

ANTIGUA AND BARBUDA



UNIVERSITY COLLEGE OF ANTIGUA AND BARBUDA (CUWI) BILL, 2016

NO. OF 2016

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ANTIGUA & BARBUDA

UNIVERSITY COLLEGE OF ANTIGUA AND BARBUDA (CUWI) BILL, 2016

An Act to establish the University College of Antigua and Barbuda as an institution of higher education and for teaching and training persons in Antigua and Barbuda in the fields of study offered by the institution and to manage the institution and to provide for other matters connected therewith.

ENACTED by the Parliament of Antigua and Barbuda as follows-

1. Short Title

This Act may be cited as University College of Antigua and Barbuda (CUWI) Bill, 2016

PART I

PRELIMINARY

2. Interpretation

In this Act –

“**Academic Board**” means the body constituted under section 10 which has the responsibility for and to exercise the authority of the Board of Trustees over all matters academic;

“**approved course of study**” means any course of study offered by the University College;

“**Board**” means the Board of Trustees established by section 4;

“**Fund**” means the University College of Antigua and Barbuda Trust Fund by section 29;

“**Minister**” means the Minister who has responsibility of education;

“**President**” and “**Vice President**” mean the persons appointed under section 19 to hold the offices of President and Vice President, respectively;

“**University**” means the University College of Antigua and Barbuda established by section 3 and which is a College of the University of the West Indies;

“**University Fund**” means the fund established by section 30.

PART II

ESTABLISHMENT AND ADMINISTRATIVE STRUCTURE OF UNIVERSITY

3. Establishment and objects of University

(1) Notwithstanding anything contained in the provisions of the Education Act 2008; there is hereby established an institution of higher learning to be known as the University College of Antigua and Barbuda.

(2) The objects of the University are to stimulate and develop the intellectual resources of the people of Antigua and Barbuda and to develop as an institution of higher education concerned with the promotion of the Arts, science, business, technology, maritime studies, engineering and hospitality management and in other fields of study as determine by the Board

(3) Without prejudice to anything contained in subsection (2), the University shall:

- (a) provide instruction, conduct research and disseminate knowledge in the liberal arts and sciences, maritimes studies, engineering and hospitality studies as the Board may from time to time determine;
- (b) confer academic degrees, diplomas, certificates and honours on students who quality for or deserve such awards;
- (c) confer honouary degrees on deserving individuals

4. Establishment of Board of Trustees

(1) There is hereby established a Board of Trustees for the purpose of administrating and managing the affairs of the University.

(2) The Board is a body corporate within the meaning of the Interpretation Act Cap 224 with perpetual succession and a common seal.

(3) Subject to this Act, the Board is authorized to acquire, hold, charge and dispose of land and other property and with of doing and performing all such acts as bodies corporate may by law do or perform.

(4) The Board shall have its own seal which shall be kept in custody of the Chairman and shall be affixed to instruments pursuant to a resolution of the Board and in the presence of the Chairman or, in his absence, the person acting as Chairman.

(5) The seal of the Board shall be authenticated by the Chairman or, in his absence the person acting as Chairman.

(6) All documents, other than those required by law to be under seal, authorized by a decision of the Board may be signified under the hand of the Chairman or in the absence, the person acting as Chairman.

5. Constitution of the Board

(1) The Minister, after consultation with the Education Advisory Board and the bodies specified in this paragraph, shall appoint the Board, which shall consist of the following persons, two of whom the Minister shall designate as Chairperson and Deputy Chairperson respectively:

- (a) one representative of the Union of Tertiary Educators Antigua and Barbuda;
- (b) one representative of the Chamber of Industry and Commerce;
- (c) one representative of the tourism industry sector;
- (d) one representative of the student body of the University;
- (e) one representative from a university, college or other institution of higher learning with which the University is associated or affiliated;
- (f) two persons appointed by the Minister who are qualified and experienced in the field of tertiary education;
- (g) the Principal, *ex officio*; and
- (h) the Director of Education or his nominee, *ex officio*.

(2) All members of the Board, including the Chairman shall be appointed by the Governor-General or the advice of the Minister.

(3) The Minister may, in inviting non-government organisations to make nominations for appointment to the Board, take into consideration those organisations which have made financial or other contributions of not less than two hundred and fifty thousand dollars (\$250,000.00) to the University fund.

