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Arrangement of Sections

Section

PART I 3

PRELIMINARY 3

1. Short title and commencement.....3
2. Interpretation.....3

PART II 4

ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE 4

3. Establishment of the Institute.....4
4. Common seal of the Institute.....4
5. Functions of the Institute.....5

PART III 6

GOVERNANCE OF THE INSTITUTE 6

6. Establishment of a Board of the Institute.....6
7. President of the Institute.....6
8. Pensions of persons transferred from the public service to the Institute.....7
9. Contributory superannuation pension scheme.....7
10. Policy directions.....7
11. Discipline of students.....8

PART IV 8

FINANCIAL PROVISIONS 8

12. Funds and resources of the Institute.....8
13. General account.....8
14. Gift, grant or other property.....9
15. Financial advance.....9

16.	Reserve Fund.....	9
17.	Revenue account.....	9
18.	Accounts and audit.....	10
19.	Annual report.....	10
20.	Regulations.....	10

SCHEDULE	11
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<u>CONSTITUTION AND PROCEDURES OF THE BOARD</u>	11
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No. 7 of 2010

**BAHAMAS TECHNICAL AND VOCATIONAL
INSTITUTE ACT, 2010**

**AN ACT TO PROVIDE FOR THE INCORPORATION OF THE
BAHAMAS TECHNICAL AND VOCATIONAL INSTITUTE, ITS
GOVERNANCE, CONTROL AND ADMINISTRATION BY A BOARD
AND FOR MATTERS INCIDENTAL THERETO**

[Date of Assent — 31st May, 2010]

Enacted by the Parliament of The Bahamas.

**PART I
PRELIMINARY**

1. Short title and commencement.

- (1) This Act may be cited as The Bahamas Technical and Vocational Institute Act, 2010.
- (2) This Act shall come into operation on such date as the Minister may appoint, by notice published in the Gazette.

2. Interpretation.

In this Act, unless the context otherwise requires —

“Board” means the Governing Board of The Bahamas Technical and Vocational Institute established by section 6;

“Chairman” means the Chairman of the Board;

“financial year” means any period of twelve months beginning on the 1st day of July in any year;

“Minister” means the Minister responsible for Education;

"President" means the President of The Bahamas Technical and Vocational Institute appointed under section 7;

"public officer" has the meaning assigned hereto in the Pensions Act (Ch.43);

"Institute" means The Bahamas Technical and Vocational Institute established under section 3.

PART II

ESTABLISHMENT AND FUNCTIONS OF THE INSTITUTE

3. Establishment of the Institute.

- (1) The educational facility known and existing as The Bahamas Technical and Vocational Institute immediately before the coming into operation of this Act, is hereby continued as a body corporate by that name with perpetual succession and a common seal, and shall, in that name, be capable of —
 - (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, charging, holding and disposing of property, movable or immovable; and
 - (c) doing or performing all such other things or acts for the performance of its functions under, and for the furtherance, of this Act which may lawfully be done or performed by a body corporate.
- (2) Upon the coming into operation of this Act, the existing employees of the educational facility known and existing as The Bahamas Technical and Vocational Institute shall be deemed not to be employees of the Institute.

4. Common seal of the Institute.

- (1) The common seal of the Institute shall be kept in such custody as the Board directs and shall not be used except upon the order of the Board.
- (2) The common seal of the Institute shall be authenticated by the signature of the Chairman or any other member of the Board duly authorized by the Board in that behalf, and of the Secretary.
- (3) The common seal of the Institute when affixed to any document and duly authenticated under this section, shall be judicially and officially noticed, and, unless and until the contrary is proved, any necessary order or authorization of the Board under this section shall be presumed to have been duly given.

5. Functions of the Institute.

- (1) The functions of the Institute are to —
 - (a) provide technical and vocational training;
 - (b) provide for the dissemination of knowledge to equip students with the practical, technical and vocational skills, to prepare them for employment, and to foster entrepreneurship;
 - (c) enter into public and private sector partnerships with employers, trade or commercial confederations and other societal stakeholders to develop courses of instruction and instructional methodologies necessary to attain synergy and cohesion between instruction and training at the Institute and the needs of the national economy;
 - (d) grant diplomas, certificates or other awards and honours as are usually conferred by similar institutions;
 - (e) enter into any association or affiliation with career or technical institutions, whether within The Bahamas or otherwise, as the Institute may deem necessary and appropriate; and
 - (f) enter into arrangements with employers in the private sector for the training of employees in the areas specified under subsection (2) and the employer shall be responsible for the payment of fees relating to such training.
- (2) Without prejudice to the generality of subsection (1)(a) and (b), the Institute shall provide a place of training offering instruction including but not limited to all of the following fields of education —
 - (a) Construction Trades;
 - (b) Mechanical Trades;
 - (c) Handicrafts;
 - (d) Ornamental Landscaping and Horticulture;
 - (e) Maritime Trades;
 - (f) Technology;
 - (g) Commerce;
 - (h) Cosmetology and Personal Grooming Trades;
 - (i) Information Communication Technology.
- (3) The Minister may, by Order, extend the categories specified under subsection (2).

