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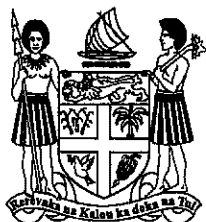
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**ACT NO. 16 OF 2006**

I assent.

[L.S.]

J. I. ULUIVUDA  
President

[18 October, 2006]

**AN ACT**

TO MAKE PROVISION FOR THE ESTABLISHMENT OF THE FIJI INSTITUTE OF TECHNOLOGY AS A CORPORATE BODY, FOR THE ESTABLISHMENT OF A BOARD OF DIRECTORS TO MANAGE THE AFFAIRS OF THE INSTITUTE AND FOR RELATED MATTERS

ENACTED by the Parliament of the Fiji Islands—

**Part 1 – PRELIMINARY***Short title and commencement*

1. This Act may be cited as the Fiji Institute of Technology Act 2006 and comes into force on a date to be appointed by the Minister, by notice published in the *Gazette*.

*Interpretation*

2. In this Act, unless the context otherwise requires—
- “the Board” means the Board of Directors established under section 4;
  - “by-laws” means by-laws made by the Board pursuant to section 20(2);
  - “Institute” means the Fiji Institute of Technology established under section 3;
  - “Chief Executive Officer” means the person appointed as such under section 14;

“Minister” means the Minister responsible for education;

“programme” means a course of study leading to a qualification to be awarded by the Institute;

“property” means real and personal property of every description;

“Secretary” means the Secretary of the Board appointed under section 7.

## PART 2—ESTABLISHMENT OF THE INSTITUTE, BOARD AND THE COUNCILS

### *Establishment, etc., of the Institute*

3.—(1) This section establishes the Fiji Institute of Technology, as being a body corporate with perpetual succession and a common seal and may —

- (a) sue and be sued in its corporate name;
- (b) may, after consultation with the Minister, acquire and hold real property of any description and subject to the terms and conditions upon which the same is held, may sell, exchange, lease, mortgage, dispose of or otherwise deal with such property;
- (c) acquire and hold personal property, including shares in any company incorporated under the laws of the Fiji Islands;
- (d) borrow money, charge the whole or any part of its undertaking and assets, issue debentures, debenture stock and other securities, whether as security for any debt, liability or obligation of the Institute or otherwise.

(2) The seal of the Institute shall be authenticated by the signature of the Chairperson and one other director authorized to act in that behalf by the Board; and shall be judicially and officially noticed.

(3) All documents, other than those required by law to be under seal, made by, and all decisions of the Board may be signified under the hand of the Chairperson or any director or officer authorized by the Board to act in that behalf.

(4) All cheques and other negotiable instruments, and all receipts for money paid to the Institute, shall be signed, drawn, accepted, indorsed or otherwise executed, as the case may be, in such manner as the Board may from time to time determine, so however, that no fewer than two persons shall be authorized to sign cheques.

### *Board of Directors*

4.—(1) This section establishes the Board of Directors of the Institute consisting of the following members—

- (a) a Chairperson;
- (b) the Chief Executive Officer of the Ministry of Education or his or her nominee approved by the Minister in writing;
- (c) one member appointed by the Minister from a number of persons, not exceeding 3, nominated by the Fiji Institute of Engineers to represent the engineering industry;

- (d) one member appointed by the Minister to represent the private sector;
- (e) one member appointed by the Minister from a number of persons, not exceeding three, nominated by the Registrar of Trade Unions; and
- (f) two members appointed by the Minister having regard to the achievement of balance in gender, race and geographical representation.

(2) The Chief Executive Officer of the Ministry of Education or his or her nominee shall be an ex officio member of the Board and the other members shall be appointed by the Minister for a term not exceeding 3 years.

(3) The Minister shall appoint a Deputy Chairperson from among the members specified in subsection (1) (b) to (f).

(4) Vacancies on the Board shall be filled in like manner as appointments are made, and the person so appointed shall hold office for the unexpired portion of the member's term and no longer.

