CHAPTER 47C

NATIONAL TRAINING AGENCY

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CHAPTER 47C

NATIONAL TRAINING AGENCY

An Act to establish the National Training Agency; to develop a competency based training and job placement system and for connected purposes. *39 of 2013*

[Assent 25th September, 2013]

[Commencement 19th November, 2013] *S.I. 110/2013.*

PART I
PRELIMINARY

1. This Act may be cited as the National Training Agency Act. Short title.

2. In this Act — Interpretation.

"accreditation" means evaluation and approval of an institution, provider, course or programme that has met the established standards of quality relative to its mission, educational objectives, resources, programmes and services;

"accredited training providers" mean an institution, provider or programme that —

(a) provides training or assessment services to the Agency; and

(b) is approved by the Agency for the delivery of certified courses;

"Agency" means the National Training Agency established under section 3;

"articulation" means a formal agreement between the Agency's accredited training providers and any other approved training provider;

"assessment" means a process of gathering evidence to determine whether a training provider or a trainee has met the required standards;

"assessor" means a person who is responsible for the assessment of training providers, and the suitability of a candidate's competency level in the performance of a specific job;

"Board" means the National Training Agency Board established under section 7;

"Chairperson" means the Chairperson of the Board;

"competency standard" means an established standard where a person has proven to have the ability to use knowledge, skills and personal, social and methodological abilities, in work or study situations and in professional development, personal development or both;

"course" means a defined body of knowledge, skills and aptitudes acquired over a specified period and to which one or more credits may be awarded;

"Executive Director" means the Executive Director of the Agency appointed under section 9;

"industry" means a distinct grouping of productive enterprise that form a sector of the economy;

"inspector" means a person authorised to act as an inspector under this Act;

"Minister" means the Minister responsible for Labour;

"national occupational standard" includes the skills, knowledge and attitudes required for effective workplace performance;

"NVQ-BA" means the National Vocational Qualification of The Bahamas, which is a certificate of competence that is recognised nationally, regionally and internationally;

"programme" means an approved curriculum composed of a series of courses in a technical or vocational specialty leading to a particular kind of certification in such form as a certificate, award or diploma;

"provider" means a person or group of persons offering one or more courses or programmes for award or credit;

"qualification" means the formal outcome of an assessment and validation process which is obtained when a recognised awarding body determines that a person has achieved learning outcomes;

"quality assurance" means a generic term for activities that provide assurance that the educational and training services of an organisation are continually being delivered effectively, to the required standard and in line with published goals and objectives;

"recognition of prior learning" means to recognise and validate competencies for the purpose of certification obtained outside of the formal education and training systems;

"registration" means that an educational institution, or provider has met the criteria for the provision of education or training courses or programmes;

"trainee" means a person who is —

(a) pursuing an approved Agency's training programme; or

(b) being assessed to be certified by the NVQ-BA;

"TVET" means Technical Vocational Education and Training.

PART II
ESTABLISHMENT OF THE NATIONAL TRAINING AGENCY AND ITS BOARD

Establishment of the National Training Agency.

3. (1) There shall be established a body to be known as the National Training Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal, with power to purchase, lease or otherwise acquire, hold and dispose of land and other property of whatever kind, and to sue and be sued.

(3) Notwithstanding subsection (2), the Agency may not dispose of any land without the prior approval of the House of Assembly signified by resolution thereof.

Common Seal of the Agency.

4. (1) The common seal of the Agency shall be kept in such custody as the Board directs and shall not be used except as authorised by the Board.

(2) The common seal of the Agency shall be authenticated by the signatures of the Chairperson or any other member of the Board authorised by the Board in that behalf, and of the Secretary.

(3) The common seal of the Agency when affixed to any document and authenticated under this section shall be judicially and officially noticed, and, until the contrary is proved, any necessary order or authorisation of the Board shall be presumed to have been given.

Functions of the Agency.

