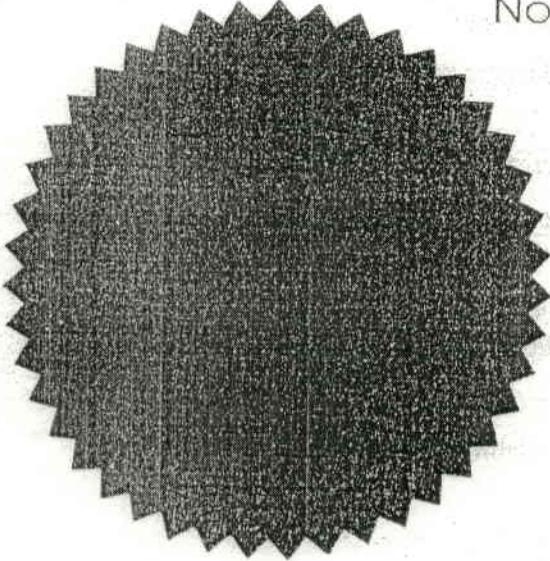


JAMAICA

No. 33-2005



I assent,

Governor-General.

28th day of December 2005

AN ACT to Provide for the establishment of a civilian oversight authority to monitor the operations of the Jamaica Constabulary Force and the Auxiliaries and for connected matters.

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:—

1. This Act may be cited as the Police (Civilian Oversight) Authority Act, 2005, and shall come into operation on a day to be appointed by the Minister by notice published in the *Gazette*.

Short title
and com-
mencement.

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

Interpreta-
tion.

“Authority” means the Police (Civilian Oversight) Authority established under section 3;

“Auxiliaries” means—

- (a) the Island Special Constabulary Force constituted by the Constables (Special) Act; and
- (b) the Rural Police constituted by the Constables (District) Act;

“Force” means the Jamaica Constabulary Force.

Establishment and constitution of Authority. Schedule.

3.—(1) There is hereby established a body to be known as the Police (Civilian Oversight) Authority.

(2) The provisions of the Schedule shall have effect as to the constitution of the Authority and otherwise in relation thereto.

Functions of Authority.

4.—(1) The functions of the Authority are to—

- (a) monitor the implementation of policy relating to the Force and the Auxiliaries;
- (b) monitor the standard of performance of the Force and the Auxiliaries so as to ensure that internationally accepted standards of policing are maintained, and to report thereon;
- (c) conduct inspections of the Force and the Auxiliaries;
- (d) monitor the management and use of the financial and other resources of the Force and the Auxiliaries;
- (e) perform such other functions as may be necessary for promoting the efficiency of the Force and the Auxiliaries.

(2) The Authority shall, in the exercise of its functions under this Act, have the power to—

- (a) require the attendance of the Commissioner of Police or any other officer of the Force or the Auxiliaries;
- (b) call for and examine documents and records;
- (c) receive representations from members of the public in relation to the operation of the force and the Auxiliaries;
- (d) do all such other things as it considers necessary or expedient for the purpose of carrying out its functions under this Act.

(3) An officer or employee of the Authority may, with the prior written authorization of the chairman of the Authority, at any reasonable time—

- (a) enter premises occupied by any division of the Force or by any of the Auxiliaries;
- (b) require a member of the Force or of any of the Auxiliaries to furnish such information or to produce such category of documents or records as may be specified in the authorization; and
- (c) inspect and examine such documents or records and make copies thereof.

5.—(1) A member of the Force or any of the Auxiliaries shall give an officer, employee or member of the Authority all reasonable assistance in his power and furnish him with such information, records or documents as he may reasonably require.

Duty of member of Force or Auxiliaries to furnish information, etc.

(2) A person who—

- (a) obstructs, hinders or prevents an officer or employee of the Authority from entering any premises referred to in section 4(3);
- (b) fails or refuses to give information or to produce any document or record required by that officer,

shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding one hundred thousand dollars.