*Functions of the Board*

5.—(1) The Board shall have the general management and control of the Institute and for that purpose—

- (a) shall exercise a general supervision over the affairs of the Institute;
- (b) shall have the custody, control and disposition of all property, funds, fees and investments of the Institute;
- (c) shall strive to ensure that the Institute attains the highest standards of excellence in education, training and research;
- (d) shall, from time to time, in respect of the Institute, prepare, for the approval of the Minister, a statement of objectives, including a corporate plan, and proposed funding for such objectives and plan;
- (e) shall ensure that the Institute is managed in accordance with the statement of objectives and such other policies for technical and vocational education and training as the Board, with the approval of the Minister, may determine;
- (f) may initiate and engage in entrepreneurial activities with a view to the Institute becoming more and more self-funding;
- (g) may engage in such joint venture activities as will enable the Institute to improve its provision of facilities, including the provision of halls of residence, to students;
- (h) shall, for the purposes of responsible, effective and efficient use of resources, ensure that systems are established for the co-ordination of activities of the Institute and for accountability;
- (i) shall, subject to the by-laws, conduct examinations;
- (j) shall, either alone or jointly with another institution, confer upon a person who has successfully completed a programme referred to in paragraph (m), such academic or other qualification as may be prescribed;

- (k) shall, subject to the by-laws, if any, make such appointments of instructional staff and other employees on such terms and conditions as it may determine;
  - (l) may award and administer bursaries and scholarships whether tenable at the Institute or elsewhere on such terms and conditions as it may determine;
  - (m) shall provide facilities and develop programmes in respect of higher education generally, including programmes intended to lead to qualification in specified professions and occupations;
  - (n) may accept gifts and donations whether of property or otherwise and whether subject to any special trust or not for the purposes of the Institute;
  - (o) shall provide pecuniary benefits for the employees of the Institute 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 shall 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; and
  - (p) shall, subject to the provisions of this Act, do such other things as appear to the Board necessary or expedient for furthering the interests of the Institute.
- (2) The Board may, after consultation with the Minister, but not otherwise—
- (a) create such departments within the Institute as the Board considers expedient;
  - (b) determine fees to be paid in respect of programmes and courses or otherwise; and
  - (c) enter into agreements or arrangements on behalf of the Institute with other institutions of further education for the provision of instruction or the granting of degrees, diplomas, certificates and other academic awards.

*Delegation of functions of the Board*

6.—(1) The Board may, subject to such terms and conditions, if any, as it may impose, or to the by-laws, or both, in writing, delegate to any one or more members of the Board, any of the functions of the Board specified in section 5(1).

(2) The Board may, from time to time, establish such committees as it considers necessary consisting of such persons, including members of the Board, as it thinks fit, and may, in writing, delegate to such committees such of its functions as it considers appropriate.

(3) A committee appointed under subsection (2) shall be subject to such terms and conditions, if any, as the Board may impose in the delegation, or to the by-laws, or to both.

*Secretary of the Board*

7. The Board shall, subject to such terms and conditions as may be agreed, appoint a Secretary of the Board who—

- (a) shall be responsible to the Chairperson for the general administration of the Board; and
- (b) shall have such other functions as the Board may, from time to time, assign.

*Meetings of the Board*

8.—(1) Subject to subsections (2) and (3), the Board shall meet once every 3 months at a time and at a venue to be decided by the Chairperson.

(2) The Secretary shall, at the request of the Chairperson or any four members of the Board, convene a meeting of the Board.

(3) The Chairperson, or, in the Chairperson's absence, the Deputy Chairperson, shall preside at a meeting of the Board.

(4) If both the Chairperson and the Deputy Chairperson are absent from a particular meeting of the Board, the members present shall elect one of their numbers to preside at that meeting.

(5) At a meeting of the Board five members shall constitute a forum.

