

Vanuatu Institute of Technology Act 2001

Assent: 30th December 2001
Commencement: 25th February 2002

REPUBLIC OF VANUATU

VANUATU INSTITUTE OF TECHNOLOGY ACT NO. 24 OF 2001

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**VANUATU INSTITUTE OF TECHNOLOGY
ACT NO. 24 OF 2001**

An Act to establish the Vanuatu Institute of Technology, and for related purposes.

Be it enacted by the President and the Parliament as follows:

PART 1 - PRELIMINARY

1 Interpretation

In this Act, unless the contrary intention appears:

academic staff means the teaching staff appointed by the Teaching Service Commission under subsection 23(1).

Council means the Vanuatu Institute of Technology Council established by section 6.

Director-General means the Director-General of the Ministry.

General staff means administrative and support staff appointed by the Council under subsection 23(3).

Institute means the Vanuatu Institute of Technology established by section 2.

Member means a member of the Council and includes an acting member.

Minister means the Minister responsible for technical, vocational and continuing education.

Ministry means the Ministry responsible for technical, vocational and continuing education

Principal means the Principal of the Institute.

Staff means:

- (a) the Principal; or
- (b) the Deputy Principals; or
- (c) the academic staff of the Institute; or
- (d) the general staff of the Institute.

Technical, vocational and continuing education includes workplace and para-professional education, and includes non-formal as well as formal education.

PART 2 –VANUATU INSTITUTE OF TECHNOLOGY

2 Establishment of Vanuatu Institute of Technology

(1) The Vanuatu Institute of Technology is established.

(2) The Institute:

- (a) is a body corporate with perpetual succession; and
- (b) is to have a common seal; and
- (c) is capable of suing and being sued.

3 Purpose of the Institute

The purpose of the Institute is to be the national centre of excellence for technical, vocational and continuing education in Vanuatu, and in so doing to contribute to the economic and social development of Vanuatu.

4 Functions of the Institute

The Institute has the following functions:

- (a) to provide the population of Vanuatu with efficient and effective technical, vocational and continuing education programs and services that are responsive to the needs of industry, students and the general community;
- (b) to play a leadership and coordinating role in the development of the Vanuatu technical, vocational and continuing education system;
- (c) to develop and maintain a teacher development training centre for technical, vocational and continuing education, and to work cooperatively with the Vanuatu Institute of Teacher Education;
- (d) to develop and maintain a curriculum development centre for technical, vocational and continuing education;
- (e) to establish new campuses or centres, or support existing centres, to deliver technical, vocational and continuing education to communities in rural areas and outer islands;
- (f) to issue certificates, diplomas and other awards that comply with the national standards as established by the Vanuatu National Training Council, and maintain records of graduates and their credentials;
- (g) to operate as an authority for trade testing under the requirements of the Department responsible for employment and the International Labour Organisation;
- (h) to provide facilities and resources for the welfare of staff and students;

(i) to undertake such other functions as are conferred on it by or under this Act.

5 Powers of the Institute

(1) The Institute has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

(2) Without limiting subsection (1), the Institute may:

(a) acquire, hold, deal with or dispose of real or personal property; and

(b) form or participate in the formation of a company, association, trust or partnership; and

(c) enter into a joint venture with another person or body; and

(d) enter into contracts relevant to the functions of the Institute; and

(e) acquire or hold business licences or permits to support appropriate income-generating activities.

PART 3 –VANUATU INSTITUTE OF TECHNOLOGY COUNCIL

DIVISION 1 – ESTABLISHMENT, FUNCTIONS AND POWERS

6 Establishment of the Council

(1) The Vanuatu Institute of Technology Council is established.

(2) The Council is the governing body of the Institute.

7 Functions of the Council

The Council has the following functions:

(a) to oversee the efficient and effective management of the Institute;

(b) to approve policies and plans for the Institute, and review periodic management reports for the Institute;

(c) to monitor the performance of the Institute so as to ensure that the Institute fulfils its purpose and performs its functions in a responsive and innovative way;

(d) to determine the terms and conditions of appointment (including dismissal and suspension) of the Principal, the Deputy Principals and the other staff of the Institute in consultation with the Teaching Service Commission;

- (e) to ensure that there are procedures for the effective management of appeals and grievances for students and staff of the Institute;
- (f) to periodically review and approve the organizational structure of the Institute;
- (g) to determine selection procedures for students in accordance with the Ministry's selection policies;
- (h) to determine the fees and charges, including fines, to be paid for:
 - (i) admission to the Institute; and
 - (ii) examinations; and
 - (iii) the granting of diplomas, certificates and other awards; and
 - (iv) tuition or attendance at the lectures and classes of the Institute; and
 - (v) the use of services and facilities at the Institute;
- (j) to determine policies for scholarships at the Institute;
- (k) to pursue funding and support for the Institute from appropriate sources;
- (l) to provide such assistance and information as the Minister, the Director-General or the Principal may reasonably require from the Council;
- (m) such other functions as are conferred on the Council by or under this Act.

