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THE UNIVERSITIES ACT

CAP. 210

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Universities Act

Cap. 210

Legislation as at 26 April 2024

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UNIVERSITIES ACT

CAP. 210

Assented to on 13 December 2012

Commenced on 13 December 2012 by Universities Act Commencement

[Amended by Statute Law (Miscellaneous Amendments) Act, 2014 (Act No. 18 of 2014) on 8 December 2014]
[Amended by Statute Law (Miscellaneous Amendments) Act, 2015 (Act No. 25 of 2015) on 24 December 2015]
[Amended by Universities (Amendment) Act, 2016 (Act No. 48 of 2016) on 13 January 2017]
[Amended by Statute Law (Miscellaneous Amendments) Act, 2018 (Act No. 18 of 2018) on 18 January 2019]
[Amended by Data Protection Act (Cap. 411C) on 25 November 2019]
[Amended by Statute Law (Miscellaneous Amendments) Act, 2020 (Act No. 20 of 2020) on 11 December 2020]
[Revised by 24th Annual Supplement (Legal Notice 221 of 2023) on 31 December 2022]
[Amended by The Statute Law (Miscellaneous Amendments) Act, 2024 (Act No. 3 of 2024) on 26 April 2024]

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

Part I – PRELIMINARY

1. Short title

This Act may be cited as the Universities Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"academic programme" means the design of learning content which includes the intention, the structure of the content, the delivery mode, academic resources and assessment modes;

"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 recognises an institution as a University and as having fulfilled the prescribed criteria for mounting its academic programmes;

"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 sections 19, 24 or 25;

"Commission" means the Commission for University Education established under section 4;

"constituent college" means a constituent college of a university established under this Act;

"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;

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

"foreign university" means a university legally established in a country outside Kenya, which intends to offer university education in Kenya;

"foreign university campus" means an extension of a foreign university, set up by the university pursuant to its statutes and established in accordance with section 28 of this Act;

"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;

"instrument of accreditation" means the Charter or Letter of Interim Authority establishing a university issued under this Act;

"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;

"programmes accreditation" means the process by which the Commission formally recognizes an academic programme of a University, including a foreign university;

"public university" means a university established and maintained out of public funds;

"quality assurance" means the employment by a university of various measures and mechanisms developed by the Commission to assess, maintain and enhance standards of programmes offered by a university;

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

"sponsor" means any person including the government 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;

"technical university" means a university, established in accordance with section 25 of this Act;

"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 (Cap. 210A);

"university" means a university established in accordance with section 13 of this Act;

"university campus" means a extension of a university set up by the university pursuant to its statutes and established in accordance with section 20 of 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.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 2, Act No. 18 of 2018, Sch.]

3. Objectives of university education

(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;

(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;

(j) promotion of gender balance and equality of opportunity among students and employees; and

(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. Establishment of the Commission

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

(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.

5. Functions of the Commission

(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, advance, publicise and set standards relevant in the quality of university education, including the promotion and support of internationally recognised standards;

(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 the provisions of this Act or any regulations made under section 70;

(i) collect, disseminate and maintain data on university education;

(j) accredit universities in Kenya;

(k) regulate university education in Kenya;

(l) on regular basis, inspect universities in Kenya;

(m) promote quality research and innovation; and

(n) *deleted by Act No. 18 of 2014, Sch.*

(2) The Commission may where it deems appropriate, delegate any of its functions in this section to any suitably qualified person or body.

(2A) The Commission shall have all the powers as may be necessary for the proper discharge of its functions under this Act.

(2B) (1) The Commission shall, in approving and inspecting university academic programmes—

(a) analyse and consider the following factors—

(i) learning content of a programme;

(ii) purpose and objectives of a programme;

(iii) structure of a programme;

(iv) delivery mode of a programme;

(v) availability of academic resources to implement a programme;

(vi) mode of assessment of the programme;

(vii) learning environment of a university;

(viii) learning facilities of a university; and

(ix) extra-curricular activities offered by a university;

(b) ensure openness, maintain objectivity and consistency in arriving at its decision.

(2) Despite subsection (1), the Commission may consider any other factor as it may deem fit and may rank each factor assessed to indicate the level of compliance.

(3) For the avoidance of doubt, the Commission shall be the only body with the power to perform the functions set out in this section.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 3.]

