

THE OFFICIAL GAZETTE 9TH JUNE, 2004 LEGAL SUPPLEMENT – C

BILL No. 10 of 2004

Wednesday 9th June, 2004

PARLIAMENT OFFICE
Public Buildings,
Georgetown,
Guyana.

9th June, 2004.

The following Bill will be passed in the National Assembly is published for general information.

S.E. Isaacs,
Clerk of the National Assembly.



GUYANA

BILL No. 10 of 2004

THE NATIONAL ACCREDITATION COUNCIL BILL 2004

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SCHEDULE

**A BILL
INTITULED**

AN ACT to provide for the establishment of the **NATIONAL ACCREDITATION COUNCIL** to vest in that body the power to grant recognition to awards obtained in Guyana and elsewhere, to determine the equivalence of all awards for the purpose of establishing acceptable standards within the Caribbean Community and for purposes connected therewith or related thereto.

**PART I
PRELIMINARY**

1. This Act may be cited as the National Accreditation Council Act 2004 and shall come into operation on a day to be appointed by the Minister by order.

Short title and commencement.

2. In this Act, unless the context otherwise requires -

Interpretation.

“accredit” means to assess and determine whether the courses offered by an institution or provider and its awards meet internationally acceptable standards;

“accreditation” means any assessment to determine whether recognition should be accorded to an institution or a provider and its courses and awards;

“award” means any degree, diploma, certificate or other evidence of competence;

“college” means a post-secondary or tertiary institution that offers a range of programmes and grants qualifications mainly at the sub-baccalaureate level;

“community college” means a post-secondary or tertiary institution that offers a range of programmes geared to meet the needs of the community in which it exists and grants qualifications mainly at the sub-baccalaureate level;

“Council” means the National Accreditation Council established by section 3;

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

“credit” means a unit of academic measurement for a prescribed course or set of courses for which a particular qualification is awarded;

“equivalence” means an evaluation to determine the status, level and comparability of different programmes of study;

“Executive Director” means the Executive Director of the Council appointed pursuant to section 5;

“institution” means an organization with a developed structure providing for the administration, governance, delivery and certification of a range of programmes leading to the granting of awards or credits;

“Minister” means the Minister assigned responsibility for education;

“polytechnic” or “technical college” means a post-secondary or tertiary institution that offers programmes that prepare graduates for technical occupations and grants sub-baccalaureate qualifications in applied disciplines;

“programme” means an approved curriculum composed of a series of courses in an academic or vocational speciality leading to a particular kind of certification in such form as a certificate, diploma, associate degree or bachelor’s degree;

“provider” means a person or group of persons or an institution offering one or more programmes for award or credit;

“re-accredit” means to appraise in order to determine whether an institution and its awards that have been accredited continue to meet the recognised standards for accreditation;

"technical university" means a post-secondary or tertiary institution that offers programmes that prepare graduates for technological occupations and grants as its major qualifications, baccalaureate and post graduate degrees and also conducts research with an emphasis on applied research;

"tertiary education" means the teaching and learning process that occurs following completion of secondary schooling or its equivalent and leads to the award of sub-baccalaureate qualification, baccalaureate degree and post graduate degrees;

"university" means a tertiary educational institution that grants as its major qualifications baccalaureate and post graduate degrees and conducts pure and applied research;

"validate" means to determine after assessment whether a new course leading to an award satisfies the recognized standards for that award.

PART II ESTABLISHMENT OF THE NATIONAL ACCREDITATION COUNCIL

3.(1) There is hereby established for the purposes of this Act the National Accreditation Council which shall be a body corporate.

Establishment
of the National
Accreditation
Council.

(2) The provisions of the Schedule shall have effect with respect to the constitution of the Council and otherwise in relation thereto.

Schedule.

4.(1) Notwithstanding the provisions of any other law, the Council shall be the principal body in Guyana for conducting and advising on the accreditation and recognition of educational and training institutions, providers, programmes and awards, whether foreign or national and for the promotion of the quality and standard of education and training in Guyana.

Functions of
the Council.