5. The functions of the Agency are to —

(a) prepare and implement plans for workforce vocational training in accordance with national policies, economic needs and industry demands;

(b) engage in activities geared towards increasing the capacity of individuals to participate effectively in the workforce, thereby improving their productivity and employability;

(c) identify, develop and promote industry standards for occupation and training programmes and develop assessment instruments that meet national, regional and international standards;

(d) provide a national certification framework to establish national and vocational qualifications that are recognised and accepted regionally and internationally and to ensure co-ordination and collaboration among providers of technical vocational education and training;

(e) increase the number of individuals pursuing technical vocational education and training as a career;

(f) increase the quality of training by delivering competency based training through a more responsive and flexible delivery and assessment system;

(g) network and co-operate with public-private sector entities in matters related to the development of competency based training;

(h) approve and certify courses to be pursued by persons desirous of obtaining vocational education and training through the Agency's network of accredited training providers;

(i) approve, accredit and register public or private institutions, organisations, programmes, or any training providers that wish to provide training, assessment services or both to the Agency to ensure that they are compliant with the minimum criteria as determined by the Agency;

(j) develop comprehensive quality assurance strategies to ensure that programme delivery by training providers meet Agency's standards;

(k) register and approve persons as instructors or assessors of the Agency's accredited training providers;

(l) maintain a register of the Agency's registrants, trainees, training providers, assessors and certified persons;

(m) implement and maintain a Labour Market Information System in collaboration with the Department of Labour's employment data bank;

(n) provide statistical data and information to the government and the relevant agencies;

(o) provide trainee referral and placement services to training providers, institutions, programmes, organisations and employers;

(p) institute, review and maintain a system of assessment, certification and award in relation to persons trained in the technical and vocational fields;

(q) grant certificates and other awards and submit reports regarding persons who are assessed pursuant to paragraph (p);

(r) designate a Central Assessment and Referral Centre where persons who wish to access the Agency's services shall register, be assessed and referred, as is applicable;

(s) establish and maintain a system of assessment and recognition of prior learning or training experience in harmony with established competency standards;

(t) produce booklets, brochures, programmes, media advertising and other promotional materials to enhance the image of competency based vocational training and certification as the catalyst for building a productivity focused, service driven, workforce;

(u) develop, implement and promote national occupational standards;

(v) develop and implement the NVQ-BA;

(w) design and develop a tracking and monitoring system to measure the results of the Agency's activities;

(x) provide for quality assurance through TVET.

Powers of the Agency.

6. In the exercise of its functions, the Agency may —

(a) fix fees and charges for services provided to, and by, the Agency;

(b) provide finance for training schemes and employment projects sponsored or promoted by the Agency in accordance with the Agency's policies;

(c) administer and invest the financial resources of the Agency;

(d) receive and administer funds donated or entrusted to the Agency by any agency or organisation for any purpose relating to the training or employment of persons;

(e) enter into arrangements with institutions for the establishment, implementation, monitoring and financing of training or employment programmes;

(f) appoint industry specific committees designed to advise the Agency in their specific areas of qualifications;

(g) withdraw or cancel accreditation, approval, recognition of certificates or other awards granted to, or conferred on any institution or provider or person for a good and sufficient cause in the opinion of the Board;

(h) do such other things as may be necessary or expedient for, or in connection with, the proper performance of its functions under this Act.

Constitution and procedure of the Board.

7. (1) There shall be a Board of Directors of the Agency.

(2) The Board shall be the governing body of the Agency.

(3) The Schedule shall have effect with respect to the constitution and procedure of the Board.

(4) The Minister may by Order amend the Schedule.

Duties of the Board.

8. The duties of the Board are to —

(a) formulate policies for the Agency;

(b) ensure the policies are implemented and enforced;

(c) manage the financial resources and assets of the Agency;

(d) manage the fees and charges for services provided to, and by, the Agency;

(e) advise the Minister on resource allocation relating to technical vocational education and training;

(f) appoint officers and employees as the Board considers necessary;

(g) manage the affairs of the Agency.

Officers and employees.

9. (1) The Board shall appoint an Executive Director and may employ such other officers and employees at such remuneration and on such terms and conditions as it considers necessary for the proper conduct of its business.

(2) Notwithstanding subsection (1), the Board shall not, without the prior approval of the Minister —

(a) assign to any post a salary, which is above the highest level of that governed by an agreement to which the Board is a party;

(b) make an appointment of a professional, consultative or contractual nature;

(c) make an appointment to a post of which a salary is assigned in accordance with paragraph (a);

(d) terminate the employment of any person who holds such post; or

(e) make any provision for the payment of any pension, gratuity or other like benefits to an officer or an employee of the Agency by reference to that officer or employees service.

(3) The Executive Director shall be the chief executive officer of the Board and shall be responsible for the management of the affairs of the Agency in accordance with the policies and directions of the Board.