5A. Conflicts with other Acts in approval of programmes

(1) If there is a conflict between the provisions of this Act and the provisions of any other Act in matters relating approval or accreditation of academic programmes offered by universities, the provisions of this Act shall prevail.

(2) Despite the provisions of any other law, the recognition, licensing, student indexing, approval or accreditation of any academic programme including postgraduate degrees, diplomas including postgraduate diplomas and other academic certificates offered at a university shall be the exclusive mandate of the Commission to be exercised in accordance with this section at the exclusion of any other person or body.

(3) The Commission may, before approving any academic programme consult with any relevant body established by written law to regulate the profession to which the academic programme relates where such law empowers the professional body to approve or accredit courses offered at any university or colleges.

(4) Pursuant to section 5(2), the Commission may engage—

(a) professional bodies and associations to carry out inspection of universities on its behalf;

(b) the Auditor-General to offer the Commission professional opinion on management and financial positions of a particular university.

(5) A person who without the authority of the Commission under this Act purports to license, accredit, recognise, audit, inspect, index students or collect a fee or a charge from a university or a student commits an offence and shall be liable on conviction to a fine not exceeding two million shillings or imprisonment for a term not exceeding two years or both.

[Act No. 48 of 2016, s. 5.]

6. Constitution of the Commission

(1) The Commission shall consist of—

(a) a Chairperson appointed by the President;

(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 national treasury;

(d) one person appointed by the Cabinet Secretary who is a distinguished academic scholar with at least ten years' experience in management of university education;

(e) one person nominated by the Federation of Kenya Employers and appointed by the Cabinet Secretary;

(f) one person nominated by Chairpersons of the Councils of public universities in a forum of Chairpersons of the Councils of public universities convened by the Cabinet Secretary for that purpose;

(g) one person nominated by Chairpersons Councils of private universities in a forum of Chairpersons of the Councils of private universities convened by the Cabinet Secretary for that purpose; and

(h) the Commission Secretary who shall be an *ex-officio* member.

(2) *Deleted by Act No. 18 of 2018, Sch.*

(3) *Deleted by Act No. 18 of 2018, Sch.*

(4) *Deleted by Act No. 18 of 2018, Sch.*

(5) *Deleted by Act No. 18 of 2018, Sch.*

(6) *Deleted by Act No. 18 of 2018, Sch.*

(7) *Deleted by Act No. 18 of 2018, Sch.*

(8) *Deleted by Act No. 18 of 2018, Sch.*

(9) *Deleted by Act No. 18 of 2018, Sch.*

(10) *Deleted by Act No. 18 of 2018, Sch.*

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 4, Act No. 18 of 2018, Sch.]

7. Qualification for appointment as member of Commission

(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 and has at least fifteen years' experience in matters relating to management of university education; and

(b) in case of a member of the Commission referred to under section 6(e), (f) and (g) holds a masters degree from a university recognized in Kenya and has at least ten years' experience in matters relating management of university education.

(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) *Deleted by Act No. 48 of 2016, s. 6.*

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

[Act No. 48 of 2016, s. 6.]

8. Vacancy of office

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

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

(aa) is absent from three consecutive meetings of the Commission without the permission of the Chairperson, or, in the case of the Chairperson, the permission of 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.

[Act No. 48 of 2016, s. 7.]

9. Commission Secretary

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

10. Deputy Secretary

(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.

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

11. Qualification for appointment as Commission Secretary

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

(a) holds a masters 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.

[Act No. 48 of 2016, s. 8.]

12. Other members of staff of the Commission

(1) The Commission may employ such other officers and staff as it may deem necessary for the performance of its functions under this Act and any person employed under this section shall be deemed to be a public officer within the meaning of the Constitution.

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

[Act No. 18 of 2014, Sch.]

12A. Protection from personal liability

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

(2) The provisions of subsection (1) shall not relieve the Commission of the liability to pay lawful compensation or damages to any person for injury to the person or property.

[Act No. 48 of 2016, s. 9.]

Part III – ESTABLISHMENT AND ACCREDITATION OF UNIVERSITIES

13. Establishment of a university

(1) Every university in Kenya shall be established by a Charter or a Letter of Interim Authority 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;

(h) the academic programmes offered at the university;

(ha) the financial ownership structure of the university if the university is a private 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; and

(j) any other matter required by the Commission.

(3A) Any information containing personal data presented to the Commission shall be handled in accordance with data protection principles set out in the Data Protection Act.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 10, Act No. 24 of 2019, 2nd Sch.]