(2) The functions of the Council are -

- (a) to provide for the advancement of education, learning, skills and knowledge;
- (b) to ensure that the quality of all post-secondary education delivered meets the standards set by

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- the Council to the qualifications and certificates conferred or awarded;
- (c) to ensure that the appropriate standards set by the Council are being maintained and improved;
 - (d) to protect the interests of students;
 - (e) to promote the free movement of skills and knowledge within the Caribbean Community.
- (3) Without prejudice to the generality of the provisions of subsections (1) and (2), the functions of the Council are -
- (a) to register institutions within and outside of Guyana which offer courses in Guyana;
 - (b) to maintain a register of approved institutions, providers and courses in Guyana;
 - (c) to accredit and re-accredit the programmes of institutions operating in Guyana;
 - (d) to validate and recognise new courses and programmes of institutions operating in Guyana;
 - (e) to advise on the recognition of foreign institutions of education and training and their awards;
 - (f) to determine equivalency of programmes and qualifications in accordance with the framework established for the Caribbean Community;
 - (g) to develop and maintain a unified credit base system for the tertiary education sector;
 - (h) to grant credits at the appropriate level for learning assessed by the Council;
 - (i) to accept credits granted by other bodies towards its own awards;
 - (j) to establish relationships with national and external accrediting and quality assurance

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bodies and to keep under review their systems of accreditation, procedures and practices;

- (k) to provide authoritative advice on accreditation and related matters, including the conferment on institutions of such titles, as "university", "colleges", or "technical university".
- (l) to seek to enhance the quality of tertiary education and training and to disseminate good practice by conducting research and training;
- (m) to promote quality assurance culture;
- (n) to fix and collect fees in connection with the exercise of its functions;
- (o) to provide the public with information on the quality and recognition of programmes and institutions in order to protect the public interest;
- (p) to undertake audits, reviews and evaluations independently or in co-operation with other bodies as the Council may consider necessary for the discharge of its functions;
- (q) to establish the requirements and the regulations with which institutions and providers must comply in order to be registered with, have their programmes accredited, re-accredited or validated, or have their awards recognized by the Council;
- (r) to advise the Minister on the issuance of charters, licences or other authorisations to institutions and providers to operate or to continue their operations or to alter their existing operations on the basis of an appropriate evaluation;
- (s) to establish and administer examinations councils and award in its own right or jointly with any national or international body degrees, certificates, diplomas and other evidence of competence;

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- (t) to accept courses successfully completed by students in partial fulfillment of programmes and examinations recognized by the Council;
- (u) to acquire, hold, sell or otherwise dispose of any property;
- (v) to accept gifts or donations whether or not subject to any trust;
- (w) to withdraw or cancel approval, recognition or title granted to, or conferred on any institution or provider for good and sufficient cause in the opinion of the Council;
- (x) to deprive persons of awards of distinctions granted to or conferred on them if the Council considers that there is good and sufficient cause to do so;
- (y) to perform such other related functions as the Minister may, from time to time, assign to the Council;
- (z) to do or cause to be done such other things as the Council considers expedient or necessary for the performance of its functions under this Act.

(4) The decision of the Council in Guyana shall prevail in any dispute regarding assessments conducted by other bodies of the accreditation, or recognition of institutions, providers, programmes and awards.

Appointment
of the
Executive
Director and
other staff
of the Council.

5.(1) There shall be an Executive Director of the Council who shall be appointed by the Minister for a term not exceeding five years and the Executive Director shall be eligible for re-appointment.

(2) The Executive Director shall be paid such remuneration (including allowances) and the appointment shall be on such other terms and conditions as the Minister may determine.

(3) The Council may appoint a Secretary and such other officers and employees as the Council may deem necessary and at such remuneration (including allowances) and on such other terms and conditions as the Council may determine.

6.(1) Section 20 of the Public Corporations Act 1988 shall mutatis mutandis apply to public officers, persons (not being public officers) holding appointments in the public service, and teachers, referred to therein, who are seconded, temporarily transferred or transferred to the Council as if the Council were a public corporation.

Superannuation
benefits.
No. 21 of 1988.

(2) The Council may make such provisions as it deems appropriate for the payment of pension, gratuity or other allowances in respect of the service of its officers and other employees on their retirement from their employment with the Council.

7.(1) The Council shall report to the Minister tendering advice on the quality and standards of post-secondary educational provision in Guyana and the fitness or otherwise of institutions to offer educational and training provision, to receive public funds and otherwise practise in Guyana.

Reports
by the
Council.

(2) The Council shall not later than 30 June in every year submit to the Minister a report containing -

- (a) an account of the activities of the Council during the preceding calendar year in such detail as the Minister may require;
- (b) a statement of the accounts of the Council audited pursuant to section 15.

(3) The Minister may require the Council to submit a report on any matter within the competence of the Council.