8 Powers of the Council

The Council has power to do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

9 Council to have regard to Government policy and other matters

In the performance of its functions and in the exercise of its powers, the Council must:

- (a) have regard to the Government's policy that:
 - (i) the Institute is to operate as a dual-lingual (French and English) Institute with the long term aim of becoming a bilingual Institute; and
 - (ii) the education system in Vanuatu is to be firmly based on Ni-Vanuatu culture and beliefs; and
- (b) work cooperatively with the Vanuatu National Training Council; and
- (c) develop and maintain cooperative relationships with industry, communities, other education providers within and outside Vanuatu, and all Ministries of the Government; and

- (d) have regard to the principles of good governance, fiscal responsibility, and transparent and fair processes; and
- (e) within the limits of the resources of the Institute, have regard to the importance of making adequate arrangements for persons and groups which do not have access to technical, vocational and continuing education programs.

DIVISION 2 – MEMBERSHIP OF COUNCIL AND MEETINGS

10 Composition of the Council

- (1) The Council consists of 8 members.
- (2) The members are:
 - (a) the Principal; and
 - (b) a member of the academic staff of the Institute elected by them; and
 - (c) a member of the general staff of the Institute elected by them; and
 - (d) 3 other persons appointed by the Minister from nominations made by the Principal; and
 - (e) 2 other persons appointed by the Council.
- (3) A person must not be nominated under paragraph (2)(d) or appointed under paragraph (2)(e) unless he or she has:
 - (a) knowledge of or experience in the community or any industry served by the Institute; or
 - (b) special skills or knowledge relevant to the functions of the Council.
- (4) At least 2 of the members of the Council must be women, and so far as practicable there must be an equal number of Francophone and Anglophone members.
- (5) An elected member of the Council holds office for a term of one year and an appointed member is to be appointed for a term of 3 years. However, an appointed member can be re-appointed only twice.

11 Application of Leadership Code Act

- (1) A member of the Council is a leader for the purposes of the Leadership Code Act No.

2 of 1998 and the provisions of that Act (eg disclosure of interests under section 16 of that Act) apply accordingly to each member .

- (2) Without limiting subsection (1), a member of the Council must in the exercise of his or her functions act honestly and exercise reasonable care and diligence.

12 Chairperson and Deputy Chairperson

(1) The Council must select a Chairperson and a Deputy Chairperson from the members appointed under subsection 10(2).

(2) The Chairperson and Deputy Chairperson:

- (a) each hold office for so long as the Council specifies in their instrument of appointment; and
(b) may resign from his or her office by giving a written resignation to the Council.

13 Removal and resignation of members

(1) The Minister may, after consultation with the Council, remove a member if he or she:

- (a) in the case of an elected member – ceases to be an employee of the Institute; or
(b) fails to attend 3 consecutive meetings without the permission of the Council; or
(c) is a person having professional qualifications and is disqualified or suspended from practicing his or her profession; or
(d) becomes bankrupt; or
(e) is convicted of an offence; or
(f) in the Minister’s opinion, is not performing in a satisfactory way.

(2) A member may resign at any time by giving his or her resignation in writing to:

- (a) the Minister in the case of an appointed member; and
(b) the Principal in the case of an elected member.

14 Vacancies and acting members

(1) If a vacancy occurs on the Council, the Council must ensure that:

- (a) in the case of a vacancy for an elected member – an election is held as soon as possible to fill the vacancy; and

- (b) in the case of a vacancy for an appointed member - a new nomination for appointment is made as soon as possible.
- (2) The Council may appoint a person to act as a member if the member is absent from Vanuatu or is for any reason unable to perform his or her duties. A person must not be appointed to act for more than 3 months.

15 Allowances for appointed members

- (1) The appointed members of the Council are entitled to such allowances as may be determined in writing by the Minister, after consultation with the Principal.
- (2) No other remuneration is payable to any member of the Council.

16 Meetings of the Council

- (1) The Council must meet at least 3 times per year and hold such other meetings as are necessary for the proper performance of its functions.
- (2) The Chairperson or Deputy Chairperson must chair meetings of the Council, but if they are absent the members present must choose a member to chair the meeting.
- (3) At a meeting of the Council a quorum consists of 5 members. The Council may meet despite any vacancies in its membership so long as a quorum is present.
- (4) Each member present at a meeting has one vote and questions arising at a meeting are to be decided by a majority of votes. If the voting at a meeting is equal, the member chairing the meeting has a casting vote.
- (5) Except as otherwise determined by the Council, meetings will be open to observers from the Institute community and the public.
- (6) Subject to this Act, the Council may determine and regulate its own procedures.

DIVISION 3 – OTHER MATTERS

17 Responsibilities in relation to Principal and other staff

- (1) The Council must give proper directions to the Principal so as to enable the Principal to undertake his or her duties and responsibilities effectively and efficiently.
- (2) The Council must monitor the performance of the Principal, the Deputy Principals and the other staff of the Institute.

18 Delegation

(1) Subject to this section, the Council may delegate its functions and powers to the Principal, the Deputy Principals or committees of the Council.

(2) The Council cannot delegate the power of delegation.

(3) The Council cannot delegate the following functions:

(a) to approve policies and plans for the Institute; and

(b) to monitor the performance of the Institute.

