

# **TURKS AND CAICOS ISLANDS**

## **STATISTICS ORDINANCE 2022**

**(Ordinance 37 of 2022)**

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## **TURKS AND CAICOS ISLANDS**

### **STATISTICS ORDINANCE 2022**

**(Ordinance 37 of 2022)**

*Assent*.....22<sup>nd</sup> December 2022

*Publication in Gazette*.....23<sup>rd</sup> December 2022

*Commencement*..... in accordance with section 1

AN **ORDINANCE** TO ESTABLISH A STATISTICAL AUTHORITY FOR THE ISLANDS, TO PROVIDE FOR THE COLLECTION, COMPILATION, ANALYSIS AND PUBLICATION OF OFFICIAL STATISTICS, TO PROVIDE FOR THE TAKING OF A CENSUS IN THE ISLANDS FROM TIME TO TIME AND FOR CONNECTED PURPOSES.

**ENACTED** by the Legislature of the Turks and Caicos Islands.

#### **PART I**

##### **PRELIMINARY**

##### **Short title and commencement**

**1.** (1) This Ordinance may be cited as the Statistics Ordinance 2022 and shall come into operation on such day as the Governor may appoint by Notice published in the *Gazette*.

(2) Different dates may be appointed for different provisions and different purposes.

##### **Interpretation**

**2.** In this Ordinance—

“any other case” means in the case where a director or officer of a body corporate commits the offence;

“applicable ordinance” means the Pensions Ordinance and the Public Sector Employees Pension Fund Ordinance and any other ordinance which addresses superannuation funds and provident funds;

“Authority” means the Statistical Authority of the Turks and Caicos Islands established under section 3;

“Board” means the Statistical Authority Board established under section 8;

“Census” means census of the population and dwellings in the Islands;

“Census Advisory Committee” means the committee appointed under section 48;

“Director” means the person appointed under section 67;

“Census Order” means the order made under section 45;

“form” includes electronic forms;

“Leader of the Opposition” means the person appointed as such under section 56(1) of the Constitution;

“Minister” means the Minister responsible for statistics;

“Premier” means the person appointed as such under section 31(2) of the Constitution;

“public body” includes—

- (a) the House of Assembly and Cabinet;
- (b) Ministries or departments of Government;
- (c) a corporation established by an Ordinance or a subsidiary company of that corporation;
- (d) a commission, statutory board, public authority or other body which receives any payment of monies under an Appropriation Ordinance, within the meaning of the Public Finance and Management Ordinance.

## PART II

### ESTABLISHMENT OF THE STATISTICAL AUTHORITY OF THE TURKS AND CAICOS ISLANDS

#### **Establishment of Authority**

**3.** (1) There is hereby established the Statistical Authority of the Turks and Caicos Islands.

(2) The Authority shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name, and subject to the provisions of this Ordinance, shall do or perform such acts or things as bodies corporate may, by law, do or perform.

### **Seal of the Authority**

4. (1) The seal of the Authority shall be a device as shall be determined by the Authority and shall be kept by the Director.

(2) The affixing of the seal shall be authenticated by the chairperson and the Director, or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which if entered into or executed by a person who is not a body corporate is not required to be under seal, may be entered into or executed without a seal by the chairperson, the Director or any person authorised by the Board in that behalf.

### **Functions of the Authority**

5. The functions of the Authority shall be—

- (a) to collect, compile, collate, analyse, abstract and publish statistics of the Islands;
- (b) to take any census in the Islands;
- (c) to conduct general purpose surveys in the Islands in relation to the matters specified in Schedule 1;
- (d) to organise a co-ordinated scheme of economic and social statistics relating to the Islands;
- (e) to produce data and statistics subject to the principles of relevance, transparency, accuracy, impartiality, confidentiality, objectivity, proportionality, reliability and specificity with or without comments;
- (f) to operationalise statistical methodologies and to guide and direct the best practice in the production and communication of official statistics;
- (g) to measure new areas to include the environment, climate change, sustained development arising from regional and international reporting commitments;
- (h) to approve the processes of data collection, compilation and analysis by any public body and to set the standards for the processes;
- (i) to approve the official status of any data or other statistical information published by any other public body;
- (j) to authorise access to data for research in accordance with Part IX;
- (k) to advise the Minister on data and statistical priorities;
- (l) to ensure compliance with international best practices on the production of official statistics;
- (m) to liaise with other countries and regional and international organisations in relation to statistical matters to produce globally comparable statistics;



- (n) to make recommendations to the Board for the annual budget of the Authority;
- (o) to make recommendations to determine a fee structure for the publication of data sets to be produced and compiled by the Authority; and
- (p) to do all things which may be necessary or incidental to the discharge of any of its functions and powers under this Ordinance.

### **Powers of the Authority**

6. (1) The Authority has power to do all things necessary or convenient to be done for or in connection with the performance of its functions and, in particular, may—

- (a) enter into contracts;
- (b) acquire, hold and dispose of real or personal property;
- (c) occupy, use and control any land or building owned or held under lease by the Crown and made available for the purposes of the Authority;
- (d) engage persons to perform services for the Authority;
- (e) invest any of its funds that are not immediately required for the discharge of its functions;
- (f) accept gifts, grants, bequests and devises made to the Authority (whether on trust or otherwise) and act as trustee of money or other property vested in the Authority on trust;
- (g) to carry on any such activities in association with other bodies or persons (including Government authorities) or as managing agents or otherwise on their behalf;
- (g) arrange for the manufacture of, and distribute (whether by way of sale or otherwise), any article or thing bearing a mark, symbol or writing that is associated with the Authority;
- (h) to appoint such agents as the Authority may consider necessary for the proper discharge of its functions as the Authority may determine; and
- (h) provide (whether by sale or otherwise) goods and services to persons using, or otherwise attending at, facilities of the Authority;
- (i) do anything incidental to any of its powers.

(2) The Authority may charge such fees, or impose such charges, as are reasonable in respect of—

- (a) access to, or use of, any of the resources or facilities owned or managed by the Authority;
- (b) the provision of programs, services, information or advice by the Authority; and

- (c) the admission of persons to events and activities conducted by the Authority.

### **Ministerial direction**

7.(1)The functions of the Minister shall be—

- (a) to approve the official statistics program for the Islands;
- (b) to specify the government's data and statistical priorities.

(2) The Minister may give direction to the Authority and the directions shall be—

- (a) in writing signed by the Minister; and
- (b) be published in the *Gazette*.

(3) And the Minister shall consult with the Director before giving the direction.

(4) In consulting with the Director, the Minister shall so far as practicable, give reasons for the proposed direction.

(5) In considering what is practicable for the purposes of this section, the Minister shall have regard to any restrictions imposed by any timetable for making the decision.

(6) The Minister is restricted to give directions only on general principles and policies that appear to him to affect the public interest in keeping with the provisions of this Ordinance.

## **PART III**

### **CONSTITUTION OF THE BOARD OF THE AUTHORITY**

#### **Board of Authority**

8. There is established the Board of the Authority.

#### **Composition of the Board**

9. The Board of the Authority shall consist of the following members appointed by the Minister as follows—

- (a) a chairperson;
- (b) a deputy chairperson;
- (c) the Permanent Secretary, Finance;
- (d) the Director of Education;
- (e) a representative of civil society, acting after consultation with the Premier and the Leader of the Opposition;
- (f) a representative of a Chamber of Commerce; and
- (g) the President of the Turks and Caicos Islands Community College.

### **Appointment of chairperson and deputy chairperson**

**10.**(1)The chairperson and deputy chairperson shall be persons who are—

- (a) Islanders, currently residing in the Islands and who have not, at any time during the five years preceding the appointment, held office in a political party or was a member of the House of Assembly; and
- (b) possess at least ten years of experience in the area of statistics, finance, economics or business.

(2) The chairperson shall be appointed for a period of two years and may be reappointed.

(3) The deputy chairperson shall be appointed for a period of two years and may be reappointed.

