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I assent,

CUTHBERT M SEBASTIAN

*Governor-General.*

25<sup>th</sup> April, 2008.

## SAINT CHRISTOPHER AND NEVIS

### No. 9 of 2008

**AN ACT** to provide for the establishment and operation of an educational institution to be known as the Clarence Fitzroy Bryant College; and for matters connected therewith.

*[Published 25<sup>th</sup> April 2008, Extra-Ordinary Gazette No. 19 of 2008.]*

**BE IT ENACTED** by the Queen's Most Excellent Majesty by and with the advice and consent of the National Assembly of Saint Christopher and Nevis, and by the authority of the same as follows:-

#### **PART I PRELIMINARY**

1. This Act may be cited as the Clarence Fitzroy Bryant College Act, 2008 and shall come into force on such date as the Minister may by Order appoint Short title and commencement.
2. In this Act, unless the context otherwise requires, Interpretation.
  - “academic semester”, “academic term” and “academic year” mean respectively, the periods prescribed as such pursuant to section 39(4);
  - “academic staff” means the teaching staff of the College and includes the deans, the heads of departments, senior lecturers, lecturers, assistant lecturers and tutors;
  - “Board” means the Clarence Fitzroy Bryant College Board of Governors established pursuant to section 7;
  - “Chairperson” means the Chairperson of the Board and “Deputy Chairperson” shall be construed accordingly;
  - “College” means the Clarence Fitzroy Bryant College established pursuant to section 3;
  - “Minister” means the Minister responsible for Education;

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“Ministry” means the Ministry responsible for Education;

“President” means the President of the College appointed pursuant to section 16;

“senior administrative staff” means the Registrar, the Bursar, counselors and senior clerical staff.

**PART II  
ESTABLISHMENT AND FUNCTIONS OF THE COLLEGE**

Establishment of  
College.

3. (1) There is hereby established an educational institution to be called the Clarence Fitzroy Bryant College.

(2) The College shall be a body corporate with perpetual succession and a common seal and

- (a) may contract or be contracted in its corporate name;
- (b) may sue or be sued in its corporate name;
- (c) may, with the prior approval of the Minister and except where otherwise provided in subsection (3), take, purchase or otherwise acquire, hold, charge or dispose of property, real, movable or immovable; and
- (d) may do or perform all such things or acts that are necessary for or in connection with the performance of its functions under and for the furtherance of the provisions of this Act that may lawfully be done or performed by a body corporate.

(3) Notwithstanding subsection (2)(c) the College is authorised by this Act, to acquire property by devise or bequest.

Common seal of  
College.

4. (1) The common seal of the College shall be kept in the custody of the Chairperson or any other person as may be directed by the Board and shall be affixed to instruments pursuant to a resolution of the Board, in the presence of the Chairperson or in the case of his absence, the Deputy Chairperson.

(2) The seal of the College shall be authenticated by the signature of the Chairperson or Deputy Chairperson and one other member of the Board.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board shall be signified by the Chairperson or Deputy Chairperson or any other member of the Board authorised in writing by the Chairperson or Deputy Chairperson to act in that behalf.

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## 5. The functions of the College shall be

Functions of  
College.

(1) to provide instruction, conduct research and disseminate knowledge of a standard required and expected of a college of the highest standard in

- (a) liberal and creative arts;
- (b) business;
- (c) science;
- (d) technology;
- (e) agriculture; and
- (f) other branches of learning

in an environment which fosters academic freedom and excellence;

(2) to provide facilities for and encourage study and research;

(3) to confer degrees and grant diplomas, certificates and other awards and honours as are usually conferred by similar institutions;

(4) to provide facilities and resources for the well-being of the College's staff, students and other persons undertaking courses at the College;

(5) to enter into any association and affiliation with any university, college or other institution of learning, whether within or outside of Saint Christopher and Nevis as the College may consider necessary and appropriate;

(6) to encourage the development and advancement of knowledge and its application to government, industry, commerce and the community;

(7) to provide courses of study to meet the needs of the community;

(8) to disseminate knowledge and promote scholarship;

(9) to provide service to the community within its competence to do so; and

(10) to perform such other functions as are given to the College under this or any other enactment.

6. Without prejudice to anything contained in section 5, the College shall provide tertiary education and training in

Education and  
training.

- (1) agriculture;
- (2) arts, and social sciences;
- (3) business and hospitality;

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- (4) general studies and continuing education;
- (5) health and environmental science;
- (6) skills training and professional development;
- (7) teacher education and educational administration;
- (8) technical vocation education and training;
- (9) technology and information science; and
- (10) such other fields of study and areas of training as the Board may from time to time determine in consultation with the Minister.

