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**THE UNIVERSITIES ACT, 2012**

**(No. 42 of 2012)**

**IN EXERCISE** of the powers conferred by Section 70 of the Universities Act, 2012, the Cabinet Secretary, Ministry of Education, makes the following Regulations–

**DRAFT (AMENDMENTS) UNIVERSITIES REGULATIONS, 2019**

**PART I - PRELIMINARY**

**1. Citation**

These Regulations may be cited as the Universities (Amendments) Regulations, 2019.

**2. In these Regulations, unless the context otherwise requires:**

**“Academic character”** means the aggregate of distinctive features of a university as demonstrated by its academic activities including the disciplines covered by majority of its academic programmes, consistent with the philosophy of the university;

**“Academic programme”** means the design of learning content, which is multi-dimensional and includes intentions, structure of content, delivery modes, academic resources and assessment modes;

**“Academic resources”** means the physical facilities, equipment, human capital, core text and journals to support academic programmes;

**“Academic staff”** means a person who has been appointed to teach, train or to do research in a University and any other employee designated as such by the University council;

**“Academic year”** means a period of teaching and examination organized in a full year in either two, three or four segments;

**“Access”** means the right of qualified candidates to apply and to be considered for admission to a University;

**“Accreditation”** means the procedure by which the Commission formally recognizes an institution as a University, and having fulfilled the prescribed criteria for mounting its academic programmes”

**“Act”** refers to the Universities Act, No. 42 of 2012;

**“Acquisition”** means takeover or purchase of one university/institution by another;

**“Admission”** means the act of, or system for, allowing qualified applicants to pursue studies in University education at a given institution or in a given programme;

**“Cabinet Secretary”** means the Cabinet Secretary for the time being in charge of University Education;

**“Certificate”** means the level of qualification below Diploma, and as prescribed in the National Qualifications Framework;

**“Charter”** means the Charter granted to a University under Sections 19, 24 or 25;

**“Collaboration”** means an arrangement between a foreign university and a local university/institution, and between a local university and a local university/institution for purposes of offering academic programmes;

**“Commission”** means the Commission for University Education established under Section 4 of the Universities Act 2012;

**“Course”** means a single unit in a programme of study;

**“Curriculum”** means a documented programme of study;

**“Constituent college”** means a constituent college of a University established under the Act;

**“Degree”** means an award, above the level of a diploma, conferred by a university/institution upon the decision of Senate, signifying that the recipient has satisfactorily completed a course of study at the specified level;

**“Department”** means an academic division in a Faculty divided for purposes of teaching, examinations and administration;

**“Diploma”** means the level of qualification below a degree and above a certificate, and as prescribed in the National Qualifications Framework;

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

**“Dual award”** means an arrangement under which a university collaborates with another university where students undertake studies in two (usually) different fields in order to earn two separate degrees, one from each collaborating institution;

**“Double/Multiple degrees”** means an arrangement where two or more awarding universities /institutions collectively offer a jointly delivered programme leading to separate awards and separate certification being awarded by each partner university/institution;

“**Faculty/school**” means an academic division so designated or established under the instruments constituting a University;

“**Foreign University**” means a University established outside Kenya;

“**Funding Board**” means the Universities Funding Board established under Section 53 of the Act;

“**Institution**” means a public or private institution or facility used or to be used wholly or partly, for the conduct of university education;

“**Joint degree**” means an arrangement where a university works in collaboration with one or more partner universities to jointly develop and deliver an academic programme leading to a single degree award from all participating institutions;

“**Letter of Interim Authority**” means a form of accreditation status granted to a University under Section 14 of the Act;

“**Merger**” means an amalgamation of two or more universities/institutions to form a single entity;

“**Open University**” means the Open University established under the Act;

“**Private University**” means a University which is not established or maintained out of public funds;

“**Professional Programme**” means an academic programme that leads to an occupation governed by a statutory regulatory body;

“**Programme accreditation**” means the process by which the Commission formally approves an academic programme of a University including foreign University;

“**Programme of study**” means the prescribed syllabus that students must be taught at each level of study;

“**Public University**” means a University established and maintained out of public funds;

“**Qualification**” means any degree, diploma or certificate issued as evidence of successful completion of a University education programme;

“**Quality Audit**” means the process of quality assessment by which an external body ensures that the institutional and programme quality assurance procedures of the university/institution are adequate and are actually being carried out;

**“Quality Assurance”** means the employment by a University of various measures and mechanisms developed by the Commission to assess, maintain and enhance standards of programmes offered by a University;

**“Recognition”** means the formal acknowledgement by the Commission of the appropriateness of a foreign qualification for access to related educational and/or employment opportunities in the country;

**“Senate”** means the Senate of a University established under the Act;

**“Sponsor”** means a person or entity including government, proposing to establish a University;

**“Specialized Degree Awarding Institution”** means an institution established under Section 24 of the Act;

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

**“Standard”** means a level of attainment against which different aspects of an institution and academic programme are compared or evaluated for quality by the Commission;

**“Statutes”** means the statutes of a University as established under Section 23 of the Act;

**“Student”** means a person registered in a University or an institution offering University education;

**“Technical University”** means a University, established in accordance with Section 25 of the Act;

**“Technical inspection”** means the inspection undertaken as a process for accreditation;

**“Twinning programme”** means an arrangement where two awarding universities/institutions allow students to complete a portion of their course in their home university/institution, and then transfer to the partner university/institution in another country to complete their studies;