### **Director ex officio member**

**11.**The Director shall attend meetings of the Board but is not eligible to vote.

### **Term of appointment**

**12.**The members under section 9(c) to 8(g) shall be appointed for a period of three years.

### **Functions of the Board**

**13.**The functions of the Board shall be—

- (a) to oversee the administration, management and organisation of the Authority;
- (b) to oversee the management of resources, services, property, personnel and contracts;
- (c) to approve the strategic plans and budget of the Authority for submission to the Minister;
- (d) to advise on the institutional structure and programmes of the Authority;
- (e) to review and approve the annual report and financial reports and statements;
- (f) to monitor the implementation of the policies for the effective coordination, organisation and management of the Authority;
- (g) to establish bye-laws for the functioning and operations of the Board.

### **Vacancy of the Board**

**14.** (1) The office of a member of the Board becomes vacant where-

- (a) he dies;
- (b) his term of office expires;

- (c) he resigns by written notice to the Minister;
- (d) in respect of a member nominated by a civil society when he ceases to be a member of the civil society;
- (e) he is removed by the Minister where he-
  - (i) is unable to function because of physical or mental illness;
  - (ii) is absent from three consecutive meetings of the Board without the permission of the chairperson;
  - (iii) is guilty of misconduct in respect of his duties;
  - (iv) is sentenced to imprisonment without the option of a fine or is convicted of an offence involving dishonesty;
  - (v) is declared bankrupt in accordance with the laws of the Islands or any country;
  - (vi) contravenes this Ordinance.

#### **Alternate member for the Board**

**15.** (1) Where a member, is by reason of illness or otherwise, unable to perform his functions or unable to attend meetings of the Board, the Minister may, rather than declare the office vacant, appoint another suitably qualified person to act as an alternate member for the unexpired remainder of the term of the predecessor on the recommendation of the Director.

(2) A person appointed under subsection (1), while acting in the absence of the member, shall be deemed to be a member of the Board and shall enjoy all the powers, rights and privileges and be subject to the duties of that member.

#### **Appointments, terminations to be *Gazetted***

**16.** The appointment or termination of membership of the Board whether by death, resignation, revocation or otherwise shall be published in the *Gazette*.

#### **Board deemed properly constituted**

**17.** Notwithstanding any defect in the appointment of any of its members, the Board shall be deemed to be properly constituted.

#### **Appointment of advisors**

**18.** The Board may appoint one or more advisors with experience in statistics or economics from time to time.

#### **Appointment of advisory committees**

**19.** (1) The Board may establish or appoint advisory committees made up of qualified persons to analyse, evaluate, investigate, comment and report their findings to the Board on any area or areas referred to them by the Board.

(2) Where an advisory committee is established or appointed under subsection (1), the Board shall—

- (a) appoint a member of the Board, or some other qualified person to be the chairperson of the advisory committee;
- (b) state in writing that the meetings of the advisory committee shall be governed by rules made by the Board for that purpose;
- (c) state in writing that an advisory committee shall report its proceedings and findings to the Board, and that the decisions of the advisory committee shall be subject to the approval of the Board;
- (d) state in writing the duration of the advisory committee and its terms of reference.

### **Secretary to the Board**

**20.** (1) The Director shall appoint a person to be secretary of the Board for such term as may be specified in the instrument of appointment.

(2) The secretary shall—

- (a) attend all meetings of the Board but shall not be a part of the quorum or vote on a matter or question before the Board;
- (b) prepare minutes of meetings of the Board;
- (c) keep a record of the proceedings and decisions of the Board; and
- (d) carry out such other duties as the Board may require.

## **PART IV**

### **MEETINGS AND REPORTS**

### **Meetings of the Board**

**21.** (1) The chairperson shall preside at all meetings of the Board at which he is present, and in his absence from a meeting, the deputy chairperson shall preside and in the absence of the deputy chairperson, the members present shall elect one of their number to preside.

(2) Where two members sign a written request directed to the chairperson setting out the object of a proposed meeting of the Board, the chairperson shall convene the meeting within seven days of the receipt of the request.

(3) The chairperson may at any time convene an emergency meeting whenever he thinks it necessary to do so.

(4) Each member of the Board is entitled to one vote on a matter arising for determination by the Board and, in the event of an equality

of votes, the chairperson or member acting as chairperson shall have a second or casting vote.

### **Times and places of meetings of the Board**

22. The Board shall meet at least once every quarter and at other times as may be necessary or expedient for the transaction of its business, and its meetings shall be held at a place and time and on days as the Board may determine.

### **Quorum**

23. At any meeting of the Board, a quorum is constituted where at least three members are present and the decisions of the Board shall be by a majority of the votes of members present and voting.

### **Validity of proceedings of the Board**

24. The validity of any proceedings of the Board shall not be affected by any vacancy in its membership or by any defect in the appointment of a member.

### **Invitation of non-members to meeting**

25. The Board may invite a person who, in the opinion of the Board, has expert knowledge concerning any of the functions of the Board, which is likely to be of assistance to attend a meeting of the Board and take part in the proceedings.

### **Minutes**

26. The Board shall cause minutes to be kept of every meeting and the minutes shall be confirmed by the Board and signed by the chairperson.

### **Directors declaration of interest**

27. (1) A person who serves as a member of the Board, attending a meeting the Board who is any way, whether directly or indirectly, interested in a matter before the Board, shall declare his interest to the Board and absent himself during the deliberations concerning his declaration of interests.

(2) The Board, excluding the member of the Board referred to in subsection (1), shall determine whether this interest is sufficiently material so as to constitute a conflict of interest.

(3) In the event that the Board finds that the interest is such as to constitute a conflict of interest, an individual referred to in subsection (1) attending a meeting of the Board shall not take part in any deliberations or vote on that matter, and shall absent himself during such deliberations.

(4) For the purposes of this section, a person referred to in subsection (1) attending a meeting of the Board shall be deemed to have an interest in a matter if he or a related party has a pecuniary interest in a matter before the Board.

### **Protection of persons dealing with directors and agents**

**28 .**(1)A person who deals with a member of the Board or the Director shall not be affected by any irregularity of procedure in connection with the authorisation of a transaction by a meeting of the Authority, or by the directors or any committee of directors.

(2) A person who deals with another person who is held out by the Board as having authority to act on the Authority's behalf in connection with any transaction may treat the Authority as bound by the acts of that other person done within his apparent authority even though he has not been authorised by the Authority to do those acts on its behalf so long as that person has no knowledge whether actual or constructive, that another person has not been so authorised by the Authority.

(3) This section does not entitle any person to recover a debt from the Authority or to enforce an obligation or liability against it or to treat any obligation as binding on it, if in connection with the same matter that person is guilty of a fraud upon the Authority or has participated or acquiesced in a fraud committed on the Authority.

### **Remuneration, allowances etc...**

**29.** A member of the Board or a person invited to attend a meeting under section 25, who is not a public officer shall be paid such remuneration, allowances and travelling expenses incurred in connection with service to the Board as the Director may determine.

### **General power to regulate procedure and to delegate**

**30.** Subject to the provisions of this Ordinance, the Board shall have power to regulate its own procedure, and may delegate to any member the power and authority to carry out on behalf of the Board such duties as the Board may specify.

### **Preservation of confidentiality of information obtained by Board**

**31. (1)** A member of the Board shall regard and deal with any information relating to the business of any other person which he has obtained by virtue of such membership or connection as secret.

(2) A person referred to in subsection (1) shall not disclose or allow to be disclosed any information referred to in subsection (1) to anyone not lawfully entitled to the information.

(3) A person who without reasonable excuse discloses or allows to be disclosed information contrary to this section commits an offence and is liable—

- (a) on conviction to a fine of \$25,000 or a term of imprisonment of three years, or to both; and
- (b) if the offence is a continuing one, to a further fine of \$100 for every day or part of a day on which the offence has continued.

### **Immunity from liability for Board members**

**32.** No member of the Board is personally liable in any action or proceeding for or in respect of any act or matter done or omitted to be done in good faith in the exercise or the discharge or purported discharge of any duty or function under this Ordinance.