6.—(1) The Authority may, where it considers necessary, refer a matter to—

Reference of matters by Authority.

- (a) the Police Service Commission;
- (b) the Minister;
- (c) the Commission for the Prevention of Corruption; or
- (d) the Commissioner of Police,

as the case may require, for appropriate action to be taken.

(2) Where the Authority refers a matter under subsection (1), the person or body to whom the matter was referred shall as soon as possible cause a report to be made to the Authority on the action taken.

Annual
Report

7.—(1) The Authority shall, within four months after the end of each financial year or within such longer period as the Minister may in special circumstances approve, cause to be made and transmit to the Minister, a report of the operations and findings of the Authority during that financial year and may include in the report recommendations for improving the efficiency of the Force and the Auxiliaries.

(2) The report shall be in the form directed by the Minister.

(3) The Minister shall cause a copy of the report to be laid on the Table of the House of Representatives and of the Senate as soon as possible, but in any case, not later than two months after submission of the report to him.

Report to
Minister

8. The Authority shall, upon the request of the Minister, furnish to him a report on any specific matter which the Minister may from time to time request of the Authority.

Restriction
of disclosure
and
publication
of
information

9.—(1) Except with the approval of the Authority or where required by a court of competent jurisdiction or a tribunal lawfully constituted, no officer or employee of the Authority shall give or disclose any information concerning the affairs of the Authority, the Force or any of the Auxiliaries acquired by him by reason of his employment.

(2) A person who is in possession of any information which he knows to have been disclosed in contravention of subsection (1) shall not publish such information.

(3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

Regulations

10.—(1) The Minister may make regulations subject to affirmative resolution, with regard to any matter or thing in respect of which it appears to him to be expedient to make regulations for the purpose of carrying this Act into effect.

(2) The maximum penalty that may be imposed in respect of a breach of a provision of the regulations shall be a fine not exceeding two hundred and fifty thousand dollars or imprisonment for a term not exceeding six months or both such fine and imprisonment.

11. Part VI of the Constabulary Force Act is hereby repealed.

Repeal of
Part VI of
Constabulary
Force Act.

SCHEDULE

(Section 3)

The Police (Civilian Oversight) Authority

Constitution of Authority	<p>1.—(1) The Authority shall consist of not less than five nor more than seven members, of whom—</p> <ul style="list-style-type: none"> (a) two members shall be members of the Police Service Commission; (b) one member shall be a duly qualified accountant; (c) subject to sub-paragraph (2), one member shall be a person with operational experience in security services. <p>(2) A person may not be appointed under sub-paragraph (1) if he is—</p> <ul style="list-style-type: none"> (a) a serving member of the Jamaica Constabulary Force, or any of the Auxiliaries or the Jamaica Defence Force; (b) a member of the first class of the Jamaica National Reserve.
Tenure of Office.	<p>2.—(1) The members shall be appointed by the Governor-General after consultation with the Prime Minister and the Leader of the Opposition and shall hold office for a period of five years.</p> <p>(2) Every member shall be eligible for reappointment.</p>
Chairman.	<p>3.—(1) The Governor-General shall appoint one of the members, other than a member appointed pursuant to paragraph 1 (1) (a), to be chairman of the authority.</p> <p>(2) The Chairman shall preside at all meetings of the Authority at which he is present, and in the case of the chairman's absence from any meeting, the members present and forming a quorum shall elect one of their number to preside at that meeting.</p>
Acting appointments.	<p>4. If any member is absent or unable to act, the Governor-General may appoint any person to act in the place of that member, so, however, that such appointment shall be made in the same manner and from among any of the categories of persons as would be required in the case of the substantive appointment.</p>
Resignation.	<p>5.—(1) Any member other than the Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and transmitted through the Chairman and from the date of receipt by the Governor-General of such instrument, that person shall cease to be a member.</p> <p>(2) The Chairman may at any time resign his office by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of receipt by the Governor-General of that instrument.</p>

6. The Governor-General after consultation with the Prime Minister and the Leader of Opposition may at any time revoke the appointment of any member.

