



**Tuvalu**

**TUVALU MARITIME TRAINING  
INSTITUTE ACT**

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**CAP. 48.40**





Tuvalu

## TUVALU MARITIME TRAINING INSTITUTE ACT

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Tuvalu

# TUVALU MARITIME TRAINING INSTITUTE ACT

## AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE TUVALU MARITIME TRAINING INSTITUTE AND FOR CONNECTED PURPOSES<sup>1</sup>

Commencement [1st July 2000]<sup>2</sup>

### PART I - PRELIMINARY

#### 1 Short title

This Act may be cited as the Tuvalu Maritime Training Institute Act.

#### 2 Interpretation

In this Act, unless the context otherwise requires —

“**Board**” means the Board of Directors of the Tuvalu Maritime Training Institute established under section 6;

“**Captain Superintendent**” means the Captain Superintendent of the Institute appointed under section 12(2);

“**Chairman**” means the Chairman of the Board appointed under section 9(1);

“**Deputy Chairman**” means the Deputy Chairman of the Board appointed under section 9(1);

“**Director**” means a Director of the Board;

“**Institute**” means the Tuvalu Maritime Training Institute established by section 3(1);

“**Stakeholder**” includes Seafarers as represented by the Tuvalu Overseas Seamen Union, Employers of Seafarers, and the Community as represented by leaders of island communities on Funafuti.

## **PART II - ESTABLISHMENT, FUNCTIONS AND POWERS**

### **3 Establishment of Institute**

- (1) There is established by this Act the Tuvalu Maritime Training Institute.
- (2) The Institute —
  - (a) shall be a body corporate with perpetual succession;
  - (b) shall have a common seal;
  - (c) may sue or be sued in its corporate name; and
  - (d) may do anything which a body corporate may lawfully do and perform which is necessary to carry out its functions.

### **4 Functions and powers**

- (1) The Institute shall carry on maritime education and training, including the assessment of competence of seafarers and the issue of assessment certificates attesting that competence.
- (2) In carrying out its functions the Institute shall consult and maintain close communication with the stakeholders.
- (3) Without in any way limiting the generality of subsection (1), the Institute shall have the power —
  - (a) to offer maritime education and training programs, including residential programs to citizens of Tuvalu and other countries within the South Pacific region;
  - (b) to conduct practical training programmes at venues and in a manner appropriate to the specific nature of those training programmes as the Board may determine;
  - (c) to operate training vessels, including a seagoing training ship that carries passengers and freight in such a manner as the Board may determine;
  - (d) to buy, sell, serve and import food and drinks and other goods for use or sale as part of its training activities;
  - (e) to fit out and furnish any property for the purpose of letting it as part of its training;

- (f) to operate workshop facilities for repair or maintenance of equipment and machinery as part of its training activities;
- (g) to do in Tuvalu or elsewhere, either alone or jointly with any other person or organisation, all things necessary or convenient to be done for or in connection with or consequent on any of its powers or functions;
- (h) to charge for its services and training as the board determines;
- (i) to raise revenue for the benefit of the Institute in any such manner as the Board with the concurrence of the Minister sees fit; and
- (j) to undertake such other activities in furtherance of its functions as the Minister may, after consultation with the Board, order.

## **5 Ministerial directions**

- (1) In carrying out its powers, duties and functions under this Act, the Institute shall act in accordance with any policy directions (not inconsistent with this Act) in the national interest given to it from time to time in writing by the Minister.
- (2) The Minister in issuing such policy direction shall take into account the views of the Board and Cabinet.

# **PART III - BOARD, MANAGEMENT AND EMPLOYEES**

## **6 Board**

- (1) There shall be a Board of Directors for the Institute which —
  - (a) is the governing body of the Institute with authority, in the name of the Institute, to perform and exercise the functions and powers of the Institute under this Act; and
  - (b) shall, subject to this Act, be responsible for the policy, control and strategic direction of the Institute.
- (2) The Board shall ensure that the policies of the Institute are directed towards the national interest.

