



BERMUDA

BERMUDA COLLEGE ACT 1974

1974 : 68

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[preamble and words of enactment omitted]

Interpretation

- 1 In this Act, unless the context otherwise requires—
“Academic Council” means the Academic Council established through by-laws made under section 7(2);

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“auditor” means the person appointed by the Board as auditor under section 5(1A);

“Board” means the Board of Governors of the Bermuda College;

“College” means the Bermuda College;

“Minister” means the Minister responsible for the Bermuda College;

“President” means the president of the College appointed under section 4.

[Section 1 definition "Minister" deleted and substituted by BR 5/2011 para. 5 effective 25 February 2011; Section 1 definition "Academic Council" inserted by 2014 : 34 s. 2 effective 21 January 2015; Section 1 definition "auditor" repealed and replaced by 2022 : 31 s. 2 effective 21 October 2022]

Bermuda College established

2 (1) There shall be established a college with the name of the Bermuda College to provide full and part-time education and training for persons over compulsory school age as defined in the Education Act 1954:

Provided that the College may admit persons who are under the upper limit of compulsory school age as defined in that Act; so however, that any such person who has been admitted to an aided or maintained school shall not be required to pay the College tuition fee while under the upper limit of that age.

(2) The College shall be a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

(3) The College may with the prior approval of the Minister and not otherwise acquire and hold real property of any description and subject to the terms and conditions upon which the same is held, sell, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with such property:

Provided that the College may acquire real property by devise or bequest without the prior approval of the Minister.

(4) The College may acquire and hold personal property, including shares in any company incorporated under the laws of Bermuda.

[Section 2 proviso amended by 2014 : 34 s. 3 effective 21 January 2015]

Board of Governors

3 (1) For the purposes of managing the Bermuda College there shall be established a Board of Governors who shall be constituted in accordance with Schedule 1; and the incidental provisions of Schedule 1 shall apply thereto.

(2) The Board shall have the general management and control of the Bermuda College and for that purpose may—

(a) exercise a general supervision of the affairs, purposes and functions of the College;

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- (b) subject to subsection (3) of section 2, have the custody, control and disposition of all property, funds, fees and investments of the College;
 - (c) subject to section 4, make such appointments of instructional staff and other employees as they think proper;
 - (d) conduct examinations;
 - (e) award diplomas, certificates and other academic distinctions;
 - (f) award and administer bursaries and scholarships whether tenable at the College or elsewhere;
 - (g) determine courses of study and admission standards;
 - (h) accept gifts and donations whether of property or otherwise and whether subject to any special trust or not for the purposes of the College;
 - (i) provide pecuniary benefits for the employees of the College on their retirement, resignation, discharge or other termination of service or in the event of their sickness or injury and for their dependents, and for that purpose effect policies of insurance, establish pension and provident funds or make such other provision as may be necessary to secure for such employees and their dependents any or all of the pecuniary benefits to which the provisions of the paragraph relate;
 - (j) subject to this Act, do such other things as appear to, them necessary or expedient for furthering the interests of the College.
- (3) The Board may, with the prior approval of the Minister but not otherwise—
- (a) create such departments within the College as they consider expedient;
 - (b) fix fees;
 - (c) enter into agreements or arrangements on behalf of the College with other institutions of further education (including universities) for the provision of instruction or the granting of degrees, diplomas, certificates and other academic distinctions.

(4) The Board may delegate its functions under subsection (2)(d) and (g) to the Academic Council.

(5) The President may designate an employee of the College to act as clerk to the Board.

[Section 3 subsection (1) amended and subsections (4) and (5) inserted by 2014 : 34 s. 4 effective 21 January 2015]

Borrowing

3A (1) The College may borrow from the Government or from any other person any money that it may require for the purpose of—

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- (a) meeting any expenses incurred by it in connection with any works, the cost of which is properly chargeable to capital;
- (b) the provision of working capital;
- (c) the acquisition of any interests in or property or rights of a company, partnership or other association;
- (d) any other purpose for which capital moneys are properly applicable.

(2) The repayment of any money borrowed under subsection (1) may be secured upon the property of the College by way of mortgage.

(3) The College shall not exercise its powers under subsections (1) and (2) except with the prior written approval of the Minister and the Minister of Finance, and such approval may be subject to such conditions, if any, as the Minister or the Minister of Finance, as the case may be, considers necessary or expedient.

[Section 3A inserted by 2014 : 34 s. 5 effective 21 January 2015]

Principal Executive Officer and staff

4 (1) The Board shall, after consultation with the Minister appoint a President who shall be—

- (a) a full-time employee of the College;
- (b) a member and the principal executive officer of the Board, and in favour of a person dealing with the Board in good faith the President shall be deemed to have delegated to him such of the powers of the Board as are necessary to enable him to transact efficiently the day-to-day business of the College.

