

## CHAPTER 38A

### BARBADOS ACCREDITATION COUNCIL 2004-11

This Act came into operation on 15th November, 2004 by Proclamation (S.I. 2004 No. 141).

#### **Amended by:**

2008/7

#### **Law Revision Orders**

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Order or Orders authorized the insertion and removal of pages as the case may be under the Law Revision Act Cap.2 now repealed:*

2007

2008

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

- indicates an amendment made by an Act

/ indicates an amendment made by statutory instrument



**CHAPTER 38A**

**BARBADOS ACCREDITATION COUNCIL  
2004-11**

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FIRST SCHEDULE

*Constitution, Functions and Procedure of the Board of Directors*

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**BARBADOS****BARBADOS ACCREDITATION COUNCIL**

2004-11

*An Act to provide for the establishment of a body to be known as the Barbados Accreditation Council with responsibility for*

- (a) the registration of institutions offering post-secondary and tertiary education and programmes of study;*
- (b) the accreditation of qualifications offered in Barbados;*
- (c) the examination and verification of Certificates of Recognition of Caribbean Community Skills granted to Community nationals by their own country for the purpose of giving effect to Article 46 of the Revised Treaty of Chaguaramas; and*
- (d) the granting of Certificates of Recognition of Caribbean Community Skills in accordance with the provisions of the Caribbean Community (Movement of Skilled Nationals) Act, Cap. 186A; and*

*for related purposes.*

[Commencement: 15th November, 2004]

**Short title**

- 1.** This Act may be cited as the *Barbados Accreditation Council Act*.

**Interpretation**

2. In this Act,

“accreditation” means the process whereby the standard of

- (a) an institution; or
- (b) a programme of study

is assessed by the Council to determine whether the institution or the programme of study should be given official recognition;

“auditor” means

- (a) a person who is a member of the Institute of Chartered Accountants of Barbados and holds a practising certificate from that Institute; or
- (b) a person recognised by the Minister as being suitably qualified to be appointed as an auditor by reason of his knowledge and experience;

“Board” means the Board of Directors established by section 9;

“Certificate of Recognition” means a Certificate of Recognition of Caribbean Community Skills issued by the Council in the form specified in the *Third Schedule*;

“college” means a post-secondary or tertiary institution that offers a range of programmes and grants qualifications mainly at the sub-baccalaureate level;

“community college” means a post-secondary or tertiary institution that offers a wide variety of programmes geared to meet the needs of the community in which it exists and grants qualifications mainly at the sub-baccalaureate level;

“Community national” has the meaning assigned to it in section 2 of the *Caribbean Community (Movement of Skilled Nationals) Act*, Cap. 186A;

“Council” means the Barbados Accreditation Council established by section 3;

- “credit” means a unit of academic measurement for a prescribed course or set of courses for which a particular qualification is awarded;
- “institution” means an institution that offers post-secondary or tertiary education;
- “Minister” means the Minister responsible for Education;
- “polytechnic” or “technical college” means a post-secondary or tertiary institution that offers programmes that prepare graduates for technical occupations and grants sub-baccalaureate qualifications in applied disciplines;
- “post-secondary or tertiary education” means education that is provided for persons over the age of 16 years;
- “programme of study” means a course offered by a private or public educational institution as defined in section 2 of the *Education Act*, Cap. 41;
- “re-accreditation” means the process of evaluation to determine whether an institution and its programmes of study that have been accredited, continue to meet the recognized standards for accreditation;
- “registration” means the process outlined in Part III of the *Education Act*, Cap. 41;
- “technical university” means a post-secondary or tertiary institution that offers programmes that prepare graduates for technological occupations and grants, as its major qualifications, baccalaureate and post-graduate degrees and also conducts research with an emphasis on applied research;
- “Treaty” has the meaning assigned to it by section 2 of the *Caribbean Community Act*, Cap. 15;
- “university” means a tertiary educational institution that grants, as its major qualifications, baccalaureate and post-graduate degrees and conducts pure and applied research;

“university college” means a comprehensive post-secondary institution that offers a range of academic and applied programmes, including vocational and technical education and training, associate degrees and four-year degrees;

“validation” means the process of evaluation after assessment to determine whether a new course or a significantly revised course leading to an award satisfies the recognised standards for that award.