(4) The President of the University and any other member of the Board who hold membership of the Board, *ex officio*, shall be serve or the Board as a non-voting member.

6. Resignation and removal of Trustees

(1) Any member of the Board, other than the Chairman, may at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman.

(2) A person who ceases to be a member of the Board does so from the date of that person's letter or instrument of resignation.

(3) The Chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation takes effect from the date of the person's instrument of resignation.

(4) The Minister may at any time revoke the appointment of any member, if he considers that there are reasonable grounds so to do in the interest of the University; but he must give the person whose appointment is to be revoked a hearing with reasonable time after notice of such hearing.

7. Functions of the Board

(1) The Board shall administer, manage and control the affairs of the University and in particular shall-

- (a) determine the course of study to be pursued in each faculty;
- (b) confer academic degrees, diplomas, certificates and honours;
- (c) establish and maintain high academic standards;
- (d) prescribe qualifications for the award of degrees, diplomas, certificates and honours;
- (e) make rules to govern the conduct and behaviour of staff and students of the University;
- (f) hear and determine appeals made to it by the staff and students against any decision made by the Disciplinary Committee;
- (g) prescribe the methods for evaluating the performance of the teaching and other staff of the University;
- (h) prescribe qualifications for admission of persons to study at the University.

(2) Different qualifications may be prescribed for admission to study in the various faculties of the University.

(3) The University may, notwithstanding the qualifications prescribed for admission, conduct special examination to select candidates for admission to those faculties where there are limited spaces available.

8. Meetings, quorum and decisions of Board

(1) The Board shall determine the dates for its regular or special meetings; but a regular meeting shall be held at least once in every month.

(2) The Chairman shall call a special meeting upon the written request of five members, or upon a written request of the Minister, and the Chairman may call or a special meeting of his own motion.

(3) The business which the Board is authorized to transact shall be done at regular or special meetings of the Board, at which, at least six members of the Board, including the chairman or in his absence the deputy chairman are present.

(4) No decision of the Board shall be valid unless a majority of the members present vote in favour of the act and a true record is made of such votes where the votes are equal, the chairman shall have a casting vote.

(5) Any measure adopted or a decision made by the Board shall be set forth in writing as a decision of the Board and a copy of each decision shall be transmitted to the Minister.

(6) The Board shall appoint a Secretary, who shall have responsibility for recording the minutes of the Board.

(8) The Secretary shall have custody of the minutes of all proceedings and decisions of the meetings of the Board, and shall perform such other duties as the Board may, from time to time, determine.

9. Committees of the Board

(1) Without prejudice to sections 10 and 11, the Board may establish such number of committees for execution of its functions.

(2) A committee established under subsection (1) may consist of person who are members of the Board and other persons, but unless otherwise provided by this Act, any such committee shall not exceed nine persons of whom the majority shall be members of the Board.

(3) The Board may by resolution reject any report of any committee appointed under subsection (1) or adopt it wholly, or with such modifications, additions or adaptations as the Board determines.

(4) A committee of the Board including the standing committees of the Board, may regulate its procedure, subject to any written directions of the Board issued from time to time.

(5) Without prejudice to section 7, and subsection (1) of this section there shall be [two] standing committees of the Board, namely, the academic committee and the disciplinary committee.

10. Academic Committee

- (1) There is established by this section an Academic Committee of the Board.
- (2) The Academic Committee consists of-
 - (a) the President of the University who shall be its Chairman;
 - (b) the Vice President;
 - (c) the heads of departments of the University;
 - (d) three persons elected by the teaching staff from among themselves at the beginning of every academic year to serve on the academic committee for that year .

11. Functions of the Academic Committee

- (1) The functions of the Academic Committee are:
 - (a) to consider and recommend to the Board applications for appointment and promotion as well as the removal from the teaching positions at the University;
 - (b) to recommend to the Board for approval the design and establishment of new programmes and courses of study in the University;
 - (c) to recommend to the Board the termination of a course on account of low student registration from that course;
 - (d) to review and approve of terminal and annual as well as examination results of students which are submitted by heads of department; and
 - (e) to evaluate the performance of the teaching staff for the purposes of promotion, dismissal or inability to perform his duties.
- (2) All decisions of the Academic Committee shall be made by a majority of the members of the Committee and recorded in the minutes of the said Committee.
- (3) Two thirds of the full membership constitutes a quorum.
- (4) All decisions of the Academic Committee shall be given in writing signed by the President and Secretary of the Committee.

