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***KENYA GAZETTE SUPPLEMENT***

**ACTS, 2012**

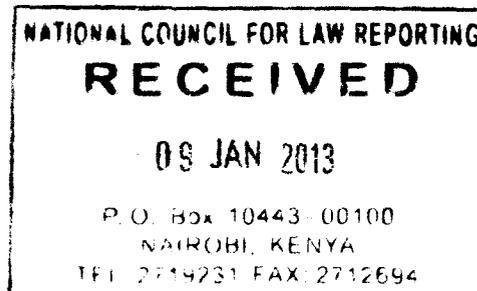
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**NAIROBI, 13th December, 2012**

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CONTENT

Act—	PAGE
The Universities Act, 2012.....	1851



**THE UNIVERSITIES ACT**

**No. 42 of 2012**

*Date of Assent: 13th December, 2012*

*Date of Commencement: By Notice*

**ARRANGEMENT OF SECTIONS**

*Section*

**PART I—PRELIMINARY**

- 1—Short title and commencement.
- 2—Interpretation.
- 3—Objectives of University education.

**PART II—THE COMMISSION FOR UNIVERSITY EDUCATION**

- 4—Establishment of the Commission.
- 5— Functions of the Commission.
- 6—Constitution of the Commission.
- 7— Qualification for appointment as member of Commission.
- 8 —Vacancy of office.
- 9— Commission Secretary.
- 10— Deputy Secretary.
- 11— Qualification for appointment as Commission Secretary.
- 12— Other members of staff of the Commission.

**PART III—ESTABLISHMENT AND ACCREDITATION OF  
UNIVERSITIES**

- 13— Establishment of a university.
- 14— Letter of Interim Authority.
- 15— Effect of letter of Interim Authority.
- 16— Duration of letter of Interim Authority.

- 17— Revocation of a Letter of Interim Authority.
- 18— Accreditation report for purposes of grant of Charter.
- 19— Grant or refusal to grant Charter.
- 20— Effect of a Charter.
- 21— Publication of Charter.
- 22— Variation, revocation of Charter.
- 23— Statutes.
- 24— Establishment of specialized degree awarding institutions.
- 25— Declaration of Technical Universities.
- 26— Universities in Counties.
- 27— Unauthorized use of a University name.
- 28— Accreditation of foreign universities.
- 29— Academic Freedom.

#### **PART IV—FINANCIAL PROVISIONS ON THE COMMISSION**

- 30 —Funds of the Commission.
- 31— Financial year.
- 32— Annual estimates.
- 33—Accounts and audit.

#### **PART V— GOVERNANCE AND MANAGEMENT OF UNIVERSITIES**

- 34— Instruments of Governance.
- 35— Governing organs of a university.
- 36— Council of a public university.

- 37—Committees.
- 38—The Chancellor.
- 39—The Vice-Chancellor.
- 40—Staff of the University.
- 41— Students' Association.
- 42— The Alumni Association.
- 43— University management.

## **PART VI—GENERAL FINANCIAL PROVISIONS OF UNIVERSITIES**

### *Public Universities*

- 44— Annual estimates of public universities.
- 45— Funds of a public university.
- 46—Unexpended monies.
- 47—Accounts and audit.
- 48—Vesting of property.
- 49— Investment of funds.
- 50— Financial year.

### *Private Universities.*

- 51— Financial Management of private universities.
- 52— Investment of funds by private universities.

## **PART VII —UNIVERSITIES FUNDING BOARD**

- 53— Establishment of the Fund.
- 54— Board of Trustees.

**PART VIII — THE KENYA UNIVERSITIES AND  
COLLEGES CENTRAL PLACEMENT SERVICE**

- 55— Establishment of Kenya Universities and Colleges Central Placement Service.
- 56 — Functions of the Placement Board.
- 57— Independent admissions.
- 58— Secretary, staff of placement service.
- 59— Finances of the placement service.

**PART IX — MISCELLANEOUS**

- 60— General functions of a university council.
- 61— Display of instruments of accreditation.
- 62— Delegation of functions.
- 63— Fair administrative action.
- 64 — Disclosure of interest.
- 65 — Instruments of Authority.
- 66— Protection from personal liability.
- 67— Liability for damages.
- 68— Offences by a university.
- 69— General penalties.
- 70— Regulations.

**PART X – REPEALS AND TRANSITIONAL PROVISIONS**

- 71— Repeal of various Acts.

***A—Existing Universities***

- 72— Grant of Charter to existing public universities.
- 73—Existing Charters and Letters of interim Authority.
- 74— Existing constituent colleges.
- 75— Existing campuses and campus colleges.
- 76— Chancellors, Vice – Chancellors and Councils.
- 77— Preservation of proceedings and Rights of Appeal.
- 78— Continuance of periods of time.
- 79— Preservation of licences, certificates and registration.
- 80— Transfer of property, assets, liabilities.
- 81— General Savings.

***B—The Commission for Higher Education***

- 82— Interpretation of Part.
- 83—Assets and Liabilities.
- 84—Commissioners.
- 85—Staff.

**FIRST SCHEDULE — PROVISIONS AS TO THE CONDUCT OF THE  
BUSINESS AND AFFAIRS OF THE  
COMMISSION**

**SECOND SCHEDULE— PROCEDURE FOR THE APPOINTMENT OF  
CHANCELLOR OF A PUBLIC UNIVERSITY**

**AN ACT of Parliament to provide for the development of university education; the establishment, accreditation and governance of universities; the establishment of the Commission for University Education, the Universities Funding Board and the Kenya University and Colleges Central Placement Service Board; the repeal of certain laws, and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I— PRELIMINARY**

Short title and commencement.

1. This Act may be cited as the Universities Act, 2012, and shall come into operation on such date as the Cabinet Secretary may, by notice in the Gazette, appoint, and different dates may be appointed for the coming into operation of different provisions.

Interpretation.

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

“academic staff” means any person appointed to teach, train or to do research at a university and any other employee designated as such by the university council;

“accreditation” means the procedure by which the Commission formally recognizes an institution as a university under Part III of this Act;

“alumni” means a member of the convocation of a university;

“Board” means the Universities Funding Board established under section 54;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to university education;

“Charter” means the Charter granted to a university under section 19;

“constituent college” means a constituent college of a university established under this Act;

“Commission” means the Commission for University Education established under section 4;

“distance learning” means the mode of delivering education through use of print, audio-visual, electronic or other technical media;

“differentiated unit cost” means the annual per student cost of mounting a particular degree programme;

“discipline differentiated remuneration” means academic staff remuneration based on programme discipline clusters;

“foreign university” means a university established outside Kenya, which intends to offer university education in Kenya;

“Fund” means the Universities Fund established under section 53;

“institution” means a public or private institution

or facility used or to be used wholly or partly, for the conduct of university education;

“Open University” means the Open University established under section 24;

“Placement Board” means the Placement Board established under section 55(3);

“private university” means a university which is not established or maintained out of public funds;

“public university” means a university established and maintained out of public funds;

“Senate” means the senate of a university or any other equivalent body;

“sponsor” means any person proposing the establishment of a university and committed to its development, implementation, construction, maintenance, management and financing;

“stakeholder” means a person or group of persons involved in an education, training and research institution and with vested interests for the benefit of such an institution;

“statutes” means the statutes of a university made by a university council;

“student” means any person registered in a university or an institution offering university education;

“student with special needs” means a student with motor, hearing or visual or other impairment

which requires adaptive support to access education;

“Trustees” means the Board of Trustees of the Fund;

“TVET Funding Board” and “TVETA” shall have the meanings assigned to them under the Technical and Vocational Education and Training Act, 2012;

“university” means a university to which a Charter has been granted under this Act;

“University Council” means the governing body of a University;

“visitation” means the visitation of a university directed by the Chancellor under section 38 (3) (b);

(2) Notwithstanding subsection (1), until after the first general elections under the Constitution, the expressions “Cabinet Secretary” and “Principal Secretary” shall be construed to mean “Minister” and “Permanent Secretary” respectively.

