

## CHAPTER 127A

### CRIMINAL RECORDS (REHABILITATION OF OFFENDERS) 1997-6

This Act came into operation on 27th March, 1997.

#### **Amended by:**

*1999-2*

#### **Law Revision Orders**

*The following Law Revision Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

1998

2002

2008

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#### **Guide to symbols in historical notes:**

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



## **CHAPTER 127A**

### **CRIMINAL RECORDS (REHABILITATION OF OFFENDERS) 1997-6**

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*The Criminal Records (Rehabilitation of Offenders) Board*



**BARBADOS**

## CRIMINAL RECORDS (REHABILITATION OF OFFENDERS)

1997-6

*An Act to make provision for certain criminal convictions of offenders to become spent, to be expunged from the records and for matters related thereto.*

[Commencement: 27th March, 1997]

**Short title**

1. This Act may be cited as the *Criminal Records (Rehabilitation of Offenders) Act*.

**Interpretation**

2. In this Act

“Board” means the Criminal Records (Rehabilitation of Offenders) Board established by section 11;

“conviction” includes references however expressed

- (a) to a conviction by or before a court outside Barbados; and
- (b) to any finding other than a finding linked with a finding of insanity, in any criminal proceedings that a person has committed an offence or done the act or made the omission charged;

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“proceedings before a judicial authority” includes any proceedings before a military tribunal;

“rehabilitation period” has the meaning given to that expression in section 5;

“sentence” includes any order made by a court dealing with a person in respect of his conviction of any offence other than an order for committal or any other order made in default of payment of any fine or other sum adjudged to be paid by or imposed on a conviction or for want of sufficient distress to satisfy any such fine or other sum;

“the records” means the records kept and maintained by the Criminal Records Office in relation to the criminal convictions of offenders.

## PART I

### SPENT CONVICTIONS

#### **Spent convictions**

3.(1) Subject to the provisions of this Act, where a person

(a) has been convicted of a criminal offence either before or after 27th March, 1997; and

(b) has not, since the conviction referred to in paragraph (a), been convicted of any other offence during the relevant rehabilitation period,

that person shall be treated as a rehabilitated person in respect of the offence of which he was convicted; and the conviction shall be treated as spent.

(2) Notwithstanding subsection (1), a person referred to in that subsection shall not be treated as a rehabilitated person within the meaning of this Act unless

(a) the conviction is the first conviction of that person; and

(b) the person has served or otherwise undergone or complied with any sentence imposed on him in respect of that conviction.

(3) Where a person was convicted of a criminal offence before 27th March, 1997, the provisions of this Act shall be deemed to have been in force at the time of the conviction and continued in force thereafter so, however, that the relevant rehabilitation period be deemed not to have been completed at any time prior to 27th March, 1997.

(4) Notwithstanding subsection (2), where a person was under the age of 16 years at the time of conviction of

- (a) a summary offence or offences and has not been convicted of any other offence between the time of his sixteenth and twentieth year; or
- (b) an indictable offence or offences and has not been convicted of any other offence between the time of his sixteenth and twenty-third year,

then, for the purposes of this Act, the person shall be treated as a rehabilitated person and the conviction or convictions shall in either case, be treated as spent.

(4A) Notwithstanding subsection (2), where a person has been convicted of one or more offences

- (a) for which the sentence imposed was imprisonment for a term not exceeding 3 years or for terms that together do not exceed 3 years; or
- (b) for which no custodial sentence was imposed,

and has not since the last conviction been convicted of any other offence during the relevant rehabilitation period referred to in section 5, that person shall be treated as a rehabilitated person in respect of those offences; and the convictions shall be treated as spent.

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(5) Notwithstanding section 10 of the *Probation of Offenders Act*, Cap. 146, a conviction in respect of which an order is made placing the person convicted on probation or discharging him absolutely or conditionally shall, for the purposes of this Act, be treated as a conviction; and the person may become a rehabilitated person in respect of the conviction within the meaning of this Act.