**PART III**  
**GOVERNANCE OF THE COLLEGE**

Establishment of Board.

7. (1) There is hereby established for the purpose of the management for the College, a body to be known as the College Board of Governors.

(2) The general direction of the College shall vest in the Board and the Board shall exercise the powers of the College directly or indirectly through the staff, employees and agents of the College.

(3) The Schedule shall have effect with respect to the Constitution of the Board and other matters relating to the Board.

(4) The Minister may in consultation with the Board and by Order, amend the Schedule.

(5) An order made pursuant to subsection (4) shall be subject to negative resolution by the National Assembly.

(6) The Board may do anything it considers necessary or convenient for or in connection with the exercise of its functions.

(7) The Board shall act in such manner as it considers most likely to promote the College's interests.

Functions of Board.

8. (1) Without prejudice to the generality of sections 7 (1) and 7 (2), the functions of the Board shall be

- (a) to provide for the welfare of the staff and students of the College;
- (b) to formulate the policies of the College and to ensure that they are implemented;
- (c) to establish such number of faculties, schools, departments and divisions of the College as it considers necessary or expedient;

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- (d) to control and superintend the property of the College;
- (e) to appoint the academic staff, administrative staff and other staff as appears to the Board to be necessary, on such terms and conditions including salaries, allowances, other remuneration and disciplinary control as the Board may determine;
- (f) to cause proper accounts of the financial affairs of the College to be maintained and audited;
- (g) to accept, deposit or act as trustee or manager of any property of the College or any legacy, endowment, bequest or gift to the College for the purposes of education or research or otherwise in furtherance of the work of the College and to invest any funds representing such property, legacy, endowment, bequest or gift if not immediately required, in such security as the Board may think fit;
- (h) on the advice of the Academic Council
  - (i) to determine the programmes and courses of study to be pursued at the College and the admission standards;
  - (ii) to set the entry qualifications;
  - (iii) to conduct examinations; and
  - (iv) to confer academic degrees, diplomas, certificates and other awards and honours;
- (i) to 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 to 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 this paragraph relate;
- (j) on the advice of the Academic Council to grant sabbatical and other leave;
- (k) on the advice of the Academic Council to 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

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granting of degrees, associate degrees, diplomas, certificates and other academic awards;

- (l) to fix fees and charges for the courses of study, facilities and other services provided by the College and to reduce, waive or refund fees and charges so fixed, generally or in any particular case or cases;
- (m) to award and administer bursaries and scholarships whether tenable at the College or elsewhere in consultation with the Academic Council;
- (n) to negotiate a collective agreement or similar agreement with the representative body of the employees of the College;
- (o) to inquire into and adjudicate upon any disciplinary charge against any student or any member of the academic staff or other staff;
- (p) to advise the Minister with respect to any amendment to this Act; and
- (q) with the approval of the Minister, to make Rules under this Act.

(2) Where the enquiry and adjudication pursuant to subsection (1)(o) relates to a member of staff who is a public officer on secondment to the College, the Board may, according to its findings, direct the President to recommend to the Permanent Secretary of the Ministry that the secondment of the staff member be terminated and the Permanent Secretary shall refer such recommendation to the Public Services Commission.

Power to appoint committees.

9. (1) The Board shall establish the Executive and Finance Committee and the Academic Council which shall be the standing committees of the Board.

(2) The Board may from time to time, establish and abolish such other committees as it considers necessary or expedient for the purpose of carrying out its functions pursuant to this Act.

(3) A committee established pursuant to subsection (2) may consist of persons who are members of the Board and persons who are not members of the Board, except that unless otherwise provided by this Act, any such committee shall consist of no more than seven persons, of whom no more than three shall be members of the Board, and no fewer than two persons, one of whom shall be a member of the Board.

(4) A committee appointed pursuant to subsection (2) shall exercise such powers and functions as the Board determines arising out of or connected with the power and functions of the Board under this Act.

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(5) The Board may by resolution reject the report of any committee appointed pursuant to subsection (2) or adopt it wholly, or with such modifications, additions, or adaptations as the Board determines.

(6) A committee of the Board, including a standing committee may regulate its own procedure subject to any Rules made under this Act or any written directions of the Board in this regard.

(7) The members of a committee appointed pursuant to subsection (2) shall elect as Chairperson a committee member who is a member of the Board unless it is a Disciplinary Committee in which case the Chairperson shall be a person with a legal qualification.