**“University”** means a University established under the Act;

**“University campus”** means the smallest unit set up by a University pursuant to its statutes and established in accordance with Section 20 of the Act, and mirrors the main University;

**“University Council”** means a body established under Section 35(1) (a) of the Act;



“Library facility” means a purpose built functional library;

### **3. Scope**

- (1) These Regulations shall apply to:
  - (a) all universities in Kenya, including
    - (i) private universities;
    - (ii) public universities;
    - (iii) technical universities;
    - (iv) constituent colleges;
    - (v) the Open University; and
    - (vi) any foreign university intending to offer university education in Kenya;
  - (b) specialized degree awarding institutions established under the Act;
  - (c) a student recruitment agency operating in Kenya;
  - (d) an agent or agency, university or institution specified in Regulation 3 (1) (a), (b) and (c) operating or intending to operate as, or on behalf of, a university within Kenya.
- (2) Notwithstanding the above provisions, the Commission and the Cabinet Secretary shall provide guidance and directions on all other matters pertaining to University education.

## **PART II-ESTABLISHMENT OF A UNIVERSITY**

### **4. Eligibility and application procedure**

- (1) A person or entity seeking to establish a University shall apply to the Commission in accordance with these Regulations;
- (2) In terms of this Regulation, the following shall be eligible to apply to the Commission for authority to establish a university or, as the case may be, to constitute itself into a university:
  - (a) a person or entity who intends to be or is a sponsor of a university; or
  - (b) a body corporate/institution having as one of its objects the provision of university education;
- (3) A person or institution eligible to apply for authority to establish or constitute itself into a university under this Regulation shall submit an application to the Commission in a format prescribed by the Commission, duly completed and certified by the applicant, or on the applicant’s behalf by a person competent to do so.
- (4) Where an application remains pending for a period of one year, due to failure by the applicant to adhere to the recommendations by the Commission, the application shall lapse.
- (5) Any person or institution eligible to apply to the Commission to establish or constitute itself into a university under these Regulations shall be required to pay the applicable fee as specified in a Gazette Notice.

### **5. Proposal particulars and resources**

- (1) An application under Regulation 4(2) shall be accompanied by a proposal, as detailed in the Universities Standards and Guidelines, setting out:-
  - (a) Vision, mission, diversity statement, philosophy and justification of the university;
  - (b) institutional ability and expertise of the sponsor for offering University education;

- (c) the resources, including land, physical facilities, finances, staff, library services, teaching and research infrastructure, plant and equipment;
  - (d) an evaluation of the appropriateness and adequacy of the resources in 5(1)(c) to support the proposed academic programmes to be conducted at the University, which have been or can be procured, and the manner in which these resources shall be maintained on a long term basis;
  - (e) the proposed name, location and academic character of the university;
  - (f) functions, aims, objectives, strategies and domain of the university, which should be consistent with the needs of university education in Kenya for which the university is to be established;
  - (g) the form of governance through which the academic and administrative affairs of the university are to be conducted;
  - (h) an outline of the academic programmes intended to be offered at the university;
  - (i) a timetable indicating the steps to be taken in the next four years towards the realization of the aims and objects for which the university is to be established;
  - (j) proof of land ownership on which the university shall be located, and evidence that the subject land is not less than 10 acres to cater for the seat of the university, academic programmes, co-curricular activities, facilities for staff and student welfare;
  - (k) adequacy of academic resources for each academic programme;
  - (l) a Financial Management Strategy and Policy;
  - (m) a student management system;
  - (n) safety and security systems; and
  - (o) any further information not limited to the above requirements as may be required by the Commission.
- (2) The proposal shall have the following appendices:
- (a) a draft charter in the manner specified in Section 13(3) of the Act;
  - (b) comprehensive write up on academic programmes;
  - (c) a Trust Deed for the university in case of a private university;
  - (d) a description of the university library;
  - (e) evidence of physical resources which includes, copies of Title Deeds, certificate of change of user, completion certificates, borehole log, tests of water and architectural drawings;
  - (f) master plan, strategic plan and a five year financial plan which shall include a statement of availability and sources of funding;
  - (g) regulations governing student conduct;
  - (h) student handbook;
  - (i) certificates by statutory and/or relevant certification bodies;
  - (j) a synopsis of the applicant's academic resources in place;
  - (k) computation of financial viability and ratios;
  - (l) student management programme;
  - (m) regulations governing the terms and conditions of service for staff; and
  - (n) any other document that may be required by the Commission.

- (3) All correspondence, communication, transactions and engagements under this Regulation shall clearly indicate the word “Proposed” before the name of the university.
- (4) The Commission shall not process any application unless all the requirements of Regulation 5(1), (2) and (3) are complied with.