**Convictions in a country other than Barbados**

4. Where a person has been convicted in a country other than Barbados of an offence against or arising under the law of that country, the provisions of this Act shall apply in like manner as they apply in relation to a conviction and sentence in Barbados if

- (a) there is kept and maintained in the Criminal Records Office of Barbados particulars of that conviction and sentence; and
- (b) the circumstances constituting the offences would, if they had occurred in Barbados, constitute an offence against the law of Barbados.

**Rehabilitation periods**

5.(1) For the purposes of this Act, the rehabilitation period applicable to a sentence specified in column 1 of Part I of the *First Schedule* is the period specified in column 2 of Part I of that Schedule in relation to that sentence.

(2) Subject to subsection (3), a rehabilitation period referred to in subsection (1) shall commence

- (a) in the case of a custodial sentence, from the date of the release from custody; and
- (b) in the case of a non-custodial sentence, from the date of the conviction.

(3) Notwithstanding subsection (2), where in respect of a conviction an order was made imposing on the person convicted any disqualification, disability, prohibition or other penalty, the rehabilitation period applicable to such sentence shall be a period beginning on the date on which the disqualification, disability, prohibition or penalty as the case may be, ceases or ceased to have effect.

(4) Consecutive terms of imprisonment or of detention under the *Reformatory and Industrial Schools Act*, Cap. 169, and terms which are concurrent imposed in respect of offences of which a person was convicted in the same proceedings, shall be treated as one sentence.

(5) Where more than one sentence is imposed in respect of a conviction in separate proceedings and the person convicted is not excluded from rehabilitation under this Act, then, if the periods applicable to those sentences in accordance with the *First Schedule* differ, the rehabilitation period applicable to the conviction shall be the longer or the longest, as the case may be, of those periods.

(6) The Minister may by order subject to negative resolution substitute different periods or terms for any of the periods mentioned in the *First Schedule* above.

### **Effect of rehabilitation**

6.(1) Subject to the provisions of this Act, a person who is a rehabilitated person within the meaning of this Act shall be treated for all purposes in law as a person who has not committed or been charged with or prosecuted for or convicted of or sentenced for the offence or offences which were the subject of that conviction and notwithstanding the provisions of any other enactment to the contrary

(a) no evidence shall be admissible in any proceedings before a judicial authority to prove that any such person has committed or had been charged with or prosecuted for or convicted of or sentenced for any offence which was the subject of a spent conviction; and

(b) a person shall not, in any such proceedings, be asked, and, if asked, shall not be required to answer, any questions relating to his past which cannot be answered without acknowledging or referring to a spent conviction or spent convictions or any circumstances ancillary thereto.

(2) Subject to the provisions of this Act, where a question seeking information with respect to a person's previous convictions, offences, conduct or

circumstances is put to him or to any other person otherwise than in proceedings before a court

- (a) the question shall be treated as not relating to spent convictions or to any circumstances ancillary to spent convictions, and the answer thereto may be framed accordingly; and
  - (b) the person questioned shall not be subjected to any liability or otherwise prejudiced in law by reason of any failure to acknowledge or disclose a spent conviction in his answer to the question.
- (3) Subject to the provisions of this Act
  - (a) any obligation imposed on any person by any rule of law or by the provisions of any agreement or arrangement to disclose any matters to any other person shall not extend to requiring him to disclose a spent conviction whether or not the conviction is his own; and
  - (b) a conviction which has become spent, or any failure to disclose a spent conviction, shall not be a proper ground for dismissing or excluding a person from any office, profession, occupation or employment, or for prejudicing him in any way in any occupation or employment.
- (4) The Minister may by order subject to affirmative resolution make such provisions as seem to him appropriate for excluding or modifying the application of any of the provisions of this section as may be specified in the order.
- (5) For the purposes of this section, “proceedings before a judicial authority” includes in addition to proceedings before any of the ordinary courts of law, proceedings before any tribunal, body or person having power
  - (a) by virtue of any provisions of law, custom or practice;
  - (b) under the rules governing any association, institution, profession, occupation or employment; or
  - (c) under any provision of an agreement providing for arbitration, with respect to questions arising thereunder,

to determine any question affecting the rights, privileges, obligations or liabilities of any person, or to receive evidence affecting the determination of any such question.

