

THE HIGHER EDUCATION BILL, 2013

MEMORANDUM

The objects of this Bill are to—

- (a) provide for the establishment of the Higher Education Authority and define its functions and powers;
- (b) provide for quality assurance and quality promotion in higher education;
- (c) provide for the establishment, governance and regulation of public higher education institutions;
- (d) provide for the registration and regulation of private higher education institutions;
- (e) repeal and replace the University Act, 1999; and
- (f) provide for matters connected with, or incidental to, the foregoing.

M. MALILA,
Attorney-General

THE HIGHER EDUCATION ACT, 2013

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GOVERNMENT OF ZAMBIA

ACT

No. 4 of 2013

Date of Assent: 21st March, 2013

An Act to provide for the establishment of the Higher Education Authority and define its functions and powers; provide for quality assurance and quality promotion in higher education; provide for the establishment, governance and regulation of public higher education institutions; provide for the registration and regulation of private higher education institutions; repeal and replace the University Act, 1999; and provide for matters connected with, or incidental to, the foregoing.

[22nd March, 2013

ENACTED by the Parliament of Zambia.

Enactment

PART I PRELIMINARY

1. This Act may be cited as the Higher Education Act, 2013, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title
and
commencement

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

Interpretation

“ accreditation ” means the evaluation and recognition of academic programmes to ensure that they meet the necessary quality requirements;

“ aided higher education institution ” means a college, other than a public college, established or maintained by any person, organisation or community with assistance from the Ministry;

“ affiliated institution ” means a college or higher education institution affiliated to a public higher education institution under section *thirty-seven*;

“ Authority ” means the Higher Education Authority established under section *four*;

- “Bursar” means a person appointed Bursar under paragraph 11 of the Third Schedule;
- “Chancellor” means the person appointed Chancellor under paragraph 3 or 4 of the Third Schedule;
- “constituent college” means a college or institution established or declared, by statutory order, as a constituent college or institution of a public higher education institution under section *thirty-eight*;
- “Council” means the Council of a higher education institution established under section *twenty-four*;
- “course of study” means the structure for academic qualification and the subjects of study in the course;
- “Dean” means the person appointed Dean under paragraph 24 of the Third Schedule;
- “Dean of Students” means the person appointed Dean of Students under paragraph 12 of the Third Schedule;
- “department” means a teaching or research unit of a higher education institution recognised as a component of a school;
- “Deputy Vice-Chancellor” means the person appointed Deputy Vice-Chancellor under paragraph 6 of the Third Schedule;
- “Director” means the person appointed Director of an institute, bureau or similar body of a higher education institution under paragraph 24 of the Third Schedule;
- “Director-General” means the person appointed as Director-General of the Authority under section *eight*;
- “educational institution” has the meaning assigned to it in the Education Act, 2011;
- “Framework” means the National Qualifications Framework provided for under the Zambia Qualifications Authority Act, 2011;
- “higher education” means tertiary education leading to the qualification of a diploma, Bachelor’s Degree, Master’s Degree or Doctorate Degree;
- “higher education institution” means an institution that provides higher education on a full-time, part-time or distance learning basis;

Act No. 23 of
2011

Act No. 13 of
2011

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- “ institutional audit ” means a quality assurance tool which involves evaluation of institutions, policies, systems, strategies and resources for quality management of the core functions of teaching, learning, research and public service using set audit criteria;
- “ learner ” means a person who is enrolled and receiving knowledge, skill or competence at a higher education institution;
- “ learning programme ” means a process by which learners acquire knowledge, skill and competence, or a course of study or instruction, apprenticeship, training and employment;
- “ Librarian ” means the person appointed Librarian under paragraph 10 of the Third Schedule;
- “ lifelong learning ” means lifelong activities undertaken by learners to continue their education, improve the acquired qualification or requalify;
- “ principal officer ” means the Vice-Chancellor, Deputy Vice-Chancellor, Registrar, Bursar, Librarian or Dean of Students;
- “ private higher education institution ” means a higher education institution which is not established or maintained by the Government or a local authority out of public funds;
- “ proprietor ” means the person or body responsible for the management of a private higher education institution;
- “ public funds ” has the meaning assigned to it in the Public Finance Act, 2004;
- “ public higher education institution ” means a higher education institution which is owned by the Government or a local authority and is financed out of public funds;
- “ qualification ” means the formal recognition of a learner’s achievement of the required number and range of credits or other requirements at a specified level of the Framework;
- “ quality assurance ” means providing tangible evidence to demonstrate compliance with standards of relevant education which are accepted and recognised by employers and other educational institutions nationally and internationally;

Act No. 15
of 2004

- “ quality promotion ” means encouragement of the development and maintenance of quality standards in institutions of higher learning;
- “ Register ” means the register of higher education institutions kept by the Authority under section *forty-seven*;
- “ Registrar ” means the person appointed Registrar under paragraph 9 of the Third Schedule;
- “ relative ” in relation to a person means—
- (a) a parent, son, daughter, brother, sister, niece, uncle, aunt, grandparent or cousin of that person or that person’s spouse; and
- (b) a spouse of that person;
- Act No. 11 of 1999 “ repealed Act ” means the University Act, 1999;
- “ school ” means an academic unit of a public higher education institution in which teaching, learning, study and research are pursued;
- “ search committee ” means a search committee constituted under paragraph 16 of the Third Schedule;
- “ Senate ” means the Senate of a higher education institution constituted under section *thirty-five*;
- “ Secretary ” means the person appointed Secretary of the Authority under section *eight*;
- “ statutes ” means the rules governing a higher education institution made under section *twenty-nine*;
- “ students’ affairs unit ” means a students’ affairs unit established under paragraph 26 of the Third Schedule;
- “ students’ union ” means an association of students established under paragraph 27 of the Third Schedule;
- “ Tribunal ” means a Higher Education Institution Staff Tribunal established under paragraph 22 of the Third Schedule; and
- “ Vice-Chancellor ” means the person appointed Vice-Chancellor under paragraph 5 of the Third Schedule.
- Application Act No. 13 of 1998 Act No. of 2013
- 3.** This Act does not apply to colleges—
- (a) registered under the Technical Education, Vocational and Entrepreneurship Training Act, 1998;
- (b) colleges of education accredited under the Teaching Profession Act, 2013; or
- (c) established by or under any written law.

PART II

THE HIGHER EDUCATION AUTHORITY

4. (1) There is hereby established the Higher Education Authority which shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its corporate name and shall, subject to the provisions of this Act, have power to do all such acts as a body corporate may, by law, do or perform.

Establishment
of Authority

(2) The provisions of the First Schedule apply to the Authority.

5. (1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Director-General.

Seal of
Authority

(2) The affixing of the seal shall be authenticated by the Chairperson or the Vice-Chairperson and the Director-General or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not be required to be under seal, may be entered into or executed without seal on behalf of the Authority by the Director-General or any other person generally or specifically authorised by the Board in that behalf.

(4) Any document purporting to be a document under the seal of the Authority or issued on behalf of the Authority shall be received in evidence and shall be executed or issued, as the case may be, without further proof, unless the contrary is proved.

6. (1) The functions of the Authority are to—

Functions of
Authority

- (a) advise the Minister on any aspect of higher education;
- (b) develop and recommend policy on higher education, including the establishment of public higher education institutions and the registration of private higher education institutions;
- (c) establish a coordinated higher education system which promotes corporate governance and provides for a programme based higher education;
- (d) regulate higher education institutions and coordinate the development of higher education;
- (e) promote quality assurance in higher education;
- (f) audit the quality assurance mechanisms of higher education;

- (g) restructure and transform higher education institutions and programmes to be responsive to the human resource, economic and development needs of the Republic;
 - (h) promote the access of students to higher education institutions;
 - (i) design and recommend an institutional quality assurance system for higher education institutions, and recommend to the Minister institutional quality assurance standards for—
 - (i) the establishment, standardisation and registration of higher education institutions, including standards of plant and equipment;
 - (ii) the preparation and amendment of statutes;
 - (iii) the development of curricula;
 - (iv) libraries, laboratories, workshops and other facilities; and
 - (v) student transfers between academic programmes among higher education institutions;
 - (j) advise the Minister on the funding arrangements for public higher education institutions;
 - (k) advise the Minister on staff development for higher education;
 - (l) promote equity in access to higher education through the provision of student assistance programmes;
 - (m) promote international cooperation and facilitate exchange through the provision of student assistance research and teaching; and
 - (n) do all such things as are necessary or conducive for the achievement of the purposes of this Act.
- (2) The Authority shall—
- (a) publish, on a regular basis, information regarding developments in higher education; and
 - (b) cause to be published—
 - (i) an annual list of higher education institutions established or registered under this Act; and
 - (ii) an annual report on the state of higher education in Zambia.

