

The Republic of The Gambia



Ministry of Higher Education, Research, Science & Technology

TERTIARY AND HIGHER EDUCATION ACT, 2016

TERTIARY AND HIGHER EDUCATION ACT, 2016

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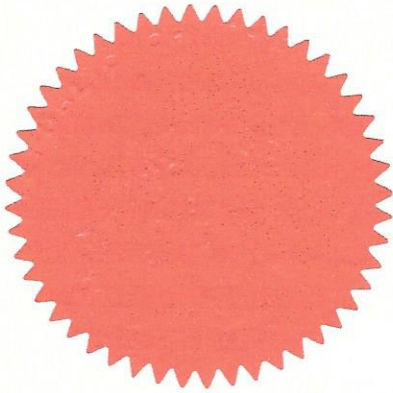
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Tertiary and Higher Education Act, 2016



THE GAMBIA

NO. 08 OF 2016

Assented to by The President,

this 30th day of Dec 2016



YAHYA A. J. J. JAMMEH.

President

AN ACT to provide a statutory framework for tertiary and higher education in The Gambia, to promote access to high quality and relevant tertiary and higher education, and for connected matters.

ENACTED by the President and the National Assembly.

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Tertiary and Higher Education Act, 2016.

2. Interpretation

In this Act, unless the context otherwise requires –

“accreditation” means formal confirmation in writing that a tertiary institution or a higher education institution meets the requirements and standards of academic excellence set by the Authority;

“Authority” means the National Accreditation and Quality Assurance Authority established under the National Accreditation and Quality Assurance Act, 2014;

“Chancellor” for public universities means the President of The Republic of The Gambia;

“classification” means the grouping of tertiary institutions or higher education institutions according to the type of education or programmes that institutions provide or offer;

“constituent college” means a private tertiary institution established or declared as a constituent college of a private university;

“course of study” means the structure for a certificate, diploma, degree or other academic qualification and the subjects of study in the course;

“Director” means the Director of an institute, college or other academic body;

“formal licence” means a licence granted by the Minister under this Act as evidence that a tertiary institution or a higher education institution

meets the requirements and standards of academic excellence set by the Authority;

"functions" includes powers, duties and responsibilities;

"Gazette" means the Gambia Gazette;

"higher education institution" means a university, or a centre of education affiliated to a university other than a tertiary institution;

"letter of interim authority" means the authorisation issued by the Authority to the promoter of a tertiary institution to enable the promoter to mobilise resources for the further development of the proposed tertiary institution;

"Minister" means the Minister responsible for higher education;

"other degree awarding institution" means any public or private institution or centre of higher education other than a university which provides post-secondary education, offers courses of study leading to the award of certificates, diplomas and degrees, conducts research, and publishes the results of its research;

"person" includes an individual, a company, an association and a body of persons corporate or unincorporated;

"President" means the President of the Republic of The Gambia;

"private university" means a university established under this Act which is not owned or operated by the Government and which is maintained out of private funds;

"promoter of a private university" means a person intending or proposing to establish and operate a private university in The Gambia;

"provisional licence" means a licence that the Authority issues to a higher education institution or tertiary institution which permits that institution to function under the observation of the Authority and enables the Authority to assess the institution's prospects for the issue of a formal licence and for accreditation;

"public university" means a university established by the Minister with the approval of National Assembly and which is maintained wholly or partly out of public funds;

"staff" means academic, administrative or support staff of a tertiary institution or a higher education institution;

"tertiary institution" means any public or private institution, school or centre of higher education other than a university which provides post-secondary education, offers courses of study leading to the award of certificates or diplomas, conducts research, and publishes its research findings;

"university" means any institution, school, centre of higher education, other than a tertiary institution which provides post-secondary education, offers courses of study leading to the award of certificates, diplomas and degrees, and conducts research, and publishes its research findings; and

"Vice Chancellor" includes a Rector of a university and he or she is the head of that university.

PART II – ESTABLISHMENT AND FUNCTIONS OF PUBLIC UNIVERSITIES

3. Establishment of a public university

- (1) The Minister may, on the recommendation of the Authority, establish a public university by Order published in the Gazette.
- (2) The Authority shall within thirty days of the coming into force of the Order, register the public university.
- (3) The Authority shall accredit and assure quality standards of public universities.

4. Corporate status

- (1) A public university established under this Act is a body corporate with perpetual succession and a common seal and may –
 - (a) sue and be sued in its corporate name;
 - (b) enter into contracts and acquire, hold and dispose of property;
 - (c) do such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.
- (2) The common seal of a public university shall be such device as may be determined by the Governing Council.
- (3) The application of the common seal of a public university shall be authenticated by the signature of the Vice Chancellor or such other

person as may be authorised by the Vice Chancellor in writing to sign on behalf of the university.

(4) Notwithstanding sub-section (3), for the purpose of conferring degrees, diplomas, certificates and other awards, the common seal of a public university shall be authenticated by the signature of the Chairperson of the Governing Council and either the signature of the Vice Chancellor or the signature of the University Registrar.

(5) A document bearing the imprint of the common seal of a public university is deemed to be properly sealed, unless the contrary is proved.

5. Functions

A public university shall –

- (a) provide higher education,
- (b) promote research, advancement of learning and community service,
- (c) disseminate knowledge to all individuals without discrimination, and
- (d) provide accessible physical facilities to all individuals.

6. Location

A public university may, with the approval of the Minister, establish a branch or a campus of the university in any part of The Gambia or abroad.

7. Student admission

A public university shall admit qualified individuals without discrimination.

PART III – OFFICERS OF A PUBLIC UNIVERSITY

8. The Chancellor

(1) The President is the Chancellor of all public universities in The Gambia.

(2) The Chancellor is the titular head of a public university and he or she shall preside over ceremonial assemblies of the university and confer degrees and other academic awards of that university.

9. The Vice Chancellor

(1) The Chancellor shall appoint a Vice Chancellor from among three candidates presented to the Chancellor by the Governing Council on such terms and conditions as the Governing Council may determine.

(2) The Vice Chancellor shall hold office for five years and shall be eligible for reappointment for one further term.

(3) The Vice Chancellor shall –

(a) be responsible for the day-to-day running of the university;

(b) be the chief accounting officer of the University; and

(c) in the absence of the Chancellor, preside over ceremonial assemblies of the university and confer degrees and other academic awards of the university.

10. The Deputy Vice Chancellor

(1) The Governing Council of a public university shall, on the recommendation of the Appointments Committee of that university, appoint at least one Deputy Vice Chancellor for the university.

(2) A Deputy Vice Chancellor shall hold office for five years and shall be eligible for reappointment for one further term.

(3) Deputy Vice Chancellors shall assist the Vice Chancellor in the performance of the Vice Chancellor's functions.

11. The University Registrar

(1) The Governing Council of a public university shall, on the recommendation of the Appointments Committee of that university, appoint a University Registrar on such terms and conditions as the Governing Council may determine.

(2) The Registrar shall report to a designated Deputy Vice Chancellor.

(3) The Registrar shall assist the designated Deputy Vice Chancellor in the administration and organisation of academic matters, including

undergraduate studies, postgraduate studies, examinations, research and publications.