14. Letter of Interim Authority

(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.

(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. Effects of letter of Interim Authority

(1) An institution granted an Letter of Interim Authority under section 14 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) 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) continue to develop the physical facilities;

(c) continue to assemble academic resources;

(d) with the prior approval of the Commission advertise and admit students to the academic 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;

(ee) exercise any of the functions specified in section 20(1)(e); 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 of the grant of a Charter under this Act.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 11, Act No. 18 of 2018, Sch.]

16. Duration of letter of Interim Authority

(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;

(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. Revocation of a Letter of Interim Authority

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.

18. Accreditation report for purposes of grant of Charter

(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.

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

19. Grant or refusal to grant a Charter

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

(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. Effect of a Charter

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

(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 its new academic programmes for approval by the Commission in accordance with this Act;

(d) may establish campuses and colleges which must conform to standards established by regulations made under this Act; and

(e) may award—

(i) degrees, including postgraduate degree and honorary degrees;

(ii) diplomas, including postgraduate diplomas; and

(iii) other academic certificates.

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

(2A) Despite the provisions of Section (1)(d), a public university shall not establish a campus or a college in a foreign country without the approval of the Cabinet Secretary in consultation with the Cabinet Secretary for the time being responsible for matters relating to finance.

(3) The Cabinet Secretary may, in consultation with the Commission, by order published in the *Gazette*, establish or declare an institution of learning or higher education or other training establishment to be a constituent college of a university.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 12.]

21. Publication of Charter

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

22. Variation, revocation of Charter

(1) The President may, on the recommendation of the Cabinet Secretary revoke a Charter if in the opinion of the President the revocation is in the best interest of university education in Kenya.

(2) The recommendation referred to under subsection (1) shall be made with the prior concurrence of the Commission which shall satisfy itself that the revocation is in the best interest of university education in Kenya.

(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.

[Act No. 25 of 2015, Sch.]

22A. Variation of Charter

(1) The Cabinet Secretary may, upon an initiation made under subsection (3), vary a Charter if in the opinion of the Cabinet Secretary that the variation is in the best interest of university education in Kenya.

(2) The recommendation referred to under subsection (1) shall be made based on need to—

(a) align the particular Charter to the Constitution or any written law;

(b) align the university to the training and research priority of the national government that would develop expertise in a specified academic field, including instilling of skills with bias in employment creation;

(c) in the case of a private university, to reflect changes in sponsorship of the university;

(d) align the university to the dynamics in research, technology and prevailing academic requirements recommended by the body which by law represents employers; or

(e) align the charter to the best interests of university education in Kenya.

(3) A variation under subsection (1) may be initiated—

(a) by the Commission upon request by a university, in the case of a public university; or

(b) by the sponsor in the case of a private university; and may include the introduction of such mechanisms as shall enable the university concerned to better carry out its functions.

(4) A decision for the variation by the Cabinet Secretary shall be made without unreasonable delay, but in any case—

(a) within three months from the date a recommendation for variation is made by the Commission, if the process is initiated by the Commission; or

(b) within six months from the date a formal request for variation is made by a university, if the process is initiated by a university.

(5) If a Charter is varied under subsection (1), the Cabinet Secretary shall forthwith cause a notice of variation to be published in the *Gazette*, and the variation shall come into effect on such date as may be specified in the notice.

(6) Notwithstanding subsection (5), the variation of the Charter shall not affect the validity of any academic award made by the University before variation.

(7) For the purpose of this section, "vary" includes a review or amendment.

[Act No. 25 of 2015, Sch.]

23. Statutes

(1) Subject to this Act and to the Charter a University Council 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.

(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*.

[Act No. 48 of 2016, s. 13.]

24. Establishment of specialized degree awarding institutions

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

(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.

(3) Despite subsection (1), the President may, on the recommendation of the Commission through the Cabinet Secretary, and on the advice of the National Security Council, establish specialized degree awarding institutions specializing in national security issues.

(4) The provisions of Part V of this Act shall apply to an institution established under this section with such modifications as may, with the approval of the Cabinet Secretary and the Commission, be specified in the respective Charter.

(5) A Charter granted to an institution established under this section shall stipulate the conditions under which the institution shall operate, and a clearly defined mandate with regard to specified academic programmes.

[Act No. 20 of 2020, Sch., Act No. 3 of 2024, Sch.]

25. Declaration of Technical Universities

(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 Commission.