(3) The Authority may—

- (a) determine and levy fees that the Authority considers necessary to finance its activities under this Act; and
- (b) determine what portion of any fee is payable in respect of any part of a year and the date on which the fee or portion thereof is payable.

7. (1) There is hereby constituted a Board of the Authority which shall consist of the following part-time members appointed by the Minister:

Board of
Authority

- (a) one representative each from the Ministries responsible for
 - (i) education;
 - (ii) vocational and entrepreneurship training; and
 - (iii) labour;
- (b) a representative of the Zambia Institute of Advanced Legal Education;
- (c) a representative of the Attorney-General;
- (d) a representative of the Zambia Association of Chambers of Commerce and Industry;
- (e) a representative of the Examinations Council of Zambia;
- (f) a representative of the Zambia Institute of Human Resource Management;
- (g) a representative of a civil society organisation working in the education sector; and
- (h) two other persons with expertise in matters relating to higher education.

(2) The Minister may give to the Board general or specific directives which are consistent with the provisions of this Act and the Board shall implement the directives.

(3) A person shall not be appointed as a member of the Board if that person—

- (a) has been adjudged bankrupt;
- (b) has a mental disability that would make the person incapable of performing the functions of a member; or
- (c) is convicted of an offence under this Act or any written law and is sentenced to imprisonment for a period exceeding six months without the option of a fine.

(4) The Minister shall appoint the Chairperson of the Board from among the members of the Board.

(5) The members shall elect the Vice-Chairperson of the Board from amongst themselves.

(6) A member shall, subject to the other provisions of this section, hold office for a term of three years and may be reappointed for one further term of three years.

(7) A member may resign upon giving one month's notice, in writing, to the Minister.

(8) The office of a member becomes vacant—

(a) if the member is absent, without reasonable excuse, from three consecutive meetings of the Board of which the member had notice;

(b) if the member is adjudged bankrupt;

(c) if the member is convicted of an offence under this Act or any other written law and is sentenced to imprisonment for a period exceeding six months without the option of a fine;

(d) if the member is convicted of an offence involving fraud or dishonesty;

(e) if the member has a mental disability that makes the member incapable of performing the functions of a member; or

(f) upon the member's death.

(9) The provisions of the First Schedule apply to the Board.

Director-General,
Secretary
and other
staff

8. (1) The Board shall, with the approval of the Minister, appoint a Director-General on such terms and conditions as it may determine.

(2) The Director-General shall be the chief executive officer of the Authority and shall be responsible, under the direction of the Board, for the day-to-day administration of the Authority.

(3) The Board may appoint, on such terms and conditions as it may determine, the Secretary and such other staff as it considers necessary for the performance of the Authority's functions under this Act.

Management
of property

9. (1) All the funds, assets and property, movable and immovable, of the Authority shall be managed and utilised by the Authority in accordance with this Act and in such manner and for such purposes as shall promote the best interest of the Authority.

(2) The Authority may, after the approval of the Minister and subject to such condition, if any, as the Minister may impose, charge or dispose of the immovable property of the Authority.

10. (1) The Authority shall, for purposes of ensuring compliance with the provisions of this Act, establish an inspectorate unit of the Authority.

Inspectorate
unit

(2) The Authority shall appoint suitably qualified persons as inspectors for purposes of this Act.

(3) The Authority shall provide an inspector with a certificate of appointment which shall be *prima facie* evidence of the inspector's appointment as such.

(4) An inspector shall, in performing any function under this Act —

(a) be in possession of the certificate of appointment referred to in subsection (3); and

(b) show the certificate of appointment to any person who requests to see the certificate or is subject to an investigation for purposes of this Act.

(5) An inspector may, for the purpose of enforcing the provisions of this Act, at any reasonable time, without prior notice, and on the authority of a warrant, enter any premises of a higher education institution that the inspector has reasonable grounds to believe is used by any person for the commission of an offence or contrary to the provisions of this Act, and—

(a) search the premises;

(b) search any person on the premises if the inspector has reasonable grounds to believe that the person has possession of an article, document or record that has a bearing on an inspection or investigation except that a person shall only be searched by a person of the same sex;

(c) take extracts from, or make copies of any book, document or record that is on the premises and that has a bearing on an inspection or investigation;

(d) demand the production of, and inspect, relevant certificates; and

(e) make such inquiries as may be necessary to ascertain whether the provisions of this Act or any other law on which an inspection or investigation is based have been complied with.

(6) A person who—

- (a) delays or obstructs an inspector in the performance of the inspector's functions under this Act;
- (b) refuses to give an inspector such reasonable assistance as the inspector may require for the purpose of exercising the inspector's functions;
- (c) impersonates an inspector or presents oneself to be an inspector; or
- (d) gives an inspector false or misleading information in answer to an inquiry made by the inspector;

commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(7) An inspector shall furnish the Authority with a written report and any other information relating to an inspection.

PART III

HIGHER EDUCATION SYSTEM

Types of
higher
education
institutions

11. (1) Higher education institutions shall consist of the following:

- (a) universities; and
- (b) colleges.

(2) Higher education institutions may be public or private.

Functions of
higher
education
institutions

12. (1) The functions of a higher education institution are to—

- (a) provide higher education;
- (b) create conditions for learners to acquire qualifications and pursue excellence and promote the full realisation of the potential of learners;
- (c) create conditions for lifelong learning;
- (d) prepare learners and academics and strengthen the effect of academic learning and scientific research so as to enhance social and economic development;
- (e) conduct research necessary and responsive to national needs;
- (f) provide facilities appropriate for the pursuit of learning and research and for the acquisition of higher education that is responsive to the needs of the public;

- (g) prepare specialist, expert, research and managerial cadres to carry out intellectual and creative work to meet national needs;
- (h) provide optimal opportunities for learning and the creation of knowledge; and
- (i) contribute to the advancement of all forms of knowledge and scholarship in keeping with international standards of academic quality.

(2) A higher education institution shall submit data on the enrolment, records of achievements and award of learners to the Authority at such intervals and in such manner as the Authority may determine.

(3) A higher education institution may—

- (a) establish its own procedure of learning programmes;
- (b) formulate programmes conforming to the guidelines for a subject area;
- (c) publish academic and other literature;
- (d) define its organisational structure and internal working regulations;
- (e) enroll and dismiss learners;
- (f) provide consultancy services to the public; and
- (g) establish forms of cooperation with local and foreign higher education institutions.

13. (1) The Minister may give to a higher education institution general or specific directives which are consistent with the national policies and the provisions of this Act.

Powers of
Minister

(2) A higher education institution shall keep the Minister informed of matters of public interest concerning it and shall furnish the Minister with such information as the Minister may request on any particular matter concerning the higher education institution.

(3) The Minister may, where the Minister reasonably believes that it is necessary to do so, take such steps as the Minister considers necessary in the best interest of the higher education institution.

PART IV ESTABLISHMENT AND REGISTRATION OF HIGHER EDUCATION INSTITUTIONS

Division 1 Establishment and Declaration of Public Higher Education Institutions

14. (1) The Minister may, by statutory instrument, establish or declare an educational institution as a public higher education institution.

Establishment
of public
higher
education
institution

(2) A public higher education institution established or declared under subsection (1) shall be a body corporate with perpetual succession capable of suing and being sued in its corporate name and, subject to its statutes and this Act, of performing all acts and things that a body corporate may, by law, do or perform.

(3) The Second Schedule applies to public higher education institutions.

Division 2 - Registration of Private Higher Education Institutions

Prohibition of operation of unregistered private higher education institution

15. (1) A person shall not operate a private higher education institution unless the private higher education institution is registered under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding one million penalty units or to imprisonment for a period not exceeding three years, or to both.

Establishment and maintenance of private higher education institution

16. (1) A person may establish and maintain a private higher education institution for the purpose of providing higher education as required under this Act.

(2) The establishment of a private higher education institution under subsection (1) may include the provision of a hostel for the accommodation of learners at the private higher education institution.

(3) A private higher education institution may be inclusive or for learners with special education needs.

Operational plan of private higher education institution

17. (1) A private higher education institution shall develop an operational plan which shall include the following:

- (a) the proposed education level or course of study which it intends to offer;
- (b) the governance structure of the private higher education institution;
- (c) the premises where the private higher education institution is to operate in Zambia, including the facilities and resources;
- (d) the requirements of the course or level of education to achieve the learning outcomes; and
- (e) the level and name of the award that may be attained on successful completion of the course or level of education.

(2) The proprietor of a private higher education institution shall submit the operational plan, prepared in accordance with subsection (1), to the Authority for approval.

(3) A private higher education institution shall not commence any operations until its operational plan is approved by the Authority.

(4) An operational plan of a private higher education institution shall be available for inspection by members of the public, at a nominal fee, during ordinary office hours at the premises of the Authority.