12. The University Librarian

(1) The Governing Council of a public university shall, on the recommendation of the Appointments Committee of that university, appoint a University Librarian on such terms and conditions as the Governing Council may determine.

(2) The University Librarian shall report to a designated Deputy Vice Chancellor.

(3) The University Librarian shall be responsible for the development, control, management and co-ordination of all library and information services of the University.

PART IV – THE GOVERNING COUNCIL OF A PUBLIC UNIVERSITY

13. Establishment and composition of the Governing Council

A public university shall establish a Governing Council which shall consist of the following members –

(a) a Chairperson;

(b) the Vice Chancellor;

(c) the Governor or Mayor of the region, municipality, city or town in which the public university is situated;

(d) two members appointed by the Minister from the general public –

(i) one member shall be a person with a long standing academic career, and

(ii) the other member shall be a representative of the business community,

one of whom shall be a woman;

(e) a representative of civil society groups;

(f) a representative of the religious community;

(g) the Permanent Secretary of the Ministry responsible for finance or his or her representative;

- (h) the Solicitor General and Legal Secretary or his or her representative;
- (i) the Permanent Secretary of the Ministry responsible for higher education or his or her representative;
- (j) the Permanent Secretary of the Ministry responsible for basic and secondary education or his or her representative;
- (k) the University Registrar, as the Secretary of the Governing Council; and
- (l) the duly elected president of the Students' Union.

14. Appointment, tenure and vacation of office of members, etc.

- (1) A member of the Governing Council, other than an ex-officio member shall be appointed by the President, after consultation with the Public Service Commission.
- (2) A member shall hold office for three years and shall be eligible for reappointment for one further term.
- (3) A member shall vacate his or her office upon –
 - (a) ceasing to be a representative of the particular office or body by virtue of which he or she became a member of the Governing Council;
 - (b) resigning from his or her office;
 - (c) being adjudged bankrupt or of unsound mind; or
 - (d) being convicted for a felony or for an offence involving dishonesty or moral turpitude.
- (4) The Governing Council may perform its functions and exercise its powers notwithstanding any vacancy in its membership.

15. The Chairperson of the Governing Council

- (1) The President shall appoint the Chairperson of the Governing Council on the recommendation of the Minister.
- (2) Whenever the office of Chairperson is vacant or the Chairperson is absent for any cause, the Vice Chairperson shall perform the functions of the Chairperson.

(3) In the absence of both the Chairperson and the Vice Chairperson, the Governing Council shall, in the interim, select another member of the Council, who is not an employee of the University or a public service employee, to act as Chairperson.

(4) The Vice Chancellor in consultation with the Chairperson shall –

- (a) keep the Chancellor fully informed about the general conduct of the affairs of the University; and
- (b) furnish the Chancellor with such information as the Chancellor may require on any particular matter relating to the affairs of the University.

16. Functions of the Governing Council

(1) The Governing Council is the supreme organ of a public university and in particular shall –

- (a) formulate and review policies and provide general guidance of the university;
- (b) receive gifts, donations, grants and other monies from lawful sources on behalf of the university;
- (c) fix the scales of fees and boarding charges for students;
- (d) approve proposals for the establishment of schools, faculties, constituent colleges, departments and boards, and courses of study;
- (e) provide for the welfare and discipline of students;
- (f) approve the university's budget proposals;
- (g) approve the university's final accounts; and
- (h) approve the appointments of Deans and Deputy Deans of schools and faculties, and other senior officers of the university, the appointments of which this Act has assigned to the Governing Council.

(2) The Governing Council may make regulations in respect to the functions, procedures and conduct of business of a Governing Council.

17. Meetings of the Governing Council

(1) The Governing Council shall hold ordinary meetings at least once in every quarter, at such times and at such places as it may determine for the transaction of its business.

(2) The Chairperson may at any time convene an extraordinary meeting of the Governing Council if requested in writing by at least one third of all the members of the Governing Council.

(3) The quorum for a meeting of the Governing Council shall be two-thirds of the members of the Council.

(4) The Governing Council shall take decisions by a simple majority of the members present and voting.

(5) Notwithstanding sub-section (4), at any meeting where an annual budget is being approved the decision shall be taken by a majority of two thirds of the members.

(6) The validity of the proceedings, acts or decisions of the Governing Council shall not be affected by –

(a) a vacancy in the membership of the Governing Council;

(b) a defect in the appointment of any member; or

(c) the fact that any person not entitled to do so took part in the proceedings.

(7) The members of the Governing Council shall be paid such allowances as the Minister in consultation with the Minister responsible for finance may determine.

18. Committees of the Governing Council

(1) The Governing Council may –

(a) establish a Committee consisting of such number of its members as it may deem necessary;

(b) appoint one of the members of a Committee to be the Chairperson of that Committee; and

(c) co-opt any person, not being a member of the Governing Council, on any Committee of the Governing Council.

(2) The Governing Council may, subject to such limitations as it may deem fit, delegate any of its functions to any Committee, except for the power to approve the budget or the final accounts of the university.

(3) The Governing Council may authorise any of its Committees to act with any other Committee appointed by the University Senate.

(4) In the absence of a Chairperson of a Committee, the members present and constituting a quorum shall select a person from among their number to preside over the meeting.

(5) A Committee shall regulate its own procedure.

PART V – THE SENATE AND OTHER ACADEMIC BODIES OF A PUBLIC UNIVERSITY

19. The University Senate

(1) A public university shall establish a Senate, which shall consist of the following members –

(a) the Vice Chancellor as Chairperson;

(b) one Deputy Vice Chancellor;

(c) the University Registrar;

(d) the Deans of schools or faculties;

(e) one representative of each constituent college, if any;

(f) all professors;

(g) such number of associate professors from each school or faculty of the university as the Governing Council may determine;

(h) the University Librarian; and

(i) the duly elected vice-president of the Students' Union.

(2) The Vice Chancellor shall preside at meetings of the Senate and in his or her absence the Deputy Vice Chancellor shall preside.

(3) The University Registrar shall be the Secretary to the Senate.

20. Functions of the Senate

(1) The Senate shall in particular –

- (a) supervise and control academic matters of the university, including teaching, research and the general standards of education in the university;
- (b) develop the academic policy of the university;
- (c) advise the Governing Council on the required facilities to implement the policy;
- (d) determine the method of teaching of any programme offered by the university;
- (e) determine the structure of any degree, diploma or certificate course of the university;
- (f) advise the Governing Council regarding the eligibility and qualifications of persons for admission to courses leading to the award of a degree, a diploma, a certificate or other award of the university;
- (g) make rules regarding the content and academic standard of any course of study in respect of a degree, a diploma, a certificate or other award of the university;
- (h) make rules regarding the standard of proficiency to be attained in any examination for a degree, a diploma, a certificate or other award of the university;
- (i) award a degree, a diploma, a certificate or such other award as it may deem appropriate for a course of study;
- (j) advise the Governing Council on the promotion, coordination, supervision and control of research in the university; and
- (k) consider and report to the Governing Council any matter connected with the academic work of the university.

(2) The Senate may withdraw or revoke a degree, a diploma, a certificate or other award if the award is found to have been obtained through fraud.