(2) A declaration made under this section shall only apply to a public institution—

(a) that is or previously was a National Polytechnic within the meaning of the Technical and Vocational Education and Training Act; or

(b) that has the requisite physical facilities and human resource capacity that are appropriate for a technical university.

[Act No. 3 of 2024, Sch.]

26. Universities in Counties

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.

27. Unauthorized use of a University name

(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. Accreditation of foreign universities

(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.

(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. Academic freedom

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

(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; and

(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

30. Funds of the Commission

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. Financial year

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

32. Annual estimates

(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.

(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.

33. Accounts and audit

(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 (Cap. 412B).

Part V – GOVERNANCE AND MANAGEMENT OF UNIVERSITIES

34. Instruments of governance

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

[Act No. 48 of 2016, s. 14.]

35. Governing organs of a university

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

(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 public universities, appoint Vice-Chancellor, Deputy Vice-Chancellors and Principals and Deputy Principals of Constituent Colleges, in consultation with the Cabinet Secretary, after a competitive process conducted by the Public Service Commission; 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 in accordance with any written law or financing arrangement under section 51A;

(c) promote the objects of the university; and

(d) appoint the university Chancellor.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 15, Act No. 18 of 2018, Sch.]

36. Council of a public university

(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—

(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 in such a manner as may be prescribed in guidelines issued by the Cabinet Secretary; and

(e) the Vice-Chancellor or, in the case of a constituent college, the Principal of such college who shall be an *ex officio* member of the Council.

(1A) Notwithstanding subsection (1) the Vice-Chancellor of a public university shall be an *ex officio* member of the councils of the constituent colleges of that university.

(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).

(3) In making appointments under this section the appointing authority shall have regard to the objectives of the development of university education, ensuring that there are balanced competencies, gender equity, and the inclusion of stakeholders, persons with disabilities, the marginalized and other minority groups.

(4) The provisions of section (8) relating to the vacancy of office of the Chairperson and members of the Commission shall apply with necessary modifications to the Chairperson and members appointed under subsection (1)(a) and (d).

(5) The members of the Council appointed under section 36(1) shall at their 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 Council.

(6) The provisions of the First Schedule shall apply with necessary modifications, to the conduct of the business and affairs of the Council.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 16.]

37. Committees

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

38. The Chancellor

(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.

(5) The functions of the Chancellor under subsection (3) may in the absence or incapacity of the Chancellor be performed by the Chairperson of the Council for a period not exceeding three months.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 17.]

39. The Vice-Chancellor

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

(a) in the case of a public university, by the Cabinet Secretary on the recommendation of the Council, after a competitive recruitment process conducted by the Council; and

(b) in the case of a private university, by the respective university Council in accordance with the provisions of the Charter.

(1A) The qualifications for appointment as a Vice-Chancellor of a public university shall be as prescribed in regulations.

(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.

[Act No. 25 of 2015, Sch.]

40. Staff of the University

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

41. Students' Association

(1) Every university shall have a students' association comprising of all students of the university.

(1A) A students' association shall be governed by a students' council comprising of—

(a) a Chairperson;

(b) a vice-Chairperson, who shall be of opposite gender with the Chairperson;

(c) a Treasurer;

(d) a Secretary-General, who shall be the secretary to the Council; and

(e) three other members to represent special interests of students.

(1B) Every students' council shall be elected in accordance with this Act and its membership shall—

(a) reflect national diversity; and

(b) have not more than two-thirds of its members being of the same gender.

(1C) For purposes of conducting the election of the members of the student council referred to in subsection (1A), the students' association shall constitute itself into electoral colleges based on either academic departments, schools or faculties, as may be appropriate.

(1D) The students of each electoral college constituted under subsection (1C) shall elect three representatives—

(a) from amongst persons who are not candidates under subsection (1A); and

(b) of whom not more than two-thirds shall be of the same gender.

(1E) The representatives of each electoral college shall elect the members of the student council within thirty days of the election under subsection (1D).

(1F) A member of the student council shall hold office for a term of one year and may be eligible for re-election for one final term.

(1G) A person who has held office as a member of the student council of a University for two terms is disqualified from election as a member of the student council of any other University or constituent college in Kenya.

(1H) Every students' association shall, in consultation with the University, formulate and enact rules to govern the conduct of elections including regulation of campaigns, election financing, offences and penalties.