12. Disciplinary Committee

(1) There shall be appointed by the Board at the beginning of each academic year a disciplinary committee.

(2) The Disciplinary committee consists of:

- (a) the Vice President who shall be the chairman of the Disciplinary Committee;
- (b) two heads of departments elected by department heads;
- (c) two senior members of the academic staff elected from among themselves;
and
- (d) two students elected by students body among themselves.

(3) The quorum at meeting of the Disciplinary Committee shall be five 5.

13. Functions of the Disciplinary Committee

The Disciplinary Committee shall:

- (a) ensure that the rules governing the affairs of the University are effectively complied with;
- (b) inquire into and adjudicate upon disciplinary charges against members of staff and students of the University;
- (c) recommend to the Board the type of punishment that may be imposed on any person found guilty by the Disciplinary Committee;
- (d) submit a confidential report of its proceedings and any decision taken in respect of a disciplinary inquiry under paragraph (a) to the President; and
- (e) determine its procedure.

14. Right of appeal against decisions of the Disciplinary Committee

(1) Any member of staff or student (in this section referred to as the appellant) against whom an adverse finding is made by the Disciplinary Committee may, within fourteen (14) days of the receipt of the decision, appeal to the Board against the decision.

(2) The Board may hear and determine appeals from any appellant or filed by his representative.

(3) The Board shall permit an appellant to have an attorney-at-law of his choice to be present at the hearing of an appeal.

(4) The Board may after hearing any appeals pursuant to this section:

- (a) confirm or reverse the decision being the subject of the appeal;
- (b) vary the decision; or

- (c) order a rehearing of the matter by the Disciplinary Committee, if in its opinion it is in the interest of justice to do so.

15. Delegation of powers

(1) The Board may delegate to the President or to any committee established by the Board, the authority to execute on its behalf the powers and responsibilities conferred upon it by this Act.

(2) The exercise of the powers so delegated under this section subject to the confirmation of the Board.

16. Remuneration of members of the Board

(1) The members of the Board and committees shall receive such remuneration, whether by way of honorarium, salaries or other allowances as approved by the Minister of Finance.

17. Protection of members of the Board

(1) No member of the Board shall be personally liable for any act or default of the Board done or omitted to be done in good faith in the course of operations of the Board.

18. Indemnity for Board members

The Board shall indemnify all its members, including the Chairman, against any liability incurred by them in the performance of their duties, in their capacity of members, unless the liability arises from conduct involving fraud, reckless disregard of relevant law, including regulations made thereunder, financial irregularity, misconduct or a clear breach of responsibilities relative to the Board and, by extension, the University.

PART III

ADMINISTRATIVE STAFF

19. President and Vice President of the University

(1) The Board shall, after consultation with the Minister, appoint the President and Vice President of the University from among applications for the posts, on such terms and conditions as formulated and documented by the Board.

(2) The President shall be the Chief Executive Officer and the Academic Head of the University and shall be the Chairman of the Academic Committee established by section 11.

(3) Where the President is absent for any reason is unable to perform his functions under this Act, the Vice President shall act and perform the functions of the President.

(4) Where the President and Vice President are absent or unable to perform their duties under this Act the Board may appoint from among the Heads of Department a suitable person to perform the duties of a President.

(5) The Board may, on the recommendation of the Academic Committee, appoint the professors, lecturers, instructors and other professional staff of the teaching Personnel University in accordance with the terms and conditions as formulated and documented by the Board.

(6) The Board shall, after consultation with the President, appoint the administrative and non-professional staff of the University on such terms and conditions as formulated and documented by the Board by the Board, and agreed to by the person to be employed.

20. Duties of the President

(1) The President must exercise general authority over the academic staff as well as non-academic staff of the University and is responsible for the maintenance of discipline and standards of performance consistent with the aims and objectives of the University.

(2) Without prejudice to anything contained in subsection (1), the President shall be responsible for :

- (a) the implementation of policy and for all phases of the operation, administration, supervision, maintenance and promotion of the programmes of the University;
- (b) the introduction of measures, mechanisms and procedures as are necessary for effective discharge of his duties.
- (c) the provision of leadership in matters relating or the academic programmes of the University;
- (d) promotion of the interests of the University, both within and outside of Antigua and Barbuda;
- (e) the exercise in accordance with this Act, of such other powers conferred on him or delegated to him by the Board; and
- (f) solicitation of financial and other contribution on behalf of the University.

