

CHAPTER 43

**TECHNICAL AND VOCATIONAL
EDUCATION AND TRAINING COUNCIL**

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FIRST SCHEDULE

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CHAPTER 43**TECHNICAL AND VOCATIONAL
EDUCATION AND TRAINING COUNCIL**

An Act to make further provisions for technical and vocational education and training, and for matters related or incidental thereto. 1993-11.
2000-9.
2006-33.

[6th December, 1993] Commence-
ment.
1993/95.

Citation

1. This Act may be cited as the *Technical and Vocational Education and Training Council Act*. Short title.

Interpretation

2. In this Act Definitions.

"Council" means the Technical and Vocational Education and Training Council established by section 3;

"Fund" means the Employment and Training Fund established by section 13;

"Minister" means the Minister responsible for Labour.

3. (1) The Technical and Vocational Education and Training Council is established by this Act. Establish-
ment of
Council.

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

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

(4) The Minister may by order amend the Schedules. 2000-9.

- 4.** The functions of the Council are
- (a) to advise the Minister on policy relating to technical and vocational education and training;
 - (b) to prepare plans for technical and vocational education and training in accordance with national policies and economic needs;
 - (c) to ensure that agreed plans for technical and vocational education and training are implemented;
 - (d) to co-ordinate technical and vocational education and training at the tertiary level;
 - (e) to establish standards for technical and vocational education and training;
 - (f) to establish training priorities, tests, qualifications and accreditation;
 - (g) to determine the facilities and resources required to ensure satisfactory standards of technical and vocational education and training, and the welfare of students, trainees and staff of training institutions;
 - (h) to advise the Minister on the allocation of resources for technical and vocational education and training;
 - (i) to make grants and loans for the support and provision of technical and vocational education and training;
 - (j) to carry out such other functions relating to technical and vocational education and training as the Minister may require.

Directions.

- 5.** The Minister may give directions of a general or specific nature to the Council and the Council shall comply with those directions.

Committees

6. (1) The Council may appoint committees to perform, in Committees.
relation to technical and vocational education and training,

- (a) such of its functions as it delegates in writing; and
- (b) such other functions as are specified in section 7.

(2) The *Second Schedule* applies to the constitution of Second
Schedule.
committees and otherwise in relation thereto.

7. The additional functions of a committee are as follows Additional
functions of
committees.

- (a) to undertake research or assist persons in undertaking research into matters relating to technical and vocational education and training;
- (b) to advise the Council on all aspects of technical and vocational education and training;
- (c) to advise the Council on the training facilities to be provided at institutions for persons employed or seeking training in technical and vocational education and training;
- (d) to advise on or make arrangements for giving selection criteria in respect of persons wishing to obtain technical and vocational education and training;
- (e) to apply or make arrangements for tests and other methods of ascertaining the standards of efficiency to be recommended by the committee for persons seeking technical and vocational education and training;
- (f) to recommend the terms applicable to persons wishing technical and vocational education and training.

Staff

8. (1) There shall be an Executive Director, who shall be Executive
Director.
appointed by the Council and be responsible for the administration of this Act.

(2) The Executive Director shall have such powers and perform such functions as are conferred upon him by the Council.

Other staff. **9.** The Council shall appoint such other staff as may be required for the purposes of this Act.

Conditions for payment of salaries, pensions, etc. **10.** The Council shall not, without the prior approval of the Minister,

- (a) assign a salary in excess of such sum as the Minister determines and notifies in writing to the Council in respect of any office established by the Council;
- (b) appoint any person to a post on the staff of the Council to which a salary in excess of the sum determined by the Minister under paragraph (a) is assigned; or
- (c) make provision for the payment of pensions, gratuities or other like benefits to officers or employees of the Council in respect of services to the Council.

Pension where officers are transferred or seconded. Cap. 25. 2006-33. **10A.** (1) Where a public officer is seconded from a pensionable office within the meaning of the *Pensions Act* 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.

- (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,

Cap. 25. the *Pensions Act* shall apply to him and,

- (i) his service with the Council shall be treated as other public service under the *Pensions Act*; and
- (ii) the *Pensions Regulations, 1947* shall apply to him as if the Council were a Scheduled Government within the meaning of regulation 9(1) of those Regulations.

Cap. 25.
1947-20.