(3) A person whose degree, diploma, certificate or other award has been withdrawn or revoked by the Senate may appeal to the Governing Council against the decision of the Senate.

(4) The Senate may delegate such of its functions to a school or faculty as the Senate may deem fit.

21. Meetings of the Senate

(1) The Senate shall hold meetings at least three times in an academic year, at such times and at such places as the Chairperson may determine.

(2) The quorum for a meeting of the Senate shall be two-thirds of the members of the Senate.

(3) The Senate shall regulate its own procedure.

22. Conferment of honorary degrees

(1) The Senate may confer an honorary degree on a person who has excelled in any field of human endeavour.

(2) An honorary degree may be conferred on the recommendation of an honorary degrees committee established jointly by the Senate and the Governing Council.

23. Boards of schools, faculties, institutes, colleges, etc.

A school, faculty, institute, college, or other similar body may establish a Board, which shall consist of the following members—

- (a) the Dean or the Director, who shall be the Chairperson;
- (b) the Deputy Dean or Deputy Director;
- (c) the Heads of Departments;
- (d) a representative of the teaching staff; and
- (e) such other persons as the Senate may deem fit.

24. Functions of Boards

A Board shall recommend for adoption by the Senate, proposals to regulate —

- (a) the admission and attendance of students;
- (b) the system of courses and lectures;

- (c) the methodology and curricula to be followed taking into account the policy guidelines given by the Governing Council;
- (d) the procedure and dates of examinations; and
- (e) the promotion of teaching, research and writing of papers.

25. Meetings of Boards

- (1) A Board shall hold meetings at least twice in a semester or term of the academic year, at such time and such place as the Dean or Director shall determine.
- (2) A decision of the Board on any matter shall be taken by a simple majority of the members present and voting at a meeting
- (3) A Board shall, with the approval of the Senate, determine its own procedure.

26. Appointments Committee

- (1) The Governing Council shall establish an Appointments Committee, which shall consist of five members.
- (2) The Appointments Committee shall advise the Governing Council on the appointment, promotion, discipline and removal from service of all officers and staff of the academic and administrative service of the university.
- (3) The Appointments Committee may invite any individual to give technical advice at a meeting of the Board.

27. Establishment of departments

- (1) The Governing Council, on the recommendation of the Senate, may establish such departments for the various programmes of study of a school, faculty, institute, college or other academic body as the Governing Council may determine.
- (2) A department may establish a board, which shall comprise the academic staff of the department.
- (3) The board of a department shall, with the approval of the Board of the school, faculty, institute, college or other body determine its own procedure.

(4) A department shall, subject to the direction of the school, faculty, institute, college or other academic body –

- (a) deal with its own academic and administrative matters;
- (b) propose study plans and academic decisions to the Dean or Director of the school, faculty, institute, college or other academic body for approval; and
- (c) assign its members to particular courses, lectures, seminars and workshops.

PART VI – STAFF OF A PUBLIC UNIVERSITY

28. Categories of staff

(1) The staff of a public university shall comprise academic, administrative and support staff.

(2) The academic staff shall comprise –

- (a) the Deans of schools or faculties;
- (b) the Directors of institutes, college or other academic bodies;
- (c) the Professors, Associate Professors, Senior Lecturers, Lecturers and Assistant Lecturers appointed by the university on a full-time basis for teaching and research;
- (d) the University Librarian; and
- (e) such other persons as the Governing Council may designate as academic members of staff.

(3) The administrative staff shall consist of persons employed by the university, other than the academic staff, who hold administrative, professional or technical senior posts established by the Governing Council for the effective and efficient management of the university.

(4) The support staff shall consist of persons employed by the university who are not members of the academic staff or the administrative staff.

29. Appointment of staff

(1) Except for the Vice Chancellor, the Appointments Committee shall appoint academic, administrative and support staff on terms and conditions as may be determined by the Governing Council.

(2) All members of staff shall be subject to the general supervision and control of the Governing Council through the immediate relevant authority and shall be deemed to be on full-time service.

(3) Notwithstanding sub-section 2, the Appointments Committee may appoint adjunct lecturers on such terms and conditions as may be determined by the Governing Council.

30. Deans and Directors

(1) The academic staff of a school, a faculty, an institute, a college or other academic body shall elect a Dean or a Director in accordance with procedures proposed by the Senate and approved by the Governing Council.

(2) The minimum requirement for the post of Dean shall be the rank of an Assistant Professor.

(3) In the case of –

(a) a school or a faculty that has been newly established, the Vice Chancellor shall appoint an Acting Dean, who shall hold office for not more than one year after which a substantive Dean shall be appointed in accordance with sub-section (1); and

(b) an institute, a college or other academic body that has been newly established, the Vice Chancellor shall appoint an Acting Director, who shall hold office for not more than one year after which a substantive Director shall be appointed in accordance with sub-section (1).

(4) A Dean or a Director shall hold office for four years and shall be eligible for re-election for one further term.

(5) A Dean or a Director shall –

(a) supervise and administer the affairs of his or her institution; and

(b) promote and maintain efficient teaching and research within the institution.

(6) The Appointments Committee may, on the recommendation of two-thirds majority of the academic staff of an institution submitted through the Vice Chancellor, remove from office a Dean or a Director.

31. Heads of Departments

(1) The Appointments Committee shall, on the recommendation of the academic staff of an institute, a college or other academic body, appoint a fit and proper person as a Head of Department in that institution.

(2) In the case of a Department that has been newly established, the Vice Chancellor shall appoint an acting Head of Department, who shall hold office for not more than one year after which a Head of Department shall be elected in accordance with sub-section (1).

(3) The minimum requirement for election to the post of Head of Department shall be the rank of Senior Lecturer.

(4) A Head of Department shall hold office for three years and shall be eligible for re-election for one further term.

(5) The Appointments Committee may, on the recommendation of two-thirds majority of the academic staff of an institution submitted through the Vice Chancellor, remove from office a Head of Department.

32. Grounds for removal of university officers

(1) A person holding the office of Vice Chancellor, Deputy Vice Chancellor, Dean, Head of Department or Director may be removed from office only for inability to perform the functions of his or her office (whether from infirmity of mind or body or from any other cause) or for misconduct or incompetence.

(2) A person holding an office other than those mentioned in sub-section (1) may be removed from office for inability to perform the functions of his or her office (whether from infirmity of mind or body or from any other cause) or for misconduct or incompetence.

33. The University Staff Tribunal

(1) The Governing Council of a public university shall establish a University Staff Tribunal, which shall comprise –

(a) a Principal Magistrate, appointed by the Chief Justice, who shall be the Chairperson;

(b) a member of the Governing Council; appointed by the Governing Council;

(c) a member of the Senate, appointed by Senate;

- (d) a representative of the tertiary and higher education sector, nominated by the Minister;
 - (e) a representative of the academic staff, nominated by the academic staff; and
 - (f) a senior member of the administrative staff, nominated by the administrative staff.
- (2) A member of the Tribunal shall hold office for five years and he or she shall be eligible for reappointment for one further term.
- (3) A member of staff of the university may file a complaint to the Tribunal on matters relating to appointment, promotion, interdiction or dismissal.
- (4) The Tribunal shall receive, consider and decide on complaints from members of staff of the university in an expeditious manner.
- (5) The Tribunal shall notify the complainant in writing of its decision as soon as the Tribunal takes it.
- (6) A complainant aggrieved by a decision of the Tribunal may, within thirty days from the date he or she is notified of it, appeal to the High Court against the decision of the Tribunal.
- (7) Where a member of staff has been removed from office by the Appointments Board, he or she shall be deemed to be interdicted until the expiry of the period allowed for appeal, at which date the removal shall become effective.
- (8) Where a member of staff has lodged an appeal to the High Court against the decision of the Tribunal, that member of staff's interdiction shall remain in force until the High Court determines the appeal.