21. Removal of President or Vice President

The President or the Vice President may be removed from office by the Board after consultation with the Minister, on the grounds of misconduct; inefficiency, or other good cause known to law and deemed by the Board and the Minister to be capable of bringing the University, its programmes, viability and credibility into disrepute.

22. Appointment and duties of Registrar

(1) There shall be a Registrar of the University who shall perform the following duties:

- (a) secretary to the Board, Academic Committee as well as all other standing committees appointed by the Board;
- (b) executive head of the section of the University operations concerned in the administrating the enrolment of students at the University and recording their academic performance through to graduation from the University.

23. Appointment and duties of Bursar

(1) There shall be a Bursar of the University who shall be appointed by the Board after consultation with the Minister.

(2) The Bursar shall be the Chief Financial Officer of the University and shall be responsible for the management and control of funds of the University.

24. Discipline of students

The President may exercise disciplinary control over students attending the University in accordance with rules prescribed by the Board and made known to students generally upon entry to the University and otherwise.

PART IV

ACADEMIC STAFF

25. Appointment of Academic staff and related matters

(1) A member of the academic staff shall, on first appointment be required to serve a probationary period in accordance with the Antigua Labour Code, Cap. 27, unless the Board dispenses with the requirement to serve a probationary period, such requirement shall not apply to persons serving on the permanent staff of the Antigua State College at the commencement of this Act or to public officers who are seconded to the University.

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

(3) The appointment to the permanent staff of the University of any member of the teaching staff who was in the first instance appointed for a probationary period, shall be deemed to have been appointed from the date of his appointment on probation.

(4) The Board may give one month's notice of termination to a member of the academic staff of the University who is serving the probationary period mentioned in subsection (2).

(5) A member of the academic staff of the University who is serving the probationary period mentioned in subsection (2), may resign by providing one month's written notice to the Board.

(6) A notice given under subsection (4) shall be transmitted through the President.

(7) A member of the staff who is employed by the University on a full-time basis shall not hold any other appointment or engage in any activity which creates or 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 the teaching staff or is prejudicial to the welfare of the University.

(8) A member of the research staff, with the prior approval of the Board, seek funding, within and outside of Antigua and Barbuda for the purposes of research and publishing.

26. Employment of academic staff after retirement age

(1) Notwithstanding anything contained in this Act or any other enactment regarding the age of retirement for academic staff, the Board may continue, on contract, the employment of such a member of the academic staff for a period not exceeding [2years] on each such contract; but such employment shall not exceed a total of [10 years] for any such contracts.

(2) In making such a determination regarding the continuation of employment on contract, the Board must be satisfied that the services of such a member of staff are critical to the efficiency of and continuity in, the faculty at the University with which the member of staff is concerned and by extension the University plus other relevant considerations.

27. Discipline

- (1) A permanent member of the staff of the University may be suspended for:
- (a) gross neglect of duty; or
 - (b) misconduct with intent to interfere, capable of injuring, the reputation of the University.

(2) The President shall immediately after any such suspension under subsection (1), report the same and the circumstances thereof in writing to the Board, and within seven days of the receipt of the President's report, the Board must hold a meeting to inquire into and adjudicate upon the report.

(3) A member of staff who is seconded to the University may be disciplined by the Public Service Commission upon the submission of any report of misconduct which shall be transmitted to the Public Service Commission by the Board in accordance with the Education Act 2008.

28. Dismissal

(1) The Board may dismiss any permanent member of staff of the University appointed to a post on the permanent staff of the University subject to the following conditions:

- (a) the member of staff shall be given due notice that his dismissal is under consideration together with of the charge alleged against him and any relevant evidence gathered thus far;
- (b) the member of staff shall be given an opportunity to defend himself against any such charge before the Disciplinary Committee;
- (c) the member must be permitted to have his attorney-at-law present at the hearing; and
- (d) the member must be given at least fourteen days' notice of the hearing.

(2) Where a member of the staff of the University is appointed and employed under a written contract of service, the terms of such contracts of service, the terms of such contract in relation to the termination thereof shall have effect in this regard.