(3) Where a public officer is transferred to an office in the service of the Council or an officer of the Council is transferred to an office in the public service, the Council shall refund to the Consolidated Fund all moneys payable as pension in respect of the service of that officer with the Council.

Financial

11. (1) The Council shall keep proper accounts of its financial transactions in relation to the administration of the resources of the Fund in accordance with the directions of the Auditor-General or any auditor appointed under subsection (2) for the purpose of auditing such accounts, and shall prepare a statement of accounts in respect of each financial year. Accounts and audits.

(2) The Council shall, within 3 months after the end of each financial year, submit the accounts of the Fund for audit to the Auditor-General or to an auditor appointed for the purpose by the Council with the approval of the Minister.

(3) The Auditor-General shall, on the direction of Cabinet, carry out at any time an investigation into, or audit of, such accounts.

(4) The Council and all other persons concerned with the keeping of the accounts of the Fund shall grant to the Auditor-General or other auditor appointed to audit the accounts under subsection (2) access to all books, documents, cash and securities relating to those accounts, and shall give him on request all such information as may be within their knowledge in relation to the financial transactions of the Council.

12. (1) The Council shall, not later than 6 months after the end of the financial year, submit to the Minister a report containing Annual report.

- (a) an account of the activities of the Council throughout the preceding financial year in such detail as the Minister directs; and
- (b) a statement of the accounts of the Fund for that financial year audited in accordance with section 11.

(2) A copy of the report of the Council referred to in subsection (1) shall be printed and laid before both Houses of Parliament and published in the *Official Gazette*.

Employment and Training Fund

13. The Employment and Training Fund is established by this Act. Establishment of Fund.

14. The Fund shall be used generally for the purposes of promoting and supporting training and the upgrading of skills for the labour force and more particularly for the following Purposes of fund.

- (a) to provide financial assistance such as grants and loans for training and skills upgrading;
- (b) to subsidise the costs incurred by employers in training and retraining of employees in accordance with the criteria established by the Council;
- (c) to support training programmes in accordance with national priorities, including training for retrenched workers and self-employed persons.

15. The resources of the Fund are Resources of Fund.

- (a) moneys voted by Parliament for the purposes of the Fund;
- (b) moneys made available to the Fund out of the training levy established by the *Occupational Training Act*; and Cap. 42.
- (c) any other moneys, whether from gifts, grants or otherwise provided for the purposes of the Fund.

16. The Council shall set out guidelines respecting the following Grants and loans.

- (a) the criteria for eligibility for receiving grants or loans from the Fund;
- (b) the procedures for evaluation of proposals for grants or loans from the Fund;
- (c) the conditions for award of grants or loans; and

- (d) the procedures for monitoring the performance and outcome of training required to satisfy the conditions for award of grants or loans.

Training
schemes.

17. (1) The Council may, with the approval of the Minister and subject to section 19, formulate schemes for regulating training in any occupation.

(2) A term of any contract for training registered before the date of the coming into force of the scheme may not be revoked or varied by means of a scheme.

(3) A scheme may contain, in respect of any occupation to which it relates

- (a) the qualifications, including the age and educational standards required for trainees;
- (b) the practical training that employers are required to provide for their trainees;
- (c) the theoretical training that is required to be provided by, or at the expense of, employers for their trainees, or that trainees are required to undergo, and the manner in which the training is to be provided or undergone;
- (d) the proficiency tests or examinations that trainees are required to take;
- (e) the maximum number of ordinary working hours trainees may be required or permitted to work during any week or in any day;
- (f) the days on which, the hours in any day before or after which, and the intervals during which, no trainee can be required or permitted to work;
- (g) the maximum period of overtime that trainees may be required or permitted to work on any day or during any specified period;
- (h) the minimum wages and other conditions that apply to trainees;
- (i) the minimum remuneration and other conditions that apply in respect of any period during which a trainee is unable, by reason

of any condition of training, or other circumstances, to render service to his employer during ordinary working hours;

- (j) any other matter that, in the opinion of the Council, with the approval of the Minister, is necessary for the effective operation of the scheme.

(4) Different conditions of training may be specified in a scheme in respect of different classes of employers, trainees or occupations; and the Council may, in determining the different conditions for any scheme, apply any method of differentiation it thinks fit.

(5) A scheme may be amended by a subsequent scheme or by an order made by the Council with the approval of the Minister.