3.(1) The objectives of university education shall include—

- (a) advancement of knowledge through teaching, scholarly research and scientific investigation;
- (b) promotion of learning in the student body and society generally;
- (c) promotion of cultural and social life of society;

Objectives of university education.

- (d) support and contribution to the realization of national economic and social development;
- (e) promotion of the highest standards in, and quality of, teaching and research;
- (f) education, training and retraining higher level professional, technical and management personnel;
- (g) dissemination of the outcomes of the research conducted by the university to the general community;
- (h) facilitation of life-long learning through provision of adult and continuing education;
- (i) fostering of a capacity for independent critical thinking among its students; and
- (j) promotion of gender balance and equality of opportunity among students and employees.
- (k) promotion of equalization for persons with disabilities, minorities and other marginalized groups.

(2) In the discharge of its functions and the exercise of its powers under this Act, a university shall be guided by the national values and principles of governance set out under Article 10 of the Constitution, and shall in that regard—

- (a) promote quality and relevance of its

programmes;

- (b) enhance equity and accessibility of its services;
- (c) promote inclusive, efficient, effective and transparent governance systems and practices and maintenance of public trust;
- (d) ensure sustainability and adoption of best practices in management and institutionalization of systems of checks and balances;
- (e) promote private-public partnership in university education and development; and
- (f) institutionalize non-discriminatory practices.

## **PART II—THE COMMISSION FOR UNIVERSITY EDUCATION**

4.(1) There is established a Commission to be known as the Commission for University Education.

Establishment of  
the Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of-

- (a) suing and being sued;
- (b) taking, purchasing, or otherwise acquiring, holding, charging and disposing of movable and immovable property, and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act as may

lawfully be done or performed by a body corporate.

(3) The Commission for University Education is the successor to the Commission for Higher Education existing immediately before the commencement of this Act, and upon such commencement any reference to the Commission for Higher Education in any document or matter shall for all purposes be construed to be a reference to the Commission for University Education, and all rights, assets, or obligations contained in any contract for goods or services or privilege held by or on behalf of the Commission for Higher Education shall automatically and fully be transferred to the Commission for University Education.

Functions of the Commission.

5.(1) The functions of the Commission shall be to—

- (a) promote the objectives of university education;
- (b) advise the Cabinet Secretary on policy relating to university education;
- (c) promote, set standards and assure relevance in the quality of university education;
- (d) monitor and evaluate the state of university education systems in relation to the national development goals;
- (e) licence any student recruitment agencies operating in Kenya and any activities by foreign institutions;

- (f) develop policy for criteria and requirements for admission to universities;
  - (g) recognize and equate degrees, diplomas and certificates conferred or awarded by foreign universities and institutions in accordance with the standards and guidelines set by the Commission from time to time;
  - (h) undertake or cause to be undertaken, regular inspections, monitoring and evaluation of universities to ensure compliance with set standards and guidelines;
  - (i) collect, disseminate and maintain data on university education;
  - (j) accredit universities in Kenya;
  - (k) regulate university education in Kenya;
  - (l) accredit and inspect university programme in Kenya;
  - (m) promote quality research and innovation, and;
  - (n) perform such other functions and exercise such other powers as the Commission may deem necessary for the proper discharge of its mandate under this Act.
- (2) The Commission may where it deems appropriate, delegate any of its functions in this

section to any suitably qualified person or body.

(3) For the avoidance of doubt, save as may be provided for under any other written law, the Commission shall be the only body with the power to perform the functions set out in this section.

Constitution of the  
Commission.

6.(1) The Commission shall consist of —

- (a) a chairperson;
- (b) the Principal Secretary in the Ministry for the time being responsible for university education;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance, and
- (d) five members appointed in accordance with subsection (2), and
- (e) the Commission Secretary who shall be an *ex officio* member.

(2) The chairperson and the members of the Commission under subsection (1)(a) and (d) shall be appointed by the Cabinet Secretary from a list consisting of —

- (a) in the case of the Chairperson, three names, and
- (b) in the case of other members, nine names,

submitted by a selection panel appointed by the Cabinet Secretary in accordance with subsection (3).

(3) The selection panel referred to in subsection (2) shall comprise of a chairperson and six other persons appointed by the Cabinet Secretary as follows-

- (a) one person to represent the Public Service Commission;
- (b) one person to represent the Federation of Kenya Employers;
- (c) two persons to represent the body currently recognized as representing the interest of the private sector;
- (d) two eminent scholars appointed by the Cabinet Secretary;

(4) The selection panel shall have power to regulate its own procedure.

(5) The selection panel shall advertise the vacancies and publicize the names of applicants and shortlisted candidates in at least two daily newspapers with national circulation.

(6) In determining the nomination criteria for the members of the Commission, the selection panel shall have regard to the objectives of the development of university education, ensuring that there are balanced competencies, gender equity, and the inclusion of persons with disabilities, the marginalized and other minority groups.

(7) In nominating members of the Commission, the selection panel shall ensure that those nominated shall not have any conflict of interest in serving as

members of the Commission.

(8) If the Cabinet Secretary rejects any of the names submitted under sub-section (2) the Cabinet Secretary shall inform the Selection panel and request for a replacement.

(9) The selection panel shall stand dissolved after the appointment of the members of the Commission.

(10) In rejecting any of the names submitted under subsection (2), the Cabinet Secretary shall attach a memorandum giving reasons for the rejection of the Candidate or Candidates.

Qualification for  
appointment as  
member of  
Commission.

7.(1) A person shall be qualified for appointment as a chairperson or member of the Commission if the person—

(a) in the case of the chairperson, holds a doctorate degree from a university recognized in Kenya;

(b) in case of a member of the Commission referred to under Section 6(d), holds at least a masters degree from a university recognized in Kenya, and at least five years' experience in leadership, management or academia.

(2) In addition to the qualifications specified under subsection (1), a member of the Commission shall be a person of high moral character and integrity in accordance with Chapter Six of the Constitution and capable of contributing to university education.

(3) The chairperson of the Commission shall be appointed from persons who, in addition to the

competencies specified in subsection (1), have ten years' experience in leadership and management of public or private institutions.

(4) Subject to the provisions of this Act, the chairperson and members of the Commission shall hold office for a term not exceeding four years and shall be eligible for reappointment for one further term.