## **PART V**

### **GENERAL OFFICIAL STATISTICS**

#### **Official statistics**

**33.** The Authority may produce official statistics on any matter relating to the Islands, including any of the matters specified in Schedule 1.

#### **Use of sample methods**

**34.** (1) Data or information relating to all or any of the matters set out in Schedule 1 may be collected by sampling, in place of a full enumeration, where the use of that method is considered appropriate.

(2) Sampling may also be used to test a questionnaire and a statistical procedure before finalisation.

#### **Publication of official statistics**

**35.** The Authority may cause the official statistics or abstracts and anonymised microdata to be published, with or without comments, electronically on the official website of the Authority or in any other manner as the Director may determine.

#### **Compliance with international principles and standards**

**36.** Official statistics shall be developed, produced and disseminated in accordance with—

- (a) the United Nations Fundamental Principles of Statistics set out in Schedule 2;
- (b) the CARICOM Statistics Code of Practice for Member States and Associate States set out in Schedule 3;
- (c) other international statistical standards, other international statistical classifications, and other international statistical recommendations as may be adopted by the Authority from time to time.

#### **Collection of data or information**

**37.** (1) The Authority may collect data or information under this Ordinance—

- (a) by means of a request by notice;
- (b) by means of an agreement with a public body;



(c) by collection from any individual, or organisation by agreement with the Authority;

(d) under any arrangement that the Authority may think fit, including observation and publicly available sources.

(2) The Authority may prepare forms, questionnaires and other records in paper and electronic format for the collection of data or information under this Ordinance with the instructions necessary for their proper completion.

(3) The Authority shall specify the date or period within which the completed forms, questionnaires and other records, data or information in paper or electronic format is to be returned to the Authority.

### **Request for data or information**

**38.** The Authority may request data or information from an individual, public body or organisation if—

(a) the Authority considers the data or information is necessary or desirable to enable the Authority to produce official statistics; and

(b) the person is in a position to provide the data or information.

### **Joint collection of data or information**

**39.** (1) The Authority may enter into an agreement with one or more public bodies for the collection, jointly with the Authority, of data or information that—

(a) the public body have the authority to collect for the performance of its functions or activities;

(b) the Authority considers it is necessary or desirable to enable the Authority to produce official statistics.

(2) The data or information shall be collected in the manner specified by the Authority in the request for data or information.

(3) In an agreement for the collection of data or information under this section, the agreement shall—

(a) state that the data or information is being collected by the Authority under an agreement with the public body;

(b) specify that the data or information collected may be disclosed to a public body that is a party to the agreement;

(c) specify the purpose for which the data or information may be used.

(4) The Authority may disclose to a public body which is a party to the agreement any data or information to which the agreement applies that is collected by the Authority.

(5) The Authority may make a disclosure under subsection (4) only for the purpose of the production of official statistics by the public body.

(6) The public body granted access to data or information under this section shall take all reasonable steps to ensure that the public body does not publish or otherwise disclose the data or information in a form that could reasonably be expected to identify any individual or organisation.

### **Authorising public body to request data or information**

**40.**(1)The Authority may authorise a public body to request data or information on behalf of the Authority, which the Authority considers is necessary or desirable to enable the Authority to produce official statistics under this part.

(2) Where a public body is authorised to collect data or information under subsection (1) the public body may request the data or information from an individual, public body or organisation.

(3) Any data or information collected under this section shall be deemed to be data or information collected by the Authority under this Ordinance.

(4) Any data or information collected as the result of a request under this section does not confer any authority on the public body to use that data or information.

### **Matters to be specified in a request under this Part**

**41.** A request by notice for data or information under this part shall—

- (a) specify the data or information requested;
- (b) specify the date by which the data or information is to be provided;
- (c) specify the manner and form in which the data or information is to be provided; and
- (d) contain a summary of the obligation to comply with the request and the consequences of non-compliance with the request.

### **Obligation to comply with a request by notice**

**42.** (1)A public body to which a request for data or information is made shall provide the data or information by the date, and in the manner and form, specified in the request.

(2) Subsection (1) shall not apply where—

- (a) any Ordinance expressly prevents the provision of the data or information;
- (b) providing the data or information to the Authority for the production of official statistics would be likely to

prejudice the security or defence of the Islands or the international relations of the Government;

- (c) providing the data or information may prejudice the maintenance of the law, including the prevention, investigation, and detection of offences, and the right to a fair trial; or
- (d) providing the data or information may prejudice the entrusting of information to the Government on a basis of confidence by—
  - (i) the government of any other country or the public body of the government of any other country;
  - (ii) any international organisation.

### **Obligations of public bodies**

**43.** A public body shall—

- (a) provide data or information when requested by the Authority about the production of official statistics by that public body;
- (b) raise any material concerns with the Director regarding the quality, production, or timeliness of any official statistics under section 33;
- (c) when requested by the Director, advise the Director about the data or information it holds that is being, or is proposed to be, used as a source of official statistics;
- (d) consult the Director before making changes to the data or information it collects, the data or statistical collections it holds, the content of its data or statistical collection, or the manner of collecting or managing data or information if those changes could affect—
  - (i) the data used by the Authority or any public body for statistical production;
  - (ii) the statistics produced from data held by the public body; or
  - (iii) data or information that is made available by the Authority for research.
- (e) within a reasonable time after receiving notice in writing from the Authority that the Authority is conducting a review of the production of official statistics, provide any reasonable facilities that are necessary to facilitate the completion of the review; and
- (f) when requested by the Authority, provide information about that public body's compliance with the standards.

## PART VI

### CENSUS OF POPULATION AND DWELLINGS

#### **Census of population and dwellings**

**44.** (1) The Authority shall take a census of the population and dwellings in the Islands every ten years.

(2) Data or information for the census may be collected by any means described in Part III.

#### **Period for taking census**

**45.** The period of time during which the census will be taken shall be by an Order made by the Minister on the recommendation of the Director.

#### **Division of Islands into districts**

**46.** For the purpose of taking a census, the Islands shall be divided into districts as the Minister shall determine in the Census Order.

#### **Consultation on census**

**47.** The Director before determining the manner of taking and the data or information to be collected in a census shall consult, in the manner the Director determines is appropriate—

- (a) the public bodies in the opinion of the Director, that have a particular interest in the census;
- (b) the public generally; and
- (c) the individuals and organisations in the opinion of the Director, that have a particular interest in the census.

#### **Census Advisory Committee**

**48.** (1) The Director shall appoint an advisory committee for a census with members from within and outside the Authority for the purpose of advising on matters related to the taking of a census.

(2) The Advisory Committee shall consist of not less than five members comprised of—

- (a) the Director as chairperson of the committee;
- (b) at least one senior member of the staff of the Authority;
- (c) at least two representatives from among the government ministries, departments and public bodies; and
- (d) a representative of civil society on the recommendation of the Director.

(3) A committee appointed by the Director under this section shall cease on census day.

### **Appointment of census officers**

**49.** On the publication of the Census Order the Director may—

- (a) make arrangements and do all things as are necessary for the taking and compilation of the census; and
- (b) appoint supervisors, enumerators and other officers to assist the Authority in the several districts into which the Islands may be divided.

### **Remuneration and terms of service of census officers**

**50.** The Director shall determine the remuneration and other terms and conditions of service of the census officers.

### **Preparation of census forms**

**51.** The Director may—

- (a) cause to be prepared, printed and issued any forms and instructions as he considers necessary for the proper carrying out of the census; or
- (b) add to or alter the forms or instructions.

### **Distribution of forms to enumerators**

**52.** The Director shall cause a sufficient number of forms to be supplied to each enumerator within the respective districts into which the Islands shall be divided to enable each enumerator to fulfil his duties properly and to cause every dwelling to be properly enumerated.

### **Authority to census officers to ask questions**

**53.** A person appointed as a census officer or any other person appointed under this Ordinance to collect data or information may ask all questions as shall be directed in any instructions to be prepared by the Director which shall be necessary for obtaining the data or information requested in the forms required under this Ordinance.