10. (1) The Executive and Finance Committee shall comprise of the Chairperson of the Board who shall preside at the meetings of the Committee and not less than three nor more than seven other members appointed by the Board.

Executive and  
Finance  
Committee.

(2) The Executive and Finance Committee shall be responsible for the financial affairs of the College and in particular shall

- (a) review the financial plans and budget for the College;
- (b) subject to approval by the Board, adopt rules to regulate the financial transactions of the College;
- (c) supervise expenditure and approve variations within the approved budgets up to limits set from time to time by the Board;
- (d) review the statements of account by the Board; and
- (e) manage the funds of the College and make recommendations for the investments thereof.

(3) Except for the first term, when two members appointed by the Board shall serve for three years, members of the Executive and Finance Committee shall serve for a two-year term.

(4) Any retiring member of the Executive and Finance Committee may be eligible for re-appointment.

11. (1) The Academic Council shall comprise of the

- (a) the President,
- (b) the Vice-President for Academic and Student Affairs,
- (c) the Dean of each Faculty;
- (d) the Head of each Department; and
- (e) one member of the academic staff appointed by the Board from each academic department.

Academic  
Council.

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(2) The President, or in his absence, the Vice-President for Academic and Student Affairs shall be the Chairperson of the Academic Council.

- (3) The Academic Council shall
- (a) establish academic and teaching standards in the programmes of the College;
  - (b) advise the Board as to the appropriate admission standards and entry qualifications;
  - (c) propose changes to the admission standards and entry qualifications, if necessary for the approval of the Board;
  - (d) establish criteria for examinations of the College;
  - (e) receive and consider proposals from the faculties, schools, departments and divisions for changes in the academic programmes, including the introduction of new courses or changes in the curricula of on-going courses;
  - (f) prepare education development plans for the College for consideration by the Board;
  - (g) subject to any requirements of the Board, be responsible for internal and external moderation and certification of academic achievements;
  - (h) advise and make recommendations to the Board as regards the recruitment and training of staff and the promotion and conduct of research; and
  - (i) advise the Board whenever its advice is required pursuant to the provisions of this Act or whenever the Academic Council considers it necessary in the interest of the College to do so.

(4) The Academic Council shall approve all changes to existing and new courses and teaching programmes.

(5) Except for the first term, when members of the academic staff appointed by the Board shall serve for three years, academic staff appointed to the Academic Council shall serve for a two year term.

(6) Any retiring member of the Academic Council may be eligible for re-appointment.

Protection of  
Board.

12. No act or proceedings taken under this Act shall be questioned on the ground of any omission, defect or irregularity not affecting the merits of the case.

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13. (1) The members of the Board shall recommend for the approval by the Minister the remuneration and allowances package for the members of the Board to be paid out of College funds.

Remuneration  
and allowances.

(2) Where persons, not being members of the Board are members of a standing committee or other committee appointed pursuant to this Act, the Board may by resolution determine the remuneration and allowances of such persons and such sums shall properly be payable out of the funds and resources of the College.

14. (1) The Board may, subject to the provision of this Act, delegate to any appropriately qualified member or committee of the Board or any appropriately qualified member of staff, the power and authority to carry out on its behalf such functions as the Board may determine.

Delegation of  
powers of Board.

(2) A delegation of power or authority pursuant to subsection (1) shall not prevent or affect the exercise of such power or authority by the Board where the Board considers it necessary.

(3) Notwithstanding subsection (1), the Board may not delegate its power

- (a) to advise the Minister respecting amendments to this Act;
- (b) to make Rules under this Act with the approval of the Minister;
- (c) to adopt the College's budget; or
- (d) to approve the spending of funds available to the College by way of bequest, donation or special grant.

15. (1) The Minister may, after consultation with, the Board give the Board

Minister may  
give directions.

- (a) directions of a general character as to the policy to be followed in the exercise and performance of its functions in matters appearing to the Minister to concern the public interest;
- (b) directions for the remedy of any serious defect or failure in the successful performance of its functions;

and the Board shall give effect to such directions.

(2) The directions pursuant to subsection (1) given by the Minister shall not apply to

- (a) the appointment, termination of appointment, promotion or discipline of any member of the academic, administrative or other staff of the College;
- or

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- (b) the admission of any particular student to the College or evaluation, discipline, academic promotion, certification or giving of awards to any student of the College.