## **6. Issuance of Letter of Interim Authority**

- (1) Upon review of an application the Commission shall schedule a meeting(s) with the applicant to review the submitted documentation and evidence in respect of the resources indicated therein.
- (2) The Commission shall then conduct an inspection to evaluate the available resources.
- (3) For purposes of Regulation 6(2), the Commission shall set up an Inspection Committee to include:
  - (a) at least one academician of Senior Lecturer grade and above, who must be conversant with University management;
  - (b) a University Librarian;
  - (c) a Registered Architect;
  - (d) relevant officers of the Commission; and
  - (e) any other expert and/or professional body that the Commission may determine to be necessary.
- (4) The Inspection Committee shall prepare a report and submit it to the Commission.
- (5) Where after a full deliberation on the merits of each application the Commission is satisfied that:
  - (a) The particulars given under Regulation 5 do not in any way reproduce or otherwise duplicate those of an existing or prospective University;
  - (b) The resources declared under Regulation 5 are available;
  - (c) The applicant is following realistic plans to achieve the aims and objects for which the university is to be established;
  - (d) The university, when established, will attain and maintain on a long-term basis standards set out in the Universities Standards and Guidelines;
  - (e) The proposed university has established governance organs including the Council, Senate and university Management Board; and
  - (f) The establishment of the university is in the interest of university education in Kenya, the Commission shall recommend to the Cabinet Secretary the grant of Letter of Interim Authority to operate in the manner specified in the Universities Act.
- (6) A Letter of Interim Authority shall confer the powers, rights and privileges as set out in Section 15 of the Universities Act.
- (7) All costs under this Regulation shall be borne by the applicant.
- (8) A Letter of Interim Authority as specified in Section 14 of the Act issued under these Regulations shall be published in the *Gazette*.

## **7. Inspection of Universities operating under Letter of Interim Authority**

- (1) The Commission shall with or without notice once every year inspect all universities holding a Letter of Interim Authority to:

- (a) confirm the extent to which the University is complying with the legal provisions and adhering to the Universities Standards and Guidelines;
  - (b) assess the extent to which the university can continue admitting students; and
  - (c) confirm the extent to which the university is making progress towards the award of Charter.
- (2) The inspection referred to in Regulation 7(1) shall be conducted by an Inspection Committee constituted in accordance with Regulation 6(3).
  - (3) The Inspection Committee shall compile an inspection report and submit it to the Commission.
  - (4) The Commission shall give written submissions to the University inspected, detailing the issues to be addressed to ensure compliance with the regulations, and Universities Standards and Guidelines.
  - (5) Where the matters outlined in the Commission's inspection report pursuant to Regulation 7(3) impact negatively on quality and the University is unable or unwilling to resolve them within one year, the University shall be placed under notice during which period no student shall be admitted.
  - (6) For purposes of Regulation 7(5) the matters shall include-
    - (a) establishing unauthorized campuses, colleges or ODEL centres;
    - (b) inadequate academic resources to support academic programmes on offer and student enrolment;
    - (c) violation of the governance provisions set out in the Act;
    - (d) mounting of academic programmes without prior approval of the Commission;
    - (e) exceeding authorized enrolment capacity per programme;
    - (f) financial instability for three consecutive years;
    - (g) refusal to abide by lawful directions of the Commission; and
    - (h) any other violation determined by the Commission to be grave and which has been communicated to the university in writing.

## **8. Revocation of a Letter of Interim Authority**

- (1) The Cabinet Secretary may, on recommendation of the Commission following a technical inspection and by notice published in the *Gazette*, revoke a Letter of Interim Authority, if:
  - (a) the university has not within four years of issuance or extension of the Letter of Interim Authority, made substantial progress in respect of the matters set out in these Regulations;
  - (b) the university notifies the Commission of its intention not to proceed towards award of Charter;
  - (c) the university is incapable of complying with the standards set out in the Universities Standards and Guidelines;
  - (d) in the opinion of the Commission fundamental changes have occurred since the issuance of Letter of Interim Authority that had such changes been in existence at the time of its deliberations under Regulation 6(5) the Letter of Interim Authority would not have been issued;

- (e) at any time before the lapse of four years it becomes apparent that the university is not making any progress or is not likely to make any progress towards award of Charter; or
  - (f) its continued existence does not promote the objectives of university education;
- Without prejudice to the foregoing, the Commission shall accord the university fair administrative action.
- (2) Prior to recommending revocation of a Letter of Interim Authority, the Commission shall conduct an inspection, during which it will take inventory in a format as prescribed in the Universities Standards and Guidelines which shall include but not limited to:
    - (a) enrolment and student data;
    - (b) data on graduates;
    - (c) data on staff;
    - (d) terms of staff engagement/contracts;
    - (e) the University's assets and liabilities; and
    - (f) any other information deemed necessary by the Commission.
  - (3) Upon revocation of a Letter of Interim Authority, the Cabinet Secretary may, in consultation with the Commission and the Sponsor, appoint such person or persons as the Cabinet Secretary may deem appropriate to administer and manage the Institution for the better protection of the interests of the students and staff of the university.
  - (4) The persons appointed under Regulation 8(3) shall submit to the Commission a status report as prescribed in the Universities Standards and Guidelines which shall include:
    - (a) An inventory of the University's assets being handed over to the person or persons appointed under Regulation 8(3);
    - (b) Enrolment and student records and data;
    - (c) Inventory of the graduates;
    - (d) Commitment on fulfillment of obligations relating to staff contracts; and
    - (e) Any other information deemed to be necessary by the Commission.
  - (5) Notwithstanding the provisions of Regulation 8(1) the revocation of a Letter of Interim Authority shall not affect the validity of any academic award made by the University before the revocation.
  - (6) Upon revocation the provisions of Regulation 13A on winding up shall take effect.
  - (7) Without prejudice to the foregoing, if a fresh application is made by the applicant after revocation of Letter of Interim Authority, it shall be processed as a new application as provided for in Regulation 5.

## **9. Application for Award of Charter**

- (1) A University operating under a Letter of Interim Authority shall make a formal application for award of Charter at least eight months before the expiry of the Letter of Interim Authority.
- (2) A Constituent College established under a legal order shall make a formal application for award of Charter at least eight months before the end of four years of its existence.