PART III
GOVERNANCE OF THE INSTITUTE

6. Establishment of a Board of the Institute.

- (1) There shall be established a Board of the Institute.
- (2) The general direction and control of the Institute shall be vested in the Board.
- (3) Without prejudice to the generality of subsection (2), the Board shall have the power to —
 - (a) provide for the welfare of the students of the Institute;
 - (b) control and superintend the property and policies of the Institute;
 - (c) appoint such instructors, administrative and other staff as appears to the Board to be necessary, on such terms and conditions as the Board may determine on the commencement of this Act;
 - (d) accept, deposit or act as trustees or managers of any property of the Institute or any legacy, endowment, bequest, or gift to the Institute for the purpose of training or otherwise in furtherance of the work of the Institute and to invest any funds representing such property, legacy, endowment, bequest or gift, if not immediately required, in such security as the Board may deem fit;
 - (e) determine the programmes and courses of study to be pursued in the Institute pursuant to section 5(2);
 - (f) issue diplomas, certificates, or other awards and honours;
 - (g) fix fees and charges for courses of study, use of facilities and to reduce, waive or refund fees and charges so fixed, generally or in any particular case or class of cases;
 - (h) direct and regulate the administration of the Institute; and
 - (i) without prejudice to the generality of paragraph (h), direct and regulate the conduct, discipline and other matters affecting the employment of instructors and other staff of the Institute.
- (4) The Schedule shall have effect with respect to the constitution of the Board and otherwise in relation thereto.

7. President of the Institute.

- (1) The Governor-General shall appoint a President of the Institute who shall hold office for a period not exceeding five years, and shall be eligible for re-appointment.
- (2) The President shall be the head of the Institute and shall generally supervise and direct the training work of the Institute, the instructional and

administrative staff and other staff of the Institute, and shall also perform other functions as may from time to time be assigned to him by the Board.

- (3) The Governor-General may remove the President from office on the grounds of misconduct, inefficiency or other good cause.

8. Pensions of persons transferred from the public service to the Institute.

- (1) Where any public officer holding a pensionable office under the Government, ceases to be the holder of such office by reason of his transfer with his consent to the service of the Institute and such person subsequently retires from the service of the Institute in such circumstances that, had he remained a public officer, he would have been eligible for pension under the Pensions Act (*Ch. 43*), then in any such case subsections (2) and (3) shall have effect.
- (2) Any pension payable to any such person as is mentioned in subsection (1) by the Institute to whose service he has been transferred shall be calculated and granted to him in respect of his total service under the Government and with the Institute taken together and such service shall be reckoned as continuous for pension purposes.
- (3) There shall be payable out of the Consolidated Fund upon the warrant of the Minister of Finance to the Institute as a contribution to every pension paid in accordance with subsection (2), such amounts as would have been payable to the person concerned by way of pension under the Pensions Act (*Ch. 43*), if such person had retired from the public service and if he had been granted a pension under the Pensions Act (*Ch. 43*) upon the date of his ceasing to be a public officer.

9. Contributory superannuation pension scheme.

Subject to section 8, the Institute shall provide for the establishment and maintenance of a contributory superannuation pension scheme for the benefit of such of its employees as are appointed by the Board under section 6(3)(c).

10. Policy directions.

- (1) The Minister may give directions as to the policy to be followed by the Board concerning the administration of the Institute as may appear to the Minister to be requisite in the public interest, and the Board shall give effect to any such directions.
- (2) Notwithstanding subsection (1), the directions given by the Minister shall not apply to —

- (a) the appointment, termination of appointment, promotion or discipline of any instructor, administration or other staff of the Institute; and
- (b) the admission of any particular student to the Institute or the evaluation, discipline, academic promotion, certification, or issue of awards to students of the Institute.

11. Discipline of students.

The President may exercise disciplinary control over students of the Institute and may, for the purposes of his power under this section, if he thinks fit, consult any committee appointed by him in that behalf from among the instructors and the students of the Institute.

PART IV FINANCIAL PROVISIONS

12. Funds and resources of the Institute.

The funds and resources of the Institute shall comprise —

- (a) such sums as may be voted for the purposes of the Institute by Parliament;
- (b) all fees and charges payable to the Institute pursuant to section 6(3) (g);
- (c) all other sums or property which may in any manner become payable to or vested in the Institute in respect of any matter incidental to its functions.

13. General account.

- (1) All monies received by the Institute, pursuant to section 12, shall be deposited into an account which shall be known as "the General Account" to be maintained by the Institute with such bank or banks as the Board may determine.
- (2) The Institute shall keep in respect of the General Account, two separate accounts, namely an account to be known as —
 - (a) "the General Current Account", in which shall be recorded all deposits into and withdrawals from the General Account for the application towards defraying current expenditure; and
 - (b) "the General Capital Account", in which shall be recorded all deposits into and withdrawals from the General Account for application towards defraying capital expenditure.