(4) The Executive Director may delegate to any committee, officer or employee of the Agency any function as the Executive Director may determine and no delegation shall prevent the exercise by the Executive Director of any function so delegated.

(5) Where the Executive Director delegates a function to any committee, officer or employee of the

Agency in accordance with paragraph (4), the Executive Director may revoke such delegation.

Minister may give directions.

10. (1) The Minister may give to the Agency directions of a general or a specific nature as to the policy to be followed by the Agency in the carrying out or pursuit of its functions as appear to the Minister requisite in the public interest and the Agency shall give effect to such directions.

(2) The Board shall afford to the Minister facilities for obtaining information regarding the property and activities of the Agency and shall submit to the Minister the minutes of all meetings, returns and accounts of the Agency and any other information as required by the Minister.

PART III
FINANCIAL PROVISIONS

Funds and resources of the Agency.

11. The funds and resources of the Agency shall consist of —

(a) such sums as may be appropriated by Parliament;

(b) sums arising from grants, covenants, donations and other receipts from persons, including national and international bodies;

(c) all sums received by, and falling due to, the Agency as fees or payments for services rendered and facilities provided;

(d) sums borrowed by the Agency in accordance with section 15;

(e) a specified annual grant from the National Insurance Board in the form of an investment;

(f) all other sums or property which may in any manner become payable to or vested in the Agency in respect of any matter incidental to its functions.

Application of funds.

12. (1) The funds of the Agency shall be applied in defraying the following expenditure —

(a) the remuneration of the members of the Board;

(b) the remuneration, advances, loans, gratuities, and pensions of, and other payments to, the staff of the Agency;

(c) the capital and operating expenses, including maintenance and insurance of the property of the Agency;

(d) the making and maintenance of investments by the Agency in the discharge of its functions;

(e) any other expenditure authorised by the Agency for the discharge of its functions.

(2) The Minister may approve any fund expended for the purposes of paragraphs (a) and (b) of subsection (1).

Gifts.

13. Where any gift, grant or other property is offered to the Board on behalf of the Agency, the Board shall consult with the Minister with respect to such offer and that gift, grant or other property shall be utilised for trainee development and employment in such manner as the Board may determine.

Pension.

14. (1) The Agency shall establish a pension scheme for the payment of pensions and gratuities to employees of the Agency who retire from the employment of the Agency.

(2) Except as provided in any contract of employment, the Agency may grant to any employee in respect of service with the Agency, pensions, gratuities and other like allowance payable from the pension scheme, which shall be no less than the rate prescribed by and in accordance with the provisions of the Pensions Act. Ch. 43.

Borrowing powers.

15. (1) Subject to this section, the Agency may borrow sums required for meeting any of the Agency's obligations or discharging any of the Agency's functions and may in respect of such borrowing, issue debentures in such form as the Agency may determine.

(2) The power of the Agency to borrow shall be exercisable only with the approval of the Minister, given with the consent of the Minister of Finance, as to the amount, the sources of the borrowing and the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of this section may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

National Training Agency Fund.

16. (1) The Agency shall establish and maintain a Fund to be called the National Training Agency Fund

("N.T.A. Fund") and there shall be credited to the N.T.A. Fund —

(a) grants, covenants, donations, gifts, fees or payments for services rendered, and specified annual grant from the National Insurance Board; and

(b) such other sums as the Government may direct to be given to the N.T.A. Fund.

(2) The Agency may determine the management and application of the N.T.A. Fund.

(3) No part of the N.T.A. Fund shall be applied otherwise than for the purposes specified under the provisions of this Act.

Annual Budget.

17. The Agency shall prepare for each financial year an annual budget of revenue and expenditure which shall be submitted to the Minister at least two months prior to the commencement of the financial year.

Accounts and audit.

18. (1) The Agency shall keep proper accounts and other records in relation thereto, and shall prepare in respect of each financial year a statement of accounts.

(2) The accounts of the Agency for each financial year shall be audited by an auditor appointed by the Minister after consultation with the Agency.

(3) Three months after the end of each financial year, the Agency shall submit a copy of the audited accounts to the Minister, together with a copy of any report made by the auditor.

(4) The Minister shall lay a copy of such audited accounts before each House of Parliament, together with a copy of any report made by the auditor on the accounts.

Annual report.