PART VII – FINANCIAL PROVISIONS RELATING TO PUBLIC UNIVERSITIES

34. Funding

The funds of a public university shall consist of –

- (a) subventions from the Ministry;
- (b) voluntary contributions from local government authorities;
- (c) grants, contributions, loans and donations from lawful sources;

(d) fees, charges and levies; and

(e) any other moneys that may become payable to the university in the performance of its functions.

35. Management of property

(1) The Governing Council shall manage and utilise the funds, assets and movable and immovable property of a public university in such a manner and for such purposes as shall promote the best interest of the University.

(2) The Governing Council may invest any of the funds of the University in securities, assets, and business or on deposit at such banks as it may determine.

36. Bank accounts and borrowing powers

(1) A public university shall operate bank accounts in such commercial banks established in The Gambia as its Governing Council may approve.

(2) The Vice Chancellor may, with the approval in writing of the Governing Council and the Minister responsible for finance, borrow funds on behalf of the university.

(3) Funds borrowed by the Vice Chancellor shall be used for meeting the financial obligations of the university and for the performance of its functions.

(4) The Governing Council shall, in consultation with the Minister responsible for finance, prescribe the maximum amount that the Vice Chancellor may borrow for the different votes of expenditure of the university.

37. Financial year

The financial year of a public university shall begin on the first day of January of each year and end on the thirty-first day of December of the same year.

38. Estimates, accounts and audit

(1) The Vice Chancellor shall keep proper records and books of accounts of the university's income, expenditure and transfers.

(2) The Vice Chancellor shall prepare, in respect of each financial year, a statement of accounts.

(3) The Vice Chancellor shall, not later than three months before the end of the financial year, prepare and submit to the Governing Council for approval, estimates of the income and expenditure of the university for the ensuing year.

(4) The Governing Council shall after approving the estimates, submit a copy of the approved estimates to the Minister.

(5) The Governing Council shall, within three months after the end of each financial year, submit the university's statement of accounts to the Auditor General for audit.

(6) The audited accounts of the university and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National assembly.

39. Annual report

(1) The Governing Council shall, within two months of the end of each financial year, submit to the Minister, an annual report dealing generally with the activities and operations of the university within that financial year.

(2) The report shall include –

(a) a statement of the income, sources of income and application of the moneys of the university;

(b) information with regard to the operation of the university; and

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

(3) The Minister shall, not later than three months after the end of the financial year, cause the report to be laid before the National Assembly.

(4) The Governing Council shall also provide the Minister with any additional information relating to the affairs of the university as the Minister may request.

PART VIII – GENERAL PROVISIONS RELATING TO PUBLIC UNIVERSITIES

40. Service of documents

A document may be served on a public university by –

- (a) leaving it at the University Registrar's Office;
- (b) sending it by registered post to the University Registrar; or
- (c) sending it by electronic means to the University Registrar.

41. Staff associations

- (1) A public university may establish such staff associations as its Governing Council may approve.
- (2) A staff association shall be governed by a constitution, which shall comply with the statutes of the university.

42. Students' associations

- (1) A public university may establish such student associations as its Governing Council may approve.
- (2) A students' association shall be governed by a constitution, which shall comply with the statutes of the university.

43. Regulations

The Governing Council may, with the approval of the Minister, make regulations for the better carrying out of the functions of the university.

PART IX – ESTABLISHMENT AND FUNCTIONS OF PUBLIC TERTIARY INSTITUTIONS

44. Establishment of a public tertiary institution

The Minister may, on the recommendation of the Authority, approve the establishment of a public tertiary institution in any place in The Gambia.

45. Corporate status

- (1) A public tertiary institution established under this Act is a body corporate with perpetual succession and a common seal and may –

- (d) sue and be sued in its corporate name;
 - (e) enter into contracts and acquire, hold and dispose of property;
 - (f) do such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done by a body corporate.
- (2) The common seal of a public tertiary institution shall be such device as may be determined by its Governing Board.
- (3) The application of the common seal of a public tertiary institution shall be authenticated by the signature of the Chairperson of the Governing Board or such other person as may be authorised by the Chairperson of the Governing Board in writing to sign on behalf of the public tertiary institution.
- (4) A document bearing the imprint of the common seal of a public tertiary institution is deemed to be properly sealed, unless the contrary is proved.

46. Functions

A public tertiary institution shall –

- (a) provide full-time or part-time courses of study and training in such fields of applied learning and research as the Minister may approve;
- (b) arrange and organise conferences, seminars, workshops and study groups in its fields of operations; and
- (c) perform such other functions that promote tertiary education as the Minister may approve.

PART X – GOVERNANCE OF A PUBLIC TERTIARY INSTITUTION

47. Governing Boards

- (1) A public tertiary institution shall establish a Governing Board, which shall consist of the following members –
- (a) a Chairperson;
 - (b) two persons who have contributed to the development of the public tertiary institutions sector, one of whom shall be a woman;

- (c) a representative of the professional body representing the public tertiary institutions sector;
 - (d) the head of the public tertiary institution;
 - (e) a representative of the Ministry;
 - (f) a representative of the alumni association of the public tertiary Institution, if any; and
 - (g) the Registrar of the public tertiary institution, who shall be the Secretary to the Board.
- (2) The members of the Governing Board shall be appointed by the President after consultation with the Public Service Commission.
- (3) A member of the Governing Board, other than an ex-officio member, shall hold office for three years and shall be eligible for reappointment for one further term.
- (4) The members of the Governing Board shall be paid such allowances as the Minister responsible for finance may determine.
- (5) A member of the Governing Board, other than an ex-officio member, may resign his or her office by notice in writing addressed to the Minister.
- (6) Where a member resigns his or her office, the President shall appoint another person to fill the vacancy for the remaining period of the tenure of office of the member who has resigned.
- (7) A vacancy on the governing board shall not affect the proceeding of the Governing Board or any decision made in that proceeding.
- (8) The Chairperson of the Governing Board shall be the Chairperson of the Appointments Committee of the public tertiary institution.

48. Functions of the Board

- (1) The Governing Board is the supreme organ of a public tertiary institution and shall –
- (a) formulate and review policies and provide general guidance to the institution;
 - (b) receive gifts, donations, grants or other moneys from lawful sources, on behalf of the institution;

- (c) make disbursements as may be required, on behalf of the institution;
- (d) fix scales of fees, levies and charges;
- (e) provide for the welfare and discipline of students of the institution;
- (f) approve budget proposals of the institution;
- (g) approve the final accounts of the institution; and
- (h) approve the appointments of senior officers of the institution, other than the head of the institution.