### **Enumerators to transmit forms to the Director**

**54.** (1) An enumerator shall without delay transmit via the supervisor of his district all the forms collected by him to the Director.

(2) The enumerator shall submit with the forms a signed declaration which shall state that he has truly and faithfully performed the duties required of him under this Ordinance and that to the best of his knowledge and belief the particulars contained in the forms transmitted by him are correct.

### **Director to examine forms**

**55.** The Director shall examine or cause all forms to be carefully examined and shall satisfy himself how far the enumerators or other persons employed have duly performed the duties required of them in pursuance of this Ordinance or the Regulations, and shall cause any

inaccuracies which he shall discover in the forms to be corrected, so far as may be possible.

### **Duty of hospitals, prisons etc during a census**

**56.** The superintendent, keeper or person in charge of a hospital, prison or other public institution in which inmates reside shall be bound so far as may be practicable to conform to instructions as shall be sent to him in pursuance of this Ordinance for obtaining the forms with respect to the inmates required by this Ordinance or the Regulations.

### **Review and report after each census**

**57.** (1) Within twelve months after the last day in the period appointed for a census under section 45, the Director shall—

- (a) conduct a review of the operation of the census; and
- (b) present a report on the review to the Minister.

(2) The Minister shall lay the report at the next meeting of the House of Assembly after receiving the report.

(3) The Director shall publish the review on the Authority's website.

### **Census records as historical data**

**58.** The Director may authorise any data or class of data or information, to be classified as historical data for the purpose of being sent to be housed at the national archives.

### **General census offences and penalties**

**59.** A person who, in connection with a census—

- (a) refuses to give information as prescribed;
- (b) gives information which he knows to be false or does not believe to be true;
- (c) refuses, in contravention of section 100 to allow a census officer to have access to the dwelling;
- (d) wilfully restricts, obstructs or hampers a census officer in the discharge of his duties; or
- (e) refuses or neglects to comply with the provisions of any regulation,

commits an offence and shall for each offence be liable on conviction to a fine of \$5, 000.

### **Offences by census officers**

**60.** A supervisor, enumerator or other census officer who, in connection with a census—

- (a) without reasonable excuse, the burden of proof of which shall be upon him, refuses or neglects or fails to comply with any instructions given to him by the Director,

whether or not the instructions come direct from the Director or via a supervisor, enumerator or other census officer;

- (b) wilfully asks of a person an offensive or improper question;
- (c) knowingly makes any false return;
- (d) without authority destroys, does away with, secretes, defaces, injures or alters any forms or other documents relating to the census;
- (e) asks, receives or takes from a person any payment or reward other than his lawful remuneration; or
- (f) except in the course of his duty wilfully discloses any information which has come to his knowledge in his capacity as a census officer,

commits an offence and shall, for each offence, be liable on conviction to a fine of \$5, 000.

## PART VII

### DIRECTOR AND STAFF OF THE AUTHORITY

#### **Custody and use of common seal**

**61.** (1) The Director shall provide for the safe custody of the common seal of the Authority.

(2) The common seal of the Authority shall be affixed to instruments pursuant to a resolution of the Board and by and in the presence of—

- (a) the chairperson or, in his absence the deputy chairperson; and
- (b) one other director or the secretary.

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

#### **Management of the Authority**

**62.** The powers of the Authority are vested in the Board, which subject to section 13 shall be responsible for the policy and general administration of the Authority.

#### **Appointment of the Director**

**63.** The Board may appoint a Director of the Authority—

- (a) after consultation with the Premier, the Minister and the Leader of the Opposition for a term of five years in accordance with the terms and conditions set by the

Board, and may be eligible for reappointment for a further period as may be agreed; and

- (b) who shall have suitable academic qualifications and professional experience to be able to satisfactorily undertake the requirements of the position.

### **Functions of the Director**

**64.** (1) The Director shall be responsible to the Board for—

- (a) the day to day administration of the affairs of the Authority;
- (b) maintain the integrity and validity of official statistics and public confidence in them;
- (c) decide, on the basis of professional and ethical considerations, the scope and purpose of the official statistics provided for in the business plan, and on the methods and procedures for the collection, compilation, storage, presentation and publication of data or information or official statistics;
- (d) ensure that the Authority is equipped with the necessary information technology facilities for the efficient processing of data or information or official statistics;
- (e) draw up draft business plans in accordance with commercial norms and procedures;
- (f) develop the necessary strategies for the implementation of the objectives of the Board;
- (g) advise the Board on any matter it may refer to the Director or any matter the Director considers necessary or expedient;
- (h) be responsible for the observance of the provisions of this Ordinance relating to secrecy, confidentiality, data protection;
- (i) developing policy and procedures including but not limited to the strategic and business plans;
- (j) the provision of technical advice and guidance on matters of policy;
- (k) the submission of annual and other reports to the Board;
- (l) representing the Authority at regional and international conferences and in any dealings with regional and international organisations or agencies; or
- (m) the performance of such functions as the Board may delegate to him.

(2) Subject to subsection (1) the Director shall perform his functions independent of the control of any person or authority.



### **Resignation and removal of the Director**

**65.** (1) The Director may resign his office by writing under his hand addressed to the chairperson of the Board.

(2) The Director may be removed from office by the Board if he—

- (a) is declared a bankrupt;
- (b) is incapable of performing his duties under this Ordinance;
- (c) is guilty of gross misconduct;
- (d) neglects his duties as Director or is engaged in conduct that would bring the office of the Director into disrepute;
- (e) is sentenced to a term of imprisonment;
- (f) has been absent from three consecutive meetings of the Board without permission from the Board; or
- (g) is in breach of confidentiality contrary to the oath of secrecy.

### **Delegation of functions by Director**

**66.** (1) The Director may delegate in writing to the Deputy Directors and any officer of the Authority any of the functions conferred or imposed on him under section 64 or any other section of this Ordinance, than the power of delegation under this section.

(2) The Director may at any time revoke a delegation made under subsection (1).

(3) A delegation under subsection (1) does not prevent the exercise by the Director himself of a power so delegated.

### **Deputy Directors**

**67.** (1) The Board may appoint Deputy Directors of the Authority—

- (a) who shall have suitable academic qualifications and professional experience to be able satisfactorily to undertake the requirements of the position; and
- (b) subject to the terms and conditions as the Board may approve from time to time.

(2) A Deputy Director shall be subject to the direction and control of the Director, and shall perform such functions as may be assigned to him by the Director from time to time.

(3) Where—

- (a) there is a vacancy in the office of the Director by reason of death, resignation or otherwise;
- (b) the Director is absent from duty, for any cause,

and so long as the vacancy or the absence continues, a Deputy Director shall have and may exercise all the functions, duties and powers of the Director.

(4) The fact that a Deputy Director exercises any function, duty or power of the Director shall be conclusive evidence of the authority of the Deputy Director to do so.

### **Appointment of staff of the Authority**

**68.** (1) The Director shall, subject to the provisions of this Ordinance and any regulations or policy guidelines which may be made from time to time by the Board, appoint such officers and employees of the Authority as may be necessary.

(2) A person appointed under subsection (1) shall perform any functions assigned to him from time to time by the Director or as is specified in his letter of appointment.

### **Appointment of temporary staff of the Authority**

**69.** The Authority may employ—

- (a) an Island district manager;
- (b) a supervisor;
- (c) enumerator;
- (d) interpreter; or
- (e) any other person,

on a temporary basis, in the manner authorised by the Board to collect any data or information as provided for under this Ordinance or as the Director determines useful and to carry out any other duties the Director may consider necessary.

### **Internal audit**

**70.** The internal audit function shall be carried out by the Chief Internal Auditor appointed under section 13 under the the Public Finance Management Ordinance.

### **Staff may appeal**

**71.** A person who is aggrieved by a decision of the Director to remove him from office or take disciplinary action against him shall have a right to appeal to the court.

