

No. 18 of 2006.

*The Hospitality Training Institute
Act, 2006.*

1 ANTIGUA
AND
BARBUDA



[L.S.]

I Assent,

James B. Carlisle,
Governor-General.

17th November, 2006.

ANTIGUA AND BARBUDA

No. 18 of 2006

ANACT to provide for the establishment of an educational and training institution to be known as the Hospitality Training Institute, for the management and control of such institute and other matters connected thereto

*[Published in the Official Gazette Vol. XXVI
No. 73 dated 7th December, 2006.]*

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. This Act may be cited as the Hospitality Training Institute Act, 2006 and shall come into force on a date appointed by the Minister by Order published in the *Gazette*.

Short title and commencement.

2. In this Act unless the context otherwise requires—

Interpretation.

“academic year” means a period of twelve months commencing in or about the month of September and ending in or about September of the following year, or such other period as the Board may determine;

“Board” means the Board of management established by section 6(1);

“Director” means the person appointed under section 14(1) and includes any person for the time being performing the functions of Director;

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“Minister” means the Minister responsible for Tourism;

“hospitality industry” means the sectors of economic activity engaged in the provision of services, entertainment, care and accommodation of persons including travellers and tourists; and

“Institute” means the Hospitality Training Institute, established under section 3(1);

Establishment of Institute.

3. (1) There is established in Antigua and Barbuda the Hospitality Training Institute.

(2) The Institute shall be a body corporate with perpetual succession and a common seal and shall be capable of suing and being sued and, subject to the provisions of this Act, of purchasing or otherwise acquiring, holding, charging and alienating real or personal property and of doing or performing such acts as bodies corporate may by law do or perform.

(3) The aim of the Institute shall be to provide academic and practical training in—

- (a) accommodation;
- (b) adventure tourism and recreation;
- (c) national attractions;
- (d) events and conferences;
- (e) food and beverages;
- (f) tourism services;
- (g) transportation; and
- (h) the travel trade,

for the promotion and encouragement of standards in the hospitality industry.

Major Industry sectors.

4. (1) The Institute may offer training and instruction in—

- (a) hospitality management;

(f) one member appointed by the Minister selected as representative of Trade Unions; and

(g) the Director of the Institute, *ex-officio*.

(3) The Minister shall appoint a chairman and a deputy chairman of the Board from among the Board members.

(4) The appointment of all members of the Board other than *ex-officio* members shall be for a period of three years, but any such member shall be eligible for re-appointment.

(5) If the Chairman of the Board is unable to act, then the Deputy Chairman shall act in the place of the Chairman.

(6) Any member of the Board may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman, and from the date of receipt by the Minister of such instrument, such member shall cease to be a member of the Board.

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

(8) The Minister may, on the application of a member in writing, grant leave of absence to the member.

(9) The Minister may, at any time, revoke the appointment of a member of the Board if—

(a) the member is incapable for any reason of performing his functions as a member;

(b) the member has been absent from meetings of the Board for three consecutive meetings without having been granted leave under subsection (8);

(c) the member fails to disclose an interest in accordance with section 9; or

(d) the Minister on reasonable grounds thinks it expedient to do so.

(10) 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.

(11) The appointment made under sub-paragraph (10) shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.

(12) The names of all members of the Board as first constituted and every change, whether by death, resignation, revocation, or effluxion of time, in the membership therefor shall be published in the *Gazette*.

(13) The Board members shall receive such remuneration as the Minister may determine whether by way of honorarium, salary or fees.

(14) The provisions of Schedule 1 shall have effect as to the procedure of the Board. Schedule 1.

7. (1) The Seal of the Institute shall be kept in the custody of the Director and shall only be affixed to instruments pursuant to a resolution of the Board and the sealing of an instrument shall be authenticated by the signature of the Chairman or deputy Chairman and the Director and shall be officially and judicially noticed. Seal.

