messenger

3 Labourer/Cleaners

13 Cleaners

1 Messenger/Driver/Handyman

1 Orderly/Driver

1 Security Guard

Passed by the Legislative Council this 1st day of October, 2004.

EILEENE PARSONS,
Deputy Speaker.

ALVA McCALL,
Deputy Clerk of the Legislative Council.