(1I) An election conducted pursuant to this section shall comply with the general principles of the Kenyan electoral system under Article 81 of the Constitution and the rules governing the election of members of the student council.

(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) *Deleted by Act No. 48 of 2016, s. 18.*

[Act No. 48 of 2016, s. 18.]

42. The Alumni Association

(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.

(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. University management

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.

Part VI – GENERAL FINANCIAL PROVISIONS RELATING TO UNIVERSITIES

Public Universities

44. Annual estimates for public universities

(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.

(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.

45. Funds of a public university

(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.

46. Unexpended monies

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.

47. Accounts and audit

(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 (Cap. 412B).

48. Vesting of property

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.

49. Investment of funds

(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.

(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.

50. Financial year

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

51. Financial Management of private universities

(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; and

(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—

(a) 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;

(b) provide to the sponsor or the Board of Trustees of the university, or its equivalent the certified copy of the auditor's report in respect of the financial statements referred to in subsection (1);

(c) comply with all the financial regulations and meet all financial obligations owed to the State as may be contained in any other written laws;

(d) account for any funds received from the government; and

(e) on request and for purposes of accreditation or audit, provide to the Commission official confirmation of compliance with financial obligations which shall be published upon the Commission issuing notice to the university concerned.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 19.]

51A. Financing arrangements

(1) A private university granted a charter may enter into a financing arrangement with any person or institution upon such terms and conditions as may be set out in the arrangement, for the purpose of financing the objectives for which the university is established.

(2) Without prejudice to the generality of subsection (1), the finance arrangement may set out—

(a) the rights and obligations of each party to the arrangement;

(b) the sharing of assets or liabilities arising from the arrangement;

(c) the manner of termination of such arrangement; or

(d) such other matter as may be necessary under the law under which the arrangement is made.

[Act No. 18 of 2014, Sch.]

52. Investment of funds by private universities

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.

Part VII – THE UNIVERSITIES FUND

53. Establishment of Fund

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

54. Board of Trustees

(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; and

(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 public universities and issue conditional grants to private universities;

(c) apportion funds to public universities and issuance of conditional grants to private universities in accordance with criteria established;

(d) in consultation with the Chairpersons of Councils of public universities, propose and establish for approval by the Cabinet Secretary and the Auditor-General 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) *Deleted by Act No. 48 of 2016, s. 20.*

(7) *Deleted by Act No. 48 of 2016, s. 20.*

[Act No. 48 of 2016, s. 20.]

54A. Director of the Fund

(1) There shall be a Director who shall be the chief executive officer of the Fund, appointed by the Cabinet Secretary on recommendation of the Board of Trustees of the Fund following a competitive recruitment process, and who shall serve for a term of five years, which may be renewed for one further term.

(2) The Director of the Fund shall be responsible for the day to day management of the affairs of the Fund.

(3) A person shall be qualified for appointment as a Director if such person—

(a) is a Kenyan citizen;

(b) holds a degree or its equivalent from a university recognized in Kenya in the field of banking, education, law, finance, economics or management;

(c) has at least ten years' relevant professional experience in the management of a public or private institution; and

(d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

[Act No. 48 of 2016, s. 21.]

54B. Staff of the Fund

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

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

[Act No. 48 of 2016, s. 21.]

54C. Financial provisions

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

[Act No. 48 of 2016, s. 21.]

Part VIII – THE KENYA UNIVERSITIES AND COLLEGES CENTRAL PLACEMENT SERVICE

55. Establishment of Kenya Universities and Colleges Central Placement Service

(1) There shall be a Service to be known as the 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 Chairperson;

(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.

56. Functions of Placement Board

(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. Independent admissions

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.

58. Secretary, staff of Placement Service

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.

59. Finances of the Placement Service

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 Service.

59A. Meaning of the word "college"

In this Part, "college" means an institution established under the Technical and Vocational Education and Training Act (Cap. 210A) or any other public training institution of higher learning established under an Act of Parliament.

[Act No. 48 of 2016, s. 22.]

Part IX – MISCELLANEOUS

60. General functions of a university council

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.

61. Display of instruments of accreditation

(1) Every university shall conspicuously display all its instruments of accreditation on its premises in all its colleges and campuses.

(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.

[Act No. 48 of 2016, s. 23.]

61A. Form of instrument of accreditation

The instruments of accreditation shall be in the form prescribed in the Third Schedule to this Act.

[Act No. 48 of 2016, s. 24.]