(2) The Governing Board may make regulations for the administration of a public tertiary Institution.

49. Meetings of the Governing Board

(1) The Governing Board shall hold ordinary meetings at least once in every quarter at such times and at such places as the Chairperson may determine.

(2) The Chairperson may at any time call an extraordinary meeting of the Governing Board if requested in writing by at least one-third of all the members of the Governing Board.

(3) The quorum for a meeting of the Governing Board shall be two-thirds of the members of the Governing Board.

(4) A decision of the Governing Board shall be taken by a simple majority of the members of the Governing Council present and voting.

(5) The validity of the proceedings, acts or decisions of a Governing Board shall not be affected by any vacancy in the membership of the Governing Board 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.

(6) Members of the Governing Board shall be paid such allowances as the Minister responsible for finance may determine.

(7) The Governing Board shall regulate its own procedure.

50. Committees of the Board

- (1) The Governing Board may establish and assign responsibilities to such committees and sub-committees as it considers necessary for performance of its functions under this Act.
- (2) The Governing Board may by resolution in writing, delegate the performance of any of its functions under this Act to any committee of the Governing Board or to the head of the public tertiary institution.
- (3) A committee or sub-committee of the Governing Board shall prescribe its own procedure, with the approval of the Governing Board.

51. The Academic Board

A public tertiary institution shall establish an Academic Board, which shall consist of –

- (a) the head of the institution, who shall be the Chairperson;
- (b) the deputy head of the institution;
- (c) the heads of academic departments of the institution;
- (d) such other members as the institution may decide; and
- (e) the Registrar of the institution, who shall be the Secretary for the Academic Board.

52. Functions of the Academic Board

The Academic Board shall –

- (a) prepare and initiate new academic programmes;
- (b) evaluate the content and academic standard of existing courses of study and make proposals to the Governing Board on them; and
- (c) decide on which individuals have obtained the minimum standard of proficiency to be gained in each assessment and who are fit for any award.

53. Meetings of the Academic Board

- (1) The Academic Board shall hold ordinary meetings at least once in every quarter at such times and at such places as the Chairperson of the Academic Board may determine.

(2) The Chairperson may convene an extraordinary meeting of the Academic Board if two-thirds of the members request for the meeting in writing.

(3) The quorum for a meeting of the Academic Board shall be two-thirds of the members of an Academic Board.

(4) A decision of the Academic Board at a meeting shall be taken by a simple majority of the members of the Academic Board present and voting.

(5) The Academic Board shall regulate its own procedure.

PART XI – OFFICERS AND STAFF OF A PUBLIC TERTIARY INSTITUTION

54. The Director and the Deputy Director

(1) The President shall, after consultation with the Public Service Commission, appoint a Director and a Deputy Director for a public tertiary institution, on such terms and conditions as the Public Service Commission may determine.

(2) The Director shall be the chief academic, administrative and accounting officer of the public tertiary institution and he or she shall be assisted by the Deputy Director in the performance of his or her functions.

(3) The Director and the Deputy Director shall each hold office for five years and they shall be eligible for reappointment for one further term.

55. The Registrar

The Governing Board shall, on the recommendation of the Appointments Committee, appoint a Registrar, who shall be the Secretary for the Academic Board and its committees.

56. Other staff

The Governing Board shall, on the recommendation of the Appointments Committee, appoint the academic staff, the administrative staff and other employees of a public tertiary institution.

PART XII – FINANCIAL PROVISIONS RELATING TO PUBLIC TERTIARY INSTITUTIONS

57. Funding

The funds of a public tertiary institution shall consist of –

- (d) subventions from the Ministry;
- (e) voluntary contributions from local government authorities;
- (f) grants, contributions, loans and donations from lawful sources;
- (g) fees, charges and levies; and
- (h) any other moneys that may become payable to the institution in the performance of its functions.

58. Bank accounts and investments

(1) A public tertiary institution shall operate bank accounts in such commercial banks established in The Gambia as its Governing Board may approve.

(2) The Governing Board of public tertiary institution may invest any of the funds of the institution in securities, assets, and business or on deposit at such banks as it may determine.

59. Financial year

The financial year of a public tertiary institution shall begin from the first day of January and end on the thirty-first day of December of the same year.

60. Estimates, accounts and audit

(1) The head of a public tertiary institution shall keep proper records and books of accounts of the institution's income, expenditure and transfers.

(2) The head of a public tertiary institution shall prepare, in respect of each financial year, a statement of accounts.

(3) The head of a public tertiary institution shall, not later than three months before the end of the financial year, prepare and submit to the Governing Board for approval, estimates of the income and expenditure of the institution for the ensuing year.

(4) The Governing Board shall after approving the estimates, submit a copy of the approved estimates to the Minister.

(5) The Governing Board shall, within three months after the end of each financial year, submit the institution's statement of accounts to the Auditor General for audit.

(6) The audited accounts of the institution and the Auditor General's report on those accounts shall form part of the Auditor General's overall annual report to the National assembly.

61. Annual report

(1) The Governing Board shall, within two months of the end of each financial year, submit to the Minister, an annual report dealing generally with the activities and operations of the institution within that financial year.

(2) The report shall include –

- (a) a statement of the income, sources of income and application of the moneys of the institution;
- (b) information with regard to the operation of the institution; and
- (c) such other information as the Minister may request.

(3) The Minister shall, not later than three months after the end of the financial year, cause the report to be laid before the National Assembly.

(4) The Governing Board shall also provide the Minister with any additional information relating to the affairs of the institution as the Minister may request.

PART XIII – ANCILLARY MATTERS RELATING TO PUBLIC TERTIARY INSTITUTIONS

62. Staff associations

(1) A public tertiary institution may establish such staff associations as its Governing Board may approve.

(2) A staff association shall be governed by a constitution, which shall comply with the statutes of the institution.

63. Students' associations

(1) A public tertiary institution may establish such student associations as its Governing Board may approve.

(2) A students' association shall be governed by a constitution, which shall comply with the statutes of the institution.

64. Affiliation of a public tertiary institution to a public university

A public tertiary institution may, with the approval of the Minister in writing, affiliate to a public university for the purpose of promoting the academic programmes of the public tertiary institution.

PART XIV – PRIVATE UNIVERSITIES AND OTHER INSTITUTIONS OF HIGHER EDUCATION

65. Application for a provisional licence

(1) A person shall apply in writing to the Authority for a provisional licence to operate a private university.

(2) An applicant for a provisional licence shall provide the Authority with detailed information in writing on the following –

- (a) the name and location of the university;
- (b) the objectives for which the university is to be established;
- (c) the source of income and funding of the university;
- (d) the governance structure of the university;
- (e) the academic programmes to be conducted by the university;
- (f) the physical infrastructure of the university;
- (g) the university's academic facilities, including library services and equipment;
- (h) the manner in which the academic facilities are to be maintained;
- (i) the academic and senior administrative staff of the university;
- (j) the university's method of financial control and its administrative structure; and
- (k) a three-year strategic action plan.

(3) The Authority may request the applicant to provide the Authority with such other information or fulfil such other conditions as may be specified in the National Accreditation and Quality Assurance Authority Act.