(4) A delegation:

(a) must be made in writing; and

(b) may be made either generally or subject to express limitations or conditions; and

(c) may be given for a specified period, but can be revoked at any time by the Council.

(5) The Council remains responsible for actions taken under a delegation.

(6) The Council may continue to perform a function or exercise a power that it has delegated.

19 Committees

(1) The Council may form such committees as are necessary to assist the Council in the performance of its functions.

(2) The Council is to determine the composition of any committee and it may include persons who are not staff of the Institute.

(3) A committee is to determine its own procedures.

(4) Committee members are not entitled to any remuneration or allowances in that capacity.

20 Rules

(1) The Council may make rules not inconsistent with this Act for the control, management, good governance and discipline of the students and staff of the Institute.

(2) The rules may also provide for the formation or promotion of student associations.

PART 4 – MANAGEMENT AND STAFF

21 Principal

- (1) The Principal of the Institute is to be appointed by the Teaching Service Commission on the recommendation of the Council. The Council must conduct the selection process for the Principal in accordance with the requirements of section 24.
- (2) The Principal is responsible for the leadership and day to day administration and management of the Institute in accordance with the policies and directions of the Council, and the requirements of this Act.
- (3) Without limiting subsection (2), the Principal must ensure that all staff are performing satisfactorily, and funds are spent in accordance with the requirements of this Act.

22 Deputy Principals

- (1) There may be 2 Deputy Principals of the Institute who are to be appointed by the Teaching Service Commission on the recommendation of the Council. The Council must conduct the selection process for the Deputy Principals in accordance with the requirements of section 24.
- (2) The Deputy Principals have such duties and responsibilities as are assigned to them by the Principal.

23 Other Staff

- (1) The academic staff of the Institute are to be appointed by the Teaching Service Commission on the recommendation of the Principal.
- (2) Academic staff who are employed or engaged on a temporary or contract basis are to be appointed by the Council on the recommendation of the Principal.
- (3) The general staff are to be appointed by the Council on the recommendation of the Principal.
- (4) The Principal must conduct the selection process for academic staff under subsection (1) and general staff under subsection (3) in accordance with the requirements of section 24.

24 Appointments on merit

- (1) Subject to subsection (3), all appointments under sections 21, 22 and 23 must be made on merit following a fair and transparent selection process.
- (2) All vacancies must be advertised in such a way that informs and seeks applications from people throughout Vanuatu.
- (3) In making an appointment under subsection 23(2), the Council must have regard to the person's qualifications, experience and suitability for the position concerned.

- (4) The Teaching Service Commission or the Council, as the case requires, must accept a recommendation for appointment made to it under section 21, 22 or 23 unless it is satisfied that all or any of the requirements of subsection (1) or (2) have not been complied with.
- (5) If the Teaching Service Commission or the Council rejects a recommendation for appointment made to it under section 21, 22 or 23, it may issue a written directive that the selection process recommence and be conducted in accordance with the requirements of that section and subsections (1) and (2).

25 Transitional arrangements

- (1) This section applies to any person who was employed at the Vanuatu Institute of Technology immediately before the commencement of this Act.
- (2) On and after that commencement, the person is to continue to be employed at the Institute:
 - (a) on the same terms and conditions; and
 - (b) in the same position and/or with the same classification; and
 - (c) with the same accrued or accruing entitlements.
- (3) To avoid doubt, the person is not entitled to any severance or redundancy payments under this or any other Act because of the operation of subsection (2) or the establishment of the Institute by this Act.

PART 5 – FINANCIAL MATTERS AND MISCELLANEOUS

26 Funds of the Institute

- (1) The funds of the Institute consist of:
 - (a) money appropriated to, or for the purposes of, the Institute under the Appropriation Acts; and
 - (b) money received by the Institute by way of fees and charges; and
 - (c) any other money received by the Institute from any other source.
- (2) The Council is to open and maintain such bank accounts on behalf of the Institute as the Council considers necessary.
- (3) The funds of the Institute are to be deposited to such of its bank accounts as the Council determines.
- (4) The Council must not borrow money on behalf of the Institute except at a rate of interest and subject to such conditions as are approved by the Minister responsible for finance.

- (5) The Council may invest surplus funds of the Institute as it considers appropriate. However, any such investments must be approved by the Minister responsible for finance.

27 Accounts and auditing

(1) The Council must keep proper accounting records in relation to the financial affairs of the Institute, and must have annual statements of accounts prepared for each financial year.

(2) The Institute's accounts for each financial year must be audited within 3 months after the end of the financial year by the Auditor General or a person authorised by the Auditor General.

28 Annual Report

(1) The Council must within 90 days after the end of each financial year furnish a report to the Minister relating to the operations of the Institute for that year.

(2) The Minister must table the report in Parliament as soon as possible after receiving it.

29 Transfer of assets

The Minister may, by an agreement made in writing with the Institute, transfer assets of the State to the Institute.

30 Regulations

The Minister may, on the advice of the Council, make regulations:

- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

31 Commencement

This Act commences on the date on which it is published in the Gazette.