62. Delegation of functions

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.

63. Fair administrative action

(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—

(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.

64. Disclosure of interest

(1) 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.

65. Instruments of Authority

(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; and

(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. Protection from personal liability

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 under the directions personally liable to any action, claim or demand whatsoever.

[Act No. 18 of 2014, Sch.]

67. Liability for damages

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.

68. Offences by a university

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.

69. General penalties

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

(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 one million shillings or a term of imprisonment not exceeding twelve months and or to both.

[Act No. 48 of 2016, s. 25.]

69A. Commission may issue a notice to comply

(1) The Commission may, by notice in writing, require an institution in default of any provision under this Act, regulation, standards and guidelines to comply therewith within a prescribed time and in a prescribed manner.

(2) If any institution served with a notice under subsection (1) fails to comply therewith, the Commission may close the institution either permanently or until the notice is complied with.

(3) Any person aggrieved by the decision of the Commission under subsection (2) may appeal to the Cabinet Secretary within thirty days of the decision.

[Act No. 48 of 2016, s. 26.]

70. Regulations

(1) The Cabinet Secretary may in consultation with relevant stakeholders 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, open universities, university campuses and university constituent 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;

(f) registration of agents of foreign universities.

(g) procedure for approval of academic programmes by the Commission;

(h) procedure for recognizing and equating degrees, diplomas and certificates conferred by foreign universities; and

(i) criteria for evaluating internal tools developed by universities for the purpose of assessing quality assurance.

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 27.]

Part X – REPEALS AND TRANSITIONAL PROVISIONS

71. Repeal of various Acts

(1) The following Acts are repealed—

(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 (No. 18 of 2006).

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

A – Existing Universities

72. Grant of Charter to existing public universities

(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.

73. Existing Charters and Letters of Interim Authority

A private university in possession of a Charter or a Letter of Interim Authority granted under the Universities Act (Cap. 210) 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.

74. Existing constituent colleges

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. Existing campuses and campus colleges

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.

76. Chancellors, Vice-Chancellors, Councils

(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.

(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. Preservation of proceedings and rights of appeal

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.

78. Continuance of periods of time

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.

79. Preservation of licences, certificates and registration

(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.

80. Transfer of property, assets liabilities and staff

(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. General Savings

(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.

(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

82. Interpretation of Part

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.

83. Assets and liabilities

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 without further conveyance, transfer or assignment;

(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; and

(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.

[Act No. 18 of 2014, Sch.]

84. [Deleted by Act No. 48 of 2016, s. 28.]

85. Staff

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.

FIRST SCHEDULE [s. 8(5)]

PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE COMMISSION

[Act No. 18 of 2014, Sch., Act No. 48 of 2016, s. 29.]

1. The Commission 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 Commission.
3. The Chairperson shall preside at every meeting of the Commission 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 Commission shall be five members.
5. Unless a unanimous decision is reached, a decision on any matter before the Commission shall 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 Commission 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 Commission 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 Commission may regulate its own procedure.

SECOND SCHEDULE [s. 38(1)]

PROCEDURE FOR THE APPOINTMENT OF THE CHANCELLOR OF A PUBLIC UNIVERSITY

[Act No. 18 of 2018, Sch.]

1. Where a vacancy occurs in the office of the Chancellor of a public university, the senate of that university shall, in consultation with key stake holders, identify suitable persons for appointment.
2. Five names shall be proposed to the Senate and submitted to the Public Service Commission for shortlisting and identification of three suitable candidates, ranked in order of merit.
3. The Public Service Commission shall forward the names of the top three candidates to the Cabinet Secretary for onward transmission to the President, who shall pick one of the persons for appointment as the Chancellor.
4. The appointment of the Chancellor by the President shall be by notice published in the *Gazette*.

THIRD SCHEDULE [s. 61A]

LETTER OF INTERIM AUTHORITY

[Act No. 48 of 2016, s. 30.]

Pursuant to section 14 of the Universities Act, this ..... day of ..... 20 ....., the Cabinet Secretary has granted ..... (name of university) a Letter of Interim Authority authorising the university to operate in accordance with the provisions of sections 15, 16 and 17 of this Act.

Signed

Cabinet Secretary.

CHARTER

Pursuant to section 13 of the Universities Act, this day of ..... 20 ..... the Commission accredits ..... (name of university) to be established as a university in accordance with the provisions of this Act.

Signed

Cabinet Secretary.