(4) The Minister shall, as soon as practicable, lay before the National Assembly a copy of the report submitted to the Minister pursuant to subsection (2).

8.(1) The Minister may give to the Council directions of a general character as to the policy to be followed by the Council in the exercise and performance of its functions and the Council shall give effect to any such direction.

Power of
the Minister
to give
directions.

(2) The Council shall provide such facilities to the Minister as will enable the Minister to verify information furnished in pursuance of this section.

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**PART III
FINANCIAL PROVISIONS**

Funds and resources of the Council.

- 9.(1) The funds and resources of the Council shall consist of
- (a) such monies as may be appropriated by Parliament;
 - (b) special grants or other funds as may, from time to time, be provided by the Government or any other entity or agency, whether national, regional or international, for the financing of special projects and activities;
 - (c) monies received by the Council in connection with the performance of its functions;
 - (d) all other property and assets duly acquired by the Council.

Application of the funds of the Council.

10. The Funds of the Council shall be applied in defraying the following expenditure -

- (a) the remuneration, fees and allowances of members of the Council and members of committees established by the Council;
- (b) the emoluments, allowances, fees and superannuation benefits of officers and other employees of the Council;
- (c) the capital and operating expenses, including maintenance and insurance, of the property of the Council;
- (d) the making and maintenance of investments of the Council;
- (e) any other expenditure authorised by the Council in the discharge of its functions.

Use of surplus funds.

11. The Council may accumulate reserves and such reserves and all other funds of the Council not immediately required to be spent in meeting obligations of the Council or the discharge of any of its functions may be invested, from time to time, in such securities as the Council may deem fit.

12. The Council may, for the purpose of discharging its functions under this Act, borrow such sums of money as may be approved by the Minister.

Power to borrow.

13. The Council shall be exempt from stamp duty, corporation tax, customs duties, purchase taxes, value-added taxes, motor vehicle taxes and all other taxes, charges, levies and imports on its income or profit or on assets which it acquires for its own use in carrying out its functions under this Act.

Exemption from taxes.

14. The Council may by resolution make rules for the proper control of the systems of accounting of the Council and for its finances.

Accounting of the Council.

15. The accounts of the Council shall be audited annually by the Auditor General or by an auditor authorised by the Auditor General.

Audit of the accounts of the Council.

**PART IV
GENERAL**

16.(1) Subject to subsection (2), no proceedings shall be instituted personally against a member of the Council in respect of any act done *bona fide* in pursuance of the execution of the functions of that member under this Act.

Protection of members of the Council.

(2) Where a member of the Council is exempt from liability by reason only of subsection (1), the Council is liable to the extent that the Council would be if the member were a servant or agent of the Council so, however, that if in any case the Council is not liable for any act as mentioned aforesaid, then subsection (1) does not have the effect of exempting such member as therein stated.

17.(1) It shall be an offence for any member or any officer or other employee of the Council to -

Offences.

- (a) communicate or reveal any information or matter connected with or related to the functions of the Council to any unauthorised person or body, which that member or officer or other employee is not authorised to communicate or reveal;
- (b) obtain, reproduce or retain possession of any information or matter referred to in paragraph (a), which that member or officer or other employee is not authorized to obtain, reproduce or retain in his possession.

- (2) It shall be an offence for an institution or provider to -
- (a) conduct or alter its operations without the prior approval of the Council;
 - (b) offer to the public courses that are not registered with the Council;
 - (c) use the word "university", "college", "polytechnic", "community college", "technical college", or "technical university" in its title without having the authority to do so by the Council or any internationally recognised body or authority or by any enactment;
 - (d) misrepresent to the public the recognition claimed for it or for its courses or awards.

(3) An offence under this section is punishable on summary conviction with a fine of two hundred thousand dollars.

Power
to make
regulations.

18.(1) The Council, with the approval of the Minister, may make regulations for the better carrying out of the provisions of this Act.

(2) Regulations made under this section shall be subject to negative resolution of the National Assembly.

Review
of the
operations
of the Council.

19.(1) The Council, with the approval of the Minister at intervals of six years, shall cause a review to be undertaken of the functions of the Council in order to assess the impact of the operations of the Council on the society and its efficiency and effectiveness.

(2) The review pursuant to subsection (1) shall be undertaken in collaboration with the Regional Accreditation Body established for the Caribbean Community and with other recognised like competent authorities.

Transitional
provisions.