(5) The members of the Commission appointed under section 6(1)(d) shall at the first meeting after appointment determine by lot which two of their number shall vacate office after a period of three and four years respectively to ensure continuity in the activities of the Commission.

(6) All appointments under this section shall be by notice in the Gazette.

8.(1) Subject to the provisions of this Act, the office of a member of the Commission shall become vacant if the member—

Vacancy of office.

(a) resigns by notice in writing addressed to the Cabinet Secretary;

(b) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;

(c) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;

(d) is guilty of gross misconduct;

- (e) fails to meet the requirements of Chapter six of the Constitution; or
- (f) is convicted of an offence and sentenced to imprisonment for a period of six months or more.

(2) Where the office of a member of the Commission becomes vacant, the Cabinet Secretary may, subject to the provisions of this Act, appoint another person to fill the vacancy for the remainder of the term of such member.

(3) Notwithstanding the generality of the foregoing, any member of the Commission suspected of having contravened Chapters 6 or 13 of the Constitution shall vacate office to pave way for investigations.

(4) Where a person who has vacated office under subsection (3) is not found culpable of any unlawful act by a competent legal authority, the person shall be reinstated to the position of a Commissioner.

(5) The First Schedule shall apply with respect to the conduct of the business and affairs of the Commission.

Commission  
Secretary.

9.(1) There shall be a Secretary of the Commission who shall be appointed by the Cabinet Secretary on the recommendation of the Commission following a competitive recruitment process and who shall serve for a period of five years, which term may be renewable once.

(2) The Secretary shall be the chief executive

2012

officer of the Commission and shall be responsible for the day to day management of the affairs of the Commission.

10.(1) The Commission shall appoint one or more Deputy Commission Secretaries who shall, under the general authority of the Commission Secretary, exercise such powers and perform such duties as may be assigned by the Secretary.

Deputy Secretary.

(2) A Deputy Commission Secretary shall hold office on such terms and conditions as may be specified in the instrument of appointment.

11.(1) A person shall be qualified for appointment as a Commission Secretary if the person-

Qualification for appointment as Commission Secretary.

- (a) holds a doctorate degree from a university recognized in Kenya; and
- (b) has at least ten years' experience in the management of a university.

(2) In addition to the qualifications specified under subsection (1) a person shall meet the requirements of Chapter Six of the Constitution.

12.(1) The Commission may employ such other officers and staff as it may deem necessary for the performance of its functions under this Act.

Other members of staff of the Commission.

(2) All appointments under this section shall take into account gender equity, ethnic and regional balance in accordance with the Constitution.

**PART III—ESTABLISHMENT AND  
ACCREDITATION OF UNIVERSITIES**

Establishment of  
a university.

**13.(1)** Every university in Kenya shall be established by a Charter in accordance with this Act.

(2) A person wishing to establish a University in Kenya shall apply in writing to the Commission in the prescribed manner for accreditation and the grant of a Charter.

(3) An application under subsection (2) shall be accompanied by a draft of the Charter of the proposed university, which shall provide for the following with respect to the university—

- (a) governance structures and systems;
- (b) members and staff;
- (c) financial management systems;
- (d) development of the Statutes;
- (e) use of the common seal and custody of instruments of authority;
- (f) process of voluntary winding up;
- (g) the procedure for vetting of applicants and nominees for the office of Chancellor; and
- (h) the core courses offered at the university;
- (i) the infrastructure in place or proposed infrastructure and the locations thereof, including that of Constituent Colleges and which shall comply with infrastructural

standards established by the Commission.

- (i) any other matter required by the Commission.

**14.(1)** The Commission shall consider every application submitted to it under section 13 and inspect and assess the resources of the applicant, and where the Commission is satisfied that the applicant meets the requirements of this Act, shall recommend to the Cabinet Secretary the issuance of a Letter of Interim Authority to the applicant.

Letter of Interim Authority.

(2) The Cabinet Secretary may grant a Letter of Interim Authority to an institution under subsection (1) if satisfied that such institution shall, once established, contribute to the development of university education in Kenya.

(3) Notwithstanding the generality of the foregoing, the Commission may, in consultation with stakeholders, advise the Cabinet Secretary on the suitability of an institution intended to be established as a public university.

**15.(1)** An institution granted an Interim Letter of Authority under section 14 shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of –

Effects of letter of Interim Authority.

- (a) suing and being sued;
- (b) acquiring, holding and disposing of moveable and immovable property, and
- (c) doing all such other things or acts as may lawfully be done by a body corporate.

(2) An institution to which a Letter of Interim Authority is granted shall have power to-

- (a) set up a governing body for the university ;
- (b) commence or continue to develop the physical facilities;
- (c) commence or continue to assemble academic resources;
- (d) with the prior approval of the Commission advertise and admit students to the programme or programmes of the institution;
- (e) establish and maintain internal quality assurance mechanism to assure standards, quality and relevance in the institution in accordance with the provisions of this Act; and
- (f) perform such other acts as the Commission may require.

(3) Nothing in this section shall be construed to preclude a university from developing infrastructure in anticipation the grant of a Charter under this Act.

Duration of letter  
of Interim  
Authority.

16.(1) A Letter of Interim Authority granted under section 15 shall lapse—

- (a) after the expiry of a period of four years from the date of issue, subject to an extension for a period of four years which may be granted by the Cabinet Secretary, on the recommendation of the Commission; or

- (b) upon revocation under section 17, or
- (c) upon the grant of a Charter.

(2) An institution whose Letter of Interim Authority lapses under subsection (1) (a) or (b) shall be wound up in accordance with this Act.

17. The Cabinet Secretary may, on the recommendation of the Commission or on application by the respective institution, revoke a Letter of Interim Authority in accordance with regulations on the winding up of universities and shall issue a notice in the Gazette to that effect.

Revocation of a Letter of Interim Authority.

18.(1) The Commission shall, at least six months before the expiry of the Letter of Interim Authority, prepare an accreditation report indicating whether or not the application for the establishment of a university has met all the conditions required under this Act.

Accreditation report for purposes of grant of Charter.

(2) The Commission shall submit the accreditation report referred to under subsection (1) and its recommendations thereon to the Cabinet Secretary.

19.(1) The Cabinet Secretary shall consider the report and the recommendations submitted under section 18 and may—

Grant or refusal to grant a Charter.

- (a) if satisfied that the application meets the requirements for the establishment of a university, recommend to the President the grant of a Charter, either in the form of the draft Charter submitted with the application or in such other form as the

Commission may consider appropriate;

- (b) extend the Letter of Interim Authority for a further and final period of four years; or
- (c) if satisfied that the proposed university does not meet the requirements for establishment of a university, reject the application.

(2) Where the Cabinet Secretary rejects an application under paragraph (1) (c)—

- (a) the Cabinet Secretary shall furnish the applicant with the reasons for the rejection of the application.
- (b) the Letter of Interim Authority issued under this Act shall, be revoked within one year:

Provided that the applicant may submit a fresh application in accordance with this Act; and

- (c) the Cabinet Secretary may, in consultation with the Commission appoint such person or persons to administer and manage the university for the better protection of the interests of the students and staff of the university as provided for in the regulations.

(3) Subsection (2) shall apply *mutatis mutandis* where a Letter of Interim Authority is revoked under section 17.