### **Secondment, options etc of public officers**

**72.** (1) This section applies to a person, who on the date of commencement of this Ordinance is employed with the Statistics Department—

- (a) as a public officer;
- (b) as a contract officer, and has served at least two continuous years in a public office.

(2) A person to whom this section applies shall, within eighteen months of the date of the commencement of this Ordinance, exercise one of the following options—

- (a) request a secondment to the Authority;
- (b) retire from the public service and receive all the benefits provided for under the applicable ordinance;
- (c) apply for employment with the Authority on terms and conditions no less favourable than the terms and conditions enjoyed by him in the public service;
- (d) remain in the public service and request to be transferred to another ministry or department on terms and conditions which are commensurate to the office held by him in the Statistics Department immediately before the commencement of this Ordinance.

(3) Where a person exercises the option under subsection (2)(a) the Governor, in the exercise of his discretion and subject to such conditions as he may impose, may approve the secondment of the public officer to serve with the Authority for a period not exceeding three years from the commencement of this Ordinance.

(4) Subject to the conditions of his secondment, a public officer shall, at the expiry of his period of secondment, have the option to be employed by the Authority, and the Authority shall have the option to employ him.

(5) A person who retired under subsection 2(b) may with the concurrence of the Board be re-engaged by the Authority without having to forego pension benefit payments eligible to public officers under the applicable ordinance.

### **Preservation and accrual of pension benefits**

73. The pension benefits under the applicable ordinance that have accrued to a person, who within eighteen months of the date of the commencement of this Ordinance, exercises the option under section 72(2) (c), shall be preserved at the date of the person's employment with the Authority.

### **Pension fund for the Authority**

74. The Authority shall within six months of the commencement of this Ordinance indicate that it will participate in the Public Sector Employees Pension Fund established under section 3 of the Public Sector Employees Pension Fund Ordinance.

### **Payment of pension benefits prior to establishment of a pension fund**

75. Where an employee of the Authority exercised the option referred to in section 72(2)(c) dies or retires prior to the establishment of the pension fund the pension benefits payable to his estate shall be based on the salary paid to him by the Authority.

### **Training of employees**

76. The Authority may, for the purpose of advancement of, the skills of its employees, provide assistance and facilities as may be necessary for training, education and research.

### **Right to belong, form trade unions**

77. The Authority shall recognise the right of its employees to belong to or form trade unions for the protection of their interests.

### **Regulations relating to staff**

78. The Board may make Regulations to determine the conditions of services for employees of the Authority, and in particular may make regulations relating to—

- (a) the appointment, dismissal, discipline, hours of work, pay and vacation leave;
- (b) appeals by employees against dismissal or other disciplinary measures; and
- (c) the grant of pensions, gratuities, salaries or benefits to the employees and their dependents.

## **PART VIII**

### **FUNDING AND FINANCIAL PROVISIONS AND AUDIT**

### **Transfer of property**

79. The Minister responsible for finance may, by Order published in the *Gazette*, transfer to the Authority any property belonging to the Government which appears to him to be necessary or useful to the Authority for carrying out its functions and the property shall vest in the Authority by virtue of the Order without further assurance.

### **Funds of Authority**

80. The funds of the Authority shall consist of—

- (a) moneys appropriated by the House of Assembly for the purposes of the Authority;
- (b) sums as may accrue to the Authority from the conduct of its business under this Ordinance, including the sales of books, databases, documents or journals published by the Authority and all sums recovered in payment of the fees, charges or administrative fines imposed by the Authority under this Ordinance or by Regulations;
- (c) grants, donations, benefactions and endowments from any source including regional and international organisations;
- (d) all other sums or property which may in any manner become payable to or vested in the Authority in respect of any matter incidental to its functions; and

- (e) any monies derived from a fine payable under sections 105(2)(b) to 114 (2)(b) and section 115 offences by directors.

### **Financial year**

**81.** The financial year of the Authority shall be a period of twelve months commencing from 1 April and ending on 31 March.

### **Preparation and submission of estimates**

**82.** (1) The Authority, not less than three months prior to the commencement of each financial year, shall prepare and submit to the Board its annual budget and shall furnish to the Minister of Finance in respect of that financial year, estimates of—

- (a) its expected recurrent and capital expenditure;
- (b) its expected revenue arising from any source; and
- (c) the revenues it expects to collect on behalf of the Government.

(2) The Authority shall furnish the Minister of Finance with such further information and explanations in relation to the estimates, as the Minister of Finance may require.

### **Accounts and audit**

**83.** (1) The Authority shall keep proper accounts of all its transactions in accordance with Part VII of the Public Finance Management Ordinance.

(2) The Authority shall have regard to and comply with its obligation to prepare and submit its annual budget and its financial statements for auditing within the time required under Part VII of the Public Finance Management Ordinance.

### **Unexpended funds**

**84.** Section 44 of the Public Finance Management Ordinance shall apply in relation to the unexpended balance of moneys appropriated to the Authority for any financial year.

### **Annual report**

**85.** (1) The Authority shall within six months after the end of each financial year, prepare and submit to the Minister in respect of that financial year, a written report of its operations for that financial year containing—

- (a) a balance sheet and a complete audited statement of profits and losses; and
- (b) the report of the auditor.

(2) The Minister shall lay the report on the table of the House of Assembly at the next sitting of the House of Assembly held after the Minister receives the report.

### **Tax exemptions**

**86.** (1) All instruments executed by or on behalf of the Authority shall be exempt from stamp duty.

(2) Notwithstanding anything contained in any Ordinance, all material, apparatus or equipment of any kind imported into the Islands by the Authority for the purpose of carrying on its purposes shall be free of all customs duty and any other tax or fee.

### **Financial regulations**

**87.** The Board may make Regulations—

- (a) requiring the day-to-day deposit of the funds of the Authority into a bank or financial institution in the Islands approved by the Board;
- (b) designating the officers of the Authority who shall have custody of the funds of the Authority, and shall sign cheques and other instruments on behalf of the Authority; or
- (c) specifying the total amount which may be maintained by the Authority at any one time as petty cash.

## **PART IX**

### **COLLECTION AND PROTECTION OF INFORMATION**

### **Publication of notice for request for data or information**

**88.** A notice issued under section 37 shall be published—

- (a) in the *Gazette*;
- (b) in one or more daily newspapers in national circulation; and
- (c) on the official website of the Authority.

### **Limits on information on individuals**

**89.** (1) No information obtained under this Ordinance which can be related to an identifiable person or undertaking shall, except with the written consent of that person or undertaking or the personal representative or next-of-kin of that person, if he be deceased, be disseminated, shown or communicated to a person or body except—

- (a) for the purpose of a prosecution for an offence under this Ordinance;
- (b) to officers or employees of the Authority in the course of their duties under this Ordinance.

(2) A person who knowingly arranges or having knowingly arranged any particulars in contravention of the provisions of subsection (1) commits an offence and is liable on conviction to a fine of \$5,000.

### **Limits on access to privileged data or information**

**90.**(1)The provisions of this Ordinance shall not apply to any law relating to the disclosure or non-disclosure of—

- (a) any secret information;
- (b) confidential information; or
- (c) any secret or confidential evidence or document.

(2) Where a person is requested by the Authority to provide any of the information in subsection 1(a) to (c) the person shall if applicable, refuse to disclose or produce any of the information based on the grounds of legal professional privilege in court proceedings.

(3) The provisions of this Ordinance shall not make it lawful for the Authority—

- (a) to require a banker to disclose particulars relating to the banking accounts of any individual or company or undertaking; or
- (b) to require any person providing professional services to disclose information concerning the business or personal affairs of individual clients of a person.

### **Limits on examination and disclosure of information**

**91.** (1)Only a person employed under this Ordinance and who has taken the oath of secrecy shall be permitted to examine information provided to the Authority under this Ordinance.

(2) A person shall not disclose or knowingly cause to be disclosed, by any means, information relating to a person that is obtained by the Authority under this Ordinance.