PART V

RESOURCES FUNDS AND ACCOUNTS

29. Resources and funds of the University

- (1) The resources and funds of the University include:
 - (a) such sums as Parliament may appropriate annually for the purposes of the University;
 - (b) sums collected as fees and charges from students;
 - (c) all sums borrowed by the Board in accordance with is Act;
 - (d) gifts, grants and endowments from private individuals and foundations outside of Antigua and Barbuda;
 - (e) funds obtained by the University from any commercial activity; and
 - (f) any other revenue generated by the Board from time to time.

(2) The Board may make every effort to secure funds from private sources in and outside Antigua and Barbuda and in particular, may organize such activities as are necessary for the raising of funds for the purposes of the University.

30. Establishment of Trust Fund

(1) For the purposes of this Act, there is established a Trust Fund to be designated as the University College of Antigua and Barbuda Trust Fund.

(2) There shall be paid into the Trust Fund all sums of money received or acquired by the Board under section 29.

(3) With the approval of the Minister of Finance, the Board may open an account with a national bank into which all moneys received under section 29 shall be paid.

31. Borrowing by the Board may be guaranteed Minister of Finance

(1) The Minister of Finance may pursuant to the Finance Administration Act Cap 2006, guarantee in such manner and on such terms as he may think fit, the repayment of the principal and payment of interest in respect of any borrowing approved by the Minister.

(2) Where the Minister of Finance is satisfied that there has been a default in the repayment of the principal and interest on any moneys borrowed under this Act, he 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 Board shall make to the Account General, at such times and in such manner as the Minister of Finance may direct, payment of such sums as may be so directed in or towards payments of any sums issued in fulfilment of any guarantee given under this section, and payment of interest on what is outstanding for the being in respect of any sums so issued at such rate as the Minister of Finance may direct, and different rates of interest may be directed as regards different sums and as regards interest for different accounts and audit

32. Accounts and audit

(1) The Board shall keep accounts of its transaction to satisfaction of the Minister of Finance and such accounts shall be audited annually by the Director of Audit or some other suitable person appointed by the Minister of Finance, after consultation with the Director of Audit.

(2) The members, officers and servants of the Board shall grant to the Director of Audit or any public officer on the staff of the Director of Audit or some other suitable person appointed by the Minister of Finance under subsection (1), access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be within their knowledge in relation to the operations of the Board.

(3) If any person as mentioned in subsection (2) fails or refuses to comply with any request of the Direction of Audit on any member of staff of the Director, or any person appointed by the Minister of Finance to audit the account under this section or otherwise, impedes or obstructs any of them in the exercise of his functions under this section, he commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment not exceeding six months.

33. Annual report statement of accounts and estimates

(1) The Board shall submit to the Minister and the Minister of Finance:

- (a) within three months after the end of each academic year, a report on the activities of the University during that academic year;
- (b) on or before the 1st September in each year, a statement of its accounts audited in accordance with the provisions of section 21 of the Finance Administration Act for the financial year ending in such year;
- (c) on or before the 31st August in each year its estimates of revenue and expenditure for the University in respect of the next financial year for the approval of the Minister of Finance.

(2) The report of the activities of the University and the auditor's report of the audited accounts shall be introduced into the House of Representatives by the Minister of Education for approval by affirmative resolution.

34. Fees and charges

(1) The University shall in respect of educational services, or facilities offered to the pursuant to this Act, impose fees and other charges as may be prescribed by the Board.

(2) Fees and charges imposed and collected becomes part of the funds of the University.

35. Pension and Gratuity

The University shall establish a contributory scheme for the payment of pensions and gratuities to its academic, administrative, and other staff that retire from the service of the University or otherwise cease to hold office or to be employed by reason of age, infirmity of mind or body or the abolition of an office held.

36. Exemption from all taxes

Notwithstanding anything contained in any other enactment, the University is exempt from the payment of all duties and taxes.

PART VI

MISCELLANEOUS

37. Board minutes as evidence

Notwithstanding anything contained in any other enactment or rule of law, the minutes of meetings of the Board shall, if signed by the Chairperson or Deputy Chairperson and Secretary to the Board, be receivable in evidence in all legal proceedings without further proof and everyday meeting of the Board in respect of which minutes have been signed shall be deemed to have been duly convened and held and that all members present thereat to have been duly qualified to act.

