MALAWI GOVERNMENT

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Act

No. 19 of 2019

I assent

PROF. ARTHUR PETER MUTHARIKA
PRESIDENT
29th April, 2019

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An Act to provide for the establishment, conduct and management of the Malawi University of Business and Applied Sciences; and for matters incidental thereto and connected therewith

ENACTED by the Parliament of Malawi as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Malawi University of Business and Applied Sciences Act, 2019, and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Interpretation

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

"Academic Department" means a division of the University under a school devoted to teaching and learning, research, consultancy and outreach in a particular discipline;

"Academic staff" means persons for the time being holding appointments, whether on full time or part time basis, under contract with the Council, as professors, associate professors, senior lecturers, lecturers, assistant lecturers, staff associates, adjunct staff and includes all members of staff whose conditions of service contain an obligation to undertake research and senior professional staff of the library, or any other post declared by the Senate by category or title to be an academic post;

"Administrative staff" means persons for the time being holding appointments, whether on full time or part time basis, under contract with the Council, in the administration of the affairs of the University;

"Chairperson" means the Chairperson of the Council appointed pursuant to section 9;

"Chancellor" means the person who is, for the time being, the Chancellor of the University under section 18;

"close relative" means a spouse, child, sibling, grand child or parent and includes a dependent and child of a sibling;

"Committee" includes sub-committee;

"Convocation" means a Convocation established pursuant to section 16;

"Council" means the Council of the University established and incorporated under section 8;

"Deputy Vice-Chancellor" means the Deputy Vice-Chancellor appointed pursuant to section 21;

"Director of Finance and Investments" means the Director of Finance and Investments appointed pursuant to section 23;

"Director of Student Affairs" means the Director of Student Affairs appointed pursuant to section 25;

"Executive Dean" means an Executive Dean of a School appointed pursuant to section 31;

"Head of Academic Department" means a Head of Academic Department appointed pursuant to section 34;

"Librarian" means the Librarian of the University appointed pursuant to section 24;

"property of the University" means any property, intellectual, real or personal, of every description vested in or held by the Council under any right of ownership or possession; and any property held by the Council in trust for the furtherance of any of the objects of the University;

"Registrar" means the Registrar of the University appointed pursuant to section 22;

"School" means a school within the University established pursuant to section 30;

"Senate" means the Senate of the University established under section 27;

"Senate Regulations" means Senate Regulations made under section 43;

"staff" means all members of the academic, administrative,

technical and support staff of the University whether employed on contract or permanent basis;

"Statutes" means Statutes of the University made pursuant to section 41;

"University" means the Malawi University of Business and Applied Sciences established under section 3;

"Vice-Chancellor" means the Vice-Chancellor of the University appointed pursuant to section 20.

PART II—ESTABLISHMENT OF THE MALAWI UNIVERSITY OF BUSINESS AND APPLIED SCIENCES

Establishment of Malawi University of Business and Applied Sciences

3. There is hereby established a university to be known as the Malawi University of Business and Applied Sciences.

Membership of the University

4.—(1) The University shall consist of the following members—

(*a*) the Chancellor;

(*b*) the Vice-Chancellor;

(*c*) the Deputy Vice-Chancellor;

(*d*) the Registrar;

(*e*) the Director of Finance and Investments;

(*f*) the Librarian;

(*g*) members of the Council;

(*h*) members of the Senate;

(*i*) all graduates of the University;

(*j*) all holders of Honorary Degrees from the University;

(*k*) all Executive Deans;

(*l*) all Heads of Academic Department;

(*m*) all Directors of Centre and Institute;

(*n*) all members of staff of the University;

(*o*) all persons for the time being registered as students of the University; and

(*p*) any other person the Council may, by name or office, declare to be a member of the University.

(2) A person who is a member of the University by virtue of holding a qualification from the University shall continue to be a

member so long as he holds that qualification.

(3) The Registrar shall maintain a Register of members of the University, which shall be available for scrutiny by the general public at all reasonable times.

Aim and objects of the University

5.—(1) The aim of the University shall be to competitively impart knowledge and produce transferrable skills by engaging in teaching and learning, research, consultancy and application of knowledge, skills and aptitudes to meet professional needs of society at national, regional and global levels.

(2) The objects of the University shall be to—

(*a*) provide accessible, equitable and high quality University education and training in various disciplines in response to local, regional and global needs;

(*b*) advance and disseminate knowledge and skills through teaching, learning and practical skills training;

(*c*) promote industrial growth through research and dissemination of knowledge and skills;

(*d*) promote innovation, entrepreneurship and commercialization of research;

(*e*) foster a capacity for independent critical thinking and informed intellectual discourse among students; and

(*f*) develop partnerships with industry for the generation, transfer, adoption and application of technologies.

Principles of the University

6. The University shall uphold the following principles in the delivery of its mandate—

(*a*) participatory or collegial decision making to ensure that staff and students are actively encouraged and supported to participate in decision-making, planning and implementation of university development programmes;

(*b*) collaboration and partnership with stakeholders to ensure relevance of its programmes and attainment of its aim and objects;

(*c*) gender responsiveness to ensure equal opportunity and participation of women and men in programmes, governance and other spheres;

(*d*) integrity to ensure adherence to the highest ethical and professional standards;

(*e*) disability friendliness to ensure that the University's facilities and services are reasonably accommodative for persons with disabilities; and

(*f*) intellectual autonomy and academic freedom to safeguard the open pursuit of knowledge and truth.

Powers of the University

7.—(1) Subject to this Act and the Statutes, the University shall have powers to—

(*a*) admit persons as students of the University;

(*b*) award or confer degrees, diplomas, certificates and other academic distinctions;

(*c*) award honorary degrees and distinctions to individuals that have distinguished themselves by making significant contributions in various spheres of life;

(*d*) offer affiliation status and associated benefits to other tertiary institutions; and

(*e*) provide well-informed and researched opinions on issues affecting society.

(2) The University may withdraw or cancel a degree, diploma, certificate or other academic distinction conferred under subsection (1) if, after due inquiry, it is established that the degree, diploma, certificate or any other academic distinction was obtained through fraud or academic malpractice or the process of acquiring the degree, diploma, certificate or other academic distinction was tainted by an act that, in the opinion of the University, undermines the integrity of the award.