(6) For the purposes of this section any of the following are circumstances ancillary to a conviction

- (a) the offence or offences which were the subject of that conviction;
- (b) the conduct constituting that offence or those offences; and
- (c) any process or proceedings preliminary to that conviction, any sentence imposed in respect of that conviction, any proceedings, whether by way of appeal or otherwise for reviewing that conviction any such sentence, and anything done in pursuance of or undergone in compliance with any such sentence.

**Limitation on rehabilitation under this Act, etc.**

7.(1) Nothing in section 6(1) shall affect

- (a) the enforcement by any process or proceedings of any fine or other sum adjudged to be paid by or imposed on a spent conviction;
- (b) the issue of any process for the purpose of proceedings in respect of any breach of a condition or requirement applicable to a sentence imposed in respect of a spent conviction;
- (c) the operation of any enactment by virtue of which, in consequence of any conviction, a person is subject otherwise than by way of sentence, to any disqualification, disability, prohibition or other penalty the period of which extends beyond the rehabilitation period applicable in accordance with section 5 to the conviction;
- (d) any civil or criminal proceedings where justice cannot be done without admitting or requiring evidence relating to a person's spent convictions; and

(e) the disclosure of previous convictions where the person is informed by a person duly authorised to do so that spent convictions are to be disclosed for the purpose of safeguarding national security.

(2) A person shall be excluded from rehabilitation under this Act who either before or after 22nd March, 1999 is detained under section 13(1)(b) of the *Mental Health Act*, Cap. 45 at the Governor-General's pleasure in respect of a criminal offence.

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(3) Nothing in section 6 shall affect the determination of any issue, or prevent the admission or requirement of any evidence, relating to a person's previous convictions or to circumstances ancillary thereto

(a) in any criminal proceedings before a court including any appeal or reference in a criminal matter;

(b) in any service disciplinary proceedings or in any proceedings on appeal from any service disciplinary proceedings;

(c) in any proceedings or enquiries relating to adoption or to the guardianship, wardship, marriage, custody, care and control of, access to, any minor, or to the provision by any person of accommodation, care or schooling for minors;

(d) in any proceedings in which he is a party or witness, if, on the occasion when the issue or the admission or requirement of the evidence falls to be determined, he consents to the determination of the issue or, as the case may be, the admission or requirement of the evidence notwithstanding the provisions of section 6.

### **Disclosure by rehabilitated person of spent convictions**

**8.(1)** A person shall, if requested to do so, disclose in relation to himself particulars of any spent conviction

(a) when seeking to be made a member of a professional body of any of the professions specified in Part II of the *First Schedule*;

- (b) when seeking to be appointed to any office of employment specified in Part III of the *First Schedule*;
  - (c) when seeking to become engaged in any business of the type specified in Part IV of the *First Schedule*.
- (2) A disclosure of particulars of a spent conviction pursuant to subsection (1) shall be made
  - (a) to any person duly authorised by
    - (i) the professional body, or
    - (ii) the organisation responsible for the office of employment, as the case may be;
  - (b) in relation to any business referred to in paragraph (c) of subsection (1), to such person as may be designated by the Minister for the purpose.
- (3) The particulars of a spent conviction, disclosed to a duly authorised person pursuant to this section, may be published or communicated pursuant to the following conditions only:
  - (a) the publication or communication shall be in accordance with rules or regulations for the time being in force of the professional body, office of employment or business, as the case may be, of which the person making the disclosure under subsection (1) was aware when he made the disclosure; and
  - (b) the rules or regulations shall not authorise the general disclosure or publication of the particulars aforesaid other than to persons who, by virtue of their position or relationship with the professional body, office of employment or business, as the case may be, are authorised by the said rules or regulations, to have such particulars communicated to them.
- (4) The Minister may, by order, subject to negative resolution, amend the *First Schedule*.