## **7 Constitution of the Board**

- (1) The Board shall consist of five Directors who shall be appointed by the Minister, of whom —
  - (a) one shall be a member of the Public Service; and
  - (b) four shall be representatives of the stakeholders as determined under subsection (2).

- (2) The representatives to the Board of the stakeholders shall be one each from the Tuvalu Overseas Seamen Union and the community leaders, one representative from the Employers of Seafarers and another whose experience and knowledge, in the view of the Minister, will be of benefit to the Institute.
- (3) The appointment of the representatives to the Board of stakeholders shall be based on merit, industry experience, special knowledge, profession or skill which will be of benefit to the institute.
- (4) The Directors shall be appointed for a period not exceeding three years but shall be eligible for reappointment.
- (5) The Directors shall be paid such fees and allowances as may be determined by the Board and approved by the Minister.

## **8 Disqualification of Directors**

- (1) No person shall be eligible for appointment as a Director who —
  - (a) is a member of Parliament of Tuvalu;
  - (b) is an officer or employee of the Institute;
  - (c) has been declared bankrupt or insolvent by a court in Tuvalu or elsewhere and has not received a discharge;
  - (d) is found lunatic or becomes of unsound mind; or
  - (e) has been convicted anywhere of an offence involving dishonesty.
- (2) A Director may resign his office by giving one month's notice in writing to the Minister.
- (3) The Minister shall by notice, displayed at the office of the Government in Funafuti, terminate the appointment of a Director if —
  - (a) that Director is, without prior written permission of the Chairman, absent from three successive meetings of the Board; or
  - (b) in relation to that Director any circumstances arise which, if he was not a Director, would make him ineligible for appointment under subsection (1).
- (4) The Minister may by notice terminate the appointment of a Director for non-performance or other reason, but shall provide that Director with the reason or reasons for the termination.

## **9 Chairman and Deputy Chairman**

- (1) The Minister shall appoint two of the Directors to be Chairman and Deputy Chairman respectively of the Board for such period as the Minister may determine but such appointment shall cease immediately on the Chairman or Deputy Chairman ceasing to be a Director.

- (2) The Chairman or Deputy Chairman may resign his appointment by giving written notice to the Minister.
- (3) The Minister may by notice terminate the appointment of the Chairman or Deputy Chairman for non-performance or other reason, but shall provide him with reasons for the termination.

## **10 Meetings of the Board**

- (1) The Board shall meet as often as the business of the Institute may require but not less frequently than once a month.
- (2) Board meetings shall be at such times and places as the Board shall determine or as the Chairman or in his absence the Deputy Chairman shall direct.
- (3) The Chairman, or in his absence the Deputy Chairman shall be Chairman at meetings of the Board and in the absence of both the Chairman and the Deputy Chairman from any meeting or any part of a meeting one of the other Directors shall be appointed by the Board at or during the meeting to be Chairman of that meeting or part of that meeting.
- (4) Three Directors shall form a quorum at a meeting of the Board.
- (5) Each Director shall have one vote.
- (6) Questions arising at a Board meeting shall be resolved by a simple majority of the votes of the Directors present and voting, except that in an equality of votes, the Chairman of the meeting, or part of the meeting shall have a second or casting vote.
- (7) The Captain Superintendent shall, unless given leave of absence in writing by the Chairman, be present at all meetings of the Board.

## **11 Disclosure of interest**

- (1) Where a Director has an interest, direct or indirect, in a matter before the Board, he shall fully disclose that interest to the Board —
  - (a) at a meeting during the course of which he becomes aware of the relevant facts; or
  - (b) at the first meeting after he becomes aware of the relevant facts.
- (2) After a Director has, under subsection (1), disclosed an interest in a matter before the Board, he shall not take part in the deliberation or in the decision of the Board on that matter.

## **12 Management**

- (1) The Chief Executive of the Institute shall be the Captain Superintendent who shall be responsible to the Board for the effective operation of the day to day

activities of the Institute including the supervision and direction of officers and staff of the Institute.