18. (1) The proprietor of a private higher education institution shall, where any change or alteration occurs at the private higher education institution, inform the Authority of the change or alteration within thirty days of the change or alteration.

Change in establishment or operational plan

(2) A change shall only be effected in the establishment or operational plan of the private higher education institution if the Authority approves the change and the particulars of the change are recorded in the Register.

(3) For the purposes of this section, a change in the establishment or operational plan of a private higher education institution means—

- (a) the provision of any additional faculty or programme in the private higher education institution not included in any previous registration;
- (b) the reopening of the closed private higher education institution;
- (c) the change of ownership or management of the private higher education institution, whether the change takes effect by way of partnership or otherwise;
- (d) the transfer of the private higher education institution to a new site or change of its principal office;
- (e) the alteration of any qualification for admission to the private higher education institution; or
- (f) the provision of any type of education not falling within the classification in which the institution was previously registered.

19. (1) A person who intends to operate a private higher education institution shall apply to the Authority for registration of the private higher education institution in the prescribed manner and form upon payment of the prescribed fee.

Application for registration of private higher education institution

(2) The Authority may, within thirty days of the receipt of an application under subsection (1), approve the application on such terms and conditions as it may determine, or reject the application.

(3) The Authority shall, where it rejects an application for registration, inform the applicant, in writing, and give the reasons therefor.

Criteria for registration

20. The Authority shall approve an application for registration if —

- (a) the name of the higher education institution does not so resemble the name of another higher education institution as to mislead the public to believe that the institution is that other higher education institution or that the higher education institution is funded by the Government;
- (b) the premises of the private higher education institution and any hostel or other facilities provided or to be provided at the private higher education institution are suitable and adequate having regard to the number, age and gender of the learners who are to attend the institution;
- (c) the establishment of the private higher education institution is consistent with the needs of learners and the subsisting national education policy;
- (d) the private higher education institution has an approved operational plan;
- (e) the private higher education institution fulfills the prescribed minimum requirements of health and safety and conforms with the building regulations under the relevant written law;
- (f) adequate financial provision has been made or is guaranteed for the proper maintenance of the private higher education institution for a reasonable period;
- (g) the teaching staff to be employed at the private higher education institution are qualified for the purpose of efficient provision of qualitative higher education;
- (h) the learning programmes to be provided at the private higher education institution are of a quality that will enable the private higher education institution to provide a standard of higher education in accordance with this Act; and

- (i) the facilities to be used at the private higher education institution will allow satisfactory tuition in the courses to be offered at the private higher education institution.

21. (1) The Authority shall, where it approves an application for registration, issue the applicant with a certificate of registration in the prescribed form.

Certificate of registration

(2) The proprietor of a private higher education institution shall not operate the private higher education institution on any premises within Zambia, other than the premises specified in its certificate of registration or other premises approved by the Authority for such purposes.

(3) A person who contravenes subsection (2) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

22. A private higher education institution shall display—

- (a) in a conspicuous place on its premises, its certificate of registration or a certified copy thereof; and
- (b) on all its official documents, its registration number and an indication that it is registered.

Display of certificate of registration

23. (1) The Authority shall deregister a private higher education institution if—

Deregistration of private higher education institution

- (a) any ground exists on which the Authority would have rejected the application for registration;
- (b) the private higher education institution contravenes any term or condition of the certificate of registration or any provision of this Act;
- (c) the private higher education institution is operated in a manner that is detrimental to the physical, mental or moral welfare of the learners at the private higher education institution or is being managed in a manner that is detrimental to the interest of peace, order or good management;
- (d) the private higher education institution has ceased to operate or exist; or
- (e) the private higher education institution has been closed for a period exceeding six months.

(2) The Authority shall, before deregistering a private higher education institution under subsection (1)—

(a) by notice, in writing—

- (i) inform the private higher education institution of the intention to deregister it;
 - (ii) state the ground for the proposed deregistration and request the private higher education institution to take such remedial measures as it may determine; and
 - (iii) state the date on which the deregistration is proposed to be done;
- (b) invite the private higher education institution to make written representations to the Authority on the matter, within thirty days from the date of the notice; and
- (c) take into account the representations made by the private higher education institution under paragraph (b).

(3) The Authority shall order the closure of a private higher education institution where its proprietor fails to take the remedial measures determined by the Authority under paragraph (a) of subsection (2) and such order shall be published in the *Gazette*.

(4) A private higher education institution which is deregistered under this section shall surrender the original certificate of registration to the Authority within seven days of the deregistration.

(5) A person who contravenes subsection (4) or operates a deregistered private higher education institution commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

PART V

GOVERNANCE AND REGULATORY FRAMEWORK FOR HIGHER EDUCATION INSTITUTIONS

Division 1 The Council

Council of
higher
education
institution

24. (1) There shall be established at a higher education institution a Council for the higher education institution.

(2) The Second Schedule applies to Councils of public higher education institutions.

(3) The proprietor of a private higher education institution shall appoint a Council for the private higher education institution.

25. (1) Subject to the other provisions of this Act, a Council shall be responsible for the governance, control and administration of a higher education institution, and shall, at all times, act in the best interest of the higher education institution.

Functions of
Council

(2) Without prejudice to the generality of subsection (1), a Council of a higher education institution may—

- (a) receive, on behalf of the higher education institution or constituent college or affiliated institution of the higher education institution, gifts, donations, bequests, grants or other money and make disbursement therefrom to the higher education institution, constituent college or affiliated institution;
- (b) provide for the welfare of the staff and students of the higher education institution;
- (c) determine the salaries and other conditions of service of the staff of the higher education institution;
- (d) appoint and suspend, dismiss or otherwise discipline persons in the employment of the higher education institution in accordance with the provisions of this Act and its statutes;
- (e) regulate and determine all matters concerning the higher education institution in accordance with the rules adopted in that behalf by the Council;
- (f) administer funds placed at the disposal of the higher education institution for specific purposes;
- (g) determine the form of coat of arms for the higher education institution;
- (h) take into account and if the Council considers it proper to do so, give effect to or approve reports or recommendations from the Senate which the Senate is authorised or required by this Act to make;
- (i) implement the decisions of the Senate on those matters upon which Senate has authority under this Act;
- (j) determine the terms and conditions on which examiners shall be appointed by the Senate and the remuneration to be paid to the examiners;
- (k) determine, after consultation with the Senate, the academic dress and insignia of the Chancellor, officers and graduates of the higher education institution;

- (l) call for, receive and consider reports from the Vice-Chancellor on the operation of the higher education institution;
- (m) enter into, vary, carry out or rescind contracts on behalf of the higher education institution;
- (n) determine all fees for the higher education institution;
- (o) establish administrative or service sections or units of the higher education institution as it considers necessary; and
- (p) do any other things which are necessary or conducive to the performance of its functions under this Act.

Management of property of public higher education institution

26. (1) All the funds, assets and property, movable and immovable, of a public higher education institution shall be managed and utilised by the public higher education institution in accordance with this Act and in such manner and for such purposes as shall promote the best interests of the public higher education institution.

(2) The Council may, with the approval of the Minister and subject to such conditions, if any, as the Minister may impose, charge or dispose of the immovable property of a public higher education institution.

Restriction on execution against property of public higher education institution

27. Notwithstanding anything to the contrary contained in any written law, where any judgment or order has been obtained against a public higher education institution, no execution or attachment, or process of any nature, shall be issued against the public higher education institution or against its property, but the Vice-Chancellor shall cause to be paid out of the revenues of the public higher education institution, such amounts as may, by the judgment or order, be awarded against the public higher education institution to the person entitled to the moneys.

Chancellor and staff

28. A higher education institution shall have a Chancellor and staff as specified in the Third Schedule.

Statutes

29. (1) A higher education institution shall adopt statutes to govern its administration.

(2) A higher education institution may amend or vary its statutes.

(3) A higher education institution shall, within seven days of the adoption, issuance or variation of a statute under this section, lodge a copy of the statute with the Authority.