- (3) Upon receipt of the formal application for award of Charter, the Commission shall constitute an Inspection Committee as specified in Regulation 6(3) which shall carry out a final inspection of the University.
- (4) The Inspection Committee shall prepare and compile an Inspection Report and submit it to the Commission.

#### **10. Accreditation process for Award of Charter**

- (1) The Commission shall consider the report under Regulation 9(4), and where satisfied that:
  - (a) the Draft Charter as submitted or as amended where necessary forms a sound basis for the academic and administrative organization of the University; and
  - (b) the University has effectively organized adequate library facility and information services, human, physical, financial and other resources in accordance with the Universities Standards and Guidelines,the Commission shall recommend to the Cabinet Secretary that the University be awarded a Charter.
- (2) Where the Commission is not satisfied in the manner indicated in Regulation 10(1) it shall recommend to the Cabinet Secretary an extension or revocation of the Letter of Interim Authority in the manner specified in Regulation 7(5) and (6).
- (3) Where the Commission is not satisfied in the manner indicated in Regulation 10(1), in the case of a Constituent College, it shall recommend to the Cabinet Secretary an extension of four years or conversion to a Campus of the mentoring university or revocation of the Legal Order or as the Cabinet Secretary may deem necessary.

#### **11. Accreditation Report**

Where the Commission has made a recommendation for award of Charter with respect to an institution, the Commission shall compile an accreditation report on the said institution outlining:

- (a) the historical background, vision, mission, diversity statement, philosophy of the university;
- (b) the accreditation process, including the various inspections and the findings of the Commission;
- (c) the Master Plan and Strategic Plan for continued growth of the institution;
- (d) the academic resources available at the time of the final inspection;
- (e) the approved academic programmes on offer in the institution;
- (f) the financial resources available at the institution including financial plans and projections;
- (g) library facility and information services;
- (h) research and innovation output;
- (i) a summary of recommendations to the institution; and
- (j) the final recommendation to the Cabinet Secretary.

#### **12. Grant of Charter**

- (1) The Commission shall, where satisfied, submit the Draft Charter and the Accreditation Report to the Cabinet Secretary, together with its written recommendation, for the University to be awarded Charter.
- (2) The Cabinet Secretary shall, where satisfied, recommend to the President the award of Charter in accordance with Section 19 of the Act.

#### **12A. Governance and Management of a university**

A University authorized to operate in Kenya, shall:

- (a) establish its organs of governance and management as prescribed in the Act.
- (b) articulate the roles of the various organs and their inter-relationships in line with the First Schedule;
- (c) take into account the national values and principles of governance set out under Article 10 of the Constitution in constituting the governance organs;
- (d) ensure that there is clear separation of powers between the organs, and in particular no one person shall head two organs whose relationship is oversight in nature;
- (e) ensure the membership of the Sponsor does not constitute more than a third of the Board of Trustees; and
- (f) put in place mechanisms to ensure that the capacity of the members of each governing organ is enhanced, through relevant training, including aspects of governance.

#### **12B. Financial Provisions for Universities**

- (1) A university shall develop a financial policy and procedure in line with the vision, mission and strategic objectives to provide a framework within which the financial affairs of the University are managed.
- (2) A university shall utilize its funds in line with the objectives of university education.
- (3) A University shall comply with all statutory provisions.
- (4) A university shall forward to the Commission a copy of its audited accounts report annually.

#### **13. Variation or Revocation of Charter**

- (1) A Charter granted as evidence of accreditation to any University may be varied or revoked in the manner specified in Section 22 and/or 22A of the Act.
- (2) The Cabinet Secretary may, on recommendation of the Commission following a technical inspection and by notice published in the Gazette, revoke the Charter.
- (3) Upon revocation of Charter, the provisions of winding up as provided under Regulation 13A shall apply.

#### **13A. Winding up of a University/Institution/Constituent College**

- (1) A University/Institution/Constituent College shall be wound up upon revocation of Charter, Letter of Interim Authority, or Legal Notice as applicable.
- (2) Upon revocation of Charter, Letter of Interim Authority, or Legal Notice, the Cabinet Secretary shall:

- (a) Convene a meeting of the Commission and the Sponsor for a private university or with the Commission for public university within three days which shall:
    - (i) consider the inspection report under Regulation 8; and
    - (ii) consider the status report submitted by the University under Regulation 8(3);
  - (b) take custody of the instruments of authority and accreditation;
  - (c) put in place security measures to preserve the assets of the University;
  - (d) appoint appropriate person(s) to administer and manage the winding up process, who shall:
    - (i) apply the Universities Standards and Guidelines on winding up;
    - (ii) for the better protection of the interests of the students of the University, develop and facilitate the transfer and/or teach out plan for continuing students within one year in line with the provisions of the Act;
    - (iii) cause to be published in at least two newspapers of national circulation and the university's website a notice requiring students, graduates, and staff who may have any claim, interest, entitlement, on the wound-up university to raise them within one year; and
    - (iv) upon the expiry of one year, submit a final report to the Commission highlighting the issues contemplated in Regulation 8(5).
  - (e) Shall require the agency responsible for student placement to transfer students to other universities offering the courses for which the students were admitted with the available Credit Accumulation Transfer Systems (CATS).
- (3) Where a university has been wound up, the Commission shall keep the records and information about the university submitted to it at the point of winding up.