20.(1) A university granted a Charter in accordance with section 19—

Effect of a Charter.

- (a) shall be a body corporate, and as such shall continue the activities of the university as undertaken under the Letter of Interim Authority, including the employment of staff, except where activity is expressly altered under the Charter.
- (b) shall mobilize academic resources;
- (c) may develop and mount its new academic programmes subject to review by the Commission in accordance with the provisions of this Act;
- (d) may establish campuses and constituent colleges which must conform to standards established by regulations made under this Act, and
- (e) may award degrees, including honorary degrees.

(2) Notwithstanding the generality of subsection (1), constituent colleges and campuses of universities shall not share premises with incompatible businesses.

21. The Cabinet Secretary shall, by notice in the Gazette, publish the Charter granted under section 19.

Publication of Charter.

22.(1) The President may, on the recommendation of the Commission through the Cabinet Secretary, revoke, vary or in any other way amend the provisions of a Charter if of the opinion that the revocation, variation or amendment is in the

Variation, revocation of Charter.

best interest of university education in Kenya.

(2) A variation or amendment under subsection (1) may include the introduction of such mechanisms as shall enable the university concerned to better carry out its functions.

(3) A recommendation under subsection (1) shall only be made after the University has been afforded the opportunity to be heard and the Commission has, in accordance with the regulations, inspected the university concerned, and is satisfied that the university is unable to contribute to the objectives of university education set out in this Act.

(4) If a Charter is revoked under subsection (1) the Cabinet Secretary shall forthwith cause a notice of revocation to be published in the Gazette, and the university concerned shall cease to be a university at the expiry of one year from the date of the notice.

(5) Notwithstanding subsection (4) the revocation of a Charter shall not affect the validity of any academic award made by the University before the revocation.

(6) Upon the revocation of a Charter, the Cabinet Secretary may, in consultation with the Commission in the case of a public university, or with the Commission and the sponsor in the case of a private university, appoint such person or persons as the Cabinet Secretary may deem appropriate to administer and manage the university for the better protection of the interests of the students and staff of the University.

(7) The Cabinet Secretary may, in consultation with the Commission, make regulations for the better

carrying out of the functions under this section.

**23.(1)** Subject to this Act and to the Charter a University Council or Senate may, and where required by this Act to do so shall, make such statutes and regulations as it considers appropriate to regulate the affairs of the university.

Statutes.

(2) A university Council shall, as soon as practicable and in any event not later than three months after the making of a statute or regulation under this section, submit it to the Cabinet Secretary for publication in the Gazette.

**24.(1)** The President, on the recommendation of the Commission through Cabinet Secretary, and with the approval of Parliament may by award of Charter, establish-

Establishment of specialized degree awarding institutions.

(a) specialized degree-awarding or research institutions whose mandate shall be of strategic national importance; and

(b) a national Open University as a specialized university under this section, to offer university programmes through distance and e-learning mode.

(2) The institutions established under this section shall be prioritized by the Commission with respect to accreditation and the development of the governing instruments.

**25.(1)** The President may, on the recommendation of the Cabinet Secretary, declare an institution to be a technical university subject to such conditions, standards and guidelines as may be specified by the

Declaration of Technical Universities.

## Commission.

(2) Where a declaration under this section is made with respect to a public institution, it shall only apply where such institution is a National Polytechnic within the meaning of the Technical and Vocational Education and Training Act, 2012.

Universities in  
Counties.

26. The Commission shall ensure the establishment of public universities in each of the Counties, giving priority to Counties that do not have universities immediately after following the coming into force of this Act.

Unauthorized use  
of a University  
name.

27.(1) A person who, except with the written consent of a university Council—

- (a) uses the name of a university in furtherance of, or in connection with, an advertisement for any trade, business, calling or profession; or
- (b) issues a certificate purporting it to be from that university,

commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both.

(2) Notwithstanding any other written law, no public officer performing functions relating to the registration of companies, business names or trademarks shall accept for registration a name which is identical to, or so similar as to confuse the public with the name of a University, unless the consent of the respective university council has been obtained.

(3) This section shall apply, *mutatis mutandis*, to the Open University established under section 24(1) (b).

28.(1) A university established outside Kenya which intends to offer university education in Kenya, shall apply to the Commission for accreditation in accordance with the provisions of this Act.

Accreditation of  
foreign  
universities.

(2) A foreign university may, subject to the provisions of this Act, enter into an arrangement with an institution in Kenya for purposes of offering its programmes or joint programmes of instruction in Kenya, with the prior approval of the Commission.

(3) Any foreign university approved under subsection (2) must first submit proof of accreditation from its country of origin to undertake university education in Kenya.

(4) The Commission shall, at the beginning of each year and thereafter each quarter of the year, cause to be published in at least three newspapers of national circulation, the list of universities accredited to undertake university education in Kenya.

(5) Any person who purports to offer a degree through a university that is not accredited commits an offence and shall be liable upon conviction, to a fine of not less than ten million shillings, or to imprisonment for a term of not less than three years, or to both.

29. (1) A University, in performing its functions shall—

Academic  
freedom.

- (a) have the right and responsibility to preserve and promote the traditional principles of academic freedom in the conduct of its internal and external affairs;
- (b) have power to regulate its affairs in accordance with its independent ethos and traditions and in doing so it shall have regard to—
  - (i) the promotion and preservation of equality of opportunity and access;
  - (ii) effective and efficient use of resources; and
  - (iii) its obligations as to public accountability.

(2) A member of the academic staff of a university shall have the freedom, within the law, in the member's teaching, research and any other activities either in or outside the university, to question and test received wisdom, to put forward new ideas and to state opinions, and shall not be disadvantaged, or subject to less favourable treatment by the university, for the exercise of that freedom.

#### **PART IV—FINANCIAL PROVISIONS RELATING TO THE COMMISSION**

Funds of the  
Commission.

- 30.** The funds of the Commission shall consist of—
- (a) monies allocated by Parliament for the purposes of the Commission;

- (b) fees and charges for services rendered by the Commission;
- (c) such monies as may be lawfully earned from income generating activities; and
- (d) monies granted, donated or lent to the Commission from any other source, with the approval of the Cabinet Secretary and the Cabinet Secretary responsible for finance.

31. The financial year of the Commission shall be the period of twelve months ending on the thirtieth June of each year.

Financial year.

32.(1) At least three months before the commencement of each financial year, the Commission shall cause to be prepared estimates of the revenue and expenditure of the Commission for that year.

Annual estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the Commission for the financial year concerned and in particular, shall provide for—

- (a) the payment of the salaries, allowances and other charges in respect of the staff of the Commission;
- (b) the payment of pensions, gratuities and other charges, and in respect of benefits which are payable out of the funds of the Commission;

- (c) the maintenance of the assets of the Commission;
- (d) the funding of operations, training, research and development of activities of the Commission; and
- (e) the creation of such reserves to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Commission, may think fit.

(3) The annual estimates shall be approved by the Commission, before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval and after the Cabinet Secretary has given approval, the Commission shall not increase any sum provided in the estimates without the consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Commission except in accordance with funds voted or appropriated by Parliament.

Accounts and  
audit.