**PART IV  
ACADEMIC AND ADMINISTRATIVE GOVERNANCE  
OF THE COLLEGE**

President of the  
College.

16. (1) The Board, in consultation with the Minister, shall appoint a President of the College.

(2) The President shall be the principal executive officer of the College.

(3) The President

(a) shall be the academic and administrative head of the College;

(b) shall generally supervise and direct the academic work of the College, the academic, administrative and other staff of the College; and

(c) shall also perform such other functions as may be specified under this Act or Rules made there under or any other functions as may from time to time be assigned to him or her by the Board.

(4) The President shall hold office as a full time employee for a term which shall not exceed five years, but he or she may be eligible for re-appointment at the determination of the Board.

(5) Subject to the conditions specified in subsection (6), the Board may, with the prior approval of the Minister, remove the President from office on the grounds of misconduct, inefficiency, ill health or other good cause.

(6) The Board shall, prior to exercising its power of removal pursuant to subsection (5)

(a) give the President due notice of not less than fourteen (14) days that his removal is under consideration together with a statement of the reasons or the charges alleged against him, if relevant;

(b) ensure that the President is given an opportunity to defend himself or herself in person, or by a legal practitioner of his or her own choice and at his or her own expense, against the charges if relevant.

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(7) The President may terminate his or her appointment by giving three months written notice to the Board.

17. Without prejudice to any other duties which may be conferred upon the President by this Act, the President shall be responsible for

Responsibilities  
of President of  
the College.

- (a) planning the implementation of policy and for all phases of the operation, administration, supervision, maintenance and promotion of the College and its programmes;
- (b) the introduction of measures, mechanisms and procedures as are necessary for the effective discharge of his or her duties;
- (c) the provision of leadership in matters relating to the academic programmes of the College;
- (d) the promotion of the interests of the College both within and outside Saint Christopher and Nevis;
- (e) the exercise of such other powers conferred on him or her or delegated to him or her by the Board in accordance with this Act or the Rules made under this Act.

18. (1) The Board shall, after consultation with the President, appoint

Vice-Presidents  
of the College.

- (a) a Vice-President for Academic and Student Affairs;
- (b) a Vice-President for Financial and Administrative Affairs;
- (c) such other Vice-Presidents as the Board may determine.

(2) The Vice-Presidents, under the direction of the President shall be responsible for the general administration of the College, including academic affairs, financial affairs and institutional development of the College and for such other duties as may be assigned to the Vice-Presidents by the President or the Board.

(3) Whenever the President is absent from Saint Christopher and Nevis or for any reason is unable to perform the functions of the office, or whenever there is a vacancy in the office of the President, the Vice-President for Academic and Student Affairs shall exercise and perform the functions of the President.

(4) In the absence or inability of the President and the Vice-President for Academic and Student Affairs, the duties of the office of the President shall be performed by such other person as the Board may appoint during such absence or inability.

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Registrar.

19. (1) The Board shall appoint a Registrar of the College.
- (2) Subject to the directions of the President, the Registrar shall be responsible for the day-to-day administration of the College.
- (3) The Registrar shall perform the duties of the Secretary to the College, that is specifically, to the Board, the Academic Council and to any other committee to which he or she may be assigned by the Board.

Bursar.

20. (1) The Board shall appoint a Bursar of the College.
- (2) The Bursar shall receive on behalf of the College, all monies and property payable or deliverable to the College and his receipt shall be sufficient discharge of the same.
- (3) Without prejudice to the powers of the Executive and Financial Committee and subject to the directions of the President, the Vice-President for Financial and Administrative Affairs, the Bursar shall be responsible for the day to day administration and control of the financial affairs of the College.
- (4) The Bursar shall have such other duties as the Board may consider appropriate.

**PART V**  
**STAFF OF THE COLLEGE**

Staff of the  
College.

21. (1) Subject to this Part, the College shall have such number of academic staff, administrative staff and other staff, as the Board considers necessary.
- (2) The employment of staff pursuant to subsection (1) shall be subject to such terms and conditions as the Board may determine.
- (3) The Board may delegate to the President or to any other person, the power to appoint any member of staff other than a member of the academic staff or senior administrative staff.
- (4) The Minister shall ensure where necessary that arrangements are made for the services of the staff presently employed by the college system to be made available to the College from the commencement of this Act.
- (5) A member of the academic staff or senior administrative staff who is employed by the Board on a full time basis shall not hold any other appointment or engage in any activity which constitutes a conflict of interest or which, in the opinion of the Board, may interfere with the proper performance of his duties as a member of staff or is prejudicial to the welfare of the College.