19. (1) The Board shall after the end of each year prepare an annual report on its activities during the last preceding year and shall furnish such report to the Minister not later than the 30th day of June.

(2) The Minister shall cause a copy of every report submitted to him pursuant to this section to be laid before each House of Parliament.

PART IV
TRANSFER OF CERTAIN ASSETS TO THE AGENCY

Transfer of assets.

20. (1) There shall by virtue of this section and without further assurance vest in the Agency in fee simple free of all trusts and encumbrances, all such land, which immediately before the commencement of this Act vested in the Treasurer for or on behalf of any such agency.

(2) The movable property and undertakings owned by the Government and used for the operation of any such agency immediately before the date of the commencement of this Act shall by virtue of this Act be transferred to and vested in the Agency for the same purpose as they were held by the Government immediately before the said date.

(3) The transfer and vesting referred to under subsections (1) and (2) shall extend to the whole of such movable property and undertakings and shall include assets, powers, rights, privileges and all things necessary or ancillary thereto which are held or enjoyed in connection therewith or appertaining thereto, as well as all obligations affecting or relating to any of the aforesaid movable property or undertakings or other things included therein as aforesaid.

Construction of laws, contracts, etc. relating to transferred assets.

21. Subject to the provisions of this Act, all laws, contracts, judgments, awards, deeds, bonds, agreements, instruments, documents, warrants and other arrangements existing prior to the commencement of this Act, affecting or relating to any of the movable properties or undertakings transferred to the Agency by or under this Act shall have full force and effect against or in favour of the Agency and shall be enforceable fully and effectually, as if instead of the party named therein the Agency has been named therein or had been a party thereto.

PART V
MISCELLANEOUS

Registration of providers.

22. (1) A provider acting individually or collectively, and offering services to the Agency shall apply in writing, to the Agency for registration, annually.

(2) The Agency may register the provider if the Agency is satisfied that the provider is approved and

accredited and has met the criteria for the provision of education or training courses and programmes.

Register of trainees.

23. (1) The Board shall keep and maintain a register of the names, addresses, qualifications and such other particulars as may be prescribed, of persons who are selected as trainees.

(2) The register referred to under subsection (1) shall be available for inspection by the public during business hours.

(3) The Board shall cause to be issued to a person selected as a trainee a certificate in the prescribed form.

Eligibility for selection as a trainee.

24. A person who makes application to the Board in the prescribed form and satisfies the Board that he possesses the prescribed qualifications may be eligible for selection as a trainee.

Designation of inspectors.

25. The Board may designate such persons as it deems fit to be inspectors for the purpose of giving effect to this Act.

Powers of inspectors.

26. (1) For the purposes of this Act, an inspector may —

(a) at any reasonable time during working hours without a warrant enter any premises in which he has reasonable cause to believe that a trainee is, or has within the previous six months been, an apprentice, intern, or otherwise employed under the conditions of this Act or is undergoing training;

(b) make such inquiry as may be necessary for ascertaining whether the provisions of this Act or the regulations are being or have been complied with in such premises or place;

(c) exercise such other powers as may be necessary for giving effect to this Act.

(2) The occupier of any premises or place and any other person who is or has been providing training for or employing any trainee, the employees and agents of any such occupier or other person, and a trainee shall —

(a) provide an inspector with such information; and

(b) produce for inspection, documents,

as the inspector may require to give effect to this Act.

(3) A person who —

(a) wilfully delays or obstructs an inspector in the exercise of any power under this section;

(b) without lawful excuse, refuses or neglects to answer a question or to furnish any information or to produce any document referred to under subsection (2) when required to do so by an inspector; or

(c) conceals or attempts to conceal any person or attempts to prevent any person from appearing before or being questioned by an inspector,

commits an offence and is liable on summary conviction to a fine of two thousand dollars.

(4) An inspector shall be furnished with a form of identification, and shall produce such identification prior to entry on any premises or place for the purposes of this Act.

Regulations.

27. (1) The Minister may make regulations for giving effect to the provisions of this Act.