### **Establishment of the Council**

3.(1) There is hereby established a Council to be known as the Barbados Accreditation Council.

(2) The Council is a body corporate to which section 21 of the *Interpretation Act*, Cap. 1 applies.

### **Functions of the Council**

4. The functions of the Council are to
- (a) register local, regional and foreign-based institutions that offer educational courses in Barbados;
  - (b) maintain a record of all institutions that are registered and accredited by the Council pursuant to paragraph (a) and of the educational courses offered by those institutions;
  - (c) accredit and re-accredit programmes of study and institutions operating in Barbados;
  - (d) provide for the validation of new educational courses and programmes of study being offered by institutions operating in Barbados;
  - (e) promote a programme of accreditation and registration;
  - (f) advise on the recognition of foreign-based institutions and their awards;
  - (g) develop and maintain a unified system of credits for institutions;

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- (h) establish relationships with national, regional and international accreditation bodies;
  - (i) provide advice on the process and requirements of accreditation and related matters, including the conferral on institutions of titles such as “university”, “university college”, “college”, “polytechnic”, “community college”, “technical college” or “technical university”;
  - (j) enhance the quality of post-secondary and tertiary education and training in Barbados by
    - (i) conducting research, and providing training for institutions; and
    - (ii) disseminating information ascertained from any research conducted;
  - (k) provide to the public information on the quality and recognition of programmes of study and institutions, including the annual publication of a list of accredited programmes and institutions in order to protect the interests of the public;
  - (l) determine the equivalency of programmes and qualifications as compared with those referred to in the framework established for the Caribbean Community as set out in the “Procedures and Guidelines for the Regional Mechanism for Accreditation, Equivalency and Articulation”, a publication compiled by the Tertiary Level Institutions Unit of the University of the West Indies and accepted by the members of the Caribbean Community;
  - (m) receive complaints relating to the prospectuses of institutions and take any appropriate action authorised under this Act in respect of the institutions;
  - (n) examine and verify Certificates of Recognition issued to a Community national;

- (o) grant Certificates of Recognition in accordance with sections 6(1) and 7 of the *Caribbean Community (Movement of Skilled Nationals) Act*, Cap. 186A;
- (p) discharge such other related functions as the Minister may assign to the Council; and
- (q) do all such other things as are necessary to ensure the efficient discharge of its functions.

### **Powers of the Council**

**5.** In the exercise of its functions under section 4, the Council shall have the power to

- (a) undertake assessments and evaluations of programmes of study and educational institutions on its own initiative or in co-operation with other bodies as may from time to time be considered necessary for the discharge of its functions;
- (b) establish the requirements that institutions must satisfy in order to be registered with the Council, or have their programmes accredited, re-accredited by the Council;
- (c) advise the Minister on the registration of institutions that operate under this Act;
- (d) determine with the approval of the Minister of Finance, the fees to be charged under this Act in connection with the exercise of its functions;
- (e) receive with the permission of the Minister grants and other payments; and
- (f) appoint any person to hold honorary office in connection with the Council and to maintain the services of that person.

**Exemption of institutions**

6. An institution may be exempted by the Council from undergoing the accreditation process required by the Council where that institution satisfies the Council that an internal or independent assessment exercise has been undertaken by persons who are qualified to assess the institution.

**Withdrawal of approval, recognition or title**

7.(1) The Council may withdraw any approval, recognition or title granted to or conferred upon an institution or programme of study for reasons which the Council may deem to be good and sufficient including

- (a) the failure of an institution or its programmes of study to meet the standard required by the Council after undergoing a re-accreditation process; or
- (b) failure of an institution to provide the Council with requested information relating to its structure or to the programmes of study offered.

(2) Where the Council makes a determination to withdraw any approval, recognition or title granted to or conferred upon any institution, the Council shall give written reasons for its decision; and that institution may appeal in accordance with the provisions of section 23.

**Examination of Certificates of Recognition**

8.(1) The Council shall examine and verify the Certificates of Recognition of Community nationals who enter Barbados and seek employment pursuant to the provisions of Article 46 of the Treaty.