PART III—THE COUNCIL

Establishment and incorporation of the Council

8. There is hereby established the Council of the Malawi University of Business and Applied Sciences which shall be a body corporate with perpetual succession and a common seal and shall be capable, by that name, of—

(*a*) suing and being sued;

(*b*) acquiring by purchase, gift, devise, bequest, operation of law or otherwise real or personal property wherever situated, or any right or interest therein, and holding the same in any capacity including that of trustee;

(*c*) granting, selling, mortgaging, hypothecating, alienating, assigning, leasing or letting real or personal property; and

(*d*) subject to this Act, doing or performing all such acts and things as a body corporate may, by law, do or perform or such as are incidental or appertain to a body corporate.

Composition of the Council

9.—(1) The Council shall consist of —

(*a*) the Chairperson of the Council, who shall be appointed by the Chancellor;

(*b*) the Vice-Chancellor;

(*c*) two independent members appointed by the Chancellor, provided one of them shall be female;

(*d*) two members who shall be alumni of the University nominated by alumni of the University and appointed by the Chancellor, provided one of them shall be female;

(*e*) one member representing special interest groups in the education sector;

(*f*) one member of the Senate, who shall be a professor or senior member of the academic staff, appointed from its membership;

(*g*) two members designated by the Students Representative Council of the University, one of whom shall be a post graduate student, provided one of them shall be female; and

(*h*) the following *ex-officio* members—

(i) the Secretary responsible for Education or his designated representative;

(ii) the Secretary to the Treasury or his designated representative; and

(iii) the Comptroller of Statutory Corporations or his designated representative.

(2) A person shall not be appointed a member of the Council under paragraphs (*a*), (*c*), (*d*) and (*e*) of subsection (1) unless that person possesses a minimum of a bachelor's degree from an institution accredited or recognized under the National Council for Higher Education Act and has experience of at least ten years in a senior management position.

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(3) A member of the Council, other than an *ex-officio* member, shall hold office for a period of three years and shall be eligible for re-appointment for one further term:

Provided that in appointing new Council members at least fifty percent of the members of the immediate past Council appointed under paragraphs (*a*), (*c*), (*d*) and (*e*) of subsection (1) shall be retained.

(4) The Council shall elect from amongst its members, other than those appointed under paragraphs (*b*), (*f*), (*g*) and (*h*) of subsection (1), a Vice-Chairperson who shall perform all the functions and duties of the Chairperson in the event that the Chairperson is unable to perform those functions and duties.

(5) The Council may co-opt not more than three persons to assist it for such purposes and such period as the Council may determine depending on the need of the Council and expertise of the appointees, but the persons so co-opted shall not be eligible to vote.

(6) A person shall not be co-opted into the Council pursuant to subsection (5) unless he possesses a minimum of a bachelor's degree from an institution accredited or recognized under the National Council for Higher Education Act. Cap. 30:12

(7) The Registrar shall act as Secretary to the Council.

Vacancies on the Council

10.—(1) The appointment of a member, other than an *ex-officio* member, to the Council shall cease—

(*a*) on the expiry of the term of office of the member;

(*b*) on the resignation of the member after one month's written notice to the Chairperson and, in case of the Chairperson, upon one month's written notice to the Chancellor;

(*c*) on the death of the member;

(*d*) upon the member leaving the country for a period in excess of twelve months;

(*e*) upon the member failing to attend three consecutive meetings of the Council, of which he has had notice, without valid excuse or reason;

(*f*) upon the member becoming mentally or physically ill, where upon the Council certifies through an opinion of a qualified medical practitioner that the member is no longer, by reason of the illness, capable of performing his duties as a member of the Council;

(*g*) upon a member appointed under paragraphs (*a*), (*c*), (*d*) and (*e*) of section 9(1) becoming a student or employee of the University;

(*h*) upon the member being declared bankrupt;

(*i*) upon the member being removed from a position of trust by a court of law;

(*j*) upon the member being convicted for an offence under any written law and being sentenced to a term of imprisonment otherwise than as an alternative to, or in default of, payment of a fine;

(*k*) if the member knowingly fails to declare a conflict of interest relating to any matter under consideration by the Council;

(*l*) if the member, without lawful authority, publishes or discloses to any person or entity, other than in the course of duty,

any confidential information of the University or any other information obtained in the course of duty; or

(*m*) if the member conducts himself in a manner that is inconsistent with membership of the Council or that brings the University into disrepute.

(2) A member shall not be removed from office on grounds set out in subsection (1) paragraphs (*d*), (*e*), (*f*), (*g*), (*h*), (*i*), (*j*), (*k*), (*l*) and (m) except after being given an opportunity to be heard.

(3) A vacancy due to any reason prescribed under subsection (1) shall be filled within three months of the occurrence of the vacancy in accordance with the relevant provision of section 9, and the member so appointed shall hold office for the unexpired period of his predecessor's term of office:

Provided that the vacancy may not be filled if the unexpired period is less than six months.

(4) The Chancellor may, on recommendation of the Minister, dissolve the Council.

Functions and powers of the Council

11.—(1) The Council shall be the governing body of the University and shall exercise general supervisory responsibility over all the affairs of the University including its relations with the public:

Provided that, before determining any matter which affects the academic policy or programme of the University, the Council shall refer such matter to the Senate, if it has not previously been considered by the Senate, and shall take into consideration any recommendation or report thereon by the Senate.

(2) Without prejudice to the generality of subsection (1), the functions of the Council shall be to—

(*a*) govern, maintain, administer, dispose of and, save as hereinafter provided, to invest all or part of the property, money, assets, and rights of the University;

(*b*) take such steps as it determines fit for the purpose of procuring and receiving contributions or raising money in a manner that it deems fit for the furtherance of the aim and objects of the University;

(*c*) provide for payment of scholarships, prizes, grants and such other payments to students of the University;

(*d*) after consideration of a recommendation from Senate, determine, in consultation with the Minister, fees to be charged to students;

(*e*) determine, in accordance with procedure prescribed by the Statutes, individuals to be awarded honorary degrees of the University;

(*f*) decide, after consultation with the Vice-Chancellor, whether or not any donation, gift, grant, devise, bequest or other bounty to the University should be accepted;

(*g*) select persons for entry into the University as students, on recommendation of a selection committee established by the Statutes; and

(*h*) on recommendation of Senate, adopt Statutes of the University.