#### **14. Change of name of a University**

- (1) A Sponsor of a University who intends to change the name of the university may submit a proposal to the Commission for consideration and approval.
- (2) The Commission shall consider an application for change of name of a university as provided for in the Universities Standards and Guidelines established under these Regulations.
- (3) In considering the application for change of name, the Commission shall ensure that the change:
  - (a) safeguards the objects and purpose of the University;
  - (b) protects the interest of the students and staff;
  - (c) provides for the transition of obligations, rights and privileges;
  - (d) does not adversely affect the governance of the university; and
  - (e) conforms with the Constitution of the Republic of Kenya, the Act, other relevant laws and other statutory requirements.
- (4) Where the Commission approves the proposed change it shall gazette the change of name.



- (c) where the Commission rejects the proposed change of name, it shall communicate its decision and the reasons thereof. In this event, the University shall retain the accredited name.

#### **14A. Mergers and Acquisitions**

- (1) A Sponsor of a university who intends to have the university enter into a Merger and/or an Acquisition shall submit a formal application in a prescribed format to the Commission.
- (2) An application under Regulation 14A(1) shall be accompanied by:
  - (a) a status report in a prescribed format of the institutions involved; and
  - (b) the merger proposal.
- (3) In considering the application for Merger and /or Acquisition, the Commission shall have regard to:
  - (a) students welfare;
  - (b) staff welfare;
  - (c) assets and liabilities of the Institutions; and
  - (d) Any other information the Commission may deem necessary.
- (4) Upon receipt of the formal application for Merger and /or Acquisition from the Sponsor, the Commission shall constitute an Inspection Committee as specified in Regulation 6(3) which shall carry out an inspection of the Institution.
- (5) The Inspection Committee shall prepare and compile an Inspection Report and submit it to the Commission.
- (6) The Commission shall consider the inspection report and where satisfied, recommend to the Cabinet Secretary who shall upon being satisfied recommend to the President for approval of merger or acquisition.
- (7) If not satisfied, the Commission will reject the proposal and communicate its decision and the reasons thereof.
- (8) Where the President approves the proposed merger/acquisition the same shall be gazetted by the Cabinet Secretary.
- (9) Merger and /or Acquisition shall conform to the Constitution of the Republic of Kenya, the Act, other relevant laws and other statutory requirements.
- (10) Any application for a Merger and or Acquisition shall be accompanied by the applicable fee as specified in a Gazette Notice.
- (11) In the case of a merger the accreditation instrument(s) of the Institutions involved, shall be revoked and recalled by the Commission and a new instrument shall be granted.
- (12) In the case of an acquisition the accreditation instrument(s) of the Institutions may be varied.

#### **15. Change of sponsorship of a University**

- (1) A Sponsor of a university who intends to change the sponsorship of the university shall notify the Commission in writing and describe the proposed changes.
- (2) The Sponsor shall ensure that the change referred to in Regulation 15(1):

- (a) safeguards the objects and purpose of the University as established under Regulation 5;
  - (b) protects the welfare of the students;
  - (c) protects the staff interests;
  - (d) ensures separation of powers of the various organs of the University;
  - (e) does not adversely affect the objectives of university education as provided for in the Act; and
  - (f) conforms with the Constitution of the Republic of Kenya, the Act, other relevant laws and other statutory requirements.
- (3) An application for change of sponsor under Regulation 15 (1) shall be accompanied by a report on-
- (a) the status of the institution summarizing the various facets of University including student enrolment, staffing, academic programmes, facilities and finances;
  - (b) the profile of the new sponsor, highlighting the background, proven relevant experience/interest in higher education and any other institutions or businesses associated with the sponsor;
  - (c) measures to be put in place to ensure the welfare of students and staff of the University;
  - (d) any anticipated changes in governance and management of the university;
  - (e) assets and liabilities of the University; and
  - (f) a draft Trust Deed amended as contemplated with the change of sponsor;
- (4) The Commission shall consider the application and where satisfied that the new sponsor complies with the prescribed provisions on -
- (a) promoting the objectives of the University;
  - (b) the welfare of students;
  - (c) the interest of staff;
  - (d) governance and management of the University; and
  - (e) management of assets and liabilities of the University;
- the Commission may approve the change of sponsor and communicate the same to the University.
- (5) Where the proposed sponsor has not met the provisions of Regulation 15(4), the Commission shall decline the application for change of sponsor.
- (6) A sponsor may re-submit a request for change of sponsor for consideration after addressing issues raised by the Commission.

#### **15A Withdrawal of a sponsor of a Private University**

- (1) A Sponsor of a private university intending to withdraw sponsorship shall submit to the Commission an application of an intention to withdraw the sponsorship in writing, and describe the reasons for such withdrawal. .
- (2) An application for withdrawal of sponsorship under Regulation 15A(1) shall be accompanied by a report on-