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22. (1) Subject to subsection (2), a member of the academic staff or senior administrative staff shall, on first appointment, be required to serve a probationary period of six months, unless the Board dispenses with the requirement to serve the probationary period. Probation.

- (2) The probationary period shall not be applicable to
- (a) a person serving on the permanent staff of the College at the commencement of this Act, or
  - (b) a public officer who is seconded to the College by the Public Service Commission as a member of the academic staff or senior administrative staff

unless the Board decides otherwise.

(3) Where a member of the academic staff or senior administrative staff is appointed, in the first instance for a probationary period, the Board at the expiration thereof, may, on the recommendation of the President, appoint him or her to a post on the permanent staff of the College.

(4) The appointment on the permanent staff of the College of any member of the academic staff or senior administrative staff, who was in the first instance appointed for a probationary period, shall be deemed to have taken effect from the date of his appointment on probation.

(5) The appointment of a member of the academic staff or senior administrative staff who is serving a probationary period may be terminated by one month's written notice given by the Board to the academic staff or senior administrative staff member or by the academic staff or senior administrative staff member to the Board as the case may be.

(6) A notice given pursuant to subsection (5) shall be transmitted through the President.

23. (1) A member of the academic staff or the senior administrative staff may terminate his or her employment by giving three months written notice to the Board which notice shall be transmitted through the President. Termination of employment.

(2) Notwithstanding subsection (1), section 16(7) and section 22(5), where the President or a member of the academic staff or senior administrative staff is appointed and employed under a written contract of service, the term of such contract in relation to termination thereof shall have effect in this regard.

24. (1) A member of the staff may be suspended by the President for Suspension.

- (a) gross negligence;

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(b) misconduct calculated to injure or capable of injuring the reputation of the College.

(2) The President shall immediately upon such suspension, report the same and the circumstances including the reasons thereof in writing to the Chairperson, and a copy of the report shall immediately be delivered to the suspended member of staff and to the relevant faculty.

(3) The suspended member of staff may make representation to the Chairperson respecting the suspension within seven days of the suspension by the President.

(4) The Chairperson shall, within ten days after receipt by him or her of the President's report, summon a meeting of the Board to inquire into and adjudicate upon the merits of the matter.

(5) At a meeting of the Board, pursuant to subsection (4), the Board may adjudicate on the merits of the case and the term of the suspension.

Dismissal of staff.

25. (1) Notwithstanding section 23, the Board may, subject to section 8(2) dismiss any member of staff

(a) where the member of staff is given due notice of not less than fourteen days that his or her dismissal is under consideration together with a statement of the charge alleged against him or her; and

(b) the member of staff is given an opportunity to defend himself or herself in person or, at his or her own expense, by a legal practitioner of his or her own choice, against any such charge.

(2) The Board may, prior to giving the member of staff due notice pursuant to subsection (1) (a), appoint a disciplinary committee to investigate and report to the Board as to whether there are grounds for dismissal proceedings to be brought before the Board against the member of staff.

(3) Upon receipt of a report from the committee pursuant to subsection (2), if the Board decides to proceed pursuant to subsection (1), the Board shall furnish the member of staff whose dismissal is being considered with a copy of such report.

(4) The report of the disciplinary committee may be used by the Board in proceedings pursuant to subsection (1) but the Board shall be restricted to evidence appearing in or referred to in such report.

(5) Where the Board fails to comply with the procedure pursuant to subsection (1), any decision taken by the Board to dismiss the member of staff shall be void.

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26. Subject to the terms of his or her contract or terms of employment, a member of the academic staff or senior administrative staff shall retire from office on the thirty-first day of August of the year in which he or she attains the age of sixty-five years, unless the Board, on the recommendation of a committee appointed for that purpose, invites any such member of staff to continue in his or her office for a period not exceeding ten years, after which retirement shall be compulsory.

Retirement.

27. Members of the staff other than the academic staff and the senior administrative staff shall be appointed by the Board upon such terms and conditions as the Board may determine.

Other members of staff.

28. (1) The Public Service Commission, may subject to such conditions as it may impose, approve the secondment of a public officer to the College.

Secondment of staff from the Public Service Commission.

(2) A public officer seconded pursuant to subsection (1) shall be employed in accordance with the provisions of this Act except that his or her service during the period of secondment shall, in relation to pension, gratuity or other benefits and rights as a public officer, be treated as continued service in the Public Service.