(5) Any person who contravenes subsection (3) is guilty of an offence.

### **Misrepresentation**

**9.(1)** A person is guilty of an offence who, being required under section 8 to disclose in relation to himself particulars of a spent conviction, fails to make such disclosure with intent to deceive any person authorised to make enquiries for the purposes recognised by that section.

(2) A person shall not be convicted of an offence under this section unless the court is satisfied that a benefit was conferred on that person and that such benefit would not have been so conferred if he had not committed the act alleged to constitute the offence.

(3) For the purposes of subsection (2), a benefit shall be deemed to have been conferred on a person against whom an allegation of an offence under this section is made on proof that such person was

- (a) conferred with membership of a professional body of any of the professions specified in Part II of the *First Schedule*;
- (b) appointed to any office or employment of the nature specified in Part III of the *First Schedule*; or
- (c) authorised to become engaged in any business specified in Part IV of the *First Schedule*.

### **Defamation actions**

**10.(1)** This section applies to any action for defamation begun after the 27th March, 1997 by a rehabilitated person and founded upon the publication of any matter imputing that the rehabilitated person has committed or has been charged with or prosecuted for or convicted of or sentenced for an offence which was the subject of a spent conviction.

(2) A defendant shall not be entitled to rely on any defence of justification or fair comment or of absolute or qualified privilege if it is proved that the publication was made with malice.

(3) This section shall not apply to any action where the publication complained of took place before the conviction in question became spent.

## PART II

### EXPUNGEMENT OF SPENT CONVICTIONS

#### **Establishment of Criminal Records (Rehabilitation of Offenders) Board**

11.(1) For the purposes specified in this Part there is established a Board to be called the Criminal Records (Rehabilitation of Offenders) Board.

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

#### **Functions of Board**

12. Subject to the provisions of this Act, the functions of the Board are

- (a) to receive and consider applications for the expungement from the records of spent convictions and to grant or reject such applications;
- (b) to consider any representation made to it by or on behalf of a person who has applied to the Board for the expungement from the records of a spent conviction.

#### **Spent convictions to be expunged from the record**

13.(1) Subject to the provisions of this Part, a spent conviction of a rehabilitated person referred to in section 3 of this Act shall be expunged from the records.

(2) Before a spent conviction may be expunged from the records pursuant to subsection (1), a rehabilitated person shall be required, upon the expiration of the relevant rehabilitation period, to make application to the Board for the expungement from the records of the conviction.

- (3) Every application made under subsection (2) shall be in writing and shall state
- (a) the full name and age of the applicant;
  - (b) the offence of which the applicant was convicted and the sentence imposed by the court in respect of that conviction;
  - (c) the date and place of conviction;
  - (d) the court before which the applicant was convicted;
  - (e) the date on which, where applicable, the applicant completed the serving of his sentence; and shall include the date on which any period of disqualification, disability or prohibition ceased and the extent to which any condition attaching to such sentence has been complied with;
  - (f) the date from which the conviction was treated as a spent conviction and the date from which, by virtue of the expiry of the additional rehabilitation period, he became eligible to make the aforesaid application;
  - (g) any other written representation on which the applicant relies in support of his application; and
  - (h) such other information as may be prescribed.

#### **Board to make enquiries**

**14.** The Board shall, in such manner as may be prescribed by regulations made under this Act

- (a) cause proper investigations to be made to ascertain the facts stated in every application made pursuant to section 13; and
- (b) also cause proper investigations to be made to ascertain the behaviour of the applicant since the date of his conviction.