(4) The Authority shall verify the information in writing that the applicant provides and inspect the physical infrastructure and facilities of the university.

(5) The Authority shall, after verifying the information provided by the applicant and inspecting the physical infrastructure and facilities of the university, submit the Authority's findings to the Minister.

66. Request for additional information

The Minister may, upon receipt of the Authority's findings, request for such additional information from an applicant as may be necessary to enable the Minister to decide to issue a provisional licence.

67. Reports and evaluation under a provisional licence

(1) A private university shall, after being issued with a provisional licence, submit to the Authority a narrative report in writing of its activities in each year of operation.

(2) A private university shall, after two years of its operation under a provisional licence, submit to the Authority a detailed analytical report in writing of –

(a) the university's activities;

(b) the steps the university has taken towards the achievement of the objective for which it was established; and

(c) the steps the university has taken towards the achievement of the standards prescribed by the Authority.

68. Application for a formal licence and accreditation

(1) A private university may, if it has been operating under a provisional licence for not less than two years, apply to the Authority for a formal licence and for accreditation.

(2) An application for a formal licence shall be accompanied by –

(a) a copy of the applicant's provisional licence;

(b) an update on the source of income and funding of the university;

(c) an update on the governance structure of the university, including –

- (i) details of the composition and functions of the university's governing body, and
 - (ii) details of the composition and functions of the university's academic bodies;
 - (d) an update on the academic programmes that the university has been conducting;
 - (e) an update on the physical infrastructure of the university;
 - (f) an update on the university's academic facilities, including library services and equipment;
 - (g) an update on the manner in which the university has been maintaining its academic facilities;
 - (h) an update on the university's officers, including the academic staff and senior administrative staff of the university;
 - (i) an update on the university's method of financial control and its administrative structure; and
 - (j) an update on the university's three-year strategic action plan
- (3) The Authority may request the applicant to provide the Authority with such other information or fulfil such other conditions as may be specified in the National Accreditation and Quality Assurance Authority Act.

69. Issue of a formal licence

- (1) The Minister may, on the advice of the Authority, issue a formal licence to an applicant to operate a private university.
- (2) A formal licence issued by the Minister shall be valid for such period as shall be specified in it and shall cease to be valid on the date of the expiry of the licence.
- (3) The Minister shall publish in the Gazette, the name and particulars of a private university to which the Minister has issued a formal licence.
- (4) After publication in the Gazette of the name and particulars of a private university to which the Minister has issued a formal licence, the Authority shall –

- (a) recognise the certificates, diplomas, degrees and other academic awards of that private university as comparable to and of equivalent merit with those of public universities and other licenced private universities in The Gambia; and
- (b) register the private university.

70. Accreditation

(1) If the Authority is satisfied with the progress of the particular university and the design, implementation and maintenance of that university's academic and administrative system, the Authority shall establish an Inspection Committee.

(2) The Inspection Committee shall –

- (a) ascertain the veracity of the reports submitted to it by an applicant for a formal licence and for accreditation; and

- (b) within three months from the date of its establishment, submit to the Authority a report on the private university.

(3) The Authority may, if it is satisfied with the report of the Inspection Committee on the private university, the adequacy of the human, physical, financial and other resources of the university or any other relevant matter, decide to accredit that university.

(4) The Authority may, if it is not satisfied with the report of the Inspection Committee on the private university, the adequacy of the human, physical, financial and other resources of the university or any other relevant matter, decide to not accredit that university.

(5) The Authority shall, when it decides to accredit or not to accredit a private university, state the reasons for its decision.

71. Suspension or cancellation of a formal licence

(1) The Minister may, on the advice of the Authority, suspend or cancel the formal licence of a private university if –

- (a) the licence had been issued on the basis of information which was incomplete, misleading or incorrect in any material particular;

- (b) the university is not carrying on its functions in a proper manner;
or

(c) the university is in contravention of this Act or the National Accreditation and Quality Assurance authority Act.

(2) The Minister may not suspend or cancel a formal licence unless the Minister notifies the licensee in writing of the Minister's intention to suspend or cancel that licence.

(3) The Minister's notice of intention to suspend or cancel a formal licence shall set out the particulars of the alleged failure or contravention by the licensee.

(4) The licensee shall submit to the Minister, within twenty-one days, reasons why the license should not be suspended or cancelled.

(5) If the Minister is still not satisfied with the reasons provided by the licensee and decides to suspend or cancel the formal licence of a private university, the Minister shall, by a Legal Notice in the Gazette, publish the details of the suspension or cancellation.

(6) The private university shall cease to be a university at the expiry of one year from the date of publication of the Legal Notice in the Gazette.

(7) The suspension or cancellation of a formal licence shall not affect the validity of any certificate, diploma, degree or other academic award previously granted by the private university.

PART XV – SUPERVISION AND CONTROL OF PRIVATE UNIVERSITIES AND ANCILLARY MATTERS

72. Governing body

A private university shall establish a governing body, whose name, composition and functions shall be in accordance with the update on the university's governance structure, submitted to the Authority pursuant to section 68 (2) (c) (i).

73. Academic bodies

A private university shall establish such academic bodies as it may determine, whose names, composition and functions shall be in accordance with the update on the university's governance structure, submitted to the Authority pursuant to section 68 (2) (c) (ii).

74. Faculties, schools, etc.

A private university may establish such faculties, schools, institutes, centres or departments as the university's governing body may determine.

75. Officers

A private university may appoint such persons as officers of the university as it may determine, whose positions and functions shall be in accordance with the update on the university's officers, submitted to the Authority pursuant to section 68 (2) (h).

76. Estimates, accounts and audit

(1) The head of a private university shall keep proper records and books of accounts of the university's income, expenditure and transfers.

(2) The head of a private university shall prepare, in respect of each financial year, a statement of accounts.

(3) The head of a private university shall, not later than three months before the end of the financial year, prepare and submit to the governing body for approval, estimates of the income and expenditure of the university for the ensuing year.

(4) The governing body shall, within three months after the end of each financial year, submit the university's statement of accounts to an Auditor or a firm of Auditors appointed by the governing body for audit.

(5) The audited accounts of the universities and the Auditors' report on those accounts shall be submitted to the Authority and the Minister.

77. Annual report

(1) The governing body of a private university shall, within two months of the end of each financial year, submit to the Authority, an annual report dealing generally with the activities and operations of the university within that financial year.

(2) The report shall include –

(a) a statement of the income, sources of income and application of the moneys of the university;

(b) a statement of the assets and liabilities of the university and its audited accounts;

(c) a detailed data on students, staff and other resources of the university; and

(d) a detailed evaluation of the university's academic activities and the extent to which the prescribed institutional standards are met.

(3) The Minister shall within three months after receiving the report present it to the National Assembly.

(4) The governing body shall also provide the Authority with any additional information relating to the affairs of the university as the Authority may request.

78. Affiliation of a private tertiary institution to a private university

A private tertiary institution may, with the approval of the Minister in writing, affiliate to a private university for the purpose of promoting the academic programmes of the private tertiary institution.

79. Establishment of constituent colleges and branches

A private university may, with the approval of the Minister in writing, establish a college or institution as a constituent college of the university and a branch or campus of the university in any part of The Gambia.