- (a) the status of the university, detailing the various facets of University including students enrolment and data, staffing, academic programmes, facilities and finances;
  - (b) measures put in place to ensure the welfare of students and staff of the University during the teach out period; and
  - (c) assets and liabilities of the University.
- (3) Upon receipt of an intention to withdraw sponsorship, the Commission shall convene a meeting with the Sponsor with a view to authenticating the request for withdrawal of the sponsorship
- (4) Prior to making a decision on the intention to withdraw sponsorship, the Commission shall conduct an inspection and document an inventory of:
- (a) enrolment and student data;
  - (b) data on graduates;
  - (c) data on staff;
  - (d) terms of staff engagement/contracts;
  - (e) the University's assets and liabilities; and
  - (f) any other information deemed necessary by the Commission.
- (5) The Commission shall consider the inspection report and where satisfied that the revocation of the Charter or Letter of Interim Authority is for better protection of the interests of the students of the University, the Commission shall recommend to the Cabinet Secretary for revocation of Charter or Letter of Interim Authority as provided under Regulations 8, 13 and 13A.
- (6) The Commission shall recommend to the Cabinet Secretary:
- (a) Appointment of the appropriate person(s) to administer and manage the winding up process of the university and who shall:
    - (i) apply the Universities Standards and Guidelines on winding up;
    - (ii) for the better protection of the interests of the students of the University, facilitate the transfer and teach out of students within one year in line with the provisions of the Act; and
    - (iii) cause to be published in at least two newspapers of national circulation, the university's website, Commission's website and the website of the Ministry responsible for university education, a notice requiring students, graduates, and staff who may have any claim, interest, entitlement, on the wound-up university to raise them within one year.
  - (b) revocation of a Charter/Letter of Interim Authority issued to the university as provided for by the Act.
- (7) Where a university has been wound up, the Commission shall keep in safe custody the records and information about the university submitted to it at the point of winding up.

## **16. Accreditation of Foreign Universities**

- (1) Any foreign University which intends to operate in Kenya shall apply for accreditation, in the manner specified in Part III of the Act and Part II of these Regulations.

- (2) in addition to meeting the criteria set out in Regulation 16(1), a foreign University operating in Kenya shall ensure that not less than one-third of the representation in the Board of Trustees are Kenyan citizens, residing in Kenya.

### **17. Institutional Quality Audit**

- (1) Every University shall prepare and submit to the Commission a detailed self-assessment report, in a prescribed format, every five years on the steps it has taken towards the achievement of the aims and objectives for which it was established.
- (2) The Commission shall consider all reports submitted pursuant to Regulation 17(1) and make such commendation or give such other instructions for action by the University.
- (3) The Commission shall undertake a Regular Institutional Quality Audit of the University on:-
- (a) the steps it has undertaken towards the achievement of the aims and objectives for which it was established; and
  - (b) Compliance with and conformity to the relevant legal provisions.
- (4) The quality audit under Regulation 17(3) shall be undertaken by an Institutional Quality Audit Panel composed of:
- (a) at least two academicians of Senior Lecturer grade and above;
  - (b) one person who has experience with University management;
  - (c) a University librarian;
  - (d) a registered Architect;
  - (e) relevant officers of the Commission; and
  - (f) any other expert and/or professional body that the Commission may determine to be necessary.
- (5) Pursuant to Regulations 17(3) and (4), and if satisfied that the university has continued to maintain standards, the Commission shall issue a Certificate of Audit that shall serve as a seal of quality maintenance and enhancement.
- (6) Where the Commission is not satisfied that the university has complied with or conformed to the relevant legal provisions, the Commission shall send to the university a report setting out the matters that the university shall need to address and the University shall have one year to comply.
- (7) The University shall submit to the Commission a plan of action (Road Map) of the steps to be taken under Regulation 17(6) within prescribed timelines.
- (7A) Where the matters outlined in the Commission's Quality Audit Report pursuant to Regulation 17(6) impact negatively on quality, and the university is unable or unwilling to comply within one year, the University shall be placed under notice for one year during which time no student shall be admitted in any of the academic programmes.
- (8) For purposes of Regulation 17(6) violations shall include-
- (a) Establishing unauthorized campuses, colleges or ODEL centres;
  - (b) Inadequate academic staff or other academic resources for the support of academic programmes on offer and student enrollment;
  - (c) Offering an academic programme in an unaccredited site;

- (d) varying the title of an approved academic programme;
  - (e) Offering a programme in unaccredited mode of delivery;
  - (f) Exceeding the approved enrollment capacity per programme;
  - (g) Violation of the governance provisions set out in the Act;
  - (h) Mounting of academic programmes without the approval of the Commission;
  - (i) Financial instability for three consecutive years;
  - (j) Refusal to abide by lawful directions of the Commission; and
  - (k) Any other violation determined by the Commission to be grave and communicated in writing to the institution(s).
- (9) Where the University fails to remedy the matters raised in the notice under Regulation 17(7), the procedure for revocation of Charter and winding up of a university under The Act and these Regulations shall come to effect.

### **17A Institutionalization of Quality Assurance**

- (1) Every University authorized to operate in Kenya shall establish a quality assurance mechanism.
- (2) For purposes of Regulation 17A(1), each University shall:
  - (a) Develop and implement an Internal Quality Assurance policy;
  - (b) Establish a functional Internal Quality Assurance structure in all its campuses and colleges;
  - (c) Provide adequate physical and financial resources;
  - (d) Appoint qualified and adequate staff;
  - (e) Develop tools for assessing internal quality assurance.
- (3) Every University shall submit to the Commission detailed annual progress report, in a prescribed format, on activities undertaken to maintain and enhance quality in teaching, research, industry linkage, innovation and community outreach.

### **18. Impromptu Quality Audit/Inspection/Investigation**

- (1) The Commission may, with or without notice, carry out an audit/inspection/investigation on any institution as and when it is deemed necessary under these Regulations.
- (2) The Commission shall constitute a quality audit/inspection/investigation panel whose composition shall be determined depending on the objective of the audit/inspection/investigation.
- (3) The audit/inspection/investigation panel in Regulation 18(2) shall prepare and compile a Report in a prescribed format and submit it to the Commission.
- (4) The Commission may send to the university a report setting out the matters that the university shall need to address arising from the audit/inspection/investigation and the University shall comply within the prescribed timelines.
- (5) Where the matters outlined in the Commission's Impromptu Quality Audit/Inspection/Investigation Report pursuant to Regulation 18 (3) impact negatively

on quality and the university is unable or unwilling to comply within a stipulated period as shall be determined by the Commission, the Commission shall institute necessary measures as per Universities Act, these Regulations and the Universities Standards and Guidelines.