- 30.** (1) A higher education institution may—
- (a) confer such degrees as may be specified in its statutes;
 - (b) award such academic distinctions as may be specified in its statutes; and
 - (c) provide such lectures and instructions for persons who are not students of the higher education institution as it may determine and grant certificates to such persons.
- (2) A higher education institution may grant honorary degrees and other similar awards in accordance with its statutes.
- 31.** A higher education institution shall conduct its examinations in such manner as its statutes may prescribe, except that for degree examinations and any other qualifying examinations, the higher education institution shall appoint at least one external examiner for each academic programme.
- 32.** (1) The Minister may, where a Council of a public higher education institution fails, refuses or neglects to perform its functions under this Act, in writing, dissolve the Council.
- (2) The Minister shall, during the period when the Council is dissolved, appoint a caretaker committee which shall exercise the powers, functions and duties of the Council.
- 33.** (1) A member of the academic or administrative staff of a higher education institution aggrieved with the decision of the Council may, within fourteen days of the date of service of the decision, appeal to the High Court.
- (2) A member of the academic or administrative staff of a higher education institution removed from office or employment by the Council shall remain suspended until the expiration of the period of appeal.
- (3) The date of removal from office for the member referred to in subsection (2) shall be the date on which the period allowed under that subsection expires.
- 34.** (1) Subject to subsection (2), where any person who is employed by a higher education institution on full time basis or who is teaching or carrying out research at the higher education institution makes any discovery, invention or improvement in the course of that person's duties, the higher education institution shall be deemed to be owner, for all purposes, of the rights in the discovery, invention or improvement.

Degrees and other academic awards

Examinations

Dissolution of Council of public higher education institution

Appeals from Council decision

Rights of Council in discoveries and consultancy

(2) A higher education institution may pay to a person who makes a discovery, invention or improvement under subsection (1) any bonus, fee or royalty therefor, or make such arrangement for that person to share in the profits derived therefrom, as the higher education institution may determine.

Division 2 Senate

Senate **35.** (1) There shall be a Senate for a higher education institution which shall be the supreme academic authority of the higher education institution.

(2) The Third Schedule applies to Senates.

Functions of Senate **36.** (1) Subject to the other provisions of this Act, the Senate shall organise, control and direct the academic work of a higher education institution, both in teaching and research, and shall have control and general direction of the standards of education, assessment and research within the higher education institution.

(2) Without prejudice to the generality of subsection (1), the Senate shall—

- (a) determine the academic policy of the higher education institution and advise the Council on the provision of facilities to carry out the policy;
- (b) direct and determine the programme of instruction and the structure of degree courses within the higher education institution;
- (c) regulate and determine the requirements for the admission of persons to the higher education institution and to courses of study in the higher education institution and their continuance in such courses;
- (d) regulate all higher education institution examinations and the standard of proficiency to be attained in such examinations;
- (e) appoint examiners;
- (f) award degrees and make other awards and distinctions of the higher education institution, except that honorary degrees shall be awarded on the recommendation of an honorary degree committee established by the Senate;
- (g) award scholarships and prizes administered by the higher education institution;
- (h) constitute professorial chairs, readerships and other academic offices and abolish or suspend any such office;

(i) make recommendations to the Council with respect to—

- (i) the establishment of new schools, institutes, bureaux or similar bodies within the higher education institution;
- (ii) the amalgamation of any of the existing schools, institutes, bureaux or similar bodies within the higher education institution;
- (iii) the division of any school, institute, bureau or similar body within the higher education institution into two or more schools, institutes, bureaux or similar bodies; and
- (iv) the abolishing or alteration of any school, institute, bureau or similar body;

(j) approve, review, amend, refer back, control or disallow any act relating to the academic affairs of any school, institute, bureau or similar body within the higher education institution or give direction to any school, institute, bureau or similar body; and

(k) regulate its own procedure and the conduct of its meetings.

(3) The Senate may deprive any person of any degree or other award of the higher education institution which has been conferred upon such person if, after due inquiry, the person is shown to have engaged in fraudulent or dishonourable conduct in obtaining that award.

(4) A person aggrieved with the decision of the Senate under subsection (3) may, within thirty days of the service of the decision of Senate, appeal to the Council.

(5) A person aggrieved with the decision of the Council under subsection (4) may, within thirty days of the service of the decision, appeal to the High Court.

(6) The Senate shall make an academic budget which shall be approved by the Council.

(7) The Senate shall make regular reports to the Council regarding the performance of its functions.

PART VI

TRANSFORMATION, AMALGAMATION AND CLOSURE
OF HIGHER EDUCATION INSTITUTIONS

Affiliation to
public
higher
education
institution

37. (1) The Minister may, on the recommendation of the Senate of a public higher education institution, approve the affiliation with the public higher education institution of any college or other educational institution, within or outside Zambia, which has concluded an agreement to become affiliated with the public higher education institution.

(2) Where a college or other educational institution is affiliated with a public higher education institution under subsection (1)—

- (a) the Council shall appoint two representatives of the public higher education institution on the decision making body of the affiliated institution;
- (b) the affiliated institution shall appoint a representative on the board of studies of the most closely related school of the public higher education institution;
- (c) the Senate shall, after receiving a report from the relevant school, approve the entrance requirements, the syllabi and the academic regulations of the affiliated institution in those areas of study for which the public higher education institution is providing certification;
- (d) the Council of the public higher education institution shall be consulted on the qualifications of the members of staff appointed at the affiliated institution to teach in the areas of study for which the public higher education institution provides certification;
- (e) the Senate of the public higher education institution shall moderate examination papers and examination scripts of the affiliated institution in the areas of study for which the public higher education institution provides certification;
- (f) the qualifications of the affiliated institution for which certification is granted by the public higher education institution shall be joint qualifications of the public higher education institution and affiliated institution and be awarded at a special ceremony to be held at the affiliated institution with the participation of the public higher education institution's representatives;

- (g) all qualifications certified by the public higher education institution shall be signed by the Vice-Chancellor or Registrar of both the public higher education institution and the affiliated institution; and
- (h) the public higher education institution may determine whether, and at what entry level, students shall be admissible to further studies at the public higher education institution.

(3) An affiliated institution may establish special relationships with the public higher education institution it is affiliated to, particularly in the fields of staff and student exchange, priority admission for postgraduate work, joint financing and research projects.

38. (1) The Minister may, on the recommendation of the Council of a public higher education institution, by statutory order—

Constituent
college of
public
higher
education
institution

- (a) establish any college or educational institution as a constituent college or institution of a public higher education institution; or
- (b) declare any existing college or educational institution as a constituent college or institution of a public higher education institution.

(2) The Council of a public higher education institution shall, where the Minister establishes or declares an educational institution as a constituent college or institution of the public higher education institution—

- (a) appoint a Principal for the constituent college or institution; and
- (b) appoint the members of the academic and administrative staff and other employees of the constituent college or institution.

(3) Where the Minister makes an order under subsection (1), the Minister shall, by the same or a subsequent order —

- (a) in consultation with the Council, appoint not more than eleven members of the board and set out the functions of the board; and
- (b) make provision for—
 - (i) the vesting of the property of the educational institution in the public higher education institution;

- (ii) the transfer of the academic or administrative staff or other employees of the educational institution to the service of the public higher education institution; and
- (iii) the payment of terminal benefits of the academic or administrative staff or employees of the educational institution whose services are not transferred to the public higher education institution.

(4) Where provision is made in an order under this section for the vesting of any property of an educational institution in a public higher education institution, the property to which that order relates shall, by virtue of that order, and without further assurance, vest in the public higher education institution.

Merger of
public
higher
education
institutions

39. (1) Subject to subsection (2), the Minister may, after consultation with the Authority, by notice published in the *Gazette*, merge two or more public higher education institutions into a single public higher education institution.

(2) The Minister shall, where the Minister intends to merge two or more public higher education institutions in accordance with subsection (1)—

- (a) give written notice to the Councils concerned of the intention to merge the public higher education institutions;
- (b) publish the notice, giving reasons for the proposed merger, in at least one daily newspaper of general circulation in Zambia;
- (c) give the Councils of the public higher education institutions concerned and any other interested person an opportunity to make representations within ninety days from the date of the notice referred to in paragraph (b);
- (d) consider any representations made by a public higher education institution or any other interested person; and
- (e) be satisfied that the employers at the public higher education institution concerned have complied with their obligations in terms of the applicable labour law.

(3) The Minister shall, in the notice referred to in subsection (1), establish an interim council, for a period not exceeding six months, to perform the functions relating to the governance of a public higher education institution concerned, except the making of a statute.

(4) The Minister may extend the term referred to in subsection (3) for a further final term not exceeding six months.

(5) The interim council appointed under subsection (3) shall consist of—

- (a) a chairperson; and
- (b) four other members.

(6) The members appointed under paragraph (b) of subsection (5)—

- (a) shall be appointed by the Minister from nominations received from the public higher education institution concerned; and
- (b) shall not include any member of staff or student from the public higher education institution concerned.

(7) The interim council shall coopt three members of the interim management referred to in paragraph (a) of subsection (8) and those members shall not have voting powers.

(8) The interim council shall, in addition to the functions provided in subsection (3)—

- (a) appoint an interim body to manage the day-to-day activities of the public higher education institution;
- (b) ensure that a council is constituted in terms of the statute; and
- (c) ensure that such other structures as may be determined in the statute are constituted.