**33.(1)** The Commission shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Commission.

(2) Within a period of three months after the end of each financial year, the Commission shall submit to the Auditor-General the accounts of the Commission in respect of that year together with—

- (a) a statement of the income and

expenditure of the Commission during that year; and

- (b) a statement of the assets and liabilities of the Commission on the last day of that financial year.

(3) The annual accounts of the Commission shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

No. 12 of 2003.

#### **PART V—GOVERNANCE AND MANAGEMENT OF UNIVERSITIES**

**34.** Subject to the provisions of this Act, a university shall be governed in accordance with the provisions of its Charter granted under this Act and statutes made by its Council.

Instruments of Governance.

**35.(1)** In addition to the provisions of its Charter, a university shall establish the following organs of governance or their equivalent—

Governing organs of a university.

- (a) a Council, which shall—
- (i) employ staff;
  - (ii) approve the statutes of the University and cause them to be published in the Kenya Gazette;
  - (iii) approve the policies of the University;
  - (iv) approve the budget;
  - (v) in the case of a public university, recommend for appointment of

the Vice-Chancellor, Deputy Vice-Chancellors and principals of constituent colleges through a competitive process; and

- (vi) undertake other functions set out under this Act and the Charter.

(b) the Senate, which shall be in charge of all academic matters of the university and shall undertake the functions assigned to it in the Charter of the university.

(c) the Management Board, which shall—

- (i) be responsible for implementation of the policies of the university;
- (ii) assist in the day-to-day management of the university; and
- (iii) undertake such other functions as shall be set out in the Charter.

(2) Notwithstanding the generality of the provisions of subsection (1), the Council of a private university shall be appointed in accordance with provisions of the Charter, and such a university may, with the approval of the Commission, establish additional governance organs, including a Board of Trustees or its equivalent, as the sponsor may deem appropriate.

(3) A Board of Trustees established pursuant to subsection (2) or the sponsor of a private university shall, in addition to any other functions set out in the charter of the university -

- (a) appoint members of the University Council;
- (b) raise funds for the benefit of the university;
- (c) promote the objects of the university; and
- (d) appoint the university Chancellor.

36.(1) The council of a public university or constituent college of such a university shall consist of nine persons appointed by the Cabinet Secretary as follows –

Council of a public university.

- (a) chairperson;
- (b) the Principal Secretary in the Ministry for the time being responsible for the university education;
- (c) the Principal Secretary in the Ministry for the time being responsible for Finance;
- (d) five members appointed by the Cabinet Secretary through an open process; and
- (e) the Vice-Chancellor who shall be an ex-officio member of the Council.

(2) The provisions relating to the qualifications of the chairperson and members of the Commission in section 7 shall apply, with necessary modifications, to the chairperson and members appointed under subsection (1)(d).

37. The governing organs of a university may set up such committees as may be appropriate to perform such functions and discharge such responsibilities as it

Committees.

may determine, provided that the organs shall not delegate their principal mandate to the committees.

The Chancellor.

**38.** (1) Every university shall have a Chancellor, who shall be appointed—

- (a) in the case of a public university, by the President in accordance with the procedure set out in the Second Schedule; and
- (b) in the case of a private university, in accordance with the Charter of that University.

(2) The Chancellor of a public university shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

(3) The Chancellor—

- (a) shall be the titular head of the university and shall, in the name of the University, confer degrees and grant diplomas, certificates and other awards of the University;
- (b) may from time to time, recommend to the Cabinet Secretary in the case of a public university and the Board of Trustees in the case of a private university, a visitation of the University;
- (c) may from time to time give advice to the Council which the Chancellor considers necessary for the betterment of the University;

- (d) shall enjoy such powers and privileges and perform such other functions as may be provided in the Charter.

(4) A person shall only be appointed as a Chancellor where the person is a person of high moral character and integrity in accordance with Chapter Six of the Constitution.

39.(1) The Vice-Chancellor of a university shall be appointed—

The Vice-Chancellor.

- (a) in the case of a public university, competitively by the Cabinet Secretary on the recommendation of the Council; and
- (b) in the case of a private university, by the respective university Council in accordance with the provisions of the Charter.

(2) The Vice-Chancellor shall be the chief executive of the university and shall—

- (a) be the academic and administrative head of the university;
- (b) have the overall responsibility for the direction, organization, administration and programmes of the university; and
- (c) have such responsibilities and duties as may be provided for in the Charter.

(3) The Vice-Chancellor of a public university shall hold office for a term of five years and shall be eligible for a further term of five years.

(4) The term of the Vice-Chancellor of a private university shall be as provided in the Charter.

(5) The provisions of this section shall apply *mutatis mutandis* to the Principal of a constituent college.

Staff of the  
University.

**40.** The academic and the administrative staff of a university shall be as provided in its Charter.

Students'  
Association.

**41.(1)** Every university shall have a students' association.

(2) The functions of a Students' Council shall be to—

- (a) oversee and plan, in consultation with the Senate, students' activities for the promotion of academic, spiritual, moral, harmonious communal life and social well-being of all students;
- (b) draw to the attention of the appropriate authority, where necessary, special needs form particular students;
- (c) offer suggestions to the Senate or its equivalent on matters affecting the well being of students; and
- (d) undertake such other functions as provided in its governance instrument as approved by the Council.

(3) Every University shall have a Students' Council elected by the Students Association, and not

more than one-third of the Council shall be of the same gender where applicable.

42.(1) A university may establish an Alumni Association, which may consist of graduates of the university and such other persons as may be declared to be members under the Charter.

The Alumni Association.

(2) An Alumni Association shall act as an interactive forum for the members specified under subsection (1) and perform such other functions as may be specified in the Charter.

43. The day-to-day management of the university shall vest in the Vice-Chancellor who shall be assisted by the Management Board of the university in accordance with the provisions of this Act and the Charter.

University management.

## PART VI—GENERAL FINANCIAL PROVISIONS RELATING TO UNIVERSITIES

### *Public Universities*

44.(1) A public university shall prepare and submit its annual estimates of revenue and expenditure to the Cabinet Secretary for approval in such form and at such times as the Cabinet Secretary shall from time to time prescribe.

Annual estimates for public universities.

(2) A public university may incur expenditure for purposes of the institution in accordance with estimates approved by the Cabinet Secretary, and any approved expenditure under any head of the estimates may not be exceeded without the prior approval of the Council.

(3) A public university may, subject to any other written law, regulations and guidelines, appeal to the general public for subscriptions, donations or bequests for the benefit of the university.

Funds of a public university.

**45.(1)** The funds of a public university shall comprise of—

- (a) such sums as may be provided by Parliament;
- (b) such monies or assets as may accrue to or vest in the public university in the course of the exercise of its powers or the performance of its functions under this Act or under any other written law; and
- (c) all monies from any other source provided for or donated or lent to the public university.

(2) There shall be made to the public university, out of monies provided by Parliament for that purpose, grants towards the expenditure incurred in the exercise of its powers or in performance of its functions under this Act.

Unexpended monies.

**46.** Any unexpended balance of the grant made under section 45 may be carried forward in the account of a public university from one year to the next and be expended as the university may determine.

Accounts and audit.

**47.(1)** A public university shall cause to be kept all proper books of records of accounts of the income, expenditure and the assets of the university.