- (2) The Captain Superintendent shall be appointed by the Board with the approval of the Minister.
- (3) In exercising his functions under this Act, the Captain Superintendent shall act in accordance with such policy directions as may, from time to time, be received from the Board.
- (4) The Captain Superintendent shall hold office for a period not exceeding 3 years on such terms and conditions as may be determined by the Board, subject to the approval of the Minister.
- (5) The Captain Superintendent is eligible for reappointment.
- (6) The Captain Superintendent shall devote the whole of his services to the Institute and shall not while holding office, without the approval of the Chairman of the Board:
  - (a) receive any remuneration from any office or any employment other than with the Institute; or
  - (b) hold any other office or employment, whether for remuneration or not, except as a nominee of the Institute.
- (7) Where the Captain Superintendent is prevented by illness, absence from Tuvalu or any other cause, from exercising his functions as Captain Superintendent, the Board may appoint an Acting Captain Superintendent who shall act as the Captain Superintendent until the Captain Superintendent is able to resume his functions.
- (8) The Board may by written resolution authorise the Captain Superintendent, a Director or another officer of the Institute to act, enter into contract and to sign instruments and documents, all on behalf of the Institute.
- (9) The Captain Superintendent shall be paid by the Institute such salary and allowances as are determined by the Board and approved by the Minister.
- (10) The Minister, on the advice of the Board may, by notice terminate the appointment of the Captain Superintendent for non-performance or any other reasons but shall provide him with a reason or reasons for the termination

### **13 Officers and staff**

- (1) The Board shall appoint, employ or dismiss such permanent officers and staff as may be reasonably necessary for the purposes of or in connection with the business of the Institute on such terms and conditions as the Board may determine and approved by the Minister.
- (2) The Captain Superintendent shall appoint, employ or dismiss such temporary and casual employees of the Institute as may be reasonably necessary for the

purposes of or in connection with the business of the Institute on such terms and conditions as the Board may determine and approved by the Minister.

- (3) The Captain Superintendent shall provide for the training, career development and discipline of the officers and staff of the Institute.
- (4) The officers and staff of the Institute shall be under the administrative control of the Captain Superintendent.

## **PART IV - FINANCIAL PROVISIONS**

### **14 Funds and property of the Institute**

The funds and property of the Institute shall consist of —

- (a) money appropriated by Parliament and paid to the Institute;
- (b) rights, interests, assets or liabilities of the Government vested in the Institute under section 15;
- (c) all monies received by the Institute for goods or services provided under this Act;
- (d) monies paid to the Institute by way of grants, subsidies, loans, rent and repayments of principal or interest;
- (e) money from the sale of property held by or on behalf of the Institute;
- (f) sums due on any investment made by the Institute;
- (g) other money and property lawfully received by the Institute; and
- (h) accumulations of income derived from any money or property of the Institute.

### **15 Vesting of Government assets etc in the Institute**

- (1) At the commencement of this Act, the rights, interests, assets and liabilities of the Government formerly managed by the Tuvalu Maritime School shall be transferred to and vested in the Institute.
- (2) The Minister, with the approval of Cabinet, may further vest or transfer to the Institute any rights, interests, assets and liabilities.

### **16 Prudent conduct of affairs**

- (1) The Institute shall conduct its affairs in accordance with sound business principles.
- (2) Financial accounts are to be prepared on an accrual accounting basis.

**17 Financial Year**

- (1) The financial year of the Institute shall end on 31st March each year.
- (2) The Minister may amend subsection (1) by order.

**18 Profits**

- (1) The net profit of the Institute in any financial year shall be determined by the Board after allowing for expenses of operation during that financial year and making provision for depreciation and repayment of any advances.
- (2) The net profit of the Institute in any financial year shall be allocated as the Board, with the approval of the Minister, determines.

**19 Reserve Fund**

- (1) The Institute shall have a reserve fund which shall consist of such sums as are placed to the credit of the reserve fund as the Board, with the approval of the Minister, determines.
- (2) There may be transferred from time to time from the reserve fund to the working capital of the Institute such sums as the Board, with the approval of the Minister, determines.