(6) In the case of an equality of votes at a meeting of the Board, the person presiding shall have an original as well as a casting vote.

(7) Any question proposed for a decision by the Board shall be determined by a majority of the votes of the members present and voting at a meeting of the Board.

(8) The validity of any act or proceeding of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member.

(9) The Chief Executive Officer shall attend all meetings of the Board, but shall not vote on any matter before the Board.

(10) Subject to the provisions of this section, the Board may regulate the conduct of its meetings as it thinks fit, and the Secretary shall keep minutes of those meetings.

*Disclosure of interests*

9.—(1) Subject to the provisions of this section, a member of the Board who—

- (a) proposes to speak or vote on any matter before the Board or a committee of the Board; and
- (b) has a direct or indirect interest in such matter,

shall first disclose to the Board or the committee the nature of his or her interest in the matter.

(2) A disclosure under subsection (1) must be recorded in the minutes of proceedings of the Board or the committee, and after the disclosure, the member—

- (a) shall not take part in any deliberation or decision of the Board or the committee on the matter, unless the Board or the committee otherwise resolves;
- (b) shall be disregarded for the purposes of constituting a quorum of the Board or the committee for any such deliberation or decision; and
- (c) may, by resolution of the Board or committee, be excluded from the meeting.

(3) A member of the Board or of a committee of the Board shall not, except with the prior written consent of the member referred in subsection (1), which consent shall not be unreasonably withheld, reveal or cause to be revealed, to any other person an interest referred to in that subsection, unless—

- (a) that other person also has an interest in the matter; or
- (b) the Board otherwise determines that it is appropriate so to do.

*Removal and resignation of members of the Board*

10.—(1) The Minister may, on the recommendation of the Board and after consulting the body, if any, that nominated a member for appointment, remove the member from office if the member—

- (a) has been adjudged bankrupt or has made a composition with his creditors;
- (b) has been convicted of any offence involving fraud or dishonesty or other serious offence which prescribes a term of imprisonment of 7 years or more;
- (c) is absent, without the leave of the Board, from three successive meetings of the Board; or
- (d) for any other good reason, is unable to perform the functions of such office.

(2) A member of the Board, other than the Chief Executive Officer of the Ministry of Education or his or her nominee, may resign his or her office by instrument in writing addressed to the Minister and from the date of receipt of the instrument by the Minister, if no date is specified therein, the member shall cease to be a member of the Board.

*Protection of members of the Board*

11.—(1) No action, suit or other proceeding shall be instituted against any member of the Board personally in respect of any act or omission bona fide done or made by the member in execution or intended execution of any function of the Board under this Act.

(2) Where a member of the board is exempt from liability for an act or omission by reason only of subsection (1), the Board shall be liable for the act or omission to the



extent that it would be if the member were the Board's servant or agent.

*Appointment of Academic Council*

12.—(1) This section establishes the Academic Council, the members of which shall be appointed by the Board after consultation with the Minister.

(2) The Academic Council shall—

- (a) be responsible to the Board for all academic matters relating to the Institute; and
- (b) advise the Board on such matters relating to education, training, research or other academic matters as the Board may from time to time refer to it.

(3) The composition of the Academic Council shall be as provided in Part 1 of the Schedule.

*Appointment of Advisory Council*

13.—(1) This section establishes the Advisory Council, the members of which shall be appointed by the Board after consultation with the Minister.

(2) The Advisory Council shall—

- (a) advise the Board on such matters relating to the management and the welfare of the Institute as the Board may from time to time refer to it;
- (b) of its own accord, advise the Board on any such matters or on any other matter that it considers appropriate ; and
- (c) advise the Board and, with the approval of the Board, disseminate information on the training offered at the Institute in respect of any particular industry and the relationship of such training to that industry.

(3) The composition of the Advisory Council shall be as provided in Part 2 of the Schedule.