(2) Without prejudice to subsection (i), the Minister may make regulations —

(a) prescribing the standard of education which a person shall be required to attain, for employment as a trainee;

(b) prescribing the minimum rates of pay to be paid to a trainee for internship, special jobs or projects;

(c) prescribing the maximum hours of work for trainees;

(d) prescribing the minimum period of training to be served in any trade;

(e) prescribing the nature of returns which employers may from time to time be required to furnish to the Board and the period within which those returns should be so furnished;

(f) prescribing the system of theoretical and practical training which trainees shall undergo and the manner in which such training shall be provided by employers for the trainees in their employ in any trade;

(g) prescribing the proficiency tests or examinations which trainees in any trade shall be required to undergo;

(h) prescribing the minimum period of paid holidays to be allowed to trainees during any year of their training;

(i) prescribing the form for application of a trainee;

(j) prescribing the qualifications for eligibility for selection as a trainee.

Act binds Crown.

28. This Act binds the Crown.

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SCHEDULE

(Section 7(3))

CONSTITUTION AND PROCEDURE OF THE BOARD

1. **Composition and tenure of the Board.**

(1) The Board shall consist of not less than nine members including —

(a) a Chairperson and a deputy Chairperson appointed by the Minister and the Chairperson shall not be a Member of Parliament;

(b) the Executive Director of the Agency, *ex-officio*;

(c) seven members appointed by the Minister, after consultation with the relevant public and private organisations, as representatives of —

(i) the Department of Public Service;

(ii) the Ministry of Labour;

(iii) the Ministry of Education, Science and Technology;

(iv) The Bahamas Hotel Association;

(v) the Chambers of Commerce;

(vi) Urban Renewal;

(vii) the Labour Union.

(2) A member other than an *ex-officio* member of the Agency shall hold office for a period, not exceeding three years, and not less than one year but shall be eligible for reappointment.

2. **Temporary membership**.

(1) Where membership of the Board is by virtue of an office and the holder of the office is absent or unable to act, then, the person acting in the office shall be a member of the Board for as long as he so acts.

(2) If any member by reason of illness or other incapacity or absence from The Bahamas, is unable at any time to perform the duties of his position, or if the position of a member is at any time vacant, the Minister may make a temporary appointment of a qualified person to act in his place or in such position upon such terms and conditions and for such time as the Minister may determine.

3. **Resignation.**

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

(2) The Chairperson may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt by the Minister of such instrument.

4. **Removal**.

The Minister may, by instrument in writing, remove a member of the Board upon being satisfied that the member —

(a) is an undischarged bankrupt;

(b) is incapacitated by physical or mental illness;

(c) has been absent, without leave of the Board, from three or more consecutive meetings of the Board;

(d) has been convicted of an indictable offence; or

(e) is otherwise unable or unfit to discharge the functions of a member of the Board.

5. **Publication.**

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

6. **Remuneration.**

The Board shall pay to the members of the Board, other than the Executive Director, such remuneration and allowances as the Minister may determine.

7. **Meetings.**

(1) The Board shall meet at least once each month or at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times as the Board may determine.

(2) The Chairperson, may at any time call a special meeting of the Board, and, shall call a special meeting within fourteen days of the receipt of a written request for that purpose addressed to him by any two members of the Board.

(3) The Chairperson shall preside at meetings of the Board, and in the case of the absence of the Chairperson from a meeting, the members present and constituting a quorum shall elect one of their number to preside at that meeting.

(4) The quorum of the Board shall consist of seven of its members.

(5) The decision of the Board shall be by a majority of votes, and in addition to an original vote the Chairperson or other person presiding at a meeting shall have a casting vote in any case in which voting is equal.

(6) Minutes in the proper form of each meeting of the Board shall be kept by the Secretary and shall be confirmed by the Board at the next meeting.

(7) The validity of the proceedings of the Board shall not be affected by any vacancy.

8. **Power of Board to invite persons to attend meetings**.

The Board may invite any person who, in the opinion of the Board, has expert knowledge concerning any of the functions of the Board, which is likely to be of assistance to attend any meeting of the Board and to take part in the proceedings.

9. **Declaration**.

A member of the Board or any committee appointed by the Board who is directly or indirectly, interested in a contract or proposed contract or has any interest in a matter under consideration by the Board or any committee thereof shall disclose that fact at the next meeting of the Board or Committee and shall not participate in the consideration of, or vote on, any question relating to that matter.

10. **Protection of members**.

(1) Subject to subpargraph (2), no action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any Director is exempt from liability by reason only of subparagraph (1), the Agency shall be liable to the extent that it would be if that member were an employee of the Agency, however, if in any case, the Agency is not liable for any of the above mentioned acts, then subparagraph (1) does not operate to exempt such member as therein stated.