(3) The Council has powers to—

(*a*) subject to this Act, enter into any engagement and to accept obligations and liabilities;

(*b*) demand and receive fees, subscriptions, deposits, fines and other payments and to effect payment of any monetary obligations;

(*c*) borrow money on behalf of the University and for that purpose, if it considers appropriate, to mortgage or charge all or any part of the real property of the University, unless the conditions of any will, deed or gift or other similar instrument are thereby contravened, and to give such other security, whether upon real or personal property or otherwise, as it deems fit;

(*d*) invest any moneys of the University, including any unapplied income, in such stocks, debentures, funds, shares or other securities as the Council may, from time to time determine, whether within or outside Malawi and to vary such investments from time to time by sale or re-investment or otherwise;

(*e*) sell, buy, exchange, lease, rent, grant or take on lease or rent real or personal property or portions thereof on behalf of the University, and to acquire any easement over any property held by any person or to consent to any easement whether public or private over any property of the University;

(*f*) undertake and execute any trust, the undertaking whereof may seem desirable to the Council for the attainment or fulfilment of any of the objects of the University; and to hold, invest, manage or distribute, in furtherance of and in accordance with any trust direction, discretion, obligation or permission, any property, or income from any property held by it as trustee subject to such trust;

(*g*) enter into, vary, carry out or cancel contracts on behalf of the University;

(*h*) compound or compromise any action, suit or proceedings or any debt or claim, and to refer any matter to arbitration;

(*i*) maintain bank accounts, and to cause proper books of accounts to be kept and audited for all sums of money received and expended by the University and for the assets and liabilities of the University in order to give a true and fair account of the state of affairs of the University and its transactions;

(*j*) on recommendation of Senate, establish, institute or discontinue schools, centres or institutes or such other academic departments or sections of the University, in accordance with this Act;

(*k*) determine terms of service and general conditions relating to employment of academic, administrative, technical and support staff and to establish, disestablish or otherwise make or discontinue financial provisions for appointments to such posts;

(*l*) determine the salary scales and general rates of payment for all categories of staff appointed by the University and other persons commissioned to render services to the University, and to appoint and employ such persons, pay their salaries, wages or fees and, subject to the provisions of the Statutes, terminate the appointments;

(*m*) make provision for schemes of insurance and pension for persons employed by the University and to subscribe to benevolent and such other funds for the benefit of the employees and to make payments to appropriate beneficiaries, as it thinks fit;

(*n*) take such steps as it determines appropriate for furthering the objects and interests of the University by making provision for teaching and learning, research, printing and publication of research and other works which may be issued by the University and for the welfare of the staff and the students of the University;

(*o*) call for reports from the Vice-Chancellor or the Senate, and to review the work of the University in the light of the reports;

(*p*) make provision for payments to external examiners and other persons to whom it finds it fit to make payments to further the aim and objects of the University;

(*q*) enter into agreements and other relationships with institutions or bodies, whether academic or otherwise, for such purposes as the Council may determine, including the embodiment within the University of any other institution or body and taking over and assumption of the property, rights,

privileges and liabilities of such other institution or body; and

(*r*) establish such committees as it may determine necessary.

(4) The Council may assign or delegate any of its powers or functions to any one of its committees or officials.

(5) The Council shall, at all times, uphold principles stated in section 6 of this Act and shall put in place mechanisms for ensuring compliance with the principles by its committees, the Senate and all employees and, where necessary, shall employ affirmative action in—

(*a*) recruitment of staff;

(*b*) admission of students; or

(*c*) conferment of any advantage or privilege of the University.

(5) The Chairperson shall keep the Chancellor and the Minister informed on matters concerning the general policy and conduct of the University.

Meetings of the Council

12.—(1) The Council shall meet quarterly to transact business of the University and the meetings shall be held at such times and on such dates and places as may be provided by the Statutes or otherwise as the Council may determine.

(2) An extraordinary meeting of the Council shall be convened—

(*a*) at any time, by the Chairperson at his own volition; or

(*b*) upon written request by any five members.

(3) Two thirds of the members of the Council shall constitute a quorum.

(4) The Chairperson shall preside at all meetings of the Council but in the absence of the Chairperson, the Vice-Chairperson shall preside over the meeting and in the absence of both, the members present shall elect one of their number, to act as chairperson.

(5) Any matter for decision by the Council shall be determined by a majority vote of members present and voting, and where there is an equality of votes, the Chairperson or, in his absence, the Vice-Chairperson or other member presiding, shall have a casting vote in addition to his deliberative vote.

(6) Subject to this Act and the Statutes, the Council shall regulate its own procedure.

Committees of the Council

13.—(1) The Council may establish committees consisting of members of the Council to deal with such matters as the Council may specify.

(2) The Council may co-opt persons who are not members of the Council to committees established under subsection (1) for a particular reason and such persons shall hold office for such period and on such terms as the Council may determine.

(3) The Council shall not co-opt more than three persons at any given time into a committee.

(4) A person shall not be co-opted into a committee pursuant to subsection (2) unless he possesses a minimum of a bachelor's degree from an institution accredited or recognized under the National Council for Higher Education Act.

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(5) A co-opted member shall take part in all deliberations of the Committee to which he has been co-opted but shall not be eligible to vote.

(6) Subject to this Act and the Statutes, a committee shall regulate its own procedure.

Sub-committees of the Council

14.—(1) A committee may establish sub-committees to deal with such matters as the committee may specify.

(2) The committee may co-opt persons to sub-committees established under subsection (1) for a particular reason and such persons shall hold office for such period and on such terms as the committee may determine.

(3) A person shall not be co-opted into a sub-committee pursuant to subsection (2) unless he possesses a minimum of a bachelor's degree from an institution accredited or recognized under the National Council for Higher Education Act.