PART XVI – ESTABLISHMENT OF PRIVATE TERTIARY INSTITUTIONS

80. Application for a letter of interim authority

(1) A person shall apply in writing to the Authority for a letter of interim authority to operate a private tertiary institution.

(2) An applicant for a letter of interim authority shall provide the Authority with detailed information in writing on the following –

- (a) the name and physical location of the private tertiary institution;
- (b) the objectives for which the private tertiary institution is to be established;
- (c) the source of income and funding of the private tertiary institution;
- (d) the governance structure of the private tertiary institution;
- (e) the academic programmes to be conducted by the private tertiary institution;
- (f) the physical infrastructure of the private tertiary institution;

- (g) the private tertiary institution's academic facilities, including library services and equipment;
 - (h) the manner in which the academic facilities are to be maintained;
 - (i) the academic and senior administrative staff of the private tertiary institution;
 - (j) the private tertiary institution's method of financial control and its administrative structure; and
 - (k) a two-year strategic action plan.
- (3) The Authority may request the applicant to provide the Authority with such other information or fulfil such other conditions as may be specified in the National Accreditation and Quality Assurance Authority Act.
- (4) A letter of interim authority shall be valid for not more than two years, during which the holder of the interim authority may only –
- (a) mobilise funds;
 - (b) acquire infrastructure and academic facilities;
 - (c) organise the academic and human resources; and
 - (d) do such other thing as may enable the proposed private tertiary institution to develop to maturity.

81. Application for a provisional licence

- (1) A person may, after the expiry of the letter of interim authority, apply in writing to the Authority for a provisional licence to operate his or her private tertiary institution.
- (2) An applicant for a provisional licence shall provide the Authority with updated information in writing on the proposals that had been submitted to the Authority pursuant to section 80 (2).
- (3) The Authority may request the applicant to provide the Authority with such other information or fulfil such other conditions as may be specified in the National Accreditation and Quality Assurance Authority Act.

82. Issue of a provisional licence

- (1) The Minister may, on the advice of the Authority, issue a provisional licence to an applicant to operate a private tertiary institution.
- (2) A provisional licence issued by the Minister shall be valid for not more than two years and shall cease to be valid on the date of the expiry of the licence.
- (3) The Minister shall publish in the Gazette, the name and particulars of a private tertiary institution to which the Minister has issued a provisional licence.

83. Application for a formal licence and accreditation

- (1) A person may, after the expiry of the provisional licence, apply to the Authority for a formal licence and for accreditation of his or her private tertiary institution.

- (2) An application for a formal licence shall be accompanied by information on the following –

- (a) the name of the private tertiary institution and its physical location;
- (b) the type and range of tertiary education that the institution is providing or will be providing;
- (c) the programmes that the institution is offering or will be offering;
- (d) the staff list and their qualifications, including details of staff on full-time employment and staff on part-time employment;
- (e) the total number of students that have been enrolled in each programme of instruction that the institution is offering;
- (f) the availability of a library, equipment and laboratories for the programmes that the institution is offering;
- (g) a statement of financial resources available for the exclusive use of the institution; and
- (h) an inventory of physical facilities, including land available for the exclusive enjoyment of the institution.

- (3) The Authority may request the applicant to provide the Authority with such other information or fulfil such other conditions as may be

specified in the National Accreditation and Quality Assurance Authority Act

84. Issue of a formal licence

- (1) The Minister may, on the advice of the Authority, issue a formal licence to an applicant to operate a private tertiary institution.
- (2) A formal licence issued by the Minister shall be valid for such period as shall be specified in it and shall cease to be valid on the date of the expiry of the licence.
- (3) The Minister shall publish in the Gazette, the name and particulars of a private tertiary institution to which the Minister has issued a formal licence.
- (4) After publication in the Gazette of the name and particulars of a private tertiary institution to which the Minister has issued a formal licence, the Authority shall –
 - (a) recognise the certificates, diplomas, degrees and other academic awards of that private tertiary institution as comparable to and of equivalent merit with those of public tertiary institutions and other licenced private tertiary institutions in The Gambia; and
 - (b) register the private tertiary institution.

85. Accreditation

- (1) If the Authority is satisfied with the progress of the particular private tertiary institution and with the design, implementation and maintenance of the institution's academic and administrative system, the Authority shall establish an Inspection Committee.
- (2) The Inspection Committee shall –
 - (a) ascertain the veracity of the reports submitted to it by an applicant for a formal licence and for accreditation; and
 - (b) within three months from the date of its establishment, submit to the Authority a report on the private tertiary institution.
- (3) The Authority may, if it is satisfied with the report of the Inspection Committee on the private tertiary institution, the adequacy of the human, physical, financial and other resources of the institution or any other relevant matter, decide to accredit that institution.

(4) The Authority may, if it is not satisfied with the report of the Inspection Committee on the private tertiary institution, the adequacy of the human, physical, financial and other resources of the institution or any other relevant matter, decide not to accredit that institution.

(5) The Authority shall, when it decides not to accredit a private tertiary institution, state the reasons for its decision.

86. Suspension or cancellation of a formal licence

(1) The Minister may, on the advice of the Authority, suspend or cancel the formal licence of a private tertiary institution if –

(a) the licence had been issued on the basis of information which was incomplete, misleading or incorrect in any material particular;

(b) the institution is not carrying on its functions in a proper manner;

(c) the institution no longer fulfills the minimum requirements pertaining to human resources, physical infrastructure and other facilities necessary for carrying out the programmes of the institution; or

(d) the private tertiary institution is in contravention of this Act or the National Accreditation and Quality Assurance Authority Act.

(2) The Minister may not suspend or cancel a formal licence unless the Minister notifies the licensee in writing of the Minister's intention to suspend or cancel that licence.

(3) The Minister's notice of intention to suspend or cancel a formal licence shall set out the particulars of the alleged failure or contravention by the licensee.

(4) The licensee shall submit to the Minister, within twenty-one days, reasons why the license should not be suspended or cancelled.

(5) If the Minister is still not satisfied with the reasons provided by the licensee and decides to suspend or cancel the formal licence of a private university, the Minister shall, by a Legal Notice in the Gazette, publish the details of the suspension or cancellation.

(6) The private tertiary institution shall cease to be an institution at the expiry of one year from the date of publication of the Legal Notice in the Gazette.

(7) The suspension or cancellation of a formal licence shall not affect the validity of any certificate, diploma, degree or other academic award previously granted by the private tertiary institution.

PART XVII – MISCELLANEOUS PROVISIONS RELATING TO TERTIARY AND HIGHER EDUCATION INSTITUTIONS

87. Prohibition of operating an institution without authority

(1) A person shall not operate a tertiary or higher education institution without a valid licence or other authority issued under this Act.

(2) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine of not less than one hundred thousand dalasis.

(3) For the avoidance of doubt, the payment of a fine by a defaulter under sub-section (2) shall not legalise the existence of his or her institution.

88. Prohibition of employing unqualified lecturers

A tertiary or higher education institution shall not employ a lecturer, instructor or other person, whose qualifications do not conform to the standards set by the Authority, for the purpose of lecturing or giving instructions to students.