(2) A Community national shall pursuant to section 4(2)(c) of the *Caribbean Community (Movement of Skilled Nationals) Act, Cap. 186A*

- (a) apply to the Minister for a Certificate of Recognition in the form set out in Part I of the *Second Schedule*; and

(b) pay the application fee set out in Part II of the *Second Schedule*.

(3) Where the Council is satisfied that the Community national referred to in subsection (1) satisfies the requirements for recognition as a Community national pursuant to section 6(1) of the *Caribbean Community (Movement of Skilled Nationals) Act*, Cap. 186A, the Council shall so inform the Minister and the Council shall issue a Certificate of Recognition to the Community national.

(4) The Certificate of Recognition referred to in subsection (3) shall be in the form set out in the *Third Schedule*.

### **Establishment of Board of Directors**

9.(1) There is established a Board of Directors of the Council that shall be responsible for the execution of the policy of the Council and for the general administration of the Council.

(2) The *First Schedule* has effect with respect to the constitution of the Board and otherwise in relation thereto.

### **Remuneration of Directors**

10. The Council shall pay to each Director such remuneration and allowances, if any, as the Minister determines.

### **Disqualification of employees**

11. A person is not qualified for appointment as a Director where he is employed by the Council.

### **Establishment of Secretariat and appointment of officers**

12.(1) There shall be established a Secretariat to the Council that shall be responsible for the administration and management of the accreditation programme.

(2) The Council may contract the services of professional persons where it is deemed necessary to ensure the efficient functioning of the Secretariat.

### **Secondment and transfer of persons between public service and the Council**

**13.(1)** Where a public officer is seconded or transferred from a pensionable office within the meaning of section 2(1) of the *Pensions Act*, Cap. 25 to perform any service with the Council, his service with the Council shall, unless the Governor-General otherwise decides, count for pension under that Act as if the officer had not been so seconded or transferred.

(2) Where

(a) a public officer is transferred to an office in the service of the Council;  
or

(b) an officer of the Council is transferred to an office in the public service, the *Pensions Act*, Cap. 25 shall apply to him as if his service with the Council were other public service within the meaning of that Act, and the *Pensions Regulations, 1947* shall apply to him accordingly.

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(3) Except where the Board may otherwise decide, a period of secondment shall not exceed 2 years.

### **Funds and resources of the Council**

**14.** The funds and resources of the Council shall comprise

- (a) such moneys as may be appropriated by Parliament;
- (b) moneys arising from grants or donations;
- (c) all moneys payable to the Council for or in connection with the carrying out of its functions; and
- (d) all property and assets acquired by the Council with the approval of the Minister.

**Application of funds**

- 15.** The funds of the Council shall be applied towards
- (a) the payment of salaries, fees, allowances, gratuities, pensions or similar benefits to persons employed or formerly employed by the Council;
  - (b) the payment of remuneration, fees and allowances of members of the Board and members of committees established by the Board;
  - (c) the capital and operating expenses, including maintenance and insurance of the property of the Council; and
  - (d) the meeting of obligations and the performance of any of the functions of the Council and matters incidental thereto.

**Borrowing powers**

- 16.** The Council may, with the approval in writing of the Minister responsible for Finance, borrow money from the Government or any person by way of loan, overdraft or otherwise upon such terms with respect to the borrowing, issue, transfer and interest as the Minister approves for
- (a) the provision of working capital; or
  - (b) the performance of the functions of the Council under this Act.

**Guarantee**

- 17.(1)** The Government may guarantee in such manner and on such conditions as Parliament thinks fit,
- (a) the repayment of any loan to the Council; and
  - (b) the payment of interest charges or any other charges in respect of that loan.
- (2) Subsection (1) does not apply to a sum borrowed from the Government.

**Exemption from tax**

**18.** The Council shall be exempt from the payment of stamp duty, corporation tax, customs duty, value added tax and all other taxes, charges, levies and imposts on its income or profits or on assets which it acquires for its own use.

**Accounts and audit**

**19.(1)** The Council shall keep proper records of its accounts and transactions, and those accounts shall be audited annually by an auditor appointed by the Council with the approval of the Minister.

(2) The Auditor-General may at any time, and shall on the direction of the Minister responsible for Finance, carry out an investigation or audit of the accounts of the Council.