(3) A public officer seconded from the Public Service to the College shall continue to be a public officer until such time when he or she resigns, retires or otherwise leaves the Public Service, except that the public officer shall, during his or her period of secondment to the College comply with the provisions of this Act and the Rules made pursuant to this Act.

(4) The Board may employ a public officer on secondment to the College as a member of staff for a period not exceeding two years, except in exceptional circumstances to be determined by the Board when the secondment may be extended or renewed.

(5) A public officer who is seconded to the College shall, at least three months prior to the completion of the period of his or her period of secondment, exercise an option to

- (a) choose to become a member of the permanent staff of the College; or
- (b) choose to return to his or her substantive position in the Public Service or such equivalent and suitable position to which he or she may be appointed in the Public Service.

(6) A public officer who exercises his or her option pursuant to subsection (5)

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- (a) to become a member of the permanent staff of the College shall do so in writing addressed to the Chairperson of the Board and copied to the Permanent Secretary of the Ministry;
- (b) to return to the Public Service shall do so in writing addressed to the Permanent Secretary of the Ministry and copied to the Chairperson of the Board.

(7) Where the public officer pursuant to subsection (6) exercises his or her option to return to his or her substantive position in the Public Service and such position no longer exists, the Human Resource Department shall consult with the public officer in order to treat with him or her or his or her representative with a view to agreeing to a suitable alternative position to which the public officer may be appointed by the Public Service Commission, or, subject to the power of removal by the Public Service Commission, to make provision for compensation.

(8) A public officer on secondment to the College shall be so employed by the College that his or her remuneration and conditions of service are not less favourable than those that are attached to his or her appointment in the Public Service.

(9) Where a public officer on secondment to the College exercises his or her option to accept permanent employment with the College, the public officer shall cease to be a public officer on the date of such acceptance, but the provisions of the Pensions Act, Chapter 195 shall continue to apply to him or her in relation to his or her service with the College as if he or she had continued to be a public officer in respect of his or her pension and gratuity payments.

(10) A public officer to whom the Pensions Act, Chapter 195 applies pursuant to subsection (9) may, subject to subsection (11) hold office for an indeterminate period.

(11) An officer to whom subsections (9) and (10) applies shall vacate his or her office of employment with the College at the mandatory age of retirement from the Public Service and shall be eligible for gratuity and pension payment at that age.

(12) An officer to whom subsection (11) applies may be eligible, at the pleasure of the Board and on such terms and conditions as the Board may determine, to continue in the employment of the College after that person has reached the mandatory age of retirement in the Public Service.

**PART VI**  
**FINANCE OF THE COLLEGE**

29. (1) The funds of the College shall consist of
- (a) such sums as may be appropriated for the purpose of the College by the National Assembly;
  - (b) all sums borrowed by the College for the purpose of meeting any of its obligations or discharging any of its functions;
  - (c) such sums received by way of fees and charges; and
  - (d) all other sums or property which may in any manner be payable to, or vested in the College in respect of any matter incidental to its functions.

Funds and resources.

(2) Subject to subsection (3), the College may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(3) The power of the Board to borrow shall be exercisable only with the approval of the Minister for Finance with regards to

- (a) the amount to be borrowed;
- (b) the source of the borrowing; and
- (c) the terms on which the borrowing may be effected.

(4) An approval given by the Minister of Finance in any respect for the purpose of subsection (3) may be either general or limited to a particular borrowing or otherwise and may be either unconditional or subject to conditions.

30. (1) The Minister of Finance may, with the approval of the National Assembly signified by resolution, guarantee in such manner and on such conditions as he or she may think fit, the repayment of the principal and payment of interest in respect of any authorised borrowing by the College.

Government guarantee.

(2) Where the Minister of Finance is satisfied that there has been default in the repayment of the principal monies or payment of interest guaranteed under the provisions of this section, he or she shall 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 College shall make to the Accountant General, at such times and in such manner as the Minister of Finance may direct, payments of such sums as may be directed in, or towards repayments of

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any sums issued in fulfillment of any guarantee given under this section, and payment of the interest may be directed as regards different sums and as regards interest for different periods.

Accounts of the College.

31. (1) The Board shall keep account of the transactions of the College to the satisfaction of the Minister of Finance and such accounts shall be audited annually by the auditor appointed by the Board.

(2) The members of staff, officers and employees of the College shall grant to the auditor appointed by the Board access to all books, documents, monies and property of the College and shall give the auditor on request, all such information as may be within their knowledge in relation to the operation of the College.