14. Gift, grant or other property.

- (1) Subject to subsection (2), where any gift, grant or other property is received by the Board on behalf of the Institute, the Institute shall inform the Minister of the receipt of such gift, grant or other property, and such gift, grant or other property shall be utilized in such manner as the Board may determine.
- (2) Where a stipulation has been attached to any such gift, grant or other property, such stipulation shall be given effect, unless such stipulation is contrary to Public Policy.

15. Financial advance.

The Minister of Finance may, at the request of the Board, make advances for the purpose of enabling the Institute to defray expenditure properly chargeable to the capital account, including the provision of working capital.

16. Reserve Fund.

- (1) The Institute shall establish a Reserve Fund.
- (2) The management of the Reserve Fund, the sums to be carried from time to time to the credit thereof, and the application thereof, shall be determined by the Board, but no part of the Reserve Fund shall be applied otherwise than for the purposes of the Institute.
- (3) At the end of each financial year, any monies standing to the credit of the Institute and not required for any current purpose shall, after consultation with the Minister of Finance, be carried to the Reserve Fund.

17. Revenue account.

- (1) The Institute shall ensure that its revenues are not less than sufficient to defray all sums properly chargeable to its revenue account (including without prejudice to the generality of such expression, provisions in respect of its obligations under section 16(3) and this section) taking one year with another.
- (2) Any excess of the revenue of the Institute for any financial year over the sums properly chargeable to its revenue account for that year (including the provisions referred to in subsection (1)) shall be applied by the Institute for such purposes as the Board may determine.
- (3) The Institute shall prepare for each new financial year an annual budget of revenue and expenditure, which shall be submitted to the Minister at least two months prior to the 1st day of July.

18. Accounts and audit.

- (1) The Institute shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year, a statement of accounts.
- (2) The accounts of the Institute for each financial year shall be audited by an auditor to be appointed by the Board.
- (3) Three months after the end of each financial year, the Institute shall submit a copy of the audited accounts to the Minister, together with a copy of any report made by the auditor.
- (4) The Minister shall lay a copy of every such audited account before both chambers of Parliament, together with a copy of any report made by the auditors on the accounts.

19. Annual report.

- (1) The Board shall after the end of each year prepare an annual report on its activities during the last preceding year and shall furnish such report to the Minister not later than the 30th day of June.
- (2) The Minister shall cause a copy of every report submitted to him pursuant to this section to be laid before both chambers of Parliament.

20. Regulations.

The Minister may make regulations for carrying out and giving effect to the provisions of this Act or for its better administration.

SCHEDULE

(Section 6(4))

CONSTITUTION AND PROCEDURES OF THE BOARD

1. Constitution of the Board.

The Board shall consist of not more than eleven members of whom —

- (a) one shall be the President ex-officio;
- (b) five shall be persons appointed by the Governor-General from the public and private sectors;
- (c) five shall be persons appointed by the Governor-General, on the recommendation of trade or commercial confederations and other societal stakeholders.

2. Tenure of office.

A member of the Board, other than the President, shall hold office for a period not exceeding three years, and thereafter, shall be eligible for re-appointment.

3. Chairman and Deputy Chairman.

The Governor-General shall appoint two members to be respectively Chairman and Deputy Chairman.

4. Resignation.

Any member of the Board may at any time resign his office by instrument in writing addressed to the Governor-General and from the date of the receipt of such instrument by the Governor-General, such member shall cease to be a member of the Board.

5. Appointment of Secretary.

There shall be a Secretary of the Board who shall be appointed by the Board, perform such functions at such remuneration and upon such terms and conditions as the Board may determine and who shall not be entitled to have any right to vote.

6. Dismissal.

Where the Governor-General is satisfied that a member of the Board —

- (a) has been absent from meetings longer than three consecutive months without the permission of the Board;
- (b) has become bankrupt;

- (c) is unable or unfit to discharge the functions of a member of the Board,

the Governor-General may declare the office of such member of the Board to be vacant and shall notify such member of the vacancy of his office on the Board in such manner as the Governor-General thinks fit, and thereupon that office shall become vacant.

7. Vacancies.

If any vacancy occurs in the membership 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, and such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

8. Gazetting of appointments of Board members and change in membership.

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

9. Board documents.

All documents that are prepared by the Board, other than those that are required to be under seal, and all decisions of the Board, may be signified under the hands of the Chairman, the Secretary or any other member authorized to act in that behalf.

10. Procedure of meetings of the Board.

- (1) The Board shall meet at least quarterly and at such other time 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 may determine.
- (2) Every meeting shall be presided over by the Chairman and in his absence, the Deputy Chairman.
- (3) A quorum of the Board shall be six members of the Board including the Chairman or Deputy Chairman.
- (4) The decisions of the Board shall be determined by a majority of votes and, in addition to an original vote, the Chairman, or other person presiding at a meeting, shall have a casting vote in any case in which the voting is equal.

- (5) Minutes in proper form of each meeting of the Board shall be kept by the Secretary and the minutes shall be submitted to the Minister within seven days after the meeting.
- (6) The Agenda of every meeting shall be submitted to the Minister at least three days prior to the meeting.

11. Board members not liable.

No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operation of the Institute.