**Directions for expungement of spent conviction by the Board from the records**

**15.** Where the Board, upon completion of its investigations, is satisfied, having regard to

- (a) the facts and representations on which the applicant relies in support of his application;
- (b) the behaviour of the applicant since his conviction; and
- (c) the results of any enquiries made by the Board into any matter relating to the application,

that the applicant has been rehabilitated, then, if the Board is also satisfied that no interest of justice or of national security would be prejudiced by expunging the spent conviction in respect of which the application was made from the records, it shall issue a direction that the spent conviction, be so expunged.

**Effect of direction by the Board**

**16.** A direction issued pursuant to section 15, in respect of a spent conviction, shall be in writing addressed to any person having custody or control of the records and on such direction being delivered to that person he shall forthwith expunge the spent conviction from the records.

**Legal status of person whose conviction has been expunged from the records**

**17.** A rehabilitated person shall, in relation to any expunged conviction, for all purposes in law, be deemed to be a person who has never been charged with, prosecuted for, convicted of or sentenced for, the offence to which that conviction relates.

**Board to inform applicant in writing**

**18.** The Board shall in writing inform every person making an application under section 13 or section 19, as the case may be, of the outcome of the application.

**Applicant may re-apply where application rejected**

**19.** A person whose application for the expungement of a spent conviction has been rejected may re-apply after the expiration of 2 years from the date of such rejection or such lesser period as may be determined by the Board.

**Appeal to Minister**

**20.(1)** Where a person re-applies for the expungement of a spent conviction pursuant to section 19 and the application is rejected, that person may appeal to the Minister within 60 days from the date of such rejection or such longer period as may be permitted, by the Minister.

(2) Where an appeal is made pursuant to subsection (1), the Minister shall review all the circumstances of the case and, if the Minister is of the opinion that the Board has failed to give due consideration to any matter which, if that consideration had been given, and having regard to all other circumstances of the case would have constituted sufficient reason for granting the application, he shall direct that the case be remitted to the Board.

(3) In relation to any appeal made under subsection (1)

- (a) where the Minister is satisfied that due consideration had been given to the application, he shall reject the appeal;
- (b) where the Minister is satisfied that the decision of the Board is unjust or perverse, he shall allow the appeal and reverse the decision of the Board.

(4) Where, having regard to a decision made under subsection (3), a direction is required to be made for the expungement from the records of a spent conviction,

such direction shall be made in like manner and shall have the same effect as a direction made by the Board under section 15.

(5) The Minister's decision shall be final in relation to any appeal made to him under this section and he shall in writing advise the applicant of the outcome of the appeal.

### PART III MISCELLANEOUS

#### **Act not to affect Governor-General's right**

**21.** Nothing contained in this Act shall be construed as affecting any right vested in the Governor-General by virtue of section 78 of the *Constitution* or by prerogative or otherwise.

#### **Unauthorised disclosure**

**22.(1)** Subject to the provisions of this Act, any person who, in the course of his duties, has, or at any time has had, custody of, or access to, any official record or the information contained therein, shall be guilty of an offence if, knowing or having reasonable cause to suspect that any information he had obtained in the course of those duties is specified information, he discloses it, otherwise than in the course of those duties, to another person.

(2) In any proceedings for an offence under subsection (1) it shall be a defence for the defendant to show that the disclosure was made

- (a) to the rehabilitated person or to another person at the express request of the rehabilitated person;
- (b) to a person whom he reasonably believed to be the rehabilitated person or to another person at the express request of a person whom he reasonably believed to be the rehabilitated person.

(3) No proceedings for an offence brought under subsection (1) shall be instituted except by or with the consent of the Director of Public Prosecutions.

(4) Nothing in subsection (3) shall prevent the arrest, or the issue of a warrant for the arrest of any person in respect of an offence against subsection (1), or the remanding in custody or on bail of any person charged with such offence.