- (6) Notwithstanding the provisions of Regulation 18(4), the Commission may take appropriate and immediate action(s) to stop further violations of the Act, any other written laws, these Regulations or the Universities Standards and Guidelines.

**18A. Promotion of quality teaching, research, industry linkage, innovation and community outreach**

- (1) A university shall embed research in its academic programmes as prescribed in the Universities Standards and Guidelines.
- (2) A University shall put in place appropriate policies, infrastructure, institutional framework and other resources necessary for promoting quality teaching, research, innovation, industry linkages and community outreach.
- (3) A university shall adhere to the Constitution of Kenya 2010, Universities Act and other relevant Acts of Parliament, in developing and implementing mechanisms for research outputs.

**18B. University Data and/or Information**

- (1) Universities shall submit accurate and updated data and/or Information on University education to the Commission in a prescribed format, as and when required.
- (2) Submitting falsified data and/or Information or misleading information to the Commission shall be an offence liable to penalties as prescribed in the Act.
- (3) A University shall submit accurate data and/or Information by 31<sup>st</sup> December every year.

**18C. University Information System**

Universities shall establish, implement and maintain adequate Information and Communication Technology (ICT) systems relating to their core functions as may be prescribed by the Commission from time to time.

**PART III-ESTABLISHMENT OF A TECHNICAL UNIVERSITY**

**19. Eligibility**

Any person(s) intending to establish a Technical University shall apply to the Commission in a prescribed format.

**20. Condition for Declaration**

- (1) Any institution that is to be declared a Technical University shall satisfy the following criteria-

- (a) be offering programmes in Applied Sciences that lead to application and practice of technical knowledge;
  - (b) have technologies that are current and/or scalable;
  - (c) show evidence of institution-industry linkages;
  - (d) show evidence of requisite staff and other academic resources to support the technical programmes; and
  - (e) be predominantly technical oriented.
- (2) In the case of declaration in respect of a public institution, the provisions of Section 25(2) of the Act shall apply.

## 21. Procedure for Application

- (1) An institution shall submit an application for accreditation to the Commission in a prescribed format.
- (2) An application for accreditation shall be accompanied by:
  - (a) a draft Charter containing the particulars required to be provided by the university under Section 13 of the Act; and
  - (b) a self-evaluation report outlining *inter alia*:-
    - (i) the philosophy and technical orientation of the institution;
    - (ii) a list and academic qualifications of all members of staff on or expected to be on full-time employment with the institution;
    - (iii) the library facility and information services
    - (iv) academic resources available for each programme expected to be offered at the institution;
    - (v) the financial resources that are available for the exclusive use of the institution, certified by a person qualified to practice under the Accountants Act;
    - (vi) an inventory of the physical facilities including land that are available for the exclusive use by the institution;
    - (vii) student enrolment and student support services;
    - (viii) development plans;
    - (ix) research orientation and outputs;
    - (x) a list of current and / or proposed academic programmes; and
    - (xi) any other detail the Commission may in each case specify or request.

## 22. Inspection of Proposed Technical University

- (1) The Commission shall, before considering an application under Regulation 21, appoint an Inspection Committee which shall-
  - (a) make enquiry into and for the purposes of ascertaining the veracity or otherwise of the particulars submitted under Regulation 21(2);
  - (b) make enquiry into the general academic, research, administrative, innovation, industry linkage, community outreach and social affairs of the institution and in particular confirm compliance to the criteria set out in Regulation 21; and

- (c) make such other enquiry or relevance to the application as it may deem necessary.
- (2) The Committee appointed under Regulation 22(1) shall comprise of-
  - (a) a Professor or Associate Professor specialized in a technical discipline, who shall also be conversant with university management;
  - (b) at least one academician of Senior Lecturer grade and above, in a technical discipline;
  - (c) a university Librarian;
  - (d) a registered Architect;
  - (e) relevant officers of the Commission; and
  - (f) any other expert and/or professional body that the Commission may determine to be necessary.
- (3) The Inspection Committee shall submit a technical inspection report to the Commission.

### **23. Consideration of technical inspection report**

- (1) Upon receipt of the technical inspection report, the Commission shall deliberate on the merits of each application.
- (2) Where the Commission is satisfied that:
  - (a) the draft Charter submitted forms a sound basis for the academic and administrative organizations of the university;
  - (b) the institution has effectively organized appropriate and adequate human, physical, financial and other resources into an educational programme;
  - (c) the institution has a specific and unique mandate in teaching and/or research, in a technical area, as contained in the draft Charter;
  - (d) the mandate in teaching and/or research is critical to national development or security; and
  - (e) the institution satisfies the criteria set out in Regulation 20,the Commission shall compile an accreditation report, as provided for in Regulation 11, and recommend to the Cabinet Secretary that the institution be declared a Technical University as per Regulation 24.
- (3) Where the Commission is not satisfied in the manner indicated in Regulation 23(2), it shall not recommend declaration of the institution as a Technical University and shall communicate the decision to the applicant.
- (4) An applicant whose application is declined may re-apply to the Commission for consideration.