40. (1) The Minister may, after consultation with the Authority, by notice in the *Gazette*, close a public higher education institution, where the public higher education institution—

Closure of
public
higher
education
institution

- (a) is not operated in accordance with the provisions or requirements of this Act;
- (b) does not have full-time instructors while in session, except by distance education;
- (c) is used in a manner that is detrimental to the interests of the learners, public peace and security, good governance or the health and security of the learners; or
- (d) has ceased to provide the facility or service for which it was established.

(2) The Minister may close a public higher education institution, for a specified period, on grounds of health or public disorder.

(3) Where a public higher education institution is closed under subsection (1), all the assets and liabilities of the public higher education institution shall, after the closure, be dealt with according to this Act or any other written law and any assets remaining after the payment of all liabilities shall vest in the Government.

Closure of
private
higher
education
institution

41. (1) The Authority may close a private higher education institution, for a specified period, on grounds of health or public disorder.

(2) Notwithstanding any other provisions of this Act, where a private higher education institution is deregistered, the Authority may, in the national interest, after giving the proprietor the right to be heard, direct that the private higher education institution be operated under the management and control of a competent person, in this section referred to as the “statutory manager”.

(3) A statutory manager shall be appointed by the Authority for such period and upon such terms and conditions as the Authority may determine.

(4) A statutory manager shall, during the term of appointment, keep the Authority informed on all matters relating to the private higher education institution under the statutory manager’s management and control.

(5) Any expenses connected with the appointment of a statutory manager and the management of a private higher education institution by the statutory manager shall be a charge on the revenues of a private higher education institution for which the statutory manager is appointed.

PART VII

GENERAL PROVISIONS

Fees

42. A higher education institution may charge such fees as may be prescribed in its statutes.

Keeping of
records

43. A higher education institution shall keep and maintain such records and provide such information as the Minister may prescribe for purposes of this Act.

Annual levy

44. A higher education institution shall in each year, not later than the date prescribed by the Minister, pay to the Authority such annual levy as may be prescribed.

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|---|--|
| <p>45. A higher education institution may enter into a public-private partnership in accordance with the Public-Private Partnership Act, 2009.</p> | <p>Public-private partnership
Act No. 14 of 2009</p> |
| <p>46. A person aggrieved with the decision of the Minister under this Act may appeal to the High Court within thirty days of the service of the decision on that person.</p> | <p>Appeals</p> |
| <p>47. (1) The Authority shall keep or cause to be kept a register of higher education institutions registered or established under this Act in which it shall enter such particulars as may be prescribed.</p> <p>(2) The Register referred to in subsection (1) shall be open to public inspection at such times as the Authority may determine.</p> <p>(3) A person who makes or causes to be made any unauthorised entry, alteration or erasure in the Register or in any other certified copy of the Register commits an offence and is liable, upon conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding two years, or to both.</p> | <p>Register of higher education institutions</p> |
| <p>48. The Authority shall, within the first quarter of every calendar year, publish in the <i>Gazette</i> and a daily newspaper of general circulation in Zambia, a list of all higher education institutions registered or established under this Act.</p> | <p>Publication of higher education institutions</p> |
| <p>49. (1) A person shall not—</p> <p>(a) in any manner, hold out to another person that that person can offer a course of study or part of such course of study as will entitle a person upon successful completion of the course of study to obtain a degree, diploma or certificate that will be recognised by persons in the industry or field to which the degree, diploma or certificate relates;</p> <p>(b) confer any degree or award any diploma or certificate purporting to be a degree, diploma or certificate conferred or awarded by a higher education institution registered under this Act;</p> <p>(c) without a certificate of registration, establish or operate any institution or organisation as a private higher education institution or use the title “ university ” or “college”; or</p> <p>(d) where a higher education institution is not registered, do anything likely to lead people to infer that the higher education institution is registered under this Act.</p> | <p>Offences and penalties</p> |

(2) A person who contravenes subsection (1) commits an offence and is liable, upon conviction, to a fine not exceeding three million penalty units or to imprisonment for a period not exceeding five years, or to both.

(3) A person who—

(a) provides false or misleading information in order to secure an approval, registration, enrolment or any other purpose under this Act;

(b) breaches any condition or requirement under this Act; or

(c) publishes, uses as part of the curriculum or distributes, in any manner whatsoever, any document, matter or material that is immoral, repugnant or contrary to the interests of learners or public policy;

commits an offence and is liable, upon conviction, to a fine not exceeding two million penalty units or to imprisonment for a period not exceeding four years, or to both.

General
penalty

50. A person who contravenes any provision of this Act for which no penalty is provided is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Offences by
body
corporate or
unincorporate
body

51. Where an offence under this Act is committed by a body corporate or an unincorporate body, every director or manager of the body corporate or unincorporate body shall be liable, upon conviction, as if the director or manager had personally committed the offence, unless the director or manager proves to the satisfaction of the court that the act constituting the offence was done without the knowledge, consent or connivance of the director or manager or that the director or manager took reasonable steps to prevent the commission of the offence.

Regulations

52. (1) The Minister may, by statutory instrument, prescribe all matters which by this Act are required or permitted to be prescribed, or which are necessary to be prescribed for the carrying out or giving effect to the provisions of this Act.

(2) The Minister may, in consultation with the Authority, by statutory instrument, make regulations providing for—

(a) the standard requirements for higher education institutions regarding—

(i) the quality of higher education to be provided;

(ii) the spiritual, moral, social and cultural development of learners;

- (iii) the welfare, health and safety of learners; and
- (iv) the procedure and manner of dealing with any complaint from any learner, parent or other stakeholder;
- (b) the requirements and procedure for registration;
- (c) the manner of operating a higher education institution;
- (d) the terms and conditions for the grant of aided status to higher education institutions;
- (e) the conditions and procedure for the closure or deregistration of private higher education institutions;
- (f) the regulation and management of higher education institutions; and
- (g) any other matter to promote the efficiency and effective management of higher education institutions.

53. (1) The University Act, 1999, is hereby repealed.

(2) Notwithstanding subsection (1), a Council of a higher education institution existing under the repealed Act shall, within a period of one year from the date of commencement of this Act, comply with the provisions of this Act.

Repeal of
Act No. 11
of 1999
Act No. 11 of
1999

FIRST SCHEDULE

(Sections 4 (2) and 7(9))

ADMINISTRATION OF THE AUTHORITY

PART I

THE BOARD OF THE AUTHORITY

Proceedings
of Board

1. (1) Subject to the other provisions of this Act, the Board may regulate its own procedure.

(2) The Board shall meet for the transaction of business at least once in every three months at such places and times as the Board may determine.

(3) Upon giving notice of not less than fourteen days, a meeting of the Board may be called by the Chairperson and shall be called if not less than one-third of the members so request in writing, except that if the urgency of a particular matter does not permit the giving of notice, a special meeting may be called upon giving a shorter notice.

(4) Six members shall constitute a quorum at any meeting of the Board.

(5) There shall preside at a meeting of the Board —

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of both the Chairperson and the Vice-Chairperson, a member of the Board as the members present may elect from amongst themselves for the purpose of that meeting.

(6) A decision of the Board on any question shall be by a majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have, in addition to a deliberative vote, a casting vote.

(7) Where a member is for any reason unable to attend a meeting of the Board, the member may, in writing, nominate another person from the same organisation to attend the meeting in that member's stead and such person shall be deemed to be a member for the purpose of that meeting.

(8) The Board may invite any person whose presence, in its opinion, is desirable to attend and participate in the deliberations of a meeting of the Board, but that person shall not have any vote.

(9) The validity of any proceedings, act or decision of the Board shall not be affected by any vacancy in the membership of the Board or any defect in the appointment of any member or by reason that any person not entitled to do so took part in the proceedings.

(10) The Board shall cause minutes to be kept of the proceedings of every meeting of the Board and any committee constituted by the Board.

2. (1) The Board may, for the purpose of performing its functions under this Act, constitute a committee and delegate to the committee such functions of the Board as it considers necessary. Committees of Board

(2) The Board may appoint, as members of a committee constituted under subparagraph (1), persons who are, or are not, members of the Board, and such persons shall hold office for such period as the Board may determine.

(3) Subject to any specific or general direction of the Board, any committee constituted under this paragraph may regulate its own procedure.

3. A member of the Board or any committee of the Board shall be paid such allowances as the Minister may determine. Allowances

4. (1) If any person is present at a meeting of the Board or a committee of the Board at which any matter and in which matter that person or that person's relative is directly or indirectly interested in a private capacity is the subject of consideration, that person shall, as soon as is practicable after the commencement of the meeting, disclose that interest and shall not take part in any consideration or discussion of, or vote on any question relating to that matter. Disclosure of interest

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

5. (1) A person shall not, without the consent, in writing, given by, or on behalf of, the Board, publish or disclose to any unauthorised person, otherwise than in the course of that person's duties, the contents of any document, communication or information whatsoever, which relates to, and which has come to the knowledge of that person in the course of that person's duties under this Act. Prohibition of publication or disclosure of information to unauthorised persons

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity

6. An action or other proceeding shall not lie or be instituted against a member of the Board, a committee of the Board or a member of staff of the Authority for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or performance, or purported exercise or performance, of any of the powers, functions or duties conferred under this Act.