(2) Within four months from the end of each financial year, a public university shall submit to the auditor general corporations the accounts of the university together with -

- (a) a statement of the income and expenditure of the university during the financial year; and
- (b) a balance sheet of the university on the last day of the year.

(3) The accounts of a public university shall be audited and reported upon in accordance with the provisions of the Public Audit Act 2003.

No. 12 of 2003.

48. All immovable property, shares, funds and securities as may from time to time become the property of the public university shall be in the name of the university and shall be dealt with in such manner as the institution may from time to time determine, subject to the conditions upon which any grants are made from public funds for capital or recurrent purposes and the conditions upon which any endowment, bequest or donation is made for any purposes connected with the institution.

Vesting of property.

49.(1) A public university may invest any of its funds in securities in which for the time being trustees may by law invest in trust funds, or in any other securities which the Treasury or any other authorized body may, from time to time, approve for that purpose.

Investment of funds.

(2) A public university may, subject to the approval of the Treasury or any other authorized body, place on deposit with such bank or banks as the public

university may determine, any monies not immediately required for the purposes of the university.

Financial year.

**50.** The financial year of a public university shall be the period of twelve months ending on the thirtieth day of June in each year.

*Private Universities*

Financial  
Management of  
private  
universities.

**51.(1)** Every private university shall, in accordance with generally accepted accounting practice, principles and procedures-

- (a) keep books and records of income, expenditure, assets and liabilities;
- (b) prepare financial statements within three months of the end of the year, including-
  - (i) a statement of income and expenditure for the previous year, and
  - (ii) balance sheet as at the end of the previous year.
- (2) Every private University shall, within a financial year—
  - (b) ensure an annual audit of its books, records of account and financial statement by an auditor, who shall conduct the audit in accordance with the generally accepted auditing standards;
  - (c) provide to the Board of Trustees the certified copy of the auditor's report in

respect of the financial statements referred to in subsection (1);

- (d) comply with all the financial regulations and meet all financial obligations owed to the State as may be contained in any other written laws;
- (e) account for any funds received from the government;
- (f) on request and for purposes of accreditation, provide to the Commission official confirmation of compliance with financial obligations state which shall not be published without the prior consent of the university concerned.

52. (1) A private university may invest any of its funds as may be approved by the sponsor or the Board of Trustees of the university or its equivalent.

Investment of funds by private universities.

#### **PART VII – THE UNIVERSITIES FUND**

53.(1) There shall be established a Fund to be known as the Universities Fund.

Establishment of Fund.

(2) The object and purpose of the Fund shall be to provide funds for financing universities.

(3) There shall be paid into the Fund—

- (a) monies provided by Parliament;
- (b) such sums of money as may be received by the Board in the form of donations;

- (c) such sums of money as may be specifically designated for the Fund by the Board out of its own Funds;
- (d) income generated by investments made by the Trustees; and
- (e) endowments, grants and gifts from whatever source designated for the Fund.

(4) There shall be paid out of the Fund—

- (a) any expenditure approved by the Trustees for the funding of the public universities;
- (b) any expenditure approved by the Trustees for conditional grants and loans to private universities; and
- (c) any expenditure authorized by the Trustees to be incurred in connection with the administration of the Fund.

Board of Trustees.

**54.** (1) The Fund shall be managed by a Board of Trustees which shall consist of nine members appointed by the Cabinet Secretary as follows—

- (a) a chairperson who has knowledge and experience in matters related to finance, investment and fundraising;
- (b) the Principal Secretary in the Ministry responsible for finance;

- (c) the Principal Secretary in the Ministry for University Education;
- (d) six persons who have proven knowledge and experience in Financial matters of which at least two and not more than three will be of the same gender,

(2) In appointing the members referred to in subsection (1) (d) the Cabinet Secretary shall have regard to –

- (a) the objects of the Fund;
- (b) the need for balanced competencies among the Trustees;
- (c) gender equity, and
- (d) the inclusion of persons with disabilities, minorities and other marginalized groups.

(3) The provisions relating to the appointment of the members of the Commission as set out in section 6 shall apply, *mutatis mutandis*, to the Trustees.

(4) The function of the Trustees shall be to generally manage the University Fund established under section 53, and more particularly to –

- (a) advise the Cabinet Secretary in matters of university education funding and related policy issues;
- (b) in consultation with the Cabinet Secretary, develop a transparent and fair criteria for

allocation of funds to universities;

- (c) apportion funds to universities in accordance with criteria established;
- (d) in consultation with the public universities, establish the maximum differentiated unit cost for the programmes offered;
- (e) establish the minimum discipline differentiated remuneration for academic staff of universities, which shall be fair and globally competitive, and advise the Government accordingly;
- (f) mobilize and receive funds for purposes of the Fund from the Government, donors, and from any other source; and
- (g) exercise any other power for the better performance of its functions under this Act.

(5) The Trustees may invest any unutilized balances, in the Fund in such manner as trustees may lawfully invest public funds.

(6) The provisions relating to the appointment of the Secretary and members of staff of the Commission as set out in sections 9 and 12 shall apply, *mutatis mutandis*, to the appointment of the Director and staff members of the Fund.

(7) The provisions relating to the financial provisions of the Commission as set out in sections 30, 31, 32 and 33 shall apply, *mutatis mutandis* to the finances of the Fund.

**PART VIII— THE KENYA UNIVERSITIES AND  
COLLEGES CENTRAL PLACEMENT  
SERVICE**

**55.(1)** There shall be a Service to be known as the Kenya Universities and Colleges Central Placement Service.

Establishment of a Kenya Universities and Colleges Central Placement Service.

(2) The Service shall be a body corporate with perpetual succession and a common seal and capable, in its corporate name, of-

- (a) suing and being sued;
- (b) purchasing, disposing and disposing of movable and immovable property, and
- (c) doing all such other things or acts as may be done by a body corporate.

(3) The Service shall be governed by the Placement Board which shall consist of thirteen members appointed by the Cabinet Secretary as follows —

- (a) a chair person;
- (b) the Secretary of the Commission;
- (c) the chief executive of the Higher Education Loans Board;
- (d) the chief executive of the TVET Funding Board;
- (e) the chief executive of the TVETA;

- (f) two Vice- Chancellors representing Public Universities;
- (g) two Vice- Chancellors representing Private Universities;
- (h) two representatives of the Kenya Association of Technical Institutions;
- (i) the Principal Secretary in the Ministry responsible for higher education; and
- (j) the Principal Secretary in the Ministry responsible for finance.

(4) The Service shall establish a Secretariat in such manner as it may deem appropriate, which shall be at such place as the Service shall determine.

(5) The Placement Board shall in the performance of its functions under this Act uphold equity and balanced access to University and College education and develop suitable criteria to promote affirmative action, and other strategies as may be approved the by Government.

Functions of  
Placement Board.

56. (1) The functions of the Board shall be to –

- (a) co-ordinate the placement of the government sponsored students to universities and colleges;
- (b) disseminate information on available programmes, their costs, and the areas of study prioritized by the Government;
- (c) collect and retain data relating to

university and college placement;

- (d) advise the Government on matters relating to University and college student placement;
- (e) develop career guidance programmes for the benefit of students; and
- (f) perform any other function assigned to it under this Act.