(2) The Board may, from time to time, employ such persons as may be necessary for the due performance of the functions of the College upon such terms and conditions as may be determined by the Board.

(3) Public officers and teachers in Government employment may be seconded to the College on such terms and conditions as may be agreed between the Minister and the Board.

(4) If a public officer receiving a pensionable emolument in the public service is seconded to the College the period during which he serves the College shall, for the purposes of computation of time and amount of pension payable to him in respect of his service as a public officer, be deemed to be service in a pensionable office.

(5) The Minister may require the Board to pay into the Consolidated Fund such amounts as he may determine to reimburse the Government in respect of pensions payable by the Government to public officers who have been seconded to the College under this section.

[Section 4 heading and subsection (1)(b) amended by 2014 : 34 s. 6 effective 21 January 2015]

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Audit and accounting year

5 (1) The Board shall cause proper accounts of the financial affairs of the College to be maintained.

(1A) The Board shall, after consulting the Auditor-General and with the approval of the Minister, appoint an auditor.

(1B) A person shall not be appointed as an auditor under subsection (1A) unless he is a member entitled to practise as a public accountant under the Chartered Professional Accountants of Bermuda Act 1973.

(2) The accounts of the College shall be audited annually by the auditor who shall report the result of his examination of the accounts of the College to the Board.

(3) The accounting year of the College shall be the period of twelve months from 1 April of any year to 31 March of the following year.

[Section 5 heading amended and subsection (3) inserted by 2014 : 34 s. 7 effective 21 January 2015; Section 5 subsections (1A) and (1B) inserted, and subsection (2) amended by 2022 : 31 s. 3 effective 21 October 2022]

Minister may give directions to Board

6 The Minister may, after consultation with the Board, give such general directions as to the policy to be followed by the Board in the performance of their functions as appear to the Minister to be desirable and the Board shall give effect to any such directions.

Board may make rules and by-laws

7 (1) The Board may, with the prior approval of the Minister, make rules for—

- (a) the administration of the College;
- (b) the appointment, election, resignation, retirement and removal of officers and staff;
- (c) examinations;
- (d) the conferring of diplomas, certificates and other academic distinctions;
- (e) the establishment of advisory boards;
- (f) financial procedure;
- (g) the admission of students;
- (h) the conduct of students and staff;
- (i) the discipline of students;
- (j) generally, the carrying into effect of this Act.

(2) The Board may, with the prior approval of the Minister, make by-laws in accordance with Schedule 2 and which are not inconsistent with this Act.

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(3) The negative resolution procedure shall apply to rules made under this section.

(4) The Statutory Instruments Act 1977 shall not apply to by-laws made under this section.

[Section 7 subsection (2) repealed and replaced, subsection (3) amended and subsection (4) inserted by 2014 : 34 s. 8 effective 21 January 2015]

Power to amend Schedule 2

7A The Minister may, by Order subject to the negative resolution procedure, add to, delete or vary Schedule 2 with respect to the matters which may be provided for through by-laws.

[Section 7A inserted by 2014 : 34 s. 9 effective 21 January 2015]

Annual report

8 (1) The Board shall, as soon as practicable, and in any case not later than six months after the close of their accounting year, submit an annual report to the Minister on the activities of the College, the audited accounts with the report of the auditor, and any general directions given by the Minister during the year.

(2) The Minister shall as soon as practicable after receiving the report of the Board, lay such report before both Houses of the Legislature.

[Section 8 subsection (1) amended by 2014 : 34 s. 10 effective 21 January 2015]

Land tax exemption; employment tax exemption

9 All property, real or personal, appertaining to the College shall be exempted from land tax and other taxes of a like nature, and the College shall also be exempted from employment tax.

Amendments

10 *[omitted.]*

Commencement

11 *[omitted.]*

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SCHEDULE 1

(section 3)

BOARD OF GOVERNORS

1 The Board shall consist of a Chairman, Deputy Chairman and not more than nine other members appointed by the Minister.

1A Every member of the Board shall hold office for a term of up to three years and may from time to time be reappointed for a like term; and the term of office of the members shall be such as to ensure, so far as possible, the expiration in any year of not more than one half of the terms of office of those members.

1B Notwithstanding paragraph 1A, the Chairman and the Deputy Chairman of the Board shall each hold office for a term of three years, and may from time to time be reappointed for a like term.

2 Ex officio members of the Board shall be the Permanent Secretary responsible for education, the Chairman of the National Certification and Apprenticeship Board, the Chairman of the Bermuda College Honorary Fellows, a representative of the Bermuda College Faculty Association, and a member of the Student Government Council.