PART II

FINANCIAL PROVISIONS

Funds of Authority

7. (1) The funds of the Authority shall consist of such moneys as may—

- (a) be appropriated by Parliament;
- (b) be paid to the Authority by way of fees, grants or donations; or
- (c) vest in or accrue to the Authority.

(2) The Authority may—

- (a) subject to the approval of the Minister, accept moneys by way of grants or donations from any source;
- (b) raise by way of loans or otherwise, moneys as the Authority may require for the discharge of its functions; or
- (c) charge and collect fees for services provided by the Authority.

(3) There shall be paid from the funds of the Authority—

- (a) the salaries, allowances and loans of members of staff of the Authority;
- (b) reasonable travelling, transport and subsistence allowances for members of the Board and any committee of the Board when engaged in the business of the Authority, at such rates as the Minister may determine; and
- (c) any other expenses incurred by the Board in the performance of its functions under this Act.

(4) The Board may, with the approval of the Minister, invest in such manner as it considers appropriate, funds of the Authority that are not immediately required for the performance of the Authority's functions.

8. The financial year of the Authority shall be the period of twelve months ending on 31st December in each year. Financial year

9. (1) The Authority shall cause to be kept proper books of account and other records relating to its accounts. Accounts and audit

(2) The Authority shall, within ninety days of the financial year, submit to the Minister a report concerning its activities during the financial year.

(3) The report referred to in subparagraph (2) shall include statements of income and expenditure and a statement of affairs or balance sheet.

(4) The accounts of the Authority for each financial year shall be audited by the Auditor-General.

10. (1) As soon as practicable, but not later than six months after the end of the financial year, the Authority shall submit to the Minister a report concerning its activities during that financial year. Annual report

(2) The report referred to in subparagraph (1) shall include information on the financial affairs of the Authority and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure; and

(c) such other information as the Minister may require.

(3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after the receipt of the report referred to in subparagraph (1), lay the report before the National Assembly.

SECOND SCHEDULE

*(Sections 14 (3) and 24(2))*ADMINISTRATION OF COUNCIL OF PUBLIC HIGHER
EDUCATION INSTITUTION

PART I

THE COUNCIL

Composition
of Council

1. A Council shall consist of the following part-time members appointed by the Minister:

- (a) the Vice-Chancellor, who shall be an *ex-officio* member;
- (b) a Deputy Vice-Chancellor who shall be an *ex-officio* member;
- (c) one member of staff of a local authority in whose area the higher education institution is located, who shall be nominated by the local authority;
- (d) two members of the academic staff of the higher education institution who are members of Senate, who shall be nominated by Senate;
- (e) one member who is associated with higher education institutions outside the Republic;
- (f) one member who is associated with other higher education institutions within the Republic;
- (g) one member who is a student of the higher education institution, who shall be nominated by the students of the higher education institution in accordance with such election procedure as the students' union may determine;
- (h) one person who is a member of the non-academic staff of the higher education institution, who shall be nominated by the non-academic staff of the higher education institution in accordance with such election procedure as the non-academic staff may determine;
- (i) one member of the academic staff of the higher education institution, elected by the academic staff of the higher education institution in accordance with such election procedure as the academic staff may determine;
- (j) one member who is a graduate of the higher education institution and who is not a member of staff of that higher education institution;
- (k) three members representing trade, commerce and the professions, not being employees or students of the higher education institution, public officers or members of

Parliament, who shall be nominated by a recognised business or professional association or organisation in accordance with such procedure as the business or professional association may determine;

(1) one member of the National Assembly nominated by the Speaker; and

(m) one representative each from the Ministries responsible for higher education and finance.

(2) A Council may exercise its powers notwithstanding any vacancy in its membership.

(3) The members of the council shall elect the Chairperson and Vice-Chairperson of the Council from among themselves.

(4) The Chairperson and the Vice-Chairperson of a Council shall hold office for a period of three years and shall be eligible for reelection for a further period of three years.

(5) The Registrar of the higher education institution shall be the Secretary of the Council.

2. (1) Subject to the other provisions of this Act, a member of a Council shall hold office for a period of three years but shall be eligible for reappointment for a further period of three years.

Tenure of
office and
vacancy

(2) Notwithstanding subparagraph (1), the office of a member of a Council becomes vacant—

(a) upon the member's death;

(b) upon the member ceasing to be a representative of the office or body by virtue of which the person became a member;

(c) if the member is absent, without reasonable excuse, from three consecutive meetings of the Council of which the member had notice, without the prior approval of the Council;

(d) if the member has a mental disability which makes the member incapable of performing the functions of a member;

(e) if the member is adjudged bankrupt;

(f) if the member is removed by the Minister;

(g) if the member is convicted of an offence and sentenced to imprisonment for a period exceeding six months without the option of a fine; or

(h) at the expiry of the period for which the member was appointed or reappointed.

(3) A member of a Council may, at any time, resign from office by giving one month's notice, in writing, to the Minister.

(4) Where the office of a member of a Council becomes vacant before the expiry of the term of office, the Minister may appoint another person as a member and that person shall hold office only for the unexpired period.

(5) Where a Chairperson or Vice-Chairperson resigns from office under subparagraph (3), the members of the Council shall elect a Chairperson or Vice-Chairperson under subparagraph (3) of paragraph 1.

Proceedings
of Council

3. (1) Subject to the other provisions of this Act, a Council may regulate its own procedure.

(2) A Council shall meet for the transaction of its business at least once in every three months at such places and times as the Chairperson may determine.

(3) Upon giving notice of not less than twenty one days, a meeting of the Council may be called by the Chairperson and shall be called if not less than one third of the members so request in writing, except that if the urgency of any particular matter does not permit the giving of such notice, a special meeting may be called upon giving a shorter notice.

(4) The quorum at any meeting of a Council shall be eleven members, four members of whom shall be members appointed from outside the higher education institution.

(5) There shall preside at a meeting of a Council—

(a) the Chairperson;

(b) in the absence of the Chairperson, the Vice-Chairperson;
or

(c) in the absence of the Chairperson and the Vice-Chairperson, such member as the members present may, subject to subparagraph (3) of paragraph 1, elect from amongst themselves for the purpose of the meeting.

(6) A decision of the Council on any question shall be by a simple majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to the deliberative vote.

(7) Except for the Council members representing ministries, a member shall not nominate another person to attend a Council meeting in that member's stead.

(8) A Council may invite any person whose presence is in its opinion desirable to attend and to participate in the deliberations of a meeting of the Council but such person shall have no vote.

(9) The validity of any proceedings, act or decision of the Council shall not be affected by any vacancy in the membership of the Council or by any defect in the appointment of any member or by reason that any person not entitled to do so, took part in the proceedings.

(10) A Council shall cause minutes to be kept of the proceedings of every meeting of the Council and of every meeting of any committee established by the Council.

4. (1) A Council may, for the purpose of performing its functions under this Act, constitute a committee and may delegate to the committee such of its functions as it thinks fit.

Committees of Council

(2) A Council may appoint as members of a committee constituted under subparagraph (1), persons who are or are not members of the Council and such persons shall hold office for such period as the Council may determine, except that at least half of the members of a committee shall be members of the Council.

(3) A committee shall be chaired by a member of a Council.

(4) The quorum at any meeting of a committee shall be one-half of the members.

5. (1) If a person is present at a meeting of a Council or any committee of the Council at which any matter in which that person or that person's relative is directly or indirectly interested in a private capacity, is the subject of consideration, that person shall, as soon as practicable after the commencement of the meeting, disclose such interest, and shall not take part in any consideration or discussion of or vote on any question relating to that matter.

Disclosure of interest

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

6. (1) A person shall not, without the consent in writing given by, or on behalf of, a Council, publish or disclose to any unauthorised person, otherwise than in the course of duties of that person, the contents of any document, communication or information whatsoever, which relates to, and which has come to that person's knowledge in the course of that person's duties under this Act.

Prohibition of publication or disclosure of information to unauthorised persons

(2) A person who contravenes subparagraph (1) commits an offence and is liable, upon conviction, to a fine not exceeding three hundred thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

(3) A person who, having any information which to the knowledge of that person has been published or disclosed in contravention of subparagraph (1), unlawfully publishes or communicates the information to any other person, commits an offence and is liable, upon conviction, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding two years, or to both.