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

8. No member of the Board shall be liable in damages for anything done or omitted in the discharge or purported discharge of any function under, or authorised by this Act or any other enactment unless it is shown that the act or omission was in bad faith. Limitation of liability.

9. (1) If a member of the Board has any pecuniary interest, direct or indirect, in any contract, proposed contract, licence or other matter and is present at a meeting of the Board at which the contract, proposed contract, licence or other matter is the Declaration of interests.

subject of consideration, he shall at the meeting and as soon as practicable after its commencement disclose the fact and shall not take part in the consideration or discussion of the contract, proposed contract, licence or other matter or vote on any question with respect to it and shall be excluded from the meeting for the duration of the consideration, discussion and voting procedure.

(2) A disclosure under paragraph (1) shall be recorded in the minutes of the Board.

(3) No act or proceeding of the Board shall be questioned on the ground that a member of the Board has contravened this section.

Pecuniary
interests for the
purposes of
section 9.

10. (1) For the purposes of section 9, a member of the Board shall be treated, subject to the following provisions of this section and to section 11, as having indirectly a pecuniary interest in a contract, proposed contract, licence or other matter if—

- (a) he or any nominee of his is a member of a company or other body with which the contract was made or is proposed to be made or which has a direct pecuniary interest in the matter under consideration;
- (b) he is a partner, or is in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct pecuniary interest in the matter under consideration; or
- (c) he, or any partner of his is a professional adviser to a person who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter.

(2) Paragraph (1) shall not apply to membership of or employment under any public body.

(3) In the case of married persons the interest of one spouse shall be deemed for the purpose of section 9 to be also the interest of the other.

Conflict of
Interest.

11. Section 9 shall not apply to an interest in a contract, proposed contract, licence or other matter which a member of the Board has as a member of the public or to an interest in any

matter relating to the terms on which the right to participate in any service is offered to the public.

12. (1) The functions of the Board shall be—

Functions of the
Board.

- (a) to manage, conduct and supervise the activities of the Institute;
- (b) to have general supervision of the buildings, premises and grounds of the Institute;
- (c) to regulate the conduct and discipline of the employees and students of the Institute; and
- (d) to perform such other functions as may be conferred by or under this Act.

(2) For the purposes of performing the functions set out in subsection (1) the responsibilities of the Board shall include—

- (a) formulating the content of courses of study offered by the Institute;
- (b) monitoring training standards;
- (c) granting or conferring certificates, diplomas, associate degrees, degrees and honorary awards and honorary degrees;
- (d) prescribing qualification for admission;
- (e) appointing, promoting and dismissing administrative and technical staff;
- (f) advising the Minister on all aspects pertaining to the hospitality industry; and
- (g) appointing committees where necessary to perform specific functions.

(3) The Board shall make recommendations for regulations to the Minister—

- (a) prescribing or amending the fields or programmes of study;

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- (b) prescribing the subject of instruction, the relative prominence and value to be assigned to each subject or group of subjects and the extra-curricular activities of the Institute;
- (c) prescribing entry requirements and the conferment of degrees and awards;
- (d) prescribing the academic year, terms, vacations and holidays to be observed by the Institute;
- (e) prescribing the method of assessment of student performance;
- (f) prescribing the terms of withdrawal and refund;
- (g) prescribing the fees and costs at the Institute; and
- (h) prescribing or regulating such other matters covered by the aims of the Institute or the functions of the Board as the Board shall consider appropriate to include in regulations.

(4) Subject to subsection (5), the Board may, in the exercise of its functions, delegate such functions as it thinks expedient to the Chairman or the Director or to a committee appointed by the Board although the delegation of any such power or authority shall not prevent the Board from itself exercising the power or authority.

(5) Nothing contained in subsection (4) shall authorise the Board to delegate to any person the exercise of any power to make rules, and any delegation of functions under subsection (4) shall specify limits on the expenditure which may be incurred in their performance.

(6) The Board may, after consultation with the Minister, enter into an association or affiliation with such universities, colleges or other institutions of tertiary education as the Institute may consider appropriate.

Policy
directions.