**Annual report**

**20.(1)** The Council shall within 6 months of the end of each financial year submit to the Board for consideration and transmission to the Minister a report dealing generally with the activities of the Council during the preceding year.

(2) The report referred to in subsection (1) shall contain such information relating to the operations and policies of the Council as the Minister may require.

(3) The Minister shall lay a copy of the report referred to in subsection (1) before Parliament.

**Registration and accreditation**

**21.(1)** An institution must be registered with the Council in order to be recognised by the Council.

(2) An institution may seek accreditation from the Council in respect of

(a) its operation as an educational institution; and

- (b) each of its programmes of study.
- (3) Where the Council approves the accreditation of an institution referred to in subsection (1), the institution shall be registered by the Council.
- (4) Where the Council grants accredited status to an institution or to a programme of study at that institution, the Council shall
  - (a) publish the name of that institution or programme of study in the *Official Gazette* within one month of the grant of that status; and
  - (b) annually publish in the *Official Gazette* a list of accredited programmes and institutions pursuant to section 4(k).

### **Offences**

- 22.(1)** An officer of the Council who communicates or reveals
- (a) any information, thing or matter concerned with or related to the operations of the Council;
  - (b) any information, advice or opinion given by the Board or any committee

to any person to whom he is not authorized on behalf of the Council or Board to so communicate or reveal is guilty of an offence.

(2) An officer of the Council who obtains, reproduces or retains in his possession any information, matter, thing, advice or opinion referred to in subsection (1) which he is not authorised on behalf of the Council to so obtain, reproduce or retain in his possession is guilty of an offence.

(3) A person who contravenes subsections (1) or (2) is liable on summary conviction to a fine of \$25 000 or to imprisonment for a term of 2 years.

(4) Where it is proved that an institution has misrepresented to the public the recognition accorded to it, to its courses or awards, every director or manager of the institution is liable on summary conviction to a fine of \$100 000 or to imprisonment for a term of 3 years or to both.

**Appeals**

- 23.(1)** An appeal from
- (a) any decision or action of the Council regarding the assessment of courses;
  - (b) the accreditation or registration of institutions; or
  - (c) the withdrawal of approval, recognition or title granted to or conferred upon any institution referred to in section 7(2)

shall be heard by the Minister.

- (2) An appeal from the decision of the Minister under subsection (1) shall be to a Judge in chambers.

**Transitional**

**24.(1)** An institution that is lawfully performing its function at the commencement of this Act shall, for a period of 6 months thereafter, be deemed to be authorised to continue to perform its functions.

(2) Where approval in respect of any institution was not granted before the commencement of this Act and that institution wishes to operate on or after the commencement of this Act, the institution shall be required to register with the Council within 6 months of the commencement of this Act.

(3) The Council shall, on the application of an institution to have a programme of study accredited, make its decision with respect to that approval within 6 months of the date of the application.

**Review**

**25.** The Minister shall undertake a review of the Council every 3 years to determine its effectiveness and efficiency.

**Regulations**

**26.(1)** The Council with the approval of the Minister may make regulations generally for the purpose of giving effect to this Act.

(2) Regulations made under this Act are subject to negative resolution.

**Amendment of Schedules**

**27.** The Minister may by order amend any of the *Schedules* to this Act.

**FIRST SCHEDULE***(Section 9(2))**Constitution, Functions and Procedure of the Board of Directors***Constitution of Board**

- 1.(1) The Board of the Council shall comprise
- (a) 7 persons appointed by the Minister by instrument in writing as follows:
    - (i) two representatives of the Ministry of Education with at least 10 years experience in tertiary education;
    - (ii) one human resource management professional;
    - (iii) one representative from the Congress of Trade Unions and Staff Associations;
    - (iv) one representative from the employers' organisation; and
    - (v) two persons, at the Minister's discretion;  
*[2008/7]*
  - (b) the Head of the Public Service and the Executive Director, *ex officio*; and
  - (c) a secretary, who shall be chosen by the Directors from amongst themselves.
- (2) The Minister shall appoint a Chairman and Deputy Chairman from among the Directors.

**Tenure**

- 2.(1) A Director shall hold office for a period of 2 years and shall be eligible for reappointment.