Part 3—ADMINISTRATION AND FINANCE OF THE INSTITUTE

*Administration of the Institute*

14.—(1) Subject to the by-laws, if any, the Board has power to appoint, discipline, suspend or dismiss—

- (a) the Chief Executive Officer of the Institute; and
- (b) other senior management officers of the Institute, including consultants.

(2) Subject to the directions of the Board, the Chief Executive Officer shall—

- (a) be responsible to the Board for the general management and administration of the Institute;
- (b) perform such other functions as may be specified by the Board or conferred by this Act or any other written law.

(3) Subject to the directions of the Board, for the purposes of carrying out the day to day functions of the Board under this Act, the Chief Executive Officer has the power to appoint, discipline, suspend or dismiss other staff, except persons appointed under

subsection (1)(b), subject to subsection (4).

(4) The Board may delegate its power to discipline persons appointed under subsection (1)(b) to the Chief Executive Officer.

*Finances of the Institute*

- 15.—(1) The funds of the Institute shall consist of—
- (a) moneys appropriated by Parliament to finance the Institute;
  - (b) moneys earned by the Institute in consequence of its entrepreneurial activities;
  - (c) donations or contributions from any source;
  - (d) moneys borrowed by the Institute; and
  - (e) interest on investments.
- (2) The Chief Executive Officer shall be the accounting officer for the Institute.

*Budget*

- 16.—(1) The Board shall submit to the Minister for his or her approval—
- (a) not later than 7 months prior to the commencement of each financial year, income and expenditure estimates, in such detail as the Minister may require relating to the objectives and work programmes planned for that year of operation of the Institute; and
  - (b) as soon as may be thereafter, any subsequent proposals to amend such estimates, and the estimates, together with any amendments, upon being approved by the Minister, shall be the Institute's budget for the financial year to which it relates.
- (2) The Minister may, on the application of the Board, increase or decrease the period of 7 months specified in subsection (1).

*Remuneration and allowances*

17. The Board has power to fix—
- (a) the allowances of members of a committee appointed under the Act;
  - (b) the allowances of members of the Academic Council and the Advisory Council;
  - (c) the remuneration and other allowances for persons appointed by the Chief Executive Officer under section 14(3); and
  - (d) the remuneration and other allowances of all other persons employed by, or otherwise engaged in the service of, the Institute, except persons in respect of whom the Higher Salaries Commission, pursuant to the Higher Salaries Commission Act, has determined salaries.

*Auditing of accounts and annual report*

- 18.—(1) The Board shall cause proper accounts of the financial affairs of the Institute to be maintained and has the power, with the approval of the Auditor General,

to appoint an auditor to carry out an annual auditing of its accounts and other financial statements.

(2) The Board shall prepare an annual report of the Institute for its operations for the preceding year and shall submit the report, including its audited accounts, to the Minister before 31 March in each year.

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

### PART 3—MISCELLANEOUS

#### *Ownership of copyright, etc*

19. Where a person who is an employee of, or consultant to, or otherwise performs assignments for or on behalf of the Institute, creates any work in his or her capacity as such employee, consultant or otherwise, then, subject to any agreement between the parties, the Institute shall be the owner of the intellectual property right or the copyright in that work.

#### *Minister may make regulations, etc.*

20.—(1) The Minister may, on the recommendation of the Board, make regulations in respect of—

- (a) the administration of the Institute;
- (b) the conferring of diplomas, certificates and other academic awards; and
- (c) generally for the carrying into effect the provisions of this Act.

(2) The Board may make by-laws in respect of—

- (a) the proceedings of the Board;
- (b) the selection, appointment, resignation, retirement and removal of officers and staff;
- (c) the conduct of examinations;
- (d) the procedures of the Academic Council and the Advisory Council;
- (e) the admission, conduct and discipline of students; and
- (f) the exercise of any function of the Board which it has delegated to a member of the Board or a committee.