(2) The Placement Board shall in the performance of its functions promote equity and access to university and college education, by among other things, developing criteria for affirmative action for the marginalized, the minorities and persons with disabilities.

(3) The placement Board shall establish criteria to enable students access the courses for which they applied taking into account the students' qualifications and listed priorities.

57. Notwithstanding any other provisions of this Part, a university or college may independently admit students to its programmes in accordance with its approved admissions criteria.

Independent  
Admissions.

58. The provisions relating to the appointment of the Secretary and staff members of the Commission as set out in sections 9 and 12 shall apply, mutatis mutandis, to the appointment of the Director and staff members of the Placement Service.

Secretary, staff of  
Placement Service.

59. The provisions relating to the financial provisions of the Commission as set out in sections

Finances of the  
Placement Service.

30, 31, 32 and 33 shall apply mutatis mutandis, to the finances of the Service.

### PART IX – MISCELLANEOUS

General functions  
of a university  
council.

**60.** A University Council shall have the necessary powers for the proper performance of its functions under this Act and in particular, without prejudice to the generality of the foregoing, a university shall have powers to-

- (a) manage, supervise and administer the assets of the university in such a manner as best promotes the purpose for which the university is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for reserves of the university;
- (c) receive any grants, donations or endowments on behalf of the university and make legitimate disbursements therefrom;
- (d) enter into association, collaboration or linkages with other bodies or organizations within or outside Kenya as the university may consider desirable or appropriate and in furtherance of the purpose for which the university is established; and
- (e) open a banking account or accounts for the funds of the university.

Display of  
instruments of  
accreditation.

**61.(1)** Every university shall conspicuously display all its instruments of accreditation on its premises.

(2) Where any instrument of accreditation is revoked under this Act, the university concerned shall, within fourteen days of such revocation, return the original instrument of accreditation to the Commission subject to the provisions of this Act.

62. A university council may delegate to any committee or to any of its members, officers or employees the exercise of its functions or duties under this Act of any other written law.

Delegation of functions.

63.(1) In the performance of its functions, a University Council shall uphold the rights of any person who is likely to be affected, and shall –

Fair administrative action.

- (a) inform the person concerned of the nature of the allegations made against that person;
- (b) afford that person adequate time to prepare and present a defence; and
- (c) afford the person the opportunity of being heard in person.

(2) A university council may act on general evidence the character or conduct of the person concerned and shall not be bound by the rules of evidence as set out in the Evidence Act.

Cap. 80

(3) A University council shall expeditiously dispose of all matters before it and in any event, within six months.

(4) No person having a personal interest or outcome in any matter before a university council shall sit as a member of the university or committee hearing

the matter.

Disclosure of  
interest.

64. Where a member is directly or indirectly interested in any contract or other matter before the University Council or a committee and is present at a meeting at which the contract or other matter is the subject of consideration, the person shall, at the meeting and as soon as reasonably practicable after the commencement, disclose the interest and shall not take part in the consideration or discussion of, or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under this section shall be recorded in the minutes of the meeting at which it is made.

Instruments of  
Authority.

65.(1) Subject to this Act, a university shall possess a Mace, Seal and Logo as its instruments of Authority.

(2) A common seal of a university shall be kept in such custody as the University may in its Charter direct and shall not be used except in the manner authorized by the university.

(3) All deeds, instruments, contracts and other documents shall be deemed to be duly executed by or on behalf of a university-

(a) where they are required to be under seal, if sealed with the common seal of the university and authenticated by the Chairperson of the university council and any other officer of a university so authorized by the University in the provisions of its Charter;

(b) where they are not required to be under seal, if executed in that behalf by a member authorized by the University council in the provisions of the Charter for that purpose.

(4) A deed, instrument, contract or other documents executed in accordance with subsection (3) shall be effective in law to bind a university and its successors and may be varied or discharged in the same manner as that in which it was executed.

66. No matter or thing done by a member of a university or any officer, employee or agent of a university shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the university, render the member, officer, employee or agent or any person acting the directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

67. The provisions of section 66 shall not relieve a university of the liability to pay lawful compensation or damages to any person for injury to the person or property.

Liability for damages.

68. If an offence under this Act is committed by a university or other body corporate with connivance of or attributable to any officer of the university or any other person who was purporting to act in any such capacity, that the officer or other person shall be guilty of that offence.

Offences by a university.

69. (1) Except as may be expressed to the contrary, any institution which after the commencement of this Act-

General penalties.

(a) advertises or in any manner holds itself to

the public as a university; or

- (b) admits students or conducts courses of programmes of instruction in university education;

without the permission of the Cabinet Secretary or the Commission in accordance with this Act, commits an offence and is liable on conviction, to a fine not exceeding one million shillings and in the case of a continuing offence, to sum of fifty thousand shillings per day for every day on which the offence continues, or to imprisonment for a term not exceeding two years or both.

(2) Any person who commits an offence under this Act for which no other penalty is provided shall be liable in the case of a first conviction, to a fine not exceeding five hundred thousand shillings or a term of imprisonment not exceeding twelve months and or to both.

Regulations.

70.(1) The Cabinet Secretary may in consultation make regulations prescribing anything which under this Act may be prescribed and generally for the better carrying out of the objects of and purposes of this Act.

(2) Without prejudice to the generality of the foregoing, regulations under this section may make further provisions on the —

- (a) establishment of public and private universities, technical universities, university campuses and university campus colleges;

- (b) issuance, revocation and variation of

## University Charters;

- (c) implementation of differentiated unit costs, and discipline differentiated remuneration the academic year for the universities;
- (d) continuous accreditation and quality assurance, including programme accreditation;
- (e) procedure for the revoking a Letter of Interim Authority, varying or revoking a Charter and for winding up of Universities; and
- (f) registration of agents of foreign universities.

**PART X— REPEALS AND TRANSITIONAL PROVISIONS**

71. (1) The following Acts are repealed—

Repeal of various Acts.

- (a) The Universities Act Cap. 210B;
- (b) The University of Nairobi Act, Cap 210;
- (c) The Kenyatta University Act, Cap 210C;
- (d) The Moi University Act Cap 210A;
- (e) The Jomo Kenyatta University of Agriculture and Technology Act No. 8 of 1994;
- (f) The Egerton University Act Cap 214;

- (g) The Maseno University Act, No. 7 of 2000; and
- (h) The Masinde Muliro University of Science and Technology Act, 2006.

(2) Notwithstanding subsection (1), the following transitional provisions set out in this Part shall apply.

*A-Existing Universities*

Grant of Charter to existing public universities.

72.(1) A public university existing immediately before the commencement of this Act shall be deemed to be a university established under this Act and shall take the steps prescribed under this Act to obtain a Charter within a period of one year after such commencement.

(2) The Charter shall be subject to and construed in accordance with this Act.

Existing Charters and Letters of Interim Authority.

73.(1) A private university in possession of a Charter or a Letter of Interim Authority granted under the Universities Act (now repealed) immediately before the commencement of this Act shall upon such commencement, be deemed to have been granted such Charter or letter of Interim Authority under this Act.

Existing Constituent colleges.