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(4) Subject to this Act and the Statutes, a sub-committee shall regulate its own procedure.

Disclosure of conflict of interest

15.—(1) A member of the Council or committee of the Council who is present at a meeting of the Council or committee of the Council at which any matter in which he or his close relative has an interest or may have an interest is being considered, shall disclose the interest as soon as is practicable before or soon after the commencement of the meeting and the member shall recuse himself from the meeting and shall not take part in any consideration or discussion of, or vote on, any question touching on such matter at that meeting or any subsequent meeting.

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

(3) A member who recuses himself from a meeting under

subsection (1) shall not be entitled to receive any papers relating to the matter.

(4) Where a member fails to disclose his interest in accordance with subsection (1) and the Council or committee makes a decision which benefits the member or his close relative, the decision shall, to the extent that it benefits that member or his close relative, be null and void.

Convocation of the University

16.—(1) There shall be a Convocation of the University which shall act as a consultative and advisory forum of the University.

(2) All graduates of the University and holders of honorary degrees from the University and such other persons as the Council shall determine, shall be members of the Convocation.

(3) The Registrar shall, in accordance with the provisions of the Statutes, maintain a Convocation roll of the University.

(4) All officers and members of the academic staff of the University shall be *ex-officio* members of the Convocation.

(5) Meetings of the Convocation shall be convened in accordance with provisions of the Statutes and shall be held at least once every year.

(6) The Vice-Chancellor or such other person as the Vice-Chancellor may appoint shall be the chairperson of a meeting of the Convocation.

(7) There shall be no quorum for meetings of the Convocation.

(8) The Convocation may deal with any matter relating to the University referred to it by the Council, Senate or its membership and express its opinion thereon.

(9) Opinions and resolutions of the Convocation shall not bind the University.

(10) The Registrar shall act as Secretary to the Convocation.

(11) Subject to this Act and the Statutes, the Convocation shall regulate its own procedure.

Common seal of the Council

17.—(1) The common seal of the Council shall be kept in such custody as the Council directs, and shall not be used except upon the order of the Council.

(2) All courts and other persons acting in a judicial capacity shall take judicial notice of the common seal of the Council affixed to any document and shall presume, unless otherwise proven, that it was duly affixed.

(3) The common seal of the Council shall be authenticated by signatures of two members of the Council or, alternatively, by signatures of one such member and the Registrar or of some other person nominated in that behalf by the Council.

PART IV—OFFICERS OF THE UNIVERSITY

Chancellor

18.—(1) There shall be a Chancellor of the University who shall be the titular head of the University.

(2) The President shall, unless he decides to appoint another person, be the Chancellor of the University.

(3) Where the President decides to appoint another person under subsection (2), he shall, in consultation with the Council, appoint a suitably qualified person who has distinguished himself to be Chancellor of the University.

(4) A person shall not be appointed to the office of Chancellor under subsection (3) unless he—

(*a*) holds at least a masters degree from an institution accredited or recognized under the National Council for Higher Education Act; Cap. 30:12

(*b*) has held a constitutional office or a senior position in an academic institution; and

(*c*) has attained recognition in his profession or office.

(5) A person appointed to the office of Chancellor of the University under subsection (3) shall hold office for a period of five years and may be re-appointed for one further term.

(6) Provisions of paragraphs (*a*), (*b*), (*c*), (*d*), (*f*), (*g*), (*h*), (*i*), (*j*), (*l*) and (*m*) of Section 10 (1) of this Act shall apply, with the necessary modifications, to the removal of a Chancellor from office.

(7) A Chancellor shall not be removed from office under subsection (6) except after being given an opportunity to be heard.

Functions and duties of the Chancellor

19.—(1) The Chancellor shall—

(*a*) whenever present, preside at all ceremonial and other congregations of the University and shall, in the name of the University, confer degrees, diplomas, certificates and other awards of the University; and

(*b*) from time to time, give advice to the Council which he considers necessary for the betterment of the University.

(2) The Chancellor shall exercise such other powers and perform

such functions and duties and enjoy such privileges as are conferred upon him, from time to time, by the Statutes.

Vice-Chancellor

20.—(1) There shall be a Vice-Chancellor of the University, who shall be the Chief Executive Officer of the University.

(2) A person shall not be appointed Vice-Chancellor unless he—

(*a*) possesses a minimum of a doctorate degree from an institution accredited or recognized under the National Council for Higher Education Act; Cap 30:12

(*b*) has experience of at least ten years in a senior management position in an academic institution; and

(*c*) has demonstrated leadership and management skills.

(3) A Vice-Chancellor shall be appointed by the Council after considering recommendations, in writing, on the suitability of various candidates submitted to the Council by a committee of seven members appointed by the Council for that purpose and consisting of—

(*a*) the Vice-Chairperson of the Council, who shall be chairperson of the Committee; and

(*b*) six members of the Council, one of whom shall be a member of Senate.

(4) The appointment of a Vice-Chancellor shall be subject to the approval of the Chancellor.

(5) A Vice-Chancellor shall hold office for a period of five years on such terms and conditions as may, from time to time, be prescribed by or under this Act.

(6) A Vice-Chancellor shall, subject to satisfactory performance, be eligible for re-appointment for one further term.

(7) A Vice-Chancellor may be removed from office on any of the following grounds—

(*a*) incompetence;

(*b*) failure to declare a conflict of interest relating to any matter under consideration by his office or the Council;

(*c*) involvement in active politics;

(*d*) conducting himself in a manner that is inconsistent with the status of his office or that brings the University into disrepute; or

(*e*) incapacity to perform his duties by reason of mental or physical illness.

(8) A Vice-Chancellor shall not be removed from office on

grounds set out in subsection (7) except after being given an opportunity to be heard.

Deputy Vice-Chancellor

21.—(1) There shall be a Deputy Vice-Chancellor of the University who shall assist the Vice-Chancellor in the performance of his functions.

(2) The Deputy Vice-Chancellor shall be under the immediate supervision of the Vice-Chancellor.

(3) The Deputy Vice-Chancellor shall perform such functions and exercise such powers as are assigned to the office by this Act, the Statutes, the Council, or as delegated by the Vice-Chancellor, from time to time.