### **Exceptions to prohibition against disclosure of information**

**92.** (1)The Director may, by Order published in the *Gazette*, authorise the following information to be disclosed—

- (a) information relating to a person or organisation in respect of which disclosure is consented to in writing by the person or organisation concerned;
- (b) information relating to a business in respect of which disclosure is consented to in writing by the owner for the time being of the business;
- (c) information available to the public under any law;
- (d) information relating to any hospital, mental institution, library, educational institution, welfare institution or other similar non-commercial institution except particulars arranged in a manner that it is possible to relate the particulars to any individual patient, inmate or other person in the care of an institution;

- (e) information in the form of an index or list of individual establishments, firms or businesses, showing any, some or all the following in relation to them—
  - (i) their names and addresses;
  - (ii) their telephone numbers;
  - (iii) the language in which they prefer to be addressed;
  - (iv) the products they produce, manufacture, process, transport, store, purchase or sell, or the services they provide, in the course of their business; or
  - (v) whether they are within specific ranges of numbers of employees or persons engaged by them or constituting their work force;
- (f) information relating to a public body or other statutory authority;
- (g) details of external trade, movement of ships and cargo handled at ports; or
- (h) information relating to any carrier or public utility.

(2) In this section—

“carrier” means a person or association of person who owns, operates or manages an undertaking that carries or moves persons or commodities by any form of land, sea or air transport; and

“public utility” means a person or association of persons who owns, operates or manages an undertaking—

- (a) for the supply of petroleum or petroleum products by pipeline;
- (b) for the supply, transmission or distribution of gas, electricity, steam or water;
- (c) for the collection and disposal of garbage or sewage or for the control of pollution;
- (d) for the transmission, emission, reception or conveyance of information by any telecommunication system; or
- (e) for the provision of postal services.

### **Authorisation for access to data or information for research**

**93.** (1) The Director may authorise an individual, public body, or organisation to access, for research, data or information which is held by the Authority, where the Authority is satisfied that—

- (a) the proposed research is in the public interest;
- (b) the individual, public body, or organisation seeking access to the data or information is an appropriate researcher;



- (c) the access to the data or information is subject to appropriate measures to protect the privacy, confidentiality, and security of the data or information;
- (d) the oath of secrecy has been taken by—
  - (i) in the case of an individual, the individual;
  - (ii) in the case of a public body or organisation, each individual seeking access to the data or information on behalf of the public body or organisation.

(2) The Director may impose conditions relating to any access authorised under subsection (1) on the following—

- (a) access to and use of the data or information;
- (b) publication or disclosure of the results of the research.

### **Determining research is in public interest**

**94.** (1) In determining whether the proposed research is in the public interest under section 93(1)(a), the Director shall take into account—

- (a) the nature and extent of any likely benefit to the public from the proposed research;
- (b) the nature and extent of any likely contribution to the economic, social, cultural, and environmental well-being of Islanders from the proposed research;
- (c) the nature and extent of any of the following risks arising from the proposed access—
  - (i) risk of harm to an individual or organisation; or
  - (ii) risk to public confidence in the protection of the data or information.

(2) The Director may also take into account—

- (a) the method by which the Authority collected the data or information under Part V;
- (b) to the extent practicable, information known to the Director about—
  - (i) the purpose for which the data or information was originally collected by the Authority or the individual, public body or organisation that provided it to the Authority;
  - (ii) any information provided to any the individual, public body or organisation to which the data or information relates at the time of that original collection about the purposes for which the data or information might be used; and
- (c) any other matters that the Director considers relevant.

### **Determining appropriate researcher**

**95.** In determining whether an individual, public body or organisation is an appropriate researcher under section 93(1)(b), the Director shall take into account—

- (a) whether the individual, public body or organisation has the experience, knowledge, and skills to—
  - (i) access and use the data or information for the proposed research;
  - (ii) access and use the data or information in an ethically and culturally appropriate manner; and
  - (iii) protect the privacy, confidentiality, and security of the data or information.
- (b) any other matters the Director considers relevant.

### **Appropriate measures to protect privacy, confidentiality and security of data or information**

**96.** In determining whether access to the data or information is subject to the appropriate measures to protect privacy, confidentiality, and security of the data or information, under section 93(1) (c), the Director shall take into account—

- (a) the nature of the data or information and the form in which it is being accessed, including—
  - (i) the sensitivity (including cultural sensitivity) of the data or information;
  - (ii) the likelihood and potential impact of any individual or organisation being identified from the data or information; and
- (b) the likelihood and potential impact of any individual or organisation being identified from the data or information in light of the other data or information that may be available to the individual, public body or organisation accessing the data or information;
- (c) the extent to which the data shall be modified by the Authority before access is authorised to reduce the risk of any individual or organisation being identified from the data or information;
- (d) the manner in which the data or information will be accessed, stored and used including—
  - (i) the location where the data or information shall be accessed, stored and used;
  - (ii) the security and technical safeguards that the individual, public body or organisation seeking to access the data or information has in place to ensure that the data or information remains secure and does not become subject to an unauthorised access;

- (iii) the means by which an individual, public body or organisation seeking access to the data or information shall ensure that the data is used in an ethically and culturally appropriate manner and protected from inappropriate use.

### **Obligations for the researcher**

**97.** An individual, public body or organisation that was authorised to access data or information under section 97(1)(d) who has completed the oath of secrecy under section 93(1)(d)(i) and section 93(1)(d)(ii) shall—

- (a) access and use the data or information only for the research for which access was authorised under section 93;
- (b) comply with any conditions imposed by the Director under section 94;
- (c) take all reasonable steps to ensure that they do not publish or otherwise disclose data or information in a form that could reasonably be expected to identify any individual or organisation; and
- (d) publish or otherwise disclose the results of their research and their methodologies which may be in summary form.

### **Report on access to data or information**

**98.** (1) The Director shall publish information on the Authority's website about—

- (a) who is accessing data or information held by the Authority;
- (b) what data or information is being accessed;
- (c) the purposes for which the data or information is being accessed;
- (d) how the data or information is being accessed; or
- (e) any characteristics of the data or information being accessed or limitations that may affect the quality of any research using the data or information.

(2) The Director may publish the required information under subsection (1) in summary form.

### **Power of Authority to access data and information**

**99.** Notwithstanding any other written law, the Authority shall be granted access to all records, documents, returns and certificates, whether individual or corporate, in the control of all government ministries, departments and public bodies from which information is sought in furtherance of the purposes of this Ordinance.

## **Power of entry**

**100.**(1) The Director, or any authorised person, may upon production of his authorisation, for any purpose —

- (a) connected with the taking of a census and any other household survey, visit, and with the consent of the occupier, enter any dwelling house between the hours of 7 a.m. and 10 p.m. on any day; or
- (b) connected with the taking of any survey or the collection of labour statistics, visit and with the consent of the occupier enter, between the hours of 7:00 a.m. and 10 p.m. on any day, any premises where persons are employed.

(2) The Authority to visit or with the consent to enter premises for any purpose connected with the collection of labour statistics may be exercised only if no returns or inadequate returns have been furnished to the Director in respect of those premises or if the Director is in doubt whether or not any persons are in fact employed in those premises, and in either case may make enquiries as may be considered necessary for the performance of his functions.

(3) If an owner or occupier of premises refuses to permit entry to an authorised person, a Magistrate may issue a warrant authorising the authorised person to enter premises for the purposes of collecting data or information upon—

- (a) the application of that authorised person; and
- (b) being satisfied that there are reasonable grounds for believing that the refusal of the owner or occupier to permit entry to the authorised person is unreasonable.

(4) The application for a warrant pursuant to sub-section (3) shall be served on the owner or occupier of the premises at least seven days before the hearing of the application and the Magistrate shall enable the owner or occupier of the premises to be heard on the application.

(5) A warrant issued under subsection (3) does not authorise entry before 7:00a.m. or after 10:00 p.m. unless it is expressly stated in the warrant.

(6) An authorised person may, upon exercising his power of entry under this section, make enquiries as he considers necessary for the performance of his duties under this Ordinance.