(5) Any person who

(a) obtains any specified information from any official record by any fraud, dishonesty or any bribe or unlawful means; or

(b) falsifies any specified information on any official record,

is guilty of an offence.

(6) For the purposes of this section

“official record” means any record kept for the purposes of its functions by any court, police force, government department, local or public authority or any record kept for the purposes of the Defence Force, being in either case a record containing information about persons convicted of offences; and

“specified information” means information to the effect that a named or otherwise identifiable rehabilitated living person has committed or has been charged with, or prosecuted for, or convicted of, or sentenced for, an offence which is the subject of a spent or expunged conviction.

### **Exclusion from employment, etc.**

**23.(1)** Subject to the provisions of this Act, any person who dismisses or excludes any other person from any office, profession, occupation or employment because of a spent or expunged conviction which he knows or has reasonable cause to suspect is a spent or expunged conviction and which is not required to be disclosed under any law is guilty of an offence.

(2) Subject to the provisions of this Act, any person, who with malice, discloses any spent or expunged conviction or the existence of any record or fact of the conviction is guilty of an offence.

- (3) Any person who offers a bribe to any member of the Police Force or to any other person having custody or control of the criminal records to falsify a criminal record so as to show a conviction as a spent or expunged conviction is guilty of an offence.
- (4) Any insurance company registered in Barbados which knowingly attempts to avoid a policy of insurance made with the company because of non-disclosure of a spent or expunged conviction is guilty of an offence.

### **Penalties**

- 24.(1)** Notwithstanding the monetary limit in respect of the jurisdiction of the Magistrates' Court a person who commits an offence under section 8(5), 22 or 23 is liable on summary conviction to a fine of \$10 000 or to imprisonment for a term of 2 years.
- (2) A person who commits an offence under section 9 is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of one year.

### **Custody of records**

**25.** The Criminal Records Office shall be responsible for keeping separate and apart from other criminal records a record of all spent convictions and shall be responsible to ensure that there is a clear indication, on the criminal record of any person, that a conviction has become a spent conviction for the purposes of this Act.

### **Regulations and orders**

- 26.(1)** The Minister may make regulations prescribing anything required by this Act to be prescribed and for the better carrying out of the provisions of this Act.
- (2) The Minister may, by order, subject to affirmative resolution, vary the circumstances in which spent convictions may be disclosed.

**FIRST SCHEDULE****PART I***(Section 5)***REHABILITATION PERIODS**

Column 1 Sentence	Column 2 Rehabilitation Period
A sentence of imprisonment for a term not exceeding one year	7 years
A sentence of imprisonment for a term exceeding one year but not exceeding 3 years	10 years
A non-custodial sentence	5 years

**PART II***(Section 8(1)(a))***PROFESSIONS**

1. Attorney-at-law
2. Certified or Chartered Accountant
3. Dentist
4. Medical Practitioner
5. Midwife

6. Optician
7. Pharmacist
8. State Registered Nurse
9. Teacher
10. Veterinary Surgeon

## PART III

*(Section 8(1)(b))*

## OFFICES OF EMPLOYMENT

<i>Office of Employment</i>	<i>Categories of Employment</i>
Banks (Commercial).....	All
Civil Service.....	All
Education Institutions (including independent schools).....	All
Hospitals.....	All
Insurance Companies.....	Director, Manager, Secretary, Salesman
Island Constabulary Force.....	All
Judicial Service.....	All
Juvenile Correctional Centres and Places of Safety.....	All

## THE LAWS OF BARBADOS

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<i>Office of Employment</i>	<i>Categories of Employment</i>
Military Service.....	All
Military Service (Civilian).....	All
Private Nursing Homes.....	All
Probation Department.....	All
Security Service Organisations.....	Director, Manager, Security Guards
The Police Force.....	All
Unit Trust Schemes.....	Manager, Trustee