(2) Where a vacancy is created by the death, resignation or removal from office of a Director, a person may be appointed in accordance with sub-paragraph (1) to fill that vacancy.

### **Resignation of Chairman and Director**

**3.(1)** The Chairman or Deputy Chairman may at any time resign his office by instrument in writing addressed to the Minister, and upon the date of receipt by the Minister of such instrument the Chairman or Deputy Chairman ceases to be Chairman or Deputy Chairman and a member of the Board.

(2) A Director may at any time resign his office by instrument in writing addressed to the Chairman, who shall forthwith cause the instrument to be forwarded to the Minister; and upon the date of the receipt by the Minister of the instrument, that Director ceases to be a Director.

### **Revocation of appointment**

**4.** The Minister shall terminate the appointment of a Director where the Director

- (a) fails without reasonable excuse to attend 3 consecutive meetings of the Board;
- (b) has become bankrupt or has made an arrangement with his creditors;
- (c) is incapacitated by physical or mental illness;
- (d) engages in fraudulent or other dishonest behaviour or behaviour conflicting with the discharge of his duties as a member of the Board;  
or
- (e) is otherwise unfit to discharge the functions of a Director of the Board.

### **Publication in *Official Gazette***

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

**Seal**

- 6.(1) The seal of the Council shall be kept in the custody of the Chairman or Deputy Chairman or such officer of the Council as the Council approves, and may be affixed to documents or instruments pursuant to a resolution of the Council in the presence of the Chairman or Deputy Chairman and the secretary.
- (2) The seal of the Council shall be authenticated by the signature of the Chairman or Deputy Chairman and the secretary.
- (3) All documents or instruments, other than those required by law to be under seal, made by the Council, and all decisions of the Council, may be signed under the hand of the Chairman or Deputy Chairman.

**Meetings**

7. The Board shall regulate its own procedure and shall meet at least once every quarter and at such other times as may be necessary or expedient for the transaction of the business of the Council.

**Presiding at meetings**

8. The Chairman or, in his absence, the Deputy Chairman shall preside at all meetings of the Board and, in the case of the absence of both, the Directors present and constituting a quorum shall elect a temporary Chairman from among their number who shall preside at the meeting.

**Quorum**

9. A majority of the Board of Directors shall constitute a quorum.

**Decisions**

10. The decisions of the Board shall be by a majority of votes and, in any case in which the voting is equal, the Chairman, the Deputy Chairman or the temporary Chairman presiding at the meeting has, in addition to an original vote, a second or casting vote.

**Disclosure of director's interest**

**11.(1)** A Director who

- (a) has any interest in a company with which the Board proposes to make a contract or otherwise transact business; or
- (b) has a vested interest in a matter under consideration by the Board or its committees,

shall disclose to the Board the particulars of that interest; and details of that disclosure shall be recorded in the minutes taken at the meeting at which the disclosure is made.

(2) A Director referred to in sub-paragraph (1) shall not take part in any deliberation or discussion of the Board or vote on any question relating to that matter.

**Minutes**

**12.(1)** Minutes of each meeting shall be kept by the secretary and shall be confirmed by the Chairman or Deputy Chairman at the next meeting of the Board.

(2) A certified copy of the confirmed minutes of each meeting shall be forwarded to the Minister within 14 days after the meeting at which they were confirmed.

**Attendance of non-members meetings**

**13.** The Board may co-opt persons to attend any of its meetings for the purpose of assisting or advising it respecting any matters with which it is dealing, but a co-opted member does not have a right to vote.

**Appointment of committees**

**14.(1)** The Board may appoint such number of committees as it deems fit, and may delegate any of its functions to the committees.

- (2) Membership of a committee under this paragraph is not limited to Directors.
- (3) Subject to the directions of the Board, a committee may determine its own procedure and the times and places of its meetings.
- (4) Where persons who are not members of the Board are appointed to committees, the Board with the approval of the Minister may determine the remuneration and allowances payable to those persons.
- (5) The Board may reject a report of any committee appointed under this paragraph or adopt it with or without modification.

### **SECOND SCHEDULE**

*(Section 8(2))*





**THIRD SCHEDULE**

*(Section 2, 8(4))*