Immunity of members

7. An action or other proceeding shall not lie or be instituted against a member of a Council or a committee of the Council for, or in respect of, any act or thing done or omitted to be done in good faith in the exercise or purported exercise or performance of any of the powers, functions or duties conferred under this Act.

PART II

FINANCIAL PROVISIONS

Funds of public higher education institution

8. (1) The funds of a public higher education institution shall consist of such moneys as may—

(a) be appropriated by Parliament for its purpose;

(b) be paid to the public higher education institution by way of fees, subscriptions, contributions, grants or donations; and

(c) otherwise vest in, or accrue to, the public higher education institution.

(2) A public higher education institution may, with the approval of the Minister, accept moneys by way of grants or donations from any source in or outside Zambia, except that the public higher education institution shall not be obliged to accept a grant or donation for a particular purpose unless it approves of the purpose and the conditions, if any, attaching to it.

(3) A public higher education institution may borrow, by way of loan or otherwise, such sums as it may require for meeting its obligations and discharging its functions under this Act, except that the prior consent of the Minister responsible for finance, in consultation with the Minister, shall be obtained.

(4) There shall be paid from the funds of a public higher education institution—

- (a) moneys necessary for the performance of its functions under this Act;
- (b) the salaries, allowances and loans of its staff;
- (c) such reasonable travelling and subsistence allowances for members of the Council or members of any committee of the Council when engaged in the business of the public higher education institution, at such rates as the Minister may determine; and
- (d) any other expenses incurred by the Council in the performance of its functions.

(5) Any person who misuses the funds of the Council shall be liable to surcharge.

(6) A public higher education institution may, with the approval of the Minister, invest in such manner as it may determine, any of its funds which it does not immediately require for the performance of its functions.

9. (1) A Council of a public higher education institution shall, in respect of every financial year, prepare or cause to be prepared, estimates of the income and expenditure of the Council and shall submit the estimates to the Minister at least four months before the commencement of the financial year for scrutiny and consolidation into the Ministry's estimates, before submission to the Ministry responsible for finance for approval.

Estimates

(2) A Council may furnish to such bodies as it may determine, copies of the estimates referred to in subparagraph (1).

10. The financial year of a public higher education institution shall be the period of twelve months ending on 31st December in each year.

Financial year

11. (1) A public higher education institution shall cause to be kept proper books of accounts and other records relating to its accounts.

Accounts and audit

(2) A public higher education institution shall, within ninety days of the expiry of the financial year, submit to the Minister a report concerning its activities during the financial year.

(3) The report referred to in subparagraph (2) shall include statements of income and expenditure and a statement of affairs or balance sheet.

(4) The accounts of a public higher education institution shall be audited annually or whenever necessary by the Auditor-General.

Financial
report

12. (1) As soon as practicable, but not later than six months, after the expiry of each financial year, the Council of a public higher education institution shall submit to the Minister a report concerning its activities during the financial year.

(2) The report of the Council shall include information on the financial affairs of the public higher education institution and there shall be appended to the report—

(a) an audited balance sheet;

(b) an audited statement of income and expenditure;

(c) a report of the auditors on the accounts; and

(d) such other information as the Minister may require.

(3) The Minister shall, not later than thirty days after the first sitting of the National Assembly next after receipt of the report referred to in subparagraph (1), lay it before the National Assembly.

THIRD SCHEDULE

(Sections 28 and 35(2))

STAFF AND SENATE OF HIGHER
EDUCATION INSTITUTION

PART I

CHANCELLOR AND STAFF

1. (1) There shall be three categories of staff of a higher education institution designated “academic staff”, “administrative staff ” and “ other staff ”. Staff

(2) The academic staff shall consist of —

- (a) the Vice-Chancellor;
- (b) the Deputy Vice-Chancellor;
- (c) the Deans of Schools;
- (d) the Directors of institutes, bureaux and other similar bodies;
- (e) all the members of staff engaged in teaching and research;
- (f) the Librarian; and
- (g) such other persons as the Council may designate.

(3) The administrative staff shall consist of persons employed by a higher education institution, other than the academic staff, who hold administrative, professional or technical posts designated by the Council as senior posts.

(4) The other staff shall consist of persons employed by a higher education institution who are not members of the academic staff or of the administrative staff.

2. (1) There shall be a Chancellor for a higher education institution who shall be the titular head of the higher education institution. Chancellor

(2) The Chancellor of a higher education institution shall preside at all ceremonial assemblies of the higher education institution and shall, in its name, confer all degrees and other academic titles and distinctions of the higher education institution.

(3) The Chairperson of the Council and the Vice-Chancellor shall keep the Chancellor fully informed concerning the general conduct of the affairs of the higher education institution and shall furnish the Chancellor with such information as the Chancellor may request on any particular matter relating to the affairs of the higher education institution.

Appointment
of Chancellor
of public
higher
education
institution

3. (1) The Chancellor of a public higher education institution shall be appointed by the President, on the recommendation of the Minister, from among eminent Zambian citizens.

(2) A person appointed as Chancellor of a public higher education institution shall hold office for a period of five years and may be reappointed for a further like period.

(3) The Chancellor of a public higher education institution may resign upon giving one month's notice, in writing, to the President.

(4) A person holding the office of Chancellor of a public higher education institution may be removed by the President for inability to perform the functions of the office, whether arising from infirmity of body or mind, or for behaviour which is incompatible with the office of Chancellor.

Appointment
of Chancellor
of private
higher
education
institution

4. The Chancellor of a private higher education institution shall be appointed by the Council of the private higher education institution.

Vice-
Chancellor

5. (1) There shall be a Vice-Chancellor for a higher education institution, who shall be the academic, financial and administrative head of the higher education institution and who shall, where the Chancellor is unable to do so, preside at the ceremonial assemblies of the higher education institution and confer all degrees and other academic titles and distinctions of the higher education institution.

(2) The Vice-Chancellor shall be appointed by—

(a) in the case of a public higher education institution, the Minister, on the recommendation of the Council of the public higher education institution; and

(b) in the case of a private higher education institution, the Council of the private higher education institution.

(3) A person appointed to the office of Vice-Chancellor of a public higher education institution shall hold office on such terms and conditions as shall be specified in that person's letter of appointment, for a period of five years but may be eligible for reappointment for a final term of five years.

Deputy
Vice-
Chancellor

6. (1) There shall be a Deputy Vice-Chancellor for a higher education institution.

(2) The Deputy Vice-Chancellor shall be appointed by—

(a) the Minister, in the case of a public higher education institution, on the recommendation of the Council of the public higher education institution; and

(b) in the case of a private higher education institution, the Council of the private higher education institution.

(3) The Deputy Vice-Chancellor shall act in the place of the Vice-Chancellor when the office of Vice-Chancellor is vacant or the Vice-Chancellor is for any reason absent or otherwise unable to perform the Vice-Chancellor's functions.

(4) A person appointed to hold the office of Deputy Vice-Chancellor of a public higher education institution shall hold office, on such terms and conditions as shall be specified in that person's letter of appointment, for a period of four years but shall be eligible for reappointment for a final term of four years.

7. Where a Council of a public higher education institution has reasonable grounds to believe that the Vice-Chancellor or Deputy Vice-Chancellor should be removed from office on grounds of misconduct or inability to perform the functions of the office, the Council shall, on the advice of the joint committee constituted under paragraph 8, recommend to the Minister the removal of the Vice-Chancellor or Deputy Vice-Chancellor, as the case may be.

Discipline
and removal
of Vice-
Chancellor
and Deputy
Vice-
Chancellor of
public higher
education
institution

8. (1) A Council of a public higher education institution shall, where for purposes of paragraph 7, it becomes necessary to do so, constitute an *ad hoc* joint committee which shall conduct an inquiry into the removal of the Vice-Chancellor or the Deputy Vice-Chancellor.

Joint
committee

(2) The Chairperson of the Tribunal shall preside over the meetings of the *ad hoc* joint committee constituted under subparagraph (1).

9. There shall be a Registrar for a higher education institution appointed by the Council, on such terms and conditions as the Council may determine, and who shall, under the direction of the Vice-Chancellor, be responsible for the general administration of the higher education institution's assets.

Registrar

10. There shall be a Librarian for a higher education institution appointed by the Council, on such terms and conditions as the Council may determine, and who shall, under the direction of the Vice-Chancellor, be responsible for the development, control, management and coordination of library services in the higher education institution.