(4) The provisions of subsections (2), (3), (4), (5), (6), (7) and (8) of section 20 of this Act shall apply, with the necessary modifications, to the appointment, term of office and removal from office of the Deputy Vice-Chancellor.

Registrar

22.—(1) There shall be a Registrar of the University appointed by the Council who shall be the head of administration of the University.

(2) The Registrar shall exercise such powers and perform such duties in relation to the administration of the University as are assigned to him by this Act, the Statutes, the Council or as are delegated to him, from time to time, by the Vice-Chancellor.

(3) The Registrar shall be under the immediate supervision of the Vice-Chancellor.

(4) A Registrar shall hold office for a period of five years on such terms and conditions as may, from time to time, be prescribed by or under this Act.

(5) A Registrar shall, subject to satisfactory performance, be eligible for re-appointment for one further term.

(6) The provisions of subsections (7) and (8) of section 20 of this Act shall apply, with the necessary modifications, to the removal from office of a Registrar.

Director of Finance and Investments

23.—(1) There shall be a Director of Finance and Investments of the University who shall be appointed by the Council and, shall be in charge of the finances and investments of the University.

(2) The Director of Finance and Investments shall exercise such powers and perform such duties as are assigned to him under this Act, the Council or as are delegated to him, from time to time, by the Vice-Chancellor.

(3) The Director of Finance and Investments shall be under the immediate supervision of the Vice-Chancellor.

(4) The Director of Finance and Investments shall hold office for a period of five years on such terms and conditions as may, from time to time, be prescribed by or under this Act.

(5) The Director of Finance and Investments shall, subject to satisfactory performance, be eligible for re-appointment for one further term.

(6) The provisions of subsections (7) and (8) of section 20 of this Act shall apply, with the necessary modifications, to the removal from office of a Director of Finance and Investments.

Librarian

24.—(1) There shall be a Librarian of the University who shall be appointed by the Council and, shall be the principal officer in-charge of the University Library.

(2) The Librarian shall exercise such powers and perform such duties as are assigned to him under this Act, the Statutes, by the Council or as delegated to him, from time to time, by the Vice-Chancellor.

(3) The Librarian shall be under the immediate supervision of the Deputy Vice-Chancellor.

(4) The terms and conditions of employment of the Librarian shall, subject to this Act and the Statutes, be as determined, from time to time, by the Council.

Director of Student Affairs

25.—(1) There shall be a Director of Student Affairs who shall be appointed by the Council and, shall be responsible for students' psycho-social support services.

(2) The Director of Student Affairs shall exercise such powers and perform such duties as are assigned to him under this Act, by the Council or as are delegated to him, from time to time, by the Vice-Chancellor.

(3) The Director of Student Affairs shall be under the immediate supervision of the Vice-Chancellor.

(4) Subject to this Act or an order of a court, the Director of Student Affairs shall maintain strict confidence of all matters brought to him by students.

(5) The Director of Student Affairs shall expeditiously investigate any complaint against a member of staff lodged with his office by a student:

Provided that a member of staff against whom the complaint has

been lodged shall be afforded a right to be heard.

(6) Where an investigation conducted under subsection (5) discloses a malpractice or disciplinary offence against the member of staff, the Director of Student Affairs shall immediately report the matter to the Vice-Chancellor.

(7) Where the Vice-Chancellor receives a report under subsection (6) he shall, within seven days, commence disciplinary action against the member of staff in accordance with the Statutes or the conditions of service.

(8) The Director of Student Affairs shall hold office for a period of five years on such terms and conditions as may, from time to time, be prescribed by or under this Act or the Statutes.

(9) The Director of Student Affairs shall, subject to satisfactory performance, be eligible for re-appointment for one further term.

(10) The provisions of subsections (7) and (8) of section 20 of this Act shall apply, with the necessary modifications, to the removal from office of a Director of Student Affairs.

Other staff of the University

26. The Council shall employ such other staff as it considers necessary for the efficient discharge of the functions of the University.

PART V—THE SENATE

Establishment and composition of Senate

27.—(1) There is hereby established a Senate of the University which shall, subject to this Act, be the supreme decision making body on academic matters of the University and shall consist of the following members—

(*a*) the Vice-Chancellor, who shall be the chairperson;

(*b*) the Deputy Vice-Chancellor;

(*c*) all Executive Deans;

(*d*) the Librarian;

(*e*) one member from each school elected in accordance with the relevant Statutes, from and by the full-time academic staff holding posts allocated to the school and appointed by the Vice-Chancellor;

(*f*) one female member and one male member nominated by the Students Representative Council of the University, one of whom shall be a postgraduate student, and appointed by the Vice-Chancellor, who shall attend meetings by invitation, based on the nature of business to be transacted;

(*g*) Directors of Centres and Institutes of the University as prescribed by the Statutes;

(*h*) one professor or senior member of the academic staff from each school appointed by the Vice-Chancellor;

(*i*) two professors or senior members of the academic staff from other public universities, appointed by the Vice-Chancellor; and

(*j*) such other members, not exceeding three, as may be co-opted by the Senate, from time to time, on such terms and conditions as the Senate may determine.

(2) Members appointed under paragraphs (*e*) and (*h*) of subsection (1) shall hold office for a term of three years and shall serve a maximum of two consecutive terms at a time.

(3) A member appointed under paragraph (*e*) or (*h*) of subsection (1) shall cease to hold office in that capacity upon—

(*a*) becoming an *ex-officio* member of the Senate;

(*b*) resignation from the Senate;

(*c*) resignation, retirement or dismissal from the full-time academic employment of the University;

(*d*) the post he holds as academic staff being re-allocated to another School; or

(*e*) transferring from the School he was representing on the senate to another School.

(4) A member appointed under paragraph (i) of subsection (1) shall hold office for a term of three years.

(5) The Registrar shall serve as Secretary to the Senate.