13. The Minister may give the Board directions, of a general nature only, as to the policy to be followed in the performance of its functions and the Board shall give effect to all such directions.

14. (1) There shall be a Director of the Institute appointed by the Board with the approval of the Minister who shall be responsible for the implementation of the policies and programmes approved by the Board and the day-to-day management of the Institute.

Director, staff
and faculty.

(2) The staff of the Institute shall consist of a Director, Deputy Director, Bursar and such number of Heads of Department, lecturers and other employees as the Board may from time to time determine.

(3) Members of the staff at the Institute other than the Director shall be appointed by the Board in consultation with the Director.

(4) The terms and conditions of employment of officers and employees of the Institute shall be prescribed from time to time by the Board.

15. The Institute shall be organised in Departments and in the manner as outlined in the Second Schedule.

Departments
Second Schedule.

16. (1) There is established for the purposes of this Act a Special Fund to be known as the Antigua and Barbuda Hospitality Institute Fund which shall be administered by the Board.

Funds.

(2) There shall be paid into the Fund, for the purposes of this Act—

- (i) all monies voted by Parliament;
- (ii) all donations, grants, awards and endowments given to the Board;
- (iii) all proceeds collected for various services and training offered by the Institute; and
- (iv) such other monies as the Board may from time to time raise through its activities.

(3) The Board shall open and maintain a bank account in a bank approved by the Accountant General and all monies raised and collected under this Act or received for the purposes of this Act shall be paid into that bank account in a bank as soon as practicable after being received.

(4) The Board shall ensure that no money is withdrawn from, or paid out of, the bank account without the Board's authority and, subject to this Act, may make rules providing for the due custody of monies forming part of the funds and resources of the Board.

Accounts and
Audit.

17. (1) Subject to subsection (2), the Board shall cause to be kept proper books of accounts and other books and records in respect of its operations in which shall be recorded all financial transactions of the Board and prepare a financial statement in respect of each financial year.

(2) The accounts of the Institute shall be prepared according to internationally accepted accounting standards and shall be audited annually by an auditor appointed by the Board and may be reviewed by the Director of Audit.

(3) The members and employees of the Board shall grant to the Director of Audit or to any public officer on the staff of the Director of Audit access to all books, documents, monies and property of the board and shall give him or such officer on request all such information as may be within their knowledge in relation to the operation of the Board.

Reports,
estimates and
statements.

18. (1) The Board shall submit to the Minister—

- (a) within three months after the end of each academic year, or within such further time as the Minister may allow, a report on the activities of the Institute during that academic year;
- (b) on or before 31 March in each year, a statement of its accounts, audited in accordance with the provisions of section 17(2), for the financial year ending in the December of the previous year;
- (c) on or before 31 August in each year, the estimates of the revenue and expenditure for the Institute in respect of the next financial year for the approval of the Minister.

(2) The Minister shall lay copies of the reports, statements and estimates, together with the auditor's report, before the House of Representatives.

19. (1) Subject to subsection (2), the Board may borrow moneys required by it for meeting any of its obligations or performing any of its functions.

Borrowing powers of the Board.

(2) The powers of the Board to borrow shall be exercisable only with the prior approval of the Minister of Finance, as to the amount, source of borrowing and the terms on which the borrowing may be effected.

(3) Any approval given by the Minister of Finance under this section may be either general or limited to a particular borrowing and shall be subject to such conditions as the Minister of Finance may determine.

20. (1) The Minister of Finance may guarantee in such manner and on such terms and conditions as he may think fit, the repayment of the principal and payment of interest in respect of any borrowing approved by him under this Act.

Borrowing may be guaranteed by Minister of Finance.

(2) Where the Minister of Finance is satisfied that there has been default in the repayment of the principal or payment of interest of any moneys borrowed under this Act, he may direct the repayment or payment as the case may be out of the Consolidated Fund of the amount in respect of which there has been such default.