Librarian

- 11.** There shall be a Bursar for a higher education institution appointed by the Council, on such terms and conditions as the Council may determine, and who shall, under the direction of the Registrar, be responsible for the financial planning and general administration of the finances of the higher education institution and shall maintain the accounts of the higher education institution in such form and manner as may be determined by the Council.
- 12.** There shall be a Dean of Students for a higher education institution appointed by the Council on such terms and conditions as the Council may determine, and who shall, under the direction of the Vice-Chancellor, be responsible for the management of students' affairs and shall exercise superintendence over the students' affairs unit.
- 13.** The Vice-Chancellor shall, where the Vice-Chancellor has reasonable grounds to believe that the Registrar, the Bursar, the Dean of Students, the Chief Internal Auditor, the Librarian, a Dean or a Director should be removed from office on grounds of incompetence or misconduct—
- (a) give notice, in writing, of the grounds to the officer in question;
 - (b) in writing, suspend the officer in question from office pending investigations;
 - (c) refer the matter to the Tribunal; and
 - (d) make arrangements for the officer in question to be afforded an opportunity to appear before, and be heard by, the Tribunal with respect to the matter.
- 14.** (1) A Dean, Director or principal officer shall, where the Dean, Director or a principal officer has reasonable grounds to believe that a member of the academic or administrative staff for whom the Dean, Director or principal officer has direct responsibility should be removed from office or employment on grounds of misconduct or failure to perform the functions of office or employment—
- (a) give notice, in writing, of the grounds to the member in question;
 - (b) in writing, suspend the member in question from office or employment pending investigations;
 - (c) refer the matter to the Tribunal; and
 - (d) make arrangements for the member in question to be afforded an opportunity to appear before, and be heard by, the Tribunal with respect to the matter.

(2) The application of disciplinary measures to other staff members of a higher education institution shall be in accordance with their conditions and terms of service.

15. (1) Where the Vice-Chancellor and the Deputy Vice-Chancellor are absent from office at the same time or are unable for any reason to perform the functions of the Vice-Chancellor or Deputy Vice-Chancellor, the Council may appoint, on such terms and conditions as it may determine, a senior member of the academic staff of the higher education institution who is a Dean of a school, Director of an institute or a professor, to perform the functions of Vice-Chancellor or Deputy Vice-Chancellor.

Performance of functions where Vice-Chancellor etc absent from office

(2) Where the Registrar, Librarian, Bursar or Dean of Students is absent from office or is unable for any reason to perform the functions of the office, the Vice-Chancellor may, after consultation with the Council, appoint a suitable person to perform the functions of the office, on such terms and conditions as the Vice-Chancellor may determine.

(3) Where the Dean of a school or Director of an institute is absent from office or is unable for any reason to perform the functions of the office, the Vice-Chancellor may, after consultation with the Senate, appoint a suitable person to perform the functions of the office, on such terms and conditions as the Vice-Chancellor may determine.

16. (1) The Council of a public higher education institution shall, in consultation with the Minister, for the purposes of paragraphs 5 and 6, constitute an *ad hoc* search committee of the higher education institution consisting of seven members who have experience in the administration, management and academic life of higher education institutions.

Search committee

(2) The Council shall appoint the Chairperson and Secretary of a search committee.

(3) The Council shall appoint the members of a search committee on such terms and conditions as it may determine.

(4) A search committee shall—

- (a) advertise, locally and internationally, the posts of Vice-Chancellor and Deputy Vice-Chancellor whenever the posts fall vacant; and
- (b) select, from among the applicants, the candidate for the post of Vice-Chancellor or Deputy Vice-Chancellor and submit a recommendation to the Council.

- (5) A search committee shall determine its own procedure.
- (6) There shall be paid to the members of a search committee such allowances as the Council may, in consultation with the Minister, determine.
- (7) The Council shall pay the expenses incurred by a search committee in the performance of its functions.

PART II

SENATE

Senate

- 17.** (1) A Senate shall consist of—
- (a) the Vice-Chancellor;
 - (b) the Deputy Vice-Chancellor;
 - (c) the Deans of schools within the higher education institution;
 - (d) not more than fourteen professors and associate professors who are not members of the Senate by virtue of other provisions of this paragraph and which number shall include at least one professor or associate professor from each school elected by the academic staff in accordance with such election procedures as the Senate may decide;
 - (e) the Librarian;
 - (f) the directors of the centres, institutes, bureaux or other similar bodies of the higher education institution;
 - (g) the Dean of Students;
 - (h) not more than fourteen members of the non-professorial academic staff of the higher education institution from each academic unit, elected by the academic staff in accordance with such election procedures as the academic staff may determine;
 - (i) two students of the higher education institution who shall be elected by the students of the higher education institution in accordance with such election procedure as the higher education institution students' union may determine; and
 - (j) not more than four persons appointed by the Vice-Chancellor who are resident in the Republic, are not employed as academic, administrative or other staff of the higher education institution and are capable of contributing to the academic development and life of the higher education institution.

- (2) The Vice-Chancellor shall be the Chairperson of the Senate.
- (3) There shall preside at any meeting of the Senate—
- (a) the Vice-Chancellor;
 - (b) in the absence of the Vice-Chancellor, the Deputy Vice-Chancellor; or
 - (c) in the absence of both the Vice-Chancellor and Deputy Vice-Chancellor, such member as the members present may elect from amongst themselves for the purposes of the meeting.
- (4) The Registrar of a higher education institution shall be the Secretary to the Senate.

18. Subject to the other provisions of this Act, appointed and elected members of the Senate shall hold office for a period of three years from the date of appointment or election but shall be eligible for re-appointment or reelection for a further period of three years.

Tenure of office

19. (1) The Senate shall meet for the conduct of its business at such times and places as the Senate may determine or as the Vice-Chancellor may require, but at least three times during an academic year.

Meetings of Senate

(2) The quorum at any meeting of the Senate shall be one half of the members.

(3) The quorum at any meeting of a committee of the Senate shall be one half of the members of that committee.

20. The Senate may delegate to any school, Board of Studies or committee such of its powers and functions as it may consider appropriate.

Delegation of powers and functions

21. (1) The Senate shall establish Boards of Studies for the purpose of organising the structure and content of courses of instruction and study in the respective disciplines and the coordination of studies within such schools, institutes or bureaux or similar bodies as may be established within the higher education institution.

Board of Studies

(2) A Board of Studies established under subparagraph (1) shall be composed of such members of the academic staff and students of each school, institute, bureau or similar body and other qualified persons as the Senate may decide.

(3) The Dean of a school or the Director of an institute or bureau or similar body of a higher education institution shall be the Chairperson of the Board of Studies for that school, institute, bureau or similar body.

Staff
Tribunal of
higher
education
institution

22. (1) There shall be established in each higher education institution a Higher Education Institution Staff Tribunal to investigate and consider disciplinary cases referred to it and make recommendations to the Council.

(2) A Tribunal shall consist of the following members:

(a) a legal practitioner with not less than ten years legal experience, who shall be the Chairperson;

(b) two persons from the non-academic members of the Council appointed by the Chairperson of the Council; and

(c) two persons nominated by the academic staff of the higher education institution and appointed by the Chairperson of the Council.

(3) A Tribunal may request any senior member of a department to assist it in the assessment of any particular case.

(4) The Council shall appoint the secretary to the Tribunal.

(5) The members of a Tribunal shall hold office for a period of three years and shall be eligible for reappointment for a further like period.

(6) A Tribunal shall complete its work within a period of six months from the date from which the suspension of a member of staff takes effect.

(7) The Council shall implement the decisions of the Tribunal.

Rules by
Chief Justice

23. The Chief Justice shall, by statutory instrument, and in consultation with the Council, prescribe the procedures to be followed by the Tribunal in the determination of disciplinary cases.

PART III

DEANS, DIRECTORS AND HEADS OF DEPARTMENTS

Deans and
Directors

24. (1) A Dean of a school and a Director of an institute, bureau or similar body shall be appointed by the Council from among senior members of the academic staff of a school, institute, bureau or similar body concerned in accordance with the provisions of the statute of the higher education institution.

(2) A Dean of a school or Director of an institute, bureau or similar body shall exercise general superintendence over the academic, administrative and financial affairs of a school, institute, bureau or similar body and in particular, shall be responsible for the promotion and maintenance of effective teaching, research, consultancies and services.

25. (1) The Vice-Chancellor shall, in consultation with the Dean of a school or Director of an institute, bureau or similar body concerned, appoint heads of department from among the senior academic members within each department in accordance with the provisions of the statute of the higher education institution. Heads of Department

(2) A head of department shall coordinate the academic and administrative affairs of the department and shall be responsible for the promotion and maintenance of efficient teaching, research and consultancy services under the direction of the Dean.

PART IV

STUDENTS

26. There shall be a students' affairs unit under the supervision of the Dean of Students in a higher education institution which shall organise, coordinate and administer students' affairs. Students' affairs unit

27. (1) There shall be a students' union in a higher education institution. Students' union and branches

(2) Where a higher education institution has more than one campus, there shall be a branch of the students' union on each campus.

(3) All registered students of the higher education institution shall be members of the students' union.

(4) A students' union shall have a constitution which shall provide for such matters as may be prescribed.