Functions and powers of the Senate

28.—(1) The Senate shall exercise such powers and perform such functions as are prescribed by this Act or the Statutes and, without prejudice to the generality of the foregoing, the functions and powers shall include the following—

(*a*) to approve academic programmes of the University;

(*b*) to make recommendations to the Council on matters affecting the academic policy and programmes of the University;

(*c*) to review the academic work of the University and report thereon to the Council;

(*d*) to make rules governing such matters as are within its powers;

(*e*) to make recommendations to the Council on fees to be charged to students of the University;

(*f*) to make recommendations to the Council on admission of students into the University;

(*g*) to recommend to the Council individuals to be awarded honorary degrees and other distinctions;

(*h*) to recommend to the Council the adoption, amendment or alteration of Statutes relating to academic administration or any other action in respect of academic matters of the University;

(*i*) to recommend to the Council the establishment or discontinuance of a School, centre, institute or such other academic department or section of the University in accordance with this Act;

(*j*) to take such steps as it deems appropriate for furthering the objects and interests of the University including making provision for teaching and research, printing and publication of research and other works which may be issued by the University;

(*k*) to develop, implement and monitor a quality assurance system for the University; and

(*l*) to make provision for and award scholarships, prizes, grants and other payments to students of the University.

(2) The Senate may establish committees consisting of its members and such other members as the Senate shall determine fit to co-opt into the committees to deal with such matters as the Senate may specify.

Meetings of the Senate

29.—(1) The Senate shall convene and hold meetings in accordance with the relevant provisions of the Statutes.

(2) Two thirds of the members of the Senate shall constitute a quorum.

(3) The Senate may invite any person to attend any particular meeting or series of meetings for the purpose of assisting or advising the Senate in respect of any matter under consideration.

(4) A person invited to attend a Senate meeting pursuant to subsection (3) shall take part in the deliberations of the meeting which he attends but shall not be eligible to vote.

(5) The provisions of section 15 of this Act shall apply, with the necessary modifications, to members of the Senate and any person invited to attend a meeting of the Senate or a committee of the Senate.

(6) Subject to this Act and the Statutes, the Senate shall regulate its own procedure.

PART VI—SCHOOLS, CENTRES AND INSTITUTES

Schools, centres and institutes

30. There shall be, within the University, such Schools, centres and institutes, as the Council may, on the recommendation of the Senate, establish.

Executive Deans

31.—(1) There shall be an Executive Dean of each School who shall be the head of that School and shall, under the general direction of the Deputy Vice-Chancellor, exercise such powers and perform such functions as are prescribed by the Statutes or determined by the Senate.

(2) The Executive Dean shall be appointed by the Council in accordance with the relevant Statute and shall hold office for a term of three years.

(3) The Executive Dean shall, subject to satisfactory performance, serve a maximum of two consecutive terms at a time.

(4) The Executive Dean may, by thirty days' notice in writing to the Council, resign his post but such resignation, unless expressly so stated, shall not entail his resignation from any other academic post which he holds in the University.

Composition of school

32. Each School shall consist of—

(*a*) the Executive Dean of that School;

(*b*) all members of the full-time and part-time academic staff holding posts allocated to that school; and

(*c*) such other members of the full-time or part-time academic staff of the University as may be co-opted by that school as associate members for such period and on such terms as that school may, in each case, determine.

School Boards

33.—(1) There shall be a School Board for each school of the University.

(2) Each School Board shall consist of —

(*a*) the Executive Dean of the school, who shall be chairperson of the Board;

(*b*) Heads of Academic Department in the School;

(*c*) two students, one female and one male, in the school elected by students taking courses in the School;

(*d*) two members from relevant industries and professions related to courses offered in the School; and

(*e*) such other members of the academic staff of the University as may be co-opted by the Board as associate members for such period and on such terms as the Board may determine.

(3) The School Board shall be responsible for planning, management and review of programmes and activities of the school including relations with the University, community, industry and the general public.

(4) The School Board may, from time to time, establish advisory committees to assist the Board in the development of relevant programmes.

(5) Associate members shall have the right to attend all meetings of the School Board by which they have been co-opted, and to take part in its deliberations, but shall not be eligible to vote.

Academic Departments

34.—(1) There shall be, within each school, such Academic Departments as may be approved by Senate.

(2) An Academic Department shall be headed by a Head of Academic Department who shall be appointed by the Vice-Chancellor in accordance with the relevant Statute.

(3) A Head of Academic Department shall hold office for a term of three years and shall, subject to satisfactory performance, serve a maximum of two consecutive terms at a time.

(4) A Head of Academic Department shall be under the supervision of the Executive Dean of the school to which the Academic Department is assigned and shall exercise such powers and perform such functions as may, from time to time, be prescribed by the Statutes or determined by the Senate.

(5) A Head of Academic Department may, by thirty days' notice in writing to the Vice-Chancellor, and submitted through the Executive Dean, resign from his post as Head of Academic Department, but such resignation, unless expressly so stated, shall not entail his resignation from any other academic post which he holds in the University.

Composition of Academic Departments

35.—(1) Each Academic Department shall consist of—

(*a*) the Head of Academic Department;

(*b*) all members of the full-time and part-time academic staff holding posts allocated to that Academic Department; and

(*c*) such other members of the full-time or part-time staff of the University as may be co-opted by that Academic Department as associate members for a specified period.

(2) An Associate member shall attend any meeting of the Academic Department and take part in its deliberations but shall not be eligible to vote.

PART VII—FINANCIAL PROVISIONS

Funds and property of the University

36.— (1) The funds and property of the University shall consist of—

(*a*) such sums as may, from time to time, be payable to the University from moneys appropriated by Parliament;

(*b*) such sums of money or other property, real or personal, as may be acquired, purchased or received by or transferred to the University, whether by way of gift, devise, bequest, purchase or otherwise;

(*c*) such sums of money or other property, real or personal, as may accrue to the University in the exercise of its powers or the performance of its functions under this Act;

(*d*) such sums of money or other property, real or personal, as may accrue to or be received by the University by way of fees, grants, subsidies, contributions, donations, subscriptions, rents, interest or royalties from the Government or any person;

(*e*) such sums of money or other property, real or personal, as may be donated to the University by any foreign Government or any organisation or person situate or resident outside Malawi; and

(*f*) such sums of money as may accrue to the University from any trust established by the University.