(3) The Board shall make to the Accountant General at such times and in such manner as the Minister of Finance may direct, payment of such sums as may be so directed in or towards payments of any sums issued in fulfilment of any guarantee given under this section, and payment of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister of Finance may direct, and different rates of interest may be directed as regards different sums and as regards interest to different periods.

(4) All sums received under subsection (3) by the Accountant General shall immediately be paid into the Consolidated Fund.

21. (1) No stamp duty shall be chargeable in respect of any instrument executed by or on behalf of, or in favour of the Institute in cases where, but for this exemption, the Institute would be liable to pay the duty chargeable in respect of such instrument.

Exemptions.

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(2) The Institute shall not be liable for the payment of income tax in respect of income received by it in accordance with the provisions of this Act.

(3) The Institute shall be exempt from the payment of all customs duties and consumption taxes that would otherwise be payable on goods required by the Institute for the performance of its functions under this Act.

(4) The Institute shall be exempt from the payment of all property tax in respect of all property owned and used by it for the performance of its functions under this Act.

Vesting.

22. All lands, building, equipment, machinery and any other property whether real or personal wheresoever situated held at the coming into force of this Act in the name of the Hotel Training Centre and used for the purpose of tourism and hospitality education and training is vested in the Institute.

Transitional provisions.

23. (1) Every person who, on coming into force of this Act, is on the teaching, administrative or technical staff of the Institute as an established employee or a non-established employee of Government, shall have the option to apply for employment by the Board.

(2) A person who exercises the option in subsection (1) shall cease to be an employee of the Government from the date on which he is employed by the Board.

(3) Where a person exercises the option under subsection (1) and is employed by the Board, any pension rights or retiring award to which he may be entitled shall be placed on hold from the date on which he ceases to be a Government employee until he attains the compulsory retiring age under the Pensions Act (Cap. 311) or the Pension (Non-Established Government Employees) Act (Cap 310).

(4) Settlement of all claims made in respect of service under this section shall be executed in accordance with an agreement which shall be entered into by the Institute and the Government under this subsection.

Regulations.

24. (1) The Minister may by regulations make provision for the purpose of carrying this Act into effect and, in particular, but

without prejudice to the generality of the foregoing, for or with respect to any matter that may be prescribed under this Act by regulations.

(2) Regulations made under this Act may—

- (a) make different provision in relation to different cases or circumstances;
- (b) apply in respect of particular persons or particular cases or particular classes of persons or particular classes of cases, and define a class by reference to any circumstances whatsoever; or
- (c) contain such transitional, consequential, incidental or supplementary provisions as appear to the Minister to be necessary or expedient for the purposes of the regulations.

(3) The Minister may, from time to time by order, amend the provisions of the Schedules.

Section 6(14)

SCHEDULE 1

PROCEDURE OF THE BOARD

PROCEDURE

1. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

QUORUM

2. The quorum for meetings of the Board shall be five members.

MEETINGS

3. (1) The Board shall meet at least once in every month and at such other times 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) The Chairman may at any time call a special meeting of the Board and shall call a special meeting within seven days of the receipt of a written request for that purpose addressed to him by any three members of the Board.

(3) The Chairman of the Board shall preside at all meetings of the Board at which he is present; and in the case of the Chairman's absence at any meeting, the Deputy Chairman shall preside at that meeting.

(4) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, the Chairman or 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 and circulated to the members by the Director as soon as practicable thereafter and shall be confirmed by the Board at the next subsequent meeting when they shall be signed by the person presiding at that meeting.

(6) Minutes made of meetings of the Board, if duly signed in accordance with subparagraph (5), shall be receivable in evidence in all legal proceedings without further proof and every meeting of the Board in respect of which minutes have been so signed shall be deemed to have been duly convened and held and all members present thereat to have been duly qualified to act.

(7) The Board may co-opt any one or more persons to attend any meeting of the Board for the purpose of assisting or advising the Board, but no such persons shall have a right to vote.