## PART IV

*(Section 8(1)(c))*

## BUSINESSES

1. Dealing in Bonds and other Securities
2. Firearms Dealer
3. Stockbroking

**SECOND SCHEDULE***(Section 11)**The Criminal Records (Rehabilitation of Offenders) Board***Constitution of Board**

- 1.(1) The Board shall comprise such number of persons not being less than 3 or more than 5 as the Minister may appoint from time to time.
- (2) The Board shall include at least one of each of the following:
- (a) a person who is an attorney-at-law of at least 10 years standing or who holds or has held judicial office as
    - (i) a Judge of the Supreme Court, or
    - (ii) a Magistrate;
  - (b) a person appearing to the Minister to be interested in the rehabilitation of persons convicted of criminal offences, being
    - (i) a psychiatrist or psychologist,
    - (ii) a social worker,
    - (iii) a Minister of Religion, or
    - (iv) a Probation Officer;
  - (c) a person connected with, or having knowledge of, the keeping and maintenance of records of persons convicted of criminal offences, namely
    - (i) the Commissioner of Police or his nominee, or
    - (ii) a senior civil servant.

**Seal**

2.(1) The Board shall have a seal which shall be kept in the custody of the chairman or the secretary and shall be affixed to instruments pursuant to a resolution of the Board in the presence of the chairman or any other member of the Board and the secretary.

(2) The seal of the Board shall be authenticated by the signature of the chairman or a member of the Board authorised to act in that behalf and such seal shall be officially and judicially noticed.

(3) All documents, other than those required by law to be under seal, made by the Board and all decisions of the Board may be signified under the hand of the chairman or any other member authorised to act in that behalf, or the secretary.

**Tenure of office of members**

3. Subject to the provisions of this Schedule, the appointment of members of the Board shall be for a period of 3 years and each member shall be eligible for re-appointment.

**Chairman**

4.(1) The Minister shall appoint a member of the Board to be the chairman of the Board.

(2) In the case of the absence or inability to act of the chairman, the Minister may appoint any other member to perform the functions of chairman.

(3) In the case of the absence or inability of the chairman, or a person appointed under sub-paragraph (2), to act at any meeting, the other members at the meeting shall elect one of their number to act as chairman at the meeting.

**Temporary appointments**

5. The Minister may appoint any person to act temporarily in the place of any member in the case of the absence or inability to act of that member.

**Vacancies**

6.(1) If any vacancy occurs among the members of the Board, such vacancy shall be filled by the appointment of another member who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(2) In the making of appointments pursuant to this paragraph, regard shall be had to the requirements of paragraph 1(2).

**Resignations**

7.(1) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of the instrument.

(2) Any member 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 from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Board.

**Revocation of appointment**

8. The Minister may at any time revoke the appointment of any member of the Board.

**Publication of membership**

9. The names of all members of the Board as first constituted and every change in membership shall be published in the *Official Gazette*.

**Procedure and meeting**

10.(1) The Board shall meet as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Board shall determine.

- (2) Minutes in proper form of each meeting of the Board shall be kept.
- (3) The chairman or, in the case of the absence or inability of the chairman to act, the person appointed or elected to act as chairman in accordance with the provisions of sub-paragraph (2) or (3) of paragraph 4 (as the case may be), shall preside at the meetings of the Board, and when so presiding shall, in addition to an original vote, have a casting vote.
- (4) The quorum of the Board shall be a simple majority of members.
- (5) Subject to the provisions of this Schedule the Board shall regulate its own proceedings.
- (6) The validity of any proceedings of the Board shall not be affected by any vacancy amongst the members or by any defect in the appointment of a member.

#### **Remuneration of members**

**11.** There shall be paid to the chairman and members such remuneration whether by way of honorarium, salary or fees and such allowances as the Minister may determine.

#### **Protection of members**

**12.** No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any action done *bona fide* in pursuance or execution or intended execution of the functions of the Board.

#### **Office of chairman or member not a public office**

**13.** The office of chairman or member shall not be a public office within the meaning of the *Constitution*.