89. Prohibition of running a programme without accreditation

A tertiary or higher education institution that has not been accredited by the Authority shall not run any academic or professional programmes.

90. Language of instruction

The language of instruction in a tertiary or higher education institution shall be English or any other language approved by the Authority.

91. Merit-based admission and assessment of students

A tertiary or higher education institution shall admit, train and assess students on merit.

92. Change of name of an institution

(1) A tertiary or higher education institution may apply in writing to the Authority to change that institution's name or part of its name.

(2) The Authority shall publish the application for a change of name in the Gazette.

(3) A person may, within thirty days from the date of publication of the application in the Gazette, object in writing to the Authority to the change of name.

(4) The Minister shall, on the advice of the Authority, approve an application for a change of name, if the Authority has not received an objection to the change of name after thirty days from the date of publication of the application in the Gazette.

93. Institutional standard setting

(1) The Authority shall, by regulations, set institutional standards governing the performance, operations and general conduct of tertiary and higher education institutions.

(2) Without prejudice to the generality of sub-section (1) the Authority may set –

- (a) the minimum entry requirements for admission to any certificate, diploma or degree programmes of a tertiary or a higher education institution;
- (b) the minimum number and duration of programmes for certificate, diploma or degree levels to be offered by a tertiary or a higher education institution;
- (c) the minimum and maximum number of students who must be enrolled in each programme before a tertiary or a higher education institution can be registered;
- (d) the standards of proficiency assessed in terms of content and contact hours, which students are expected to attain in respect of a certificate, diploma, or degree programmes;
- (e) the qualifications of lecturers, instructors and other persons involved in teaching or giving instruction at a tertiary or a higher education institution;
- (f) detailed specifications concerning the space requirements and concomitant services for each class size a tertiary or a higher education institution;

- (g) detailed specifications concerning the absolute number of students expected to be enrolled in or activity to be carried out in a tertiary or a higher education institution;
- (h) the basic ethical standards regulating the conduct of all members of a tertiary or a higher education institution; and
- (i) such other provision that the Authority may consider necessary for setting good standards in tertiary or higher education institutions, including standards for equating institutions outside The Gambia to those in The Gambia.

94. Classification of institutions

- (1) The Authority shall establish a system of classification of tertiary and higher education institutions according to the type of tertiary and higher education that they provide or the programmes that they offer.
- (2) The Authority shall register tertiary and higher education institutions whether public or private according to the system of classification.
- (3) The Authority may amend the system of classification of tertiary and higher education institutions from time to time.

95. Obligation of the Authority to keep registers

The Authority shall keep the following registers –

- (a) a register of all universities operating under this Act;
- (b) a register of other degree awarding institutions operating under this Act;
- (c) a register of all tertiary institutions operating under this Act; and
- (d) such other register of tertiary or higher education institutions as the Authority may determine.

96. Obligation of institutions to submit annual reports

A tertiary or a higher education institution shall submit an annual report to the Authority and to the Minister, which shall contain information on –

- (a) the activities of the tertiary or higher education institution in that year;

- (b) the measure of achievement of the objectives of the tertiary or higher education institution;
- (c) the measure of achievement of the set institutional standards by the tertiary or higher education institution; and
- (d) the programmes, the students and the staff of the tertiary or higher education institution.

97. Teaching to include practical solutions

A tertiary or a higher education institution shall include in its teaching and research programmes, solutions to social and economic problems of the society.

98. Appeals

- (1) A person aggrieved with a decision of the Authority under this Act, may request for a review by the Minister of the Authority's decision.
- (2) A person aggrieved with a decision of the Minister under this Act, may appeal to the High Court against the decision of the Minister, within thirty days from the date of the decision of the Minister.

99. Regulations

The Minister may make regulations generally for the better carrying into effect of the provisions of this Act.

100. Repeals and Savings

- (1) The following legislations are hereby repealed-
 - (a) The Gambia College Act cap. 47:02 Laws of The Gambia 2009;
 - (b) Management Development Institute Act cap. 48:01 Laws of The Gambia 2009;
 - (c) The Gambia Technical Training Institute Act cap. 48:02 Laws of The Gambia 2009
 - (d) University of The Gambia Act cap. 49:03 Laws of The Gambia 2009; and
 - (e) any other Act establishing a tertiary and higher education institution in The Gambia.

(2) Notwithstanding subsection (1)-

- (a) all regulations, orders, rules, notices, directives, appointments or programmes made or given under the repealed Acts, and in force at the commencement of and not inconsistent with this Act shall be deemed to have been made or given under this Act and shall continue to be in force until other provisions are made by virtue of this Act;
- (b) any proceedings commenced before the commencement of this Act shall be proceeded with as if this Act had not been passed;
- (c) all assets, funds, resources and other moveable property which before the commencement of this Act were vested in-
 - (i) the Gambia College;
 - (ii) Management Development Institute;
 - (iii) the Gambia Technical Training Institute;
 - (iv) the University of The Gambia; and
 - (v) any other tertiary and higher education institution,

shall remain vested in them as if they were vested under this Act.

- (d) all rights, interests, obligations and liabilities of the institutions in subsection (1) existing before the commencement of this Act under any contract or instrument or in law or equity shall remain vested in those institutions as if they were vested under this Act.

(3) A tertiary or a higher education institution which was operating before the commencement of this Act shall –

- (a) where it was operating under a provisional licence, continue to operate under that licence and apply for a formal licence and for accreditation within twelve months from the date of commencement of this Act; and
- (b) where it was operating without a provisional licence, apply for a provisional licence within twelve months from the date of commencement of this Act.

Tertiary and Higher Education Act, 2016

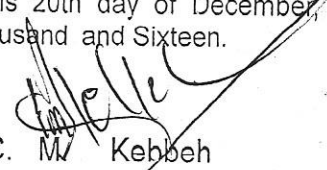
(4) If, at the commencement of this Act, a tertiary or a higher education institution with a valid provisional licence has not started operating, that tertiary or higher education institution shall apply for a new provisional licence under this Act.

(5) The Minister shall, on the advice of the Authority and after twelve months from the date of commencement of this Act, publish in the Gazette the list of all tertiary and higher education institutions registered and operating under this Act.

(6) A tertiary or a higher education institution that is not on the list of registered tertiary and higher education institutions published in the Gazette, shall not –

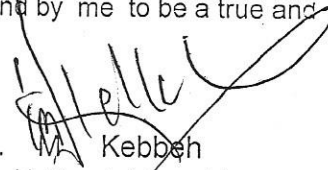
- (a) advertise or continue to advertise or in any manner hold itself out to the public as a tertiary or a higher education institution;
- (b) admit or continue to admit students to courses or programmes or conduct courses or programme leading to awards of certificates, diplomas or degrees; or
- (c) operate or continue to operate as a tertiary or a higher education institution.

PASSED in the National Assembly this 20th day of December, in the year of Our Lord Two Thousand and Sixteen.


D. C. M. Kebbeh

Clerk of the National Assembly.

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed in the National Assembly, and found by me to be a true and correct copy of the said Bill.


D. C. M. Kebbeh

Clerk of the National Assembly.

THE REPUBLIC OF THE GAMBIA

Ministry of Higher Education, Research, Science & Technology

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