74. Any constituent colleges of universities existing before the commencement of this Act shall upon such commencement continue to be constituent colleges of those universities and may apply for accreditation in accordance with the provisions of this Act, subject to meeting the standards established under this Act.

75. A campus or a campus college of a university existing before the commencement of this Act shall be deemed to have been established under the provisions of this Act.

Existing campuses and campus colleges.

76.(1) Any person who immediately before the commencement of this Act is a Chancellor of a university shall remain in office for the remaining period of his or her term or for a period not exceeding one year, whichever is less.

Chancellors, Vice-Chancellors, Councils.

(2) Any person who immediately before the commencement of this Act, is a Vice-Chancellor of a public university or Principal of a constituent college of a public university, shall remain in office for the remaining period of his or her term of office.

(3) All Councils of public universities in existence immediately before the commencement of this Act shall remain in office for a period not exceeding six months after which new councils shall be appointed under this Act.

77. Any proceedings, instruments and any right of appeal subsisting immediately before the commencement of this Act shall be treated as subsisting by virtue of the corresponding enactment in this Act.

Preservation of proceedings and Rights of Appeal.

78. Where a period of time specified in any of the repealed Acts is current at the commencement of this Act, this Act shall have effect as if the corresponding provisions had been in force when that period began to run.

Continuance of periods of time.

Preservation of  
licenses,  
certificates and  
registration.

79.(1) Any register kept, registration effected, certificate issued, notice or information given, return made or other thing done under the repealed Acts which, immediately before the date of commencement of this Act, was in force or effect shall continue in force and have effect as if kept, effected, issued, given, made or done under the corresponding provision of this Act unless expressly repealed.

(2) Any form used and any requirement as to the particulars to be entered in any form used for the purposes of the repealed Act which was in force or effect immediately before the date of commencement of this Act shall continue in force and have effect as though prescribed under this Act until new forms or particulars are prescribed.

Transfer of  
property, assets  
liabilities and staff.

80.(1) All immovable and movable property and assets which immediately before the commencement of this Act were vested in, or possessed by the institutions established under the repealed Acts shall, by virtue of this section vest in the respective institutions established under this Act without further conveyance transfer or assignment.

(2) All rights, obligations and liabilities which immediately before the commencement of this Act were vested in or imposed on the institutions established under the repealed Acts are deemed to be the rights, obligations and liabilities of the respective institutions established under this Act.

(3) All references to the institutions established under the repealed Acts in any agreement or instrument relating to any property, assets, rights, obligations or liabilities transferred under subsection

(1) and (2) and subsisting immediately before the commencement of this Act, shall, unless the context otherwise requires, be read as references to respective institutions established under this Act.

(4) Except as the institutions established under the repealed Acts otherwise direct, all persons who were members of the staff of the institutions established under the repealed Acts shall be members of the staff of respective institutions established under this Act and shall be deemed to have been appointed under this Act on the terms and conditions of service applicable to them immediately before the commencement of this Act.

81.(1) All acts, directions, orders, appointments, requirements, authorizations or other things given, taken or done under, and all funds, assets and other property acquired by virtue of the repealed Acts shall, so far as they are not inconsistent with this Act, be deemed to have been given, taken, done or acquired under this Act.

General Savings.

(2) All rules and regulations made under the repealed Acts and in force immediately before the commencement of this Act as long as they are not inconsistent with this Act shall continue to be in force but may be amended or revoked by rules and regulations made under this Act.

(3) All pending disciplinary matters shall be determined as if they were commenced under this Act.

(4) All instruments issued by the institutions established under the repealed Acts and in force immediately before the commencement of this Act shall be deemed to have been issued under this Act.

***B — The Commission for Higher Education***

Interpretation of  
Part.

**82. In this Part—**

“appointed day” means the day appointed by the Cabinet Secretary for the coming into operation of this Act;

“former Commission” means the Commission for Higher Education existing immediately before the coming into operation of this Act.

Assets and  
Liabilities.

**83.(1) On the appointed day—**

- (a) all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Commission shall, by virtue of this paragraph, vest in the Commission.
- (b) all rights, powers and liabilities which immediately before such day were vested in, imposed on or enforceable against the former Commission shall by virtue of this subsection, be vested in, imposed on or enforceable against the Commission.
- (c) Any reference in any written law or in any document or instrument to the Commission shall, on and after the appointed day, be construed to be a reference to the Commission.
- (d) The annual estimates of the former Commission for the financial year in which the appointed day occurs shall be deemed

to be the annual estimates of the Commission for the remainder of that financial year:

Provided that such estimates may be varied by the Commission in such manner as the Cabinet Secretary may approve.

- (e) The administrative directions made by the Commission or by the Cabinet Secretary which are in force immediately before the appointed day shall, on or after such day, have force as if they were directions made by the Commission or the Cabinet Secretary under this Act.

**84.(1)** All persons who, immediately before the commencement of this Act, were Commissioners in the former Commission shall remain in office for the remainder of their or for a period not exceeding six months, whichever is shorter, after which new Commissioners shall be appointed in accordance with this Act.

Commissioners.

(2) The person who, immediately before the commencement of this Act, is the Commission Secretary, shall remain in office for the remainder of his or her term of office.

**85.** Any person who is a member of the staff of the former Commission immediately before the appointed day shall be deemed to be a member of staff of the Commission.

Staff.

**FIRST SCHEDULE****(S.8(5))****PROVISIONS AS TO THE CONDUCT OF THE  
BUSINESS AND AFFAIRS OF THE  
COMMISSION**

1. The Board shall meet as often as necessary for the transaction of business, but not more than four months shall elapse between the date of one meeting and that of the next meeting.

2. The Chairperson may at any time, and shall upon written request by a majority of the members, call a special meeting of the Board.

3. The Chairperson shall preside at every meeting of the Board at which he is present, but in the absence of the Chairperson the members present may elect one from among their number to preside.

4. The quorum for a meeting of the Board shall be seven members, who shall include five appointed members.

5. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the members present, and in the case of an equality of votes the chairperson or person presiding shall have a casting vote.

6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as the relevant facts regarding the matter come to knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.

7. The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.

8. Save as provided in this Schedule the Board may regulate its own procedure.

## SECOND SCHEDULE

(S. 38(1))

### *Procedure for the appointment of the Chancellor of a Public University*

1. Where a vacancy occurs in the office of Chancellor of a public university, the Senate of that university shall, in consultation with the respective alumni association, identify suitable persons for appointment.

2. All names submitted under paragraph 1 shall be vetted by the Senate in accordance with the procedure set out in the Charter, and the Senate shall propose five names of persons deemed to be qualified under the provisions of this Act for purposes of ranking by the alumni association.

3. The names of the five applicants deemed by the Senate to be most suitable for ranking as Chancellor shall be circulated among the alumni of the public university, who shall be requested to rank the applicants in order of preference.

4. The Senate shall forward the names of the top three applicants respectively ranked by the alumni

association to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons so ranked for appointment as Chancellor.

5. The appointment of the Chancellor by the President shall be by notice published in the Gazette.

6. Where a public university is of recent establishment and has no alumni the President shall, from three names recommended by the Cabinet Secretary, appoint the person to be the Chancellor of the university.