(2) Where, under the terms of any written instrument, any right, title or interest in real or personal property is expressed to be disposed, granted or conveyed to the University, the said instrument shall, subject to law, have effect as a disposition, grant or conveyance of such property to the Council and shall vest such property in the Council to the extent of the right, title or interest therein expressed to be so disposed, granted or conveyed.

(3) The property of the University shall be payable to, vested in, held, managed and controlled by the Council, in accordance with this Act.

Audit of accounts

37.—(1) The Council shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the University.

(2) The accounts of the University shall be audited at the end of each financial year by an independent external auditor appointed by the Council, in accordance with the Statutes.

(3) The Council shall pay, in respect of any audit held under this Part, such fees, costs and expenses as may be appropriate.

(4) The auditor may require the production of all books, deeds,

contracts, vouchers, receipts and other documents relating to the accounts or investments of the University which he considers necessary for the purpose of the audit, and he may summon in writing all such persons, having knowledge of the affairs of the University, as he may think proper, to appear before him at a time to be fixed in the summons, for examination in connection with any document or matter relating to the audit.

Cap. 37:01

(5) Offences and penalties under the Public Audit Act shall apply, with the necessary modifications, to audits carried out under this section.

(6) A conviction under subsection (5) shall not operate to exempt the person so convicted from the liability to do or perform the act, matter or thing required of him.

(7) On completion of the audit, the auditor shall report, in writing, to the Council about the audit generally and on such specific matters in relation thereto as the Council may direct.

(8). The Council shall consider the report of the auditor within three months from the date of receipt thereof.

Accounts and funds

38.— (1) All moneys of the University shall be held in the name of the Council and shall be paid into any one of the following accounts—

(*a*) the Development Endowment Fund;

(*b*) the special account;

(*c*) the capital account;

(*d*) the revenue account; and

(*e*) such other accounts as the Council may establish in respect of any trust the Council may, in exercise of its powers under this Act, establish.

(2) There shall be paid into the Development Endowment Fund all moneys that are received by the Council and declared specifically to be payable into that Fund.

(3) The Council shall pay into the revenue account all proceeds received from the investment of the moneys of the Development Endowment Fund.

(4) There shall be paid into the special account all moneys that are donated to and received by the Council for special purposes which are not payable into the Development Endowment Fund or any other account.

(5) The capital moneys and the interest therefrom, of the special account, shall be used and applied for the special purposes for which the moneys were donated and in accordance with the conditions of such donation:

Provided that the Council shall not be obliged to accept a donation for a particular purpose unless it approves of the terms and conditions attached to such donation.

(6) There shall be paid into the capital account all the moneys that are received by the Council for the purpose of capital expenditure.

(7) The capital moneys and the interest therefrom, of the capital account, shall be used and applied by the Council on capital expenditure for the construction and improvement of the University.

(8) There shall be paid into the revenue account—

(*a*) the interest received from the investment of the moneys in the Development Endowment Fund;

(*b*) all fees, charges, dues and other amounts payable by or in respect of students;

(*c*) all revenue grants made by the Government of Malawi or any other Government or any person, organization or trust of the University to the Council for the purposes of the University;

(*d*) all sums transferred under this Act from the Development Endowment Fund or any other account to the revenue account; and

(*e*) all other sums received by the Council and not payable into the Development Endowment Fund or any other account.

(9) The moneys in the revenue account shall be used and applied by the Council for the management and operation of the University in such manner and for such purposes as, in the opinion of the Council, are best suited to promote the interests of the University.

Borrowing
Cap 37:02

39. Subject to the provisions of this Act and the Public Finance Management Act, the Council may borrow, either by way of overdraft from a bank or otherwise, such sums as it may, from time to time, require for the carrying out of its functions and powers.

Compliance with finance related Acts
Cap 37:02
Cap 37:01
Cap 37:03

40. On financial matters, the Council shall at all times comply with the provisions of the Public Audit Act, the Public Finance Management Act and the Public Procurement and Disposal of Public Assets Act.

PART VIII—MISCELLANEOUS

Statutes

41.—(1) Subject to this Act, the Minister shall, on recommendation of the Council, prescribe Statutes for the proper governance and efficient administration of the University.

(2) Without prejudice to the generality of the foregoing, the Statutes may make provision for—

(*a*) any matter which is required by this Act to be prescribed by Statute;

(*b*) the creation of permanent committees of the Council or the Senate, as the case may be, the membership of such committees, and the powers, functions or duties to be delegated thereto;

(*c*) the functions, duties and term of office of any officer of the University or member of the academic or administrative staff, to the extent that such functions or duties or term of office are not prescribed by this Act;

(*d*) the creation of new offices and posts within the University, the functions and duties attaching to such offices and posts, the duration thereof, and the manner of appointment thereto; and

(*e*) such other matters, including matters of procedure and discipline, as may be deemed expedient or proper by the Council for regulation by Statute.

(4) The Council shall develop and, by special resolution, adopt proposed Statutes for the University.

(5) Upon adoption of the proposed Statutes by the Council under subsection (4), the Vice-Chancellor shall, as soon as is practicable thereafter, submit to the Minister a certified copy of the proposed Statutes for approval.

(6) Where the Minister does not approve the proposed Statutes, he shall notify the Council, in writing, giving reasons for his decision.

(7) Where the Minister approves the proposed Statutes, he shall cause the Statutes to be published in the *Gazette*.

(8) For the purposes of this section, the expression "special resolution" means a resolution—

(*a*) notice of which has been given to each member of the Council, not less than thirty days before the date of the meeting at which it is intended to be moved;

(*b*) which is moved at a meeting of the Council with not less than two thirds of the total membership of the Council being present at the time such resolution is moved and voted upon; and

(*c*) which is passed by a majority of not less than two-thirds of the members of the Council present at such meeting.

Amendment of Statutes

42.—(1) The Statutes may be amended, from time to time, in accordance with this section.

(2) The provisions of subsections (4), (5), (6), (7) and (8) of section 41 of this Act shall apply, with the necessary modifications, to the amendment of the Statutes.