## **PART X**

### **REPORTS AND PROGRESS REVIEW**

## **Quarterly reports**

**101.**(1) The Authority shall prepare and lay a quarterly report of its activities and accounts before the Board within fifteen days of the end of the quarter.

(2) The Board shall assess the extent to which the Authority has made progress towards achieving its purposes articulated under this Ordinance.

(3) The Director shall cause a copy of each quarterly report, to be published in the official *Gazette*, website and in at least one newspaper in national circulation.

### **Other reports**

**102.**(1)The Minister may require the Authority to report at any time on any matter relating to its functions, including but not limited to the progress with regard to the achievement of the Authority's purposes.

(2) The Authority shall promptly comply with a requirement under subsection (1).

### **Assessment of progress**

**103.**(1)The Minister shall cause an independent review to be conducted every five years to—

- (a) assess the extent to which the Authority has made progress towards achieving its overall objectives; and
- (b) decide whether the Authority should continue as an independent body or whether more resources should be made available to the Authority to enable it to meet its overall objectives.

(2) For the purposes of this review, the Minister shall appoint an independent reviewer.

### **Report on review of the Authority**

**104.**On the fifth anniversary and every five years thereafter of the Authority, the Minister shall report to the House of Assembly the findings of the assessment conducted under section 103 and shall lay the report for debate on the table of the House of Assembly.

## **PART XI**

### **OFFENCES AND PENALTIES**

### **Failing or refusing to provide data or information**

**105.**(1)A person commits an offence if the person—

- (a) intentionally fails or refuses to comply with a request(notice) for data or information under Part V;
- (b) intentionally fails or refuses to comply with a request for data or information under Part VI.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **False or misleading statement**

**106.**(1)A person commits an offence if the person knowingly makes a false or misleading statement or knowingly makes any material omission when responding to—

- (a) a request for data or information under Part V;
- (b) a request for information during a census under Part VI.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Breach of oath of secrecy**

**107.**(1)A person commits an offence if the person having taken the oath of secrecy under section 117—

- (a) knowingly breaches an obligation undertaken in the oath of secrecy; or
- (b) knowingly makes a false statement about whether the person has breached the oath of secrecy.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Wrongfully obtained data or information**

**108.**(1)A person commits an offence if, while performing, or purporting to perform, any duty or function, or exercising, or purporting to exercise, any power under this Ordinance, the person intentionally obtains, or seeks to obtain, data or information knowing that the person is not authorised to obtain it.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Researchers giving or obtaining unauthorised access to data or information**

**109.**(1)A person commits an offence if the person—

- (a) is authorised under section 93 to access data for research; and
- (b) discloses the data or information obtained under that consent to any other person—

- (i) knowing that the other person is not authorised under section 93 to access the data or information for research;
- (ii) being reckless as to whether the other person is authorised under section 93 to access the data or information for research.

(2) A person commits an offence if he knowingly obtains, retains or uses data or information from a person who had authorised access to the data or information for research under section 93.

(3) A person commits an offence if he was reckless as to whether a person was authorised to have access to data or information for research and he provided the person with the data or information that he obtained under his authorised access to the data or information for research.

(4) A person who commits an offence under subsections (1), (2) or (3) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

#### **Failure to comply with a request by notice**

**110.**(1) A person commits an offence if, without reasonable excuse, the person fails to comply with section 42.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

#### **Obstruction of director, statistician**

**111.**(1) A person commits an offence if he intentionally interferes with, hinders or obstructs the Director or any officer or employee of the Authority in the exercise of any power or function conferred under this Ordinance.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

#### **Mutilation or defacement of request by notice**

**112.**(1) A person commits an offence if the person knowingly or recklessly destroys, defaces, removes, mutilates, or renders unusable—

- (a) a request for data or information under Parts V and VI;
- (b) data or information provided in response to a request under Part V.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Impersonation of Director or employee of the Authority**

**113.**(1) A person commits an offence if the person, who is not an employee of the Authority, by words, conduct, or demeanour pretends that he is an employee of the Authority or assumes the name, designation or description of an employee of the Authority.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Deceiving Director or employee of the Authority**

**114.**(1) A person commits an offence if the person wilfully deceives or attempts to deceive the Director or any officer or employee of the Authority in the exercise or performance of their powers, duties, or functions under this Ordinance.

(2) A person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding—

- (a) in the case of an individual \$5,000; and
- (b) in any other case \$10,000.

### **Unlawful exercise of statutory functions**

**115.** An officer or employee of the Authority who—

- (a) acts in contravention of the oath of secrecy under this Ordinance;
- (b) in the pretended performance of his functions as an employee or officer, obtains or attempts to obtain, from a person or undertaking, any information which he is not lawfully entitled to obtain from that person or undertaking;
- (c) deserts from his duty, or wilfully makes any false declaration, statement or return in the performance of his duties;
- (d) wilfully fails to return to the Authority a document or record collected from a person or undertaking under this Ordinance, or fails to keep any document or record containing information collected under this Ordinance in his custody in a manner as to ensure that unauthorised persons do not have access to the information;
- (e) wilfully discloses or divulges directly or indirectly to any person entitled under this Ordinance to receive the



same information obtained by him in the course of his employment that might exert an influence on or affect the market value of any stocks, bonds or other security or any product or article;

- (f) uses any information described in paragraph (c) for the purpose of speculating in any stocks, bonds or other security or any product or article,

commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.

## PART XII

### MISCELLANEOUS

#### **Service of notices**

**116.** Any notice or other document to be served under this Ordinance may be served—

- (a) by delivering it to the person on whom it is to be served;
- (b) by leaving it at the last known address of that person;
- (c) by sending it by post, or by registered post, to the last known address of that person;
- (d) in the case of an incorporated company or body, by sending it by post, or registered post, to the secretary or manager of that company or body at the registered or principal office of the company or body;
- (e) in the case of a partnership, by serving it on a partner or a person having the control or management of the partnership business in accordance with paragraphs (a) to (c);
- (f) where the name of the person carrying on an undertaking (not being an incorporated body) at any premises is not known, by sending it by post, or registered post, in a letter addressed as to show the name under which, and the premises at which, the undertaking is carried on; or
- (g) in any case, with the consent of the person on whom it is to be served, by fax or email to such address as that person has notified to the Director for that purpose.

#### **Oath of secrecy**

**117.** Any person employed in the exercise of any power or the performance of any duty under this Ordinance shall, before entering upon his functions, shall take an oath of secrecy in the form set out in Schedule 4 before—

- (a) a Magistrate or a Justice of the Peace;
- (b) the Director; or
- (c) a person authorised to take an oath.

## **Confidentiality**

**118.** (1) A member of the Board or employee of the Authority, or any person assisting the Board or Authority shall observe and preserve the confidentiality of all matters coming before the Board or Authority, and the confidentiality shall subsist even after the termination of the term of office or the mandate.

(2) A member of the Board or employee of the Authority, or any person to whom confidential information is revealed through working with the Board or Authority shall not disclose that information to any person, unless he is required to do so in terms of any law or for purposes of any judicial proceedings.

(3) A person who contravenes this section commits an offence and is liable—

(a) on summary conviction, to a fine of \$5,000 or to imprisonment for a term of two years, or to both; or

(b) on conviction on indictment, to a fine of \$10,000 or to imprisonment for a term of three years, or to both.

## **Immunity for staff of Authority**

**119.** An employee or agent of the Authority shall not be personally liable in damages for anything done or omitted to be done in the discharge or purported discharge of any function or duty or the exercise or purported exercise of any power under this Ordinance or any other Ordinance unless it is shown that the act or omission was in bad faith.

## **Limitation period for proceedings**

**120.** Any proceedings by way of summary conviction in respect of an offence under this Ordinance may be instituted at any time within but not later than two years after the time when the subject matter of the proceedings arose, or two years after the time when the commission of the offence first became known to the Authority.