**20 Estimates**

- (1) The Board shall prepare and submit to the Minister, not later than three months before the end of each financial year, both the estimates of the income and expenditure of the Institute on an accrual basis and the capital budget for the next financial year, and for any such longer period that the Minister may require.
- (2) The Board shall cause to be kept all proper books and records of account of its income, expenditure, assets and liabilities on an accrual basis.

**21 Annual reports and accounts etc**

- (1) The Board shall, as soon as practicable after the end of each financial year and in any event not later than 6 months from the end of the financial year, prepare —
  - (a) a report of the operations of the Institute during the year; and
  - (b) accounts and financial statements, in the appropriate forms in respect of that year.

- (2) The report prepared under subsection (1) shall include details of the financial performance and effectiveness of the Institute as compared with the performance measures included in the Corporate Plan.

## **22 Corporate Plans**

- (1) The Board shall prepare corporate plans.
- (2) The first corporate plan —
  - (a) shall be for a period not less than 3 years and not more than 5 years; and
  - (b) shall be prepared and submitted to the Minister no later than 30 September 2001.
- (3) Each subsequent corporate plan shall be for a period of not less than 3 years and not more than 5 years and shall be submitted to the Minister annually by 30 September.
- (4) The Board may review and revise a corporate plan at any time.
- (5) Each corporate plan prepared shall —
  - (a) set out the objectives of the Institute;
  - (b) outline the overall strategies and policies that the Institute will follow to achieve its objectives and discharge its functions;
  - (c) include a forecast of revenue and expenditure of the Institute, including capital expenditure;
  - (d) include such performance indicators and targets as the Board considers appropriate; and
  - (e) include such other matters as may be prescribed by the Minister.
- (6) As soon as practicable after the Board revises a corporate plan it shall submit a copy of the revised corporate plan to the Minister.
- (7) The Minister may, not later than 30 days after receipt of a corporate plan direct the Board to review and revise the corporate plan in accordance with government policies and priorities as communicated by the Minister to the Board.
- (8) If the Board forms the opinion that matters have arisen which may —
  - (a) prevent, or significantly affect, the achievement of the objectives in a corporate plan;
  - (b) significantly affect the strategies and policies that are to be followed under the corporate plan; or
  - (c) prevent or significantly affect the forecast of revenue and expenditure under corporate plan,

the Board shall immediately notify the Minister in writing of its opinion and of the reasons for that opinion.

## **23 Audit**

- (1) The Auditor-General shall inspect, audit and report at least once in every financial year to Parliament on the accounts, finances and property of the Institute.
- (2) The Auditor-General shall satisfy himself that the accounts of the Institute have been properly prepared in accordance with sound accounting principles and in his report he shall state —
  - (a) whether the accounts and statements have been properly prepared in accordance with the books and records of the Institute and give a true and fair view of the financial operations and the current financial position of the Institute;
  - (b) whether the books and records of the Institute have been properly kept and contain information adequate for the purpose of the audit;
  - (c) whether the financial affairs of the Institute have been properly conducted; and
  - (d) all other matters arising out of the accounts and statements which he considers should be made known to the Minister and to Parliament.

## **PART V - MISCELLANEOUS**

### **24 Difficulties and uncertainties in operation**

- (1) If it appears to the Minister expedient for the purpose of removing any difficulties or uncertainties arising out of the operation of the Institute, the Minister with the concurrence of the Cabinet, may by order direct that all of the Institute's property of whatever description and kind as may be specified in the order shall from an appointed day vest, or as the case may be, be deemed to have vested in the Government and the Government shall from the appointed day be responsible for the carrying out of the functions of the Institute and exercise its powers as specified in this Act.
- (2) The vesting of the property of the institute in the Government under subsection (1) of this section shall not extinguish any claims, rights and liabilities of the Institute against or to any person or of any person against or to the Institute.

**25 Regulations**

The Minister may make regulations for the conduct of the affairs and operations of the Institute.

## ENDNOTES

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<sup>1</sup> Act 3 of 2000

<sup>2</sup> LN 2/2000