(8) The validity of the proceedings of the Board shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Committees

4. (1) The Board shall appoint as standing committees an Academic Committee, an Accreditation Committee, a Marketing and Public Relations Committee, a Disciplinary Committee and a Financial Management Committee.

(2) The Board may appoint such further Committees as it may think fit and may delegate to any such Committee the power and authority to carry out on its behalf such duties as the Board may determine but no committee shall have the power to make rules.

(3) The constitution of each committee shall be determined by the Board.

(4) A committee shall consist of at least one member of the Board together with such other persons, whether members of the Board or not, whose assistance and advice the Board may desire.

RULES

5. The Board may, after consultation with the Minister, make rules—

- (a) governing the proceedings of the Board and the manner and transactions of its business;
- (b) prescribing the manner in which cheques shall be signed, and documents, and instruments of any descriptions shall be kept for the purposes of its functions;
- (c) providing for the grant and conditions of leave for the Director and staff of the Institute; and
- (d) generally, for the exercise of its functions under this Act.

Section 15

SCHEDULE 2

ORGANISATION AND DISCIPLINE

DIRECTOR

1. (1) The Director shall be the academic and administrative head of the Institute and shall have the daily management of the Institute.

(2) The Director shall not hold any other appointment or engage in any other occupation which in the opinion of the Board is likely to interfere with the proper performance of his functions under this Schedule, or is prejudicial to the welfare of the Institute.

(3) Without prejudice to any other functions conferred or imposed upon him under the provisions of this Schedule, the functions of the Director shall be—

- (a) to supervise the teaching, discipline, work and conduct of the staff at the Institute;
- (b) to supervise the discipline, work and conduct of the students at the Institute;
- (c) to recommend the choice of textbooks and the appropriate methods of teaching at the Institute;

- (d) to be responsible for the arrangement of the classes and the fixing of lecture hours at the Institute;
- (e) to promote the interests of the Institute within and outside the State; and
- (f) to exercise such other powers conferred on or duties assigned by the Board in accordance with the Act.

DEPARTMENTS OF THE INSTITUTE

2. The Board shall cause the Institute to be organised in Departments corresponding, as nearly as practicable, with the fields of studies specified in section 4(1), but which shall include—

- (a) food and beverage operations;
- (b) management studies;
- (c) culinary arts;
- (d) rooms division; and
- (e) tourism studies.

DISCIPLINARY MATTERS

4. (1) A member of staff appointed and employed under contract shall be governed in terms of discipline as laid down and published therein.

(2) A student enrolled or registered at the Institute shall be subject to rules of conduct and discipline to be prescribed by the Director from time to time in accordance with his functions as set out in paragraph 1 of this Schedule.

(3) The Board shall establish a Disciplinary Committee to inquire into any disciplinary charges made in respect of any staff or student at the Institute.

APPEAL

5. (1) Any member of staff or student against whom an adverse finding is made after an inquiry under paragraph 4(3) of this Schedule may, within fourteen days of the receipt of the decision, appeal to the Board against the decision.

(2) The Board may hear and determine appeals from any appellant or his representative.

(3) The Board may, after hearing any appeal under this section—

- (a) confirm or reverse the decision;
- (b) vary the decision; or
- (c) order a rehearing of the matter if in its opinion, it is in the interest of justice to do so.

(4) An appeal against any decision made by the Board may be made to the Minister and every such appeal shall be made within fourteen days of the decision of the Board.

(5) An appeal under subparagraph (4) shall be heard and decided by the Minister within 28 days of the receipt of the notice of appeal by the Minister.

(6) The Minister shall make regulations governing the procedure to be followed in all appeals made under subparagraph (4).

Passed by the House of Representatives
this 11th day of September, 2006.

D. Giselle Isaac-Arrindell,
Speaker.

Yvonne Henry,
Clerk to the House of Representatives.

Passed by the Senate this
13th day of October, 2006.

Hazlyn M. Francis,
President.

Yvonne Henry,
Clerk to the Senate.

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THE HOSPITALITY TRAINING INSTITUTE ACT, 2006

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