## **Amendment of Schedules**

**121.** The Minister may, by Order, add to, vary or amend the Schedules to this Ordinance.

## **Regulations**

**122.** The Minister may, on the recommendations of the Director, make Regulations for the carrying out of the objectives of this Ordinance and in particular—

(a) to set the fees and charges to be paid to the Authority for any information, report or service, or any survey carried out by the Authority for an individual, firm, partnership, unincorporated body, company or corporation;

- (b) the particulars and information to be furnished on the taking of a census or in relation to any matter in respect of which statistics may be collected;
- (c) the manner and form in which, the times and places at which, and the persons by whom the particulars and information shall be furnished;
- (d) for anything under this Ordinance which is to be prescribed or which is necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Ordinance, or to give force and effect to its provisions.

### **Repeals**

**123.** The Statistics Ordinance 2011 and the Census Ordinance 1970 are repealed.

### **Transitional**

**124.**(1) On the date of the commencement of this Ordinance, the person holding the office of Chief Statistician under the repealed Statistics Ordinance, shall hold the office of the Director of the Authority in an acting capacity until the Board appoints a person to hold the office.

(2) Upon the date of the commencement of this Ordinance, every person who is employed as a public officer or a contract office at the Department of Statistics under the repealed Statistics Ordinance, shall continue to be employed at, and hold office at the Authority for a period of eighteen months unless he exercises any of the options set out in section 72, eighteen months after the commencement of the Ordinance.

### **Savings**

**125.**(1) Any subsidiary legislation made under the Statistics Ordinance 2011 or Census Ordinance 1970 shall continue in force as if made under the corresponding provision of this Ordinance until amended or replaced under this Ordinance.

(2) This Ordinance applies to data or information collected by the Chief Statistician under the Statistics Ordinance 2011 or Census Ordinance 1970 as if it were data or information collected by the Director under this Ordinance.

## **SCHEDULE 1**

*(Sections 33, 34)*

### **MATTERS SPECIFIED**

#### **Demographic and social statistics**

- (a) Population and housing
- (b) Agriculture
- (c) Births, deaths, marriages and divorces
- (d) Migration and citizenship
- (e) Families and households
- (f) Labour, employment and time use
- (g) Education (public and private)
- (h) Health (public and private)
- (i) Income and consumption
- (j) Social protection
- (k) Public Administration and social security
- (l) Human settlements and housing
- (m) Land Tenure and occupation and use of land
- (n) Justice and crime
- (o) Traffic, transportation and storage
- (p) Culture
- (q) Political and other community activities
- (r) Natural disasters

#### **Economic Statistics**

- (a) Macroeconomic statistics
- (b) Economic accounts
- (c) Business statistics
- (d) Sectoral statistics
  - (i) Agriculture, forestry and fisheries
  - (ii) energy
  - (iii) Mining, quarrying, manufacturing and construction
  - (iv) Transport
  - (v) Tourism, hotels and restaurants
  - (vi) Banking, insurance and financial statistics
  - (vii) Creative Industries statistics

- (e) Government finance, fiscal and public sector statistics
- (f) Real estate, rents and vacancies
- (g) Construction activity
- (h) Wholesale and retail activities
- (i) Salaries, wages, fees and other payment for services rendered
- (j) International trade and balance of payments
- (k) Utilities (electricity, gas, water)
- (l) Prices and cost of living
- (m) Labour cost
- (n) Lotteries and charities
- (o) Science, technology and innovation

## **SCHEDULE 2**

*(Section 36(a))*

### **FUNDAMENTAL PRINCIPLES OF OFFICIAL STATISTICS**

**(ADOPTED BY THE UNITED NATIONS GENERAL ASSEMBLY ON 29  
JANUARY 2014)**

#### **Principle 1**

Official statistics provide an indispensable element in the information system of a democratic society, serving the Government, the economy and the public with data about the economic, demographic, social and environmental situation. To this end, official statistics that meet the test of practical utility are to be compiled and made available on an impartial basis by official statistical agencies to honour citizens' entitlement to public information.

#### **Principle 2**

To retain trust in official statistics, the statistical agencies need to decide according to strictly professional considerations, including scientific principles and professional ethics, on the methods and procedures for the collection, processing, storage and presentation of statistical data.

#### **Principle 3**

To facilitate a correct interpretation of the data, the statistical agencies are to present information according to scientific standards on the sources, methods and procedures of the statistics.

#### **Principle 4**

The statistical agencies are entitled to comment on erroneous interpretation and misuse of statistics.

#### **Principle 5**

Data for statistical purposes may be drawn from all types of sources, be they statistical surveys or administrative records. Statistical agencies are to choose the source with regard to quality, timeliness, costs and the burden on respondents.

#### **Principle 6**

Individual data collected by statistical agencies for statistical compilation, whether they refer to natural or legal persons, are to be strictly confidential and used exclusively for statistical purposes.

#### **Principle 7**

The laws, regulations and measures under which the statistical systems operate are to be made public.

**Principle 8**

Coordination among statistical agencies within countries is essential to achieve consistency and efficiency in the statistical system.

**Principle 9**

The use by statistical agencies in each country of international concepts, classifications and methods promotes the consistency and efficiency of statistical systems at all official levels.

**Principle 10**

Bilateral and multilateral cooperation in statistics contributes to the improvement of systems of official statistics in all countries.

## **SCHEDULE 3**

*(Section 36(b))*

### **CARICOM STATISTICS CODE OF PRACTICE**

#### **Principle 1 Professional independence**

The professional independence of statistical authorities from other policy, regulatory or administrative departments and bodies, as well as from private sector operators, ensures the credibility of official statistics.

#### **Principle 2 Mandate for data collection**

Statistical authorities must have a clear legal mandate to collect information for official statistical purposes. Administrations, enterprises and households, and the public at large may be compelled by law to allow access to or deliver data for official statistical purposes at the request of statistical authorities.

#### **Principle 3 Adequacy of resources**

The resources available to statistical authorities must be sufficient to meet official statistics requirements.

#### **Principle 4 Quality commitment**

Member states commit themselves to work and cooperate according to the Data Quality Assessment Framework (DQAF) of the International Monetary Fund (IMF).

#### **Principle 5 Statistical confidentiality**

The privacy of data providers (households, enterprises, administrations and other respondents) the confidentiality of the information they provide and its use only for statistical purposes must be absolutely guaranteed.

#### **Principle 6 Impartiality and objectivity**

Statistical authorities must produce and disseminate official statistics respecting scientific independence and in an objective, professional and transparent manner in which all users are treated equitably.

#### **Principle 7 Sound methodology**

Sound methodology must underpin quality statistics. This requires adequate tools, procedures and expertise.

#### **Principle 8 Appropriate statistical procedures**

Appropriate statistical procedures, implemented from data collection to data validation must underpin quality statistics.



**Principle 9 Non-excessive burden on respondents**

The reporting burden should be proportionate to the needs of the users and should not be excessive for respondents. The statistical authority monitors the response burden and sets targets for its reduction over time.

**Principle 10 Cost effectiveness**

Resources must be effectively used.

**Principle 11 Relevance**

Official statistics must meet the needs of users.

**Principle 12 Accuracy and reliability**

Official statistics must accurately and reliably portray reality.

**Principle 13 Timeliness and punctuality**

Official statistics must be disseminated in a timely and punctual manner.

**Principle 14 Coherence and comparability**

Official statistics should be consistent internally, over time and comparable between regions and countries; it should be possible to combine and make joint use of related data from different sources.

**Principle 15 Accessibility and clarity**

Official statistics should be presented in a clear and understandable form, disseminated in a suitable and convenient manner, available and accessible on an impartial basis with supporting metadata and guidance.

**SCHEDULE 4**

*(Section 117)*

**OATH OF SECRECY**

I.....of..... [solemnly swear] [solemnly,  
sincerely and truthfully affirm]\* that I will faithfully and honestly fulfil my  
functions in conformity with the requirements of the Statistics Ordinance and that  
I will not, without due authority, disclose or make known any matter or thing  
which comes to my knowledge by reason of my employment.

Signed.....

Sworn, Affirmed\* before me

This....day of.....20.....

.....

Magistrate/Director/Justice of the Peace\*

*\*Complete as appropriate*

\_\_\_\_\_