(3) The Director of Audit shall be entitled, on the direction of the Minister, at all reasonable times, to examine the accounts and other records relating to the business of the College.

(4) The members of staff, officers and employees of the College shall grant to the Director of Audit access to all books, documents, monies and property of the College and shall give the Director of Audit, on request, all such information as may be within their knowledge in relation to the operation of the College.

(5) Any person who

- (a) fails or refuses to comply with any request of the auditor or the Director of Audit made pursuant to subsection (2) or (4); or
- (b) otherwise impedes or obstructs the auditor or the Director of Audit in the exercise of his or her functions under this section,

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

Annual report, statements of account and estimates.

32. (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 consider reasonable, a report on the activities of the College during that academic year, and a development plan for the new academic year.
- (b) on or before 1<sup>st</sup> of October in each year, a statement of the College's accounts, audited in accordance with section 31(1), for the financial year ending in such year; and
- (c) on or before 31<sup>st</sup> March in each year, its estimates of revenue and expenditure for the College in respect

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of the next financial year for the approval of the Minister.

(2) The Minister shall table annually, in the National Assembly, copies of the report of the College and the audited statements of its accounts submitted by the College in accordance with subsections (1)(a) and (b).

**PART VII  
TRANSITIONAL PROVISIONS**

33. (1) The movable property and undertakings owned by the Government and used by it immediately before the date of the commencement of this Act, shall by virtue of the Act, be deemed transferred to and vested in the College for the same purpose as they were held and used by the Government immediately before the date of commencement.

Transfer of certain assets to College.

(2) The transfer and vesting pursuant to subsection (1) extends to the whole of such movable property and undertakings and includes assets, powers, rights and privileges and all things necessary or ancillary thereto which were 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 things included therein.

34. (1) Subject to the provisions of this Act, all laws, judgments, decrees, awards, deeds, bonds, contracts, agreements, instruments, documents, warrants and other arrangements

Pending matters.

- (a) subsisting immediately before the date of commencement of this Act; and
- (b) affecting or relating to any of the movable properties or undertakings transferred to the College by or under this Act

shall have full force and effect against or in favour of the College and shall be enforceable fully and effectually, as if instead of the Government, the College had been named therein or had been a party thereto, and otherwise in substitution for the Government.

(2) Where anything has been commenced by or under the authority of the Government prior to the date of the commencement of this Act, and such thing relates to any of the movable properties or undertakings or any right or liability transferred to the College by or under this Act, such things may be carried on and completed by or as authorised, by the College.

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- (3) Where immediately before the date of the commencement of this Act,
- (a) any legal proceedings are pending to which the Government is or is entitled to be a party; and
  - (b) such proceedings are related to any of the movable properties or undertakings, or any right or liability, transferred by, or under this Act

the College shall, as from the date of the commencement of this Act, be substituted in such proceedings for the Government or shall be a party thereto in like manner as the Government could have become and such proceedings shall not abate by reason of the substitution.

**PART VIII  
MISCELLANEOUS**

Eligibility.

35. (1) Any person who possesses the entry qualifications determined by the Board on the advice of the Academic Council may be eligible for admission as a student of the College

(2) The Board may, with the approval of the Minister, publish by Order, the qualifications for admission as a student.

(3) Any person may be eligible for appointment to an office of, or employment by the Board.

Non-discrimination.

36. (1) The College may not administer a test of religion, politics, race or sex to any person in order to entitle the person

- (a) to be admitted as a student of the College;
- (b) to hold any office in it;
- (c) to graduate from it; or
- (d) to enjoy any of its advantages, benefits or privileges.

(2) A person shall not be denied admission as a student of the College or be ineligible

- (a) to hold office in it;
- (b) to graduate from it; or
- (c) to enjoy any of its advantages because of the person's religious or political views or his or her beliefs or race or sex.

Student government.

37. (1) There shall be a student government body initiated by the Board and controlled by students which shall be democratically elected and contain a constitution approved by the Board.

(2) The President may, subject to any Rules made under this Act, exercise disciplinary control over students and in this regard, may

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consult a Disciplinary Committee appointed for this purpose by the Board pursuant to section 9.

38. Minutes made of meetings of the Board shall, if duly signed by the Chairperson, 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 the members present to have been duly qualified to act.

Minutes of Board may be receivable in evidence.

39. The Board may, with the approval of the Minister, make Rules to direct and regulate the management and administration of the College and without prejudice to the generality of the foregoing, may make Rules,

Rules.