20.(1) Institutions and providers lawfully performing their functions at the commencement of this Act shall, for the period of six months thereafter, be deemed to be authorised to continue to perform their respective functions:

Provided that no new course shall be undertaken or advertised to the public by any such institution or provider without the prior approval of the Council.

(2) Any regulations governing the registration of institutions and providers and in force immediately before the commencement of this Act shall, in so far as they are not inconsistent with the provisions of this Act, continue in force.

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SCHEDULE

section 3(2)

Constitution
of the
Council.

1.(1) The Council shall comprise not less than ten nor more than fifteen members appointed by the President one of whom shall be appointed the Chairperson and another the Deputy Chairperson.

(2) The members of the Council shall include -

- (a) three persons representing tertiary institutions, including a representative in Guyana of the body known as the Association of Caribbean Tertiary Institutions and a representative in Guyana of the Technical Vocation Education and Training Sector;
- (b) two persons representing bodies established to promote the interests of members of the teaching profession;
- (c) two persons representing bodies espousing the interests of employers;
- (d) one representative of the Ministry responsible for matters falling within the competence of the Council.
- (e) two persons appointed on the recommendation of the Minister.
- (f) the Executive Director who shall be an ex officio member of the Council.

(3) The appointment of every member of the Council, other than the Executive Director, shall be in writing and shall state the term of office of that member, being not more than three years.

(4) Every appointed member of the Council shall be eligible for re-appointment.

(5) A member of the Council may, at any time, in writing resign his membership of the Council which shall take effect from the date of receipt by the Minister of the communication.

(6) Where a vacancy occurs in the membership of the Council by reason of death, resignation or termination of the appointment or by any other cause, the President shall appoint another person to fill the vacancy for the unexpired portion of office of the member who has vacated office and in the same manner in which an appointment to the Council is required by this Act to be made.

(7) An act or a proceeding of the Council shall not be questioned on account of any vacancy in the membership thereof; and a defect in the appointment of any member of the Council shall not vitiate any proceedings thereof.

(8) The seal of the Council shall be authenticated by the signatures of the Chairperson or the Deputy Chairperson and any other member of the Council authorised to act in that behalf and such seal shall be officially and judicially noticed.

(9) The Council shall pay to the members of the Council, other than the Executive Director, such remuneration and allowances, if any, as the President may determine.

(10) The names of all members of the Council as first constituted and every change in the membership thereof shall be published in the Gazette.

2.(1) The Chairperson shall preside at meetings of the Council and, in the absence of the Chairperson, the Deputy Chairperson shall preside; in the absence of both of them from any meeting the other members present shall elect one of their number to preside at the meeting.

Meetings of
the Council.

(2) The quorum of the Council shall be one-half of the membership thereof and one, if necessary, in order to attain an uneven number.

(3) Minutes in proper form of each meeting of the Council shall be kept by the Secretary and shall be confirmed by the person presiding at the next meeting and a copy of the confirmed minutes shall be transmitted to the Minister within seven days of such confirmation.

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

Declarations
to interest.

4.(1) The Council may appoint such number of committees as the Council may deem fit and may delegate any of its functions to such committees.

Appointment
of committees
and power to
delegate.

(2) Membership of a committee may include persons who are not members of the Council.

EXPLANATORY MEMORANDUM

This Bill seeks to establish a national body responsible for the accreditation and recognition of qualifications acquired in Guyana and elsewhere.

The accreditation body will have a strong working relationship with the regional accreditation body which is to be established for the Caribbean Community. The national accreditation body will report to the Minister annually ensuring that its operations are consistent with policy directives of the Government.

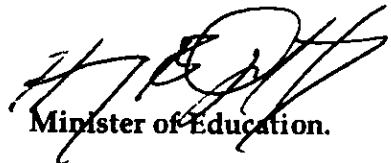
Clause 3 provides for the establishment of the national accreditation body.

Clause 4 seeks to provide for the national accreditation body to take precedence over any existing body exercising the function of evaluating professional awards or qualifications acquired or conferred in Guyana or elsewhere. This clause sets out extensively the functions of the Council.

Clauses 9 to 15 seek to make provision for the financial resources of the Council, for exemptions accorded the Council from certain taxes and for the financial accountability of the Council.

Clause 19 seeks to provide for a review at intervals of six years to be undertaken of the functioning of the Council to assess the impact of its operations on the society.

Clause 20 seeks to deal with the transitional provisions governing the operations of existing institutions and persons offering programmes for award or credits.



Minister of Education.