38. Rules and regulations

(1) The Board, with the approval of the Minister, may make rules and regulations in order to give effect to the provisions of this Act and for the prudent administration and management of the University.

(2) Without prejudice to subsection (1), the Board after consultation with any of its relevant standing committees make rules or regulations with respect to:

- (a) academic programmes of the University, including the content of courses;
- (b) admission, conduct and discipline of students;
- (c) the academic year or semester and the holidays to be implemented or recognised by the University;
- (d) examinations to be set by the University;
- (e) fees and charges to be paid for the services and facilities of the University;
- (f) custody of monies forming part of the funds and resources of the University;
- (g) proceedings of the Board and its committees;
- (h) grant and conditions of leave from the staff of the Universities;
- (i) terms and conditions of the staff of the college, according to categories;
- (j) prescribing the procedure for making appointments to the staff of the University;
- (k) prescribing the type of punishment that may be imposed upon persons found guilty by the Disciplinary Committee of any misconduct under this Act or the rules of the regulations made hereunder; and
- (l) generally in order to give effect to the intent and purpose of the Act; and
- (m) the ownership and otherwise of research carried out by a member of the academic staff.

(2) Rules and regulations made under subsection (1) shall be subject negative resolution of Parliament.

(3) The Board may make rules to regulate its own procedure and for matters connected therewith.

39. Amalgamation

(1) With effect from the appointed day educational institutions specified in the First Schedule shall merge with the University and become a part thereof and governed in accordance with this Act and rules and regulations made hereunder.

(2) For the purposes of subsection (1) “appointed day” means the day specified by notice issued by his Excellency the Governor General and published in the Gazette.

40. Transitional matters respecting staff

(1) Any person who at the commencement of this Act is employed by the Government as part of the teaching, administrative or technical staff at any of the educational institutions specified in the First Schedule and who is either appointed to an

established post or is employed in a non-established post, is hereby given an option, either to remain as an employee of the Government, or apply to the Board for employment at the University; but any such application for employment at the University must be made [written three months] from date of the commencement of this Act.

(2) Any person who exercises his option to be employed by the University shall cease to be an employee of the Government from the date on which he exercises his option.

(3) The pension rights, gratuity or other retiring award to which any person, who exercises the option under subsection (2) is entitled, shall be frozen until he attains the compulsory retiring age under the Pensions Act and the Pension (Non-established Government Employees) Act, Cap 310.

(4) Any person who exercises the option to remain in the employment of the Government shall continue to enjoy all the terms and conditions of his employment as a public officer and be governed by the rules and regulations of the Public Service.

41. Transitional matters respecting contributions

(1) Subject to subsection (2), the sums payable by the Government as employer and employee contribution respectively under the Social Security Act, Cap. 408, the Medical Benefits Act, Cap. 271, the Board of Education Act 1994, in respect of public officers, seconded to the service of the University, shall at the end of every month, from commencement of this Act, be paid by the Government immediately upon receipt; into the appropriate funds established by the Social Security Cap. 408, the Medical Benefits Act Cap.271, the Board of Education Act. 1994 or any enactment replacing such Acts.

(2) The Government and the University may enter into an agreement whereby, the sum, mentioned in subsector (1) may be paid directly by the University on behalf of the Government into funds established by the Social Security Cap. 408, the Medical Benefits Act Cap.271, or the Board of Education Act 1994.

(3) The University shall within three months after the end of the financial year, pay to the Government, in respect of public officers who are seconded to the service of the University, such sums of money as contributions to the person and other rights of such public officers under the Pension (Non-established Government Employees) Act Cap 310 and the Pension Act Cap. 311 as would have been due by the Government in respect of the occurring person and other rights of such public officers under the respective enactments.

(4) The University may, as an alternative to making payments under subsection (3), and following agreement with the Government, establish under regulations, a fund to be

maintained by trustees in accordance with such regulations, into which the University shall pay the contributions referred to in subsection (3), for the payment of accruing pension and other rights to such public officers.

(5) The Minister may, by order, provide for further consequential and savings provisions to have effect in connection with any matter arising under the transitional provisions contained in subsections (2) to (4) of this section.

(6) An order by the Minister under subsection (5) shall be subject to negative resolution of Parliament.

42. Repeal and Saving

The enactment specified in the Second Schedule are repealed or parts thereof saved to the extent specified.