(1) respecting the proceedings of the Board and the manner of transacting its business;

(2) prescribing the manner in which documents, cheques and instruments of every description shall be signed;

(3) prescribing for the due custody of monies forming part of the funds and resources of the Board;

(4) prescribing the academic year and term or semesters as the case may be and the vacation and holidays to be recognised for the purpose of the College; and

(5) providing for the grant and conditions of leave for the President and staff of the College.

## **SCHEDULE**

(Section 7(3))

### **1. Constitution and Procedure of the Board**

The Board of Governors shall consist of thirteen members who shall be appointed by the Minister on the advice and consent of Cabinet as follows

- (1) nine members who shall each be appointed for a term of three years and of these
  - (a) at least six members shall be resident nationals of Saint Christopher and Nevis, and
  - (b) two members shall be selected from among the faculty of any two universities in the Caribbean Region;
- (2) one student of the College who
  - (a) shall be elected annually by the student body of the College at the commencement of each academic year and who shall serve a one-year term for the duration of such academic year except that he or she may be eligible for re-appointment,

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- (b) must be a resident national of Saint Christopher and Nevis, and
- (c) must be enrolled as a full-time student, in good standing with the College;
- (3) one full-time member of the academic staff
  - (a) elected annually by the academic staff of the College at the commencement of each academic year, and
  - (b) who shall serve a one-year term for the duration of such academic year except that he or she may be eligible for re-appointment;
- (4) the Permanent Secretary of the Ministry who shall be an *ex-officio* member of the Board;
- (5) the President of the College who shall be an *ex-officio* member of the Board.

**2. Duration of membership**

- (1) Each member shall serve until the appointment of his successor except that any member of the Board may be eligible for re-appointment.
- (2) The Minister shall submit names of proposed Board members to Cabinet within thirty (30) days after the expiration of the term of any Board member, or within sixty (60) days where the vacancy being filled is for an unexpired term.

**3. Chairperson and Deputy Chairperson**

The Minister shall appoint one of the members of the Board to be the Chairperson thereof and one member to be the Deputy Chairperson thereof.

**4. Gazetting of appointments**

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

**5. Resignation**

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

**6. Dismissal**

Where the Minister is satisfied that a member of the Board

- (a) has been absent from meetings longer than three consecutive meetings without the permission of the Board;
- (b) has become bankrupt or made arrangements with his creditors;

- (c) is incapacitated by physical or mental illness; or
- (d) is otherwise unfit to discharge the functions of a member of the Board,

the Minister may declare his office as a member of the Board to be vacant and shall notify the fact in such manner as the Minister thinks fit and thereupon, that office shall become vacant.

#### **7. Vacancies and Temporary Membership**

- (1) If any vacancy occurs in the membership of the Board, such vacancy shall be filled by the appointment of another person who shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed, so however, that such appointment shall be made in the same manner and from the same category of persons, if any, as the appointment of the previous member.
- (2) Any person appointed or elected to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed or elected shall be appointed or elected only for the remainder of such term.

#### **8. Meetings**

- (1) The Board shall meet at least once in every academic term 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 times and places and on such days as the Board may determine.
- (2) The Chairperson may at any time, summon a meeting of the Board and shall summon a meeting within 7 days
  - (a) of a request to that purpose addressed to him or her by three members of the Board; or
  - (b) of a direction to that effect addressed to him or her by the Minister.
- (3) The Chairperson or, in his absence, the Deputy Chairperson, shall preside at a meeting of the Board.
- (4) At any meeting of the Board, in the case of the absence or inability to act of both the Chairperson and the Deputy Chairperson, the members of the Board present shall elect one of their numbers to preside at that meeting.
- (5) The decisions of the Board shall be by a majority of votes and in addition to an original vote, in any case in which the voting is equal, the Chairperson, or in his or her absence, the Deputy Chairperson or other member presiding at that meeting shall have a casting vote.

#### **9. Quorum**

At any meeting of the Board, a quorum shall constitute the minimum number constituting a majority of the total members of the Board.

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**10. Minutes**

- (1) Minutes in proper form of each meeting of the Board shall be kept by the Secretary or in his or her absence, such person as the Board may appoint for the purpose.
- (2) A copy of the minutes of every meeting shall be submitted to the Minister within 14 days after the meeting.

**11. Board members not liable**

A member of the Board shall not be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of the operation of the College.

CURTIS A. MARTIN  
*Speaker*

Passed by the National Assembly this 18<sup>th</sup> day of April, 2008.

JOSÉ LLOYD  
*Clerk of the National Assembly*