Senate Regulations

43.—(1) Subject to this Act and the approval of the Council, the Senate may, for the better carrying out of its functions and powers under this Act, make Senate Regulations by notice published as provided in subsection (3).

(2) Without prejudice to the generality of the foregoing, Senate Regulations may provide for—

(*a*) matters relating to teaching and learning within the University, or to the teaching of any specified subject, periodic reports from academic staff on the progress of students in any subject, school and other like matters;

(*b*) schemes of study or research and the conditions under which persons may be permitted to embark upon or to continue any such schemes;

(*c*) a research grant system to support academic, individual and joint research undertakings;

(*d*) the award of degrees, diplomas or other academic honours and distinctions including honorary degrees and distinctions;

(*e*) the conduct and supervision of examinations;

(*f*) the engagement and payment of external examiners;

(*g*) dealing with general academic disciplinary matters;

(*h*) dealing with research and development linkages with the industry and other institutions; and

(*i*) matters relating to activities and progress of centres and institutes.

(3) Any notice made pursuant to subsection (1) shall be published by the Registrar by causing copies thereof to be posted for not less than seven days—

(*a*) in a prominent place outside his office;

(*b*) on notice boards provided for such purpose in public places of the University; and

(*c*) on the official website of the University.

Disclosure of conflict of interest by staff

44.—(1) Where a member of staff of the University or his close relative has any direct or indirect interest in relation to any matter under—

(*a*) his consideration, he shall, as soon as practicable, disclose such interest to his immediate supervisor and shall recuse himself from the decision making process; or

(*b*) consideration by the Council, a committee of the Council or any other committee of the University, the provisions of section 15 of this Act shall apply, with the necessary modifications.

(2) Where a member of staff of the University fails to comply with provisions of subsection (1), he shall be subject to disciplinary action as provided under the Statutes and the decision made shall, to the extent that it benefits that member of staff or his close relative, be null and void.

Confidentiality

45.—(1) A member of the Council, committee of the Council, Senate or employee of the University shall not publish or disclose to any person or entity, other than in the course of duty, the contents of any document, communication or information which has come to the member's or employee's knowledge in the course of performing his duties.

(2) A member of the Council, committee of the Council, Senate or employee of the University who holds confidential information, obtained directly or indirectly from any source, shall not publish or disclose such information to any person or entity, other than in the course of duty.

(3) A person who contravenes subsection (1) or (2) shall be subject to disciplinary action as provided under this Act or the Statutes.

Dispute resolution

46.—(1) Where there is a dispute between the University and a member of staff or a student, the parties shall endeavour to resolve the dispute through negotiation or mediation.

(2) The Minister shall prescribe the rules for conducting negotiations or mediation with respect to disputes referred to under subsection (1).

(3) A dispute referred to negotiation or mediation under subsection (1) shall be resolved within fifteen days.

(4) Where the parties fail to resolve the dispute through negotiation or mediation, either party to the dispute may apply to the High Court for the resolution of the dispute.

Service of process and other documents on the Council

47. A summons or other process, notice or document shall be served upon the Council by serving the same upon the Registrar.

PART IX—TRANSITIONAL PROVISIONS

Savings

48.—(1) Any person who immediately before the commencement of this Act is registered as a student with the Polytechnic under the University of Malawi Act, repealed by the University of Malawi Act, 2019, or under any programme jointly run by the Polytechnic and any one of the colleges under the repealed Act, shall continue to be a student registered with the University of Malawi, notwithstanding the said repeal.

(2) A programme or course existing or subsisting at the commencement of this Act with respect to students referred to in sub-section (1) shall continue on the terms and conditions subsisting before the commencement of this Act.

(3) Any act done, power exercised or right acquired by or on behalf of the Polytechnic under the repealed Act shall be deemed to have been done, exercised or acquired under this Act.

(4) Any Statute or Regulation made under the repealed University of Malawi Act in force immediately before the commencement of this Act—

(*a*) shall remain in force, unless in conflict with this Act, and shall be deemed to be a Statute or Regulation made under this Act; and

(*b*) may be replaced, amended or repealed by a Statute or Regulation made under this Act;

(5) All principal officers holding positions at the Polytechnic of the University of Malawi under the repealed Act, immediately before the commencement of this Act, shall continue to serve in those positions until their replacements are appointed in accordance with this Act.

Transfer of assets and liabilities

49.—(1) All property, assets, funds, liabilities, obligations, agreements and arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by the University of Malawi on behalf of the Polytechnic under the repealed Act shall, on the commencement of this Act, be deemed to have vested in, or to have been acquired, incurred or entered into, by or against the University, and shall be enforceable by or against the University to the same extent as they were enforceable by or against the University of Malawi.

(2) Where the transfer of any property under subsection (1) is required, by any written law, to be registered, the University shall, within one year from the commencement of this Act, or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the University or any person by way of registration fees, stamp or other duties—

(*a*) make such entries in the appropriate register as shall give effect to the transfer;

(*b*) where appropriate, issue to the University, a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and

(*c*) make any necessary endorsement on such deeds or other documents as may be presented on such registering authority relating to the title, right or obligation concerned.

Transfer of employees

50.—(1) Any person who immediately prior to the commencement of this Act is employed by the Polytechnic under the repealed Act shall be deemed to have been employed by the University and shall continue to serve on the same terms and conditions of service and, for purposes of determining his rights and obligations, his service shall be regarded as continuous from the date he was appointed by the University of Malawi.

(2) All employees of the University of Malawi at the University Office under the repealed Act, immediately before the commencement of this Act, who are redeployed to the University shall be deemed to have been employed by the University and shall continue to serve on the same terms and conditions of service and, for purposes of determining their rights and obligations, their service shall be regarded as continuous from the date they were appointed by the University of Malawi.

Transfer of budget estimates

51. Annual budget estimates approved for the Polytechnic under the repealed Act, in respect of the financial year in which this Act comes into operation, shall be the annual estimates of the University for the remainder of the financial year but those estimates may be varied by the Minister responsible for Finance.

Passed in Parliament this fifteenth day of December, two thousand and eighteen.

FIONA KALEMBA
Clerk of Parliament