3 Any person ceasing to be a member of the Board shall be eligible for re-appointment.

4 If a member of the Board becomes, in the opinion of the Minister, unfit to continue in office or incapable of performing his duties, the Minister shall forthwith declare his office vacant, and shall notify the fact in such manner as the Minister thinks fit, and thereupon the office shall become vacant; and the Minister may, in like manner declare the office of a member of the Board vacant if he fails, without adequate cause, to attend three successive meetings thereof.

5 A member of the Board may resign his office at any time by notice in writing given to the Minister.

6 The powers of the Board may be exercised notwithstanding any vacancy in their number.

7 Members of the Board shall be paid such fees and allowances out of the funds of the College as the Board may, with the approval of the Minister, determine.

8 *[repealed]*

[Schedule 1 heading, paragraphs 1 and 1B amended, paragraphs 1A and 2 repealed and replaced and paragraph 8 repealed by 2014 : 34 s. 11 effective 21 January 2015; Schedule 1 title added under the power of the Computerization and Revision of Laws Act 1989 s. 11(m); Schedule 1 amended by 2023 : 30 s. 9 effective 1 January 2024]

SCHEDULE 2

(section 7(2))

MATTERS THAT MAY BE PROVIDED THROUGH BY-LAWS

Meetings

1. The by-laws may provide for meetings of the Board and Committees, and such by-laws may include provisions on—

- (a) the frequency, time, and place for the holding of meetings;
- (b) the manner of holding meetings, including the holding of meetings by electronic means;
- (c) who may call a meeting, the length of notice, and the service of such notice;
- (d) who may preside over meetings;
- (e) the quorum for a meeting, and the procedure to be followed if the number of members present is less than a quorum;
- (f) voting, including—
 - (i) voting by proxy;
 - (ii) voting in the event of a tie;
 - (iii) voting by members who have an interest in an actual or proposed transaction or arrangement with the College;
- (g) who may determine a question arising as to whether a member has a right to participate in the meeting for voting or quorum purposes;
- (h) the recording of minutes of a meeting;
- (i) the procedure for passing a resolution in writing;
- (j) reference to other Rules of Order for instructions on procedures.

Alternate members

2. The by-laws may provide for the appointment of alternate members with respect only to ex officio members.

Committees

3. The by-laws may provide for the establishment of committees, and such by-laws may include provisions on—

- (a) the duties of the committee, including any duties of the Board which have been delegated to a committee or officer thereof, and the extent and limitations of such delegation;

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- (b) any reports or recommendations to be made by a Committee or officer to the Board;
- (c) the temporary filling of vacancies occurring in any committee.

Academic Council

4. The by-laws may provide for the establishment of the Academic Council, its membership, functions, and proceedings.

Policies

5. The by-laws may provide for the establishment of policies, which shall not be inconsistent with any policy directions given by the Minister.

Procedures for evaluation

6. The by-laws may provide the procedures to be followed for evaluating the operation of the College and the work performance of the President.

Officers of the Board

7. The by-laws may provide for Board members to be elected as officers of the Board, and such by-laws may include provisions on the nomination, terms, and duties of officers.

Use of seal

8. The by-laws may provide for use of the seal, and such by-laws may include provisions on the documents to which the seal is to be affixed, the persons who may attest the affixing of the seal, and the recording of the affixing and attestation of the seal.

Means of communication

9. The by-laws may provide for the sending of documents and information, and such by-laws may include provisions on the means by which documents and information may be sent to members, and deemed received.

Reimbursement

10. The by-laws may provide for the reimbursement to members of reasonable expenses properly incurred on behalf of the College, and such by-laws may include provisions on the time and procedure for the submission of expense reports.

Record keeping

11. The by-laws may provide for the keeping of records by the Board, and such by-laws may include provisions on the type of records to be kept by the Board, and the form in which and the length of time such records must be kept.

Code of Ethics

12. The by-laws may provide for a code of ethics for members of the Board.

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Resignation of member

13. The by-laws may provide for the resignation of members, and such by-laws may include provisions on the time and procedure for giving a notice of resignation.

[Schedule 2 inserted by 2014 : 34 s. 12 effective 21 January 2015; paragraph 7 of Schedule 2 as inserted by 2014 : 34 enacted with the word "my" instead of "may". The word "my" changed to "may" under the power of the Computerization and Revision of Laws Act 1989 s. 11(n)]

[Assent Date: 1 July 1974]

[this Act was brought into operation on 22 July 1974 by GN 288/1974]

Amended by

1977 35
1982 74
2005 19
BR 5 / 2011
2014 34
2022 31
2023 30]