Revocation
of
appointment.

7. If any vacancy occurs in the membership of the Authority, such vacancy shall be filled by the appointment of another member, so, however, that such appointment shall be made in the same manner and from the same category of persons as would be required in the case of the original appointment.

Filling of
vacancies.

8. The names of all members of the Authority as first constituted and every change therein, shall be published in the *Gazette*.

Gazetting of
member-
ship.

9. The funds of the Authority shall consist of funds as may from time to time be placed at its disposition for the purposes of this Act by Parliament, and such other moneys as may be lawfully paid to the Authority.

Funds of
Authority.

10. The Authority shall keep proper accounts of its receipts, payments, assets and liabilities and such accounts shall be audited annually by an auditor appointed in each year by the Authority with the approval of the Minister.

Accounts
and audit.

11. The Authority shall, on or before the 31st October in each year, submit to the Minister for approval, its estimates of revenue and expenditure in respect of the ensuing financial year.

Estimates.

12.—(1) The Authority shall appoint and employ at such remuneration and on such terms and conditions as they think fit, a Secretary and such other officers and employees as they think necessary for the proper carrying out of the provisions of the Act:

Appoint-
ment of
staff.

Provided that no salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister.

(2) In sub-paragraph (1) "prescribed rate" means such rate as may be prescribed by the Minister by order published in the *Gazette*.

(3) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Government to any office with the Authority and any officer so appointed shall, in relation to any pension, gratuity or other allowance, and other rights as a public officer, be treated as continuing in the service of the Government.

13.—(1) The seal of the Authority shall be kept in the custody of the Chairman and shall be affixed to instruments pursuant to a resolution of the Authority.

Seal and
execution of
documents.

(2) The seal of the Authority shall be authenticated by the signatures of the Chairman and one other member.

(3) All documents, other than those required by law to be under seal, and all decisions of the Authority may be signified under the hand of the Chairman or the Secretary.

Proceedings
and
meetings.

14.—(1) The Authority shall meet at least once per month for ten calendar months of every year and at such other times as may be expedient for the carrying out of its functions, and such meetings shall be held on such days and at such places as the Chairman may determine.

(2) A quorum of the Authority shall be three.

(3) The decision of the Authority shall be by a majority of votes and, in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(4) Minutes in proper form of each meeting of the Authority shall be kept and shall be submitted to the Governor-General and the Minister within seven days after confirmation thereof.

(5) The validity of the proceedings of the Authority shall not be affected by any vacancy amongst the members thereof.

Protection
of members.

15. No member shall be personally liable for any act or default of the Authority done or omitted to be done in good faith in the course of the operations of the Authority.

Remuneration
of members.

16. There shall be paid to the members of the Authority such remuneration as the Minister may determine.

Office of
member
not public
office.

17. The office of chairman or member of the Authority shall not be a public office for the purposes of Chapter V of the Constitution.

Provisions
applicable
when no
Leader of
Opposition.

18. Where, pursuant to the provisions of this Schedule, the Governor-General is required to act after consultation with the Leader of the Opposition and—

- (a) there is no person holding the office of Leader of the Opposition; or
- (b) the holder of that office is unwilling or, by reason of his illness or absence from Jamaica, unable to perform his functions in that regard,

those provisions shall be construed as if the reference to the Leader of the Opposition were a reference to such person as the Governor-General, in his discretion, considers appropriate.

Passed in the House of Representatives this 25th day of October, 2005.

O. T. WILLIAMS
Deputy Speaker.

Passed in the Senate this 25th day of November, 2005.

SYRINGA MARSHALL-BURNETT, C.D.
President.

*This printed impression has been carefully
compared by me with the authenticated
impression of the foregoing Act, and has been
found by me to be a true and correct printed
copy of the said Act.*


Clerk to the Houses of Parliament.