18. (1) Before a scheme comes into operation, the Council shall cause to be published in the *Official Gazette*, and twice, with an interval of at least 7 but not more than 14 days between each publication, in a newspaper published in Barbados, a notice of its intention to make a scheme.

Procedure
respecting
schemes.

(2) A notice under subsection (1) shall contain a statement of a place where copies of the proposed scheme may be inspected, or are available, at a prescribed fee and a time that is not less than 45 days from the first date of such publication, within which any objection to the proposed scheme may be submitted to the Council.

(3) An objection to a proposed scheme shall be in writing and shall contain the grounds of objection and any proposed deletions from, or additions or modifications to, the proposed scheme.

(4) At the expiration of the time specified for the making of objections, the Council may, with the approval of the Minister,

- (a) withdraw the proposed scheme;
- (b) give effect to the proposed scheme as published under subsection (2); or
- (c) give effect to the proposed scheme, subject to such deletions, additions or modifications as it thinks fit.

(5) No deletion from, addition or modification to, any proposed scheme may be made under paragraph (c) of subsection (4) if in the opinion of the Council such deletion, addition, or modification would effect important alterations in the character of the proposed scheme as published.

(6) The Council may, with the approval of the Minister, amend a proposed scheme otherwise than as permitted under paragraph (c) of subsection (4), but in that case all the provisions of this section apply to that amended scheme as if it were an original proposed scheme.

(7) When a proposed scheme is finalised, the Council shall cause it to be published in the *Official Gazette* and in a newspaper published in Barbados.

Miscellaneous

Contracts.
2000-9.

19. The Council may enter into contracts with employers, associations and training institutions for the provision of training and related services.

Supervision
of trainees.

20. (1) For the purposes of this Act, an employer of trainees shall, subject to the approval of the Council, appoint

- (a) a person to be responsible for the general supervision of the training of trainees; and
- (b) a person to be responsible for the day-to-day guidance of trainees in matters related to their occupation, at each work place where trainees are regularly employed for a period of not less than 3 months at a time.

(2) Where the Council is not satisfied with the competence of the person appointed as a supervisor of trainees, the Council may, by notice in writing, specify the nature of the training which the Council requires that person to undertake before his appointment may be approved.

(3) An employer who fails to comply with this section is guilty of an offence.

21. The Council shall prepare a national policy for technical and vocational education and training to meet the needs of society and the economy. Policy.

22. (1) The Council shall prepare a strategy and plan for technical and vocational education and shall update it each year. Plans.

(2) The strategy and plan referred to in subsection (1) shall identify outputs and priorities and recommend allocation of resources to implement the plan in the most cost-effective manner.

23. The Council shall establish an effective system for monitoring the implementation of the technical and vocational education and training strategy and plan. System for monitoring.

24. A person guilty of an offence under this Act is liable on summary conviction to a fine of \$2 500 or imprisonment for one year or both. Penalty.

25. (1) The Council may, with the approval of the Minister, make regulations Regulations.

- (a) prescribing the form and terms of any contract of training;
- (b) relating to the manner of proof of educational qualifications;
- (c) prescribing the nature of returns that employers are required to furnish to the Council, and the period during which the returns are to be furnished;
- (d) prescribing the procedure for the registration and transfer of contracts for training, and for the notification of the expiration or termination of such contracts;
- (e) for the holding of tests in respect of any specified occupation, and for the granting of a certificate of proficiency to any person who voluntarily enters for, and passes, any such test, notwithstanding that that person is not a trainee;
- (f) prescribing the form and manner in which notice of completion of training is to be given by employers;

- (g) prescribing the form of certificates of completion of training;
and
- (h) generally for giving effect to the provisions of this Act.
- (2) Regulations under this section may differentiate between different classes of employers or classes of trainees and different occupations.

FIRST SCHEDULE

(Section 3)

CONSTITUTION OF THE TECHNICAL AND VOCATIONAL
EDUCATION AND TRAINING COUNCIL

1. (1) The membership of the Council shall be as follows:
- 2000-9. (a) the Permanent Secretary in the Ministry with responsibility for Labour,
ex officio;
- (b) the Chief Education Officer, *ex officio*;
- 2000-9. (c) the Executive Director of the Technical and Vocational Education and
Training Council;
- 2000-9. (d) The Director of the Barbados Vocational Training Board, *ex officio*;
- 2000-9. (e) the following persons appointed by the Minister:
- (i) 3 members appointed on recommendations of the associations
which represent employers;
- (ii) 3 members appointed on recommendations of the Boards of the
Barbados Institute of Management and Productivity, the Samuel
Jackman Prescod Polytechnic and the Barbados Community College;
- (iii) 2 members appointed on recommendations of the trade unions.
- (2) The Minister shall appoint one member as Chairman, and one member as
Deputy Chairman.
- (3) In the case of the inability of any member to act, the Minister may appoint
a person to act temporarily in the place of that member.