#### *Savings and transitional provisions*

21. (1) Every interest in or right over—

- (a) any land comprising the Fiji Institute of Technology; and
- (b) any other property, which immediately prior to the coming into operation of this Act was vested in or enjoyed by the Council under the repealed Decree, is by virtue of this section and without further assurance, on the coming into operation of this Act, transferred to the Institute to be held and enjoyed by the Institute to the extent and subject to any condition to which it was held by the Council.

(2) Any right, privilege, obligation or liability, bona fide, acquired, accrued or incurred by the Council before the coming into operation of this Act, shall, on such coming

into operation, become the right, privilege obligation or liability, as the case may be, of the Institute.

(3) Any disciplinary, or other proceedings, which were begun by the Council under the repealed Decree, may, on the coming into operation of this Act be continued by the Board, or a committee appointed by the Board for the purpose.

(4) Any action, suit or proceeding which, prior to the coming into operation of this Act, was instituted by or against the Council, may, on such coming into operation, be continued by or against the Institute.

(5) Any contract of employment with the Council made under the repealed Decree and in force immediately prior to the coming into operation of this Act, shall, on such coming into operation, continue under this Act, so, however, that such contract shall terminate on such date as, but for this provision, it would have terminated under the repealed Decree.

(6) On the coming into operation of this Act, the members of the Council specified in subsection (7) who were appointed under the repealed Decree shall be deemed to be appointed by the Minister under this Act, so however that the appointment of each such member shall terminate on such date as, but for this provision, it would have terminated under the repealed Decree.

(7) The members referred to in subsection (6) are—

- (a) the member appointed by the Fiji Trade Union Congress;
- (b) the member representing the interests of the engineering industry; and
- (c) the two members appointed by the Minister having regard to the achievement of balance in gender, race and geographic region.

(8) In this section—

- (a) “the Council” means the Council of the Fiji Institute of Technology established under the repealed Decree; and
- (b) the “repealed Decree” means the Fiji Institute of Technology Decree 1992.

*Repeal*

22. On the coming into operation of this Act, the Fiji Institute of Technology Decree 1992 shall be repealed.

SCHEDULE  
(sections 12 and 13)

PART 1—MEMBERSHIP OF THE ACADEMIC COUNCIL

1. The membership of the Academic Council shall be as follows—
  - (a) the Chief Executive Officer of the Institute who shall be the Chairperson;

- (b) the Deputy Chief Executive Officer (Academic);
- (c) the Deputy Chief Executive Officer (Administration);
- (d) one person nominated by the Minister responsible for Information Communication and Media Relations;
- (e) the General Manager Academic Services;
- (f) the Librarian;
- (g) the Heads of Schools;
- (h) a representative of the Fiji Institute of Technology Staff Association;
- (i) a representative of the Fiji Institute of Technology Students Association;
- (j) one person nominated by the Fiji Medical Association; and
- (k) any other person deemed suitable by the Board.

PART 2—MEMBERSHIP OF THE ADVISORY COUNCIL

1. The membership of the Advisory board shall be as follows—
  - (a) the Chief Executive Officer of the Institute who shall be the Chairperson;
  - (b) two members selected by the Board from a list of persons, not exceeding three, nominated by the Minister;
  - (c) one member selected by the Board from a list of persons, not exceeding three, nominated by the Minister responsible for Culture and Heritage, to represent arts and culture;
  - (d) one member selected by the Board from a list of persons, not exceeding three, nominated by the Minister of Information, Communication and Media Relations;
  - (e) one member selected by the Board from a list of persons, not exceeding three, nominated by the Fiji Institute of Accountants to represent accountants and auditors;
  - (f) one member selected by the Board from a list of persons, not exceeding three, nominated by persons having an interest in the digital technology industry;
  - (g) one member selected by the Board from a list of persons, not exceeding three, nominated by the Fiji Institute of Engineers; and
  - (h) one member selected by the Board from a list of persons, not exceeding three, nominated by the staff, other than the academic staff, of the Institute.

Passed by the House of Representatives on 21st September 2006.

Passed by the Senate on 11th October 2006.