43. Commencement

(1) This Act comes into operation on such day and his Excellency the Governor General orders by notice in the Gazette.

(2) Different date may be fixed for the commencement of different parts, section on Schedules to the Act.

FIRST SCHEDULE

(Section 38)

The following tertiary educational institutions shall on the appointed day amalgamate with the University as constituents of a single body:

- (1) The Departments of the Antigua State College:
 - (1) Department of undergraduate studies
 - (2) Department of Teacher Education
 - (3) Department of Business
 - (4) School of Nursing
 - (5) School of Pharmacy
- (2) Antigua and Barbuda International Institute of Technology (ABIIT)

SECOND SCHEDULE

(Section 41)

The following enactments are hereby repealed to the extent specified.

The Antigua State College Act, 2013

Passed by the House of Representatives
on the day of 2016.

Passed by the Senate on the
day of 2016.

Speaker

President

Clerk to the House of Representative

Clerk to the Senate

EXPLANATORY MEMORANDUM

The Bill for the enactment of the University College of Antigua and Barbuda (CUWI) 2016 Act (“the Bill”) seeks to establish the body as an institution of higher learning. It is to be noted that the abbreviation “CUWI” as part of the short title to the Act is grounded on one of the requirements contained in the University of the West Indies Ordinance on Colleges of the University of the West Indies. In this regard the wider picture in that the Ordinance specifies that any institution seeking to “partner” UWI must enter into a Collegiate Partnership Agreement with UWI.

In time, the abbreviation will disappear or, to be removed when full University status is obtained or reached as UWI did in 1962 when it was established by Royal Charter. And in this regard, an overview of UWI’s origin in 1948 as a college University of London is detailed in the recent Jamaica case of *Dr. Matt Myrie v the University of the West Indies et al*; Claim No. 2007-No.04736 in which the learned judgment being given by Justice Brooks.

The Bill has as its object and reasons the following:

- (a) the establishment of the University of Antigua and Barbuda as a college of the University of the West Indies at a later stage becoming an autonomous university in line with other universities the world over;
- (b) to stimulate and develop the intellectual resources of the people of Antigua and Barbuda as an institution of higher learning concerned with promotion of the arts, sciences, business and technology, maritime studies, engineering culture and hospitality management;
- (c) the method underlying the establishment of the University College aforesaid is based an Ordinance of the University which sets out, one the purpose of the Ordinance as being “to outline the circumstances under which the University may partner with a college as, a College of the University of the West Indies (CUWI) and modalities governing the relationship between the CUWI and the University”;
- (d) the full entry by Antigua and Barbuda into the arena into tertiary education including with the award of an undergraduate degree;
- (e) the development of a cadre of university professors;
- (f) making full university qualifications obtainable in Antigua and Barbuda which must benefit those with such a desire but without the means to attain the goal overseas;
- (g) creating a forum within which certain universal weather phenomena can be studied way given the geographical circumstances of Antigua and especially Barbuda;

- (h) making the reality of a University education a preoccupation education of young Antiguan and Barbudans merely by the sight of the name University of Antigua and Barbuda on home turf;
- (i) to transpose for Antigua and Barbuda Professor Sir Hilary Beckes' vision that the existence and development of the Cave Hill Campus of UWI, created the possibility of one UWI graduated in each household. To that must be added or substituted in Antigua and Barbuda.

In the preparation of the draft Bill the following statutes, an order and draft Bill were examined and provisions thereof incorporated as necessary: Antigua State College Act 2013, draft Bill for the University of Antigua and Barbuda 2011, the Mico University College Scheme (Approval) Order 2011 (Jamaica) and the Education Act 2008 (A&B).

The Bill is divided into six parts being: Part I- Short title and interpretation; Part II: Establishment and administration of the University; Part III- Administrative staff; Part IV- Academic Staff; Part-V – Funds, resources and accounts; Part-VI- Miscellaneous

PART I: Short title and interpretation. The two provisions in this Part as self-explanatory. But attention is drawn to the definition of “University” having regard to what was said concerning the Partnership Agreement.

PART II: This embraces the establishment of the University College of Antigua and Barbuda (hereinafter “the University”) and provides for the necessary administrative structures and functionaries that are needed in this regard. The Board is central to this Part with detailed functions to administer manage and control the affairs of the University: Added this are the subcommittees of the Board with the Board being empowered to establish further subcommittees. In this connection it is to be noted that the functions of the Board are set out in clause 7 of the Bill. Also in this connection clauses 17 seeks to protect members and clauses 18 provides for this indemnity of Board members.