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2. A member of the Council holds office for a term of 3 years unless he dies, resigns or has his appointment revoked before the end of that term, but
 - (a) a person who is appointed to fill a vacancy created by the death, resignation or removal from office of a former member shall hold office only for the unexpired portion of the term of that former member; and
 - (b) every member is, on the expiration of the term of his appointment, eligible for re-appointment for a further term.
 3. The Minister may grant leave of absence to a member of the Council and may appoint a person to act temporarily in the place of that member.
 4. A member of the Council other than the Chairman may resign his office by instrument in writing addressed to the Minister transmitted through the Chairman and, from the date of the receipt of the instrument by the Minister if no date is specified therein, that member ceases to be a member of the Council.
 5. The Chairman may at any time resign his office by instrument in writing addressed to the Minister and, from the date of the receipt of such instrument by the Minister if no date is specified therein, he ceases to be Chairman and to be a member of the Council.
 6. The Chairman or, in the event of his being absent from Barbados or for any reason unable to act, the Deputy Chairman, is required to call a special meeting with 7 days after receiving a requisition to do so by any 4 members of the Council.
 7. Six members of the Council form a quorum.
 8. Decisions of the Council are to be by a majority of votes, and where the voting is equal the Chairman, in addition to his original vote, has a second or casting vote.
 9. The Council is required to meet at such times as may be expedient for the transaction of business and such meeting shall be held at such places and times and on such days as the Council determines.
 10. The Executive Director shall appoint a member of the staff of the Council to be the Secretary to the Council.
 11. Minutes of each meeting are to be duly kept by the Secretary or other person appointed by the Council for the purpose, and are to be confirmed by the Council at its next meeting and signed by the Chairman or other person presiding at that meeting.

12. The Council 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.

13. Subject to this Schedule, the Council may regulate its own procedure.

14. All documents made by, and all decisions of, the Council are to be signified under the hand of the Chairman or any member authorised to act in that behalf, or by the Secretary.

SECOND SCHEDULE

(Section 6)

CONSTITUTION OF COMMITTEES

1. (1) A committee comprises not more than 6 persons.

(2) The Council shall, in respect of a committee, appoint one member of that committee to be Chairman and another to be Deputy Chairman respectively.

2. (1) A member of a committee may, with the permission of the Chairman of that committee, appoint a person to act for him in case of his absence from a particular meeting.

(2) No person appointed to act as a member of a committee in pursuance of subparagraph (1) may appoint a person to act for himself nor may be appointed to act for more than one member; otherwise he may perform all the functions of a member of that committee.

3. A member of a committee shall hold office for a period not exceeding 3 years, but is eligible for re-appointment.

4. Where a vacancy occurs in respect of a committee, the Council may appoint a person to fill that vacancy for the unexpired portion of the period in respect of which the vacancy occurs.

5. The Council may revoke the appointment of a member of a committee who

(a) is absent from 3 consecutive meetings of the committee without leave of the Council;

(b) is absent from Barbados for 3 months or more without the permission of the Council;

- (c) is unable to perform his duties as a member of the committee; or
 - (d) fails to comply with a direction given by the Council.
6. The Council may assign a person to be secretary of a committee.
7. A committee shall meet as often as the Chairman decides, but at intervals not exceeding 3 months.
8. A quorum consists of 4 members.
9. Decisions of a committee are to be by a majority of votes, and where voting is equal, the Chairman, in addition to his original vote, has a casting vote.
10. A committee may co-opt persons to attend any of its meetings for the purpose of assisting or advising it with respect to any matter with which it is dealing, but a co-opted person is not entitled to vote and shall not be counted for the purpose of constituting a quorum.
11. A committee may establish a sub-committee to assist in the performance of its functions and may co-opt to serve on any such sub-committee, any person whose assistance and advice the committee considers necessary for the purpose for which the sub-committee is established.