Another aspect is the remuneration of members by various methods and given that is a money matter the Minister of Finance, who has the ultimate constitutional responsibility for State funds, he is given the power to approve the quantum proposed. This is a matter of policy.

PART III: This Part covers the administrative staff to include: the President, Vice President: Registrar and Bursar. The duties of the President and the Registrar are set out. And these are provisions dealing with the removal of the President and Vice President. Another aspect is the matter of the discipline of staff and students which is vested.

PART IV: This is concerned with academic staff under three heads: appointment, discipline and removal. It is to be noted that Under Clause 26, the Board is given power

to employ on contract a member of the academic staff who has reached retirement age; but such employment cannot exceed 10 years. This is a matter of policy.

PART V: Resources, funds and accounts

There hardly needs to be a debate since resources and funds go to the very being of a University and other like academic institutions.

Like the University of the West Indies, the higher percentage of that funds, will come from the Government with a much smaller percentage being raised by the University itself. Vital to all of this is the matter of accounts.

Professor Andrew Downes in a case study titled: Financing Tertiary Education in the Caribbean. The case of University of the West Indies, noted that between 2002 and 2012 the contributions from Governments averaged about 60% but he also revealed that the University itself raised as much as 6% of their revenue from areas such as accommodation, book store, cafeteria and the like.

Accordingly, the Bill provides for the resources and funds of the University to include sums voted annually by Parliament, sums borrowed, with the approval of the Minister of Finance, gifts, collection of fees and funds from commercial entity.

In this connection Clause 29 of the Bill creates a Trust fund into which all sums received by the Board must be paid, regardless of the source. And under Clause 29 (2) the University may, with the approval of the Minister of Finance, open a bank account in a national bank.

Against all the foregoing, the University must prepare annual accounts which must be submitted to the Minister of Education and the Minister of Finance.

Clause 34 mandates the University to establish a pension and gratuity scheme for employees. This would have some connection with the transitional provisions of sections 40 and 41. The objective here is that no employee, whether appointed or temporary must be deprived or left out of retirement benefits.

A Government should not and does not tax itself so that Clause 36 grants the University or exemption from taxes of all types.

PART V. Miscellaneous

This Part is also critical to the entire legislative scheme. By way of marginal notes they are: 38 Board minutes as evidence; 38 Rules and Regulations; 39 Amalgamation; 40 Transitional matters respecting staff; 41; Transitional matters respecting contributions and 43. Commencement.

Clause 36 seeks to render the Minutes of Board meetings admissible as evidence without further adjudication provided that certain pre requisities are satisfied. In the case of Clause 37, this empowers the Board, with the approval of the Minister to make rules and regulations with respect of a host of subject areas with the nature and content of proposed legislation determining whether it will be rules or regulations. The method followed is rules for procedural matter and regulations of substantive matters.

Clause 38 is also a critical clause since it seeks to bring a number of institutions under the umbrella of the University. An attempt has been made to specify the institutions or part thereof in the First Schedule, but detailed instructions are needed in this connection.

Clause 39 and 40 are the two clauses that deal with persons now serving in a post at the State college, whether temporary or permanent on established in the Government service who may desire to remain in such service. As a consequence the matter of retirement benefits would have to be in alignment with what potential beneficiaries of such benefits may wish to do.

Apart from the two above-mentioned clauses, clauses 40(6) also gives the Minister a power to make orders needed to rectify lacunae in this law. This route is adopted because it is quicker but also, at the same time, such orders are subject to a negative resolution of Parliament. This is a safeguard.

Clause 41 is concerned with the matter of repeal and savings respecting this relevant enactments which will be repealed. Clause 41 relates to the commencement of the legislation.

Schedules 1 and 2 are incomplete as detailed instructions are required given the diversity of the institutions and the enabling enactments plus the matter of staff.

Internal Note

It is considered this several parts or provisions of the Bill require policy decisions. There are to be found in Clauses 11(3), 12 (3), 16 (1), 26 (1), 28 (1) (c) and (d), 30 (3) 32 (1) and (3), and 39 (1). They are identified by square brackets.

*Hon. Michael Brown
Minister of Education*