### **24. Declaration of a Technical University**

- (1) On recommendation by the Commission for the declaration of a Technical University, the Cabinet Secretary, if satisfied, shall submit the same to the President.
- (2) The President, if satisfied, may declare the institution to be a Technical University in accordance with the provisions of Section 25 of the Act by award of Charter.



## **25. Quality Audit of a Technical University**

The Commission shall audit a Technical University in accordance with the quality audit procedures as per the provisions of Regulation 17.

## **26. Privileges of a Technical University**

Any institution declared a Technical University shall have:

- (a) all the privileges of an accredited university outlined in Section 20 of the Act; and
- (b) a privilege to enhanced public funding as the Cabinet Secretary, in consultation with the Universities Funding Board, shall determine.
- (c)

## **27. Deleted**

## **PART IV-ESTABLISHMENT OF A SPECIALISED DEGREE AWARDING INSTITUTION**

### **28. General Provision**

Unless otherwise specified, the Regulations as they apply to universities shall also apply to specialized degree awarding institutions.

### **29. Eligibility and Application**

- (1) This Regulation shall apply to an institution whose mandate is of strategic national importance.
- (2) An institution eligible for establishment as a specialized degree awarding institution shall submit to the Commission an application in a prescribed format.
- (3) The application shall be accompanied by:
  - (a) a Cabinet Memo;
  - (b) a proposal in a prescribed format setting out:
    - (i) the specialized area of focus;
    - (ii) a draft Charter in the manner specified in Section 24 of the Act;
    - (iii) a write up on academic programmes;
    - (iv) a Trust Deed for the University in case of a Private University;
    - (v) a description of the university library;
    - (vi) evidence of physical resources which includes, copies of title deeds, certificate of change of user, completion certificates, borehole log, tests of water, and architectural drawings;
    - (vii) master plan, strategic plan and a five year financial plan which shall include a statement of availability of capital;
    - (viii) Regulations governing student conduct and terms and conditions of service of staff;
    - (ix) Student Handbook;
    - (x) certificates by statutory and/or relevant certification bodies;
    - (xi) a synopsis of the applicant's academic resources in place;

- (xii) the Financial Management Policy;
- (xiii) a student management system; and
- (xiv) any other document that may be required by the Commission.

### **30. Criteria for Establishing a Specialized Degree Awarding Institution**

An institution shall be established as a specialized degree awarding institution if it:

- (a) is of strategic national importance as declared by the Cabinet;
- (b) offers or intends to offer academic programmes considered to be of national strategic importance;
- (c) has adequate and appropriate facilities for training at degree level in the specialized area of focus;
- (d) demonstrates capacity for linkages with universities and/or industry in the specialized area of focus;
- (e) has adequate qualified staff in discipline(s) relevant to the specialized area of focus; and
- (f) offers or intends to offer academic programme(s) limited to the specialized area of focus.

### **31. Accreditation Process**

- (1) Upon review of an application the Commission shall schedule a meeting(s) with the applicant to review the submitted documentation and evidence in respect of the resources indicated therein.
- (2) The Commission shall then conduct an inspection to evaluate the available resources.
- (3) For purposes of Regulation 31(2), the Commission shall set up an Inspection Committee to include:
  - (a) at least two academicians of Senior Lecturer grade and above or experts of equivalent experience in discipline(s) relevant to the specialized area of focus;
  - (b) a University Librarian;
  - (c) a Registered Architect;
  - (d) relevant officers of the Commission; and
  - (e) any other expert and/or professional body that the Commission may determine to be necessary.
- (4) The Inspection Committee shall prepare an inspection report and submit it to the Commission.

### **32. Consideration of Inspection Report**

- (1) Where after a full deliberation on the merits of the application the Commission is satisfied that:
  - (a) The particulars given under Regulation 29 (3) are likely to establish a specialized degree awarding institution as contemplated in the Act;
  - (b) The resources declared under Regulation 29 (3) are available;
  - (c) The applicant is following realistic plans to offer academic programmes in the specialized area of focus;

- (d) the submitted draft Charter forms a sound basis for the academic and administrative organization of the institution to offer academic programme(s) in the specialized area of focus;
- (e) The specialized degree awarding institution, when established, is likely to attain and maintain on a long-term basis standards set out in the Universities Standards and Guidelines; and
- (f) The establishment of the specialized degree awarding institution is of strategic national importance,

the Commission shall compile an Accreditation Report, as provided for in Regulation 11, and recommend to the Cabinet Secretary the establishment of a Specialized Degree Awarding Institution.

- (2) Where the Commission is not satisfied in the manner indicated in Regulation 32 (1), it shall decline to recommend the declaration of a Specialized Degree Awarding institution.
- (3) An applicant whose application is declined may re-apply to the Commission for consideration.

### **33. Declaration of a Specialized Degree Awarding Institution**

- (1) On receiving a recommendation from the Commission for the establishment of a Specialized Degree Awarding Institution, the Cabinet Secretary shall submit the same to the President.
- (2) The President may on the recommendation of the Cabinet Secretary, and with the approval of Parliament, award Charter to establish a Specialized Degree Awarding Institution in accordance with the provisions of Section 24 of the Act.
- (3) The award of Charter shall confer the powers, rights and privileges as shall be set out in the Charter.
- (4) A specialized degree awarding institution shall set up governance organs including the equivalent of the Council, Chancellor, Vice Chancellor, Senate, University Management Board and Student Association for purposes of running the academic programme(s) under the specialized area of focus.
- (5) A Charter as specified in Section 24 of the Act issued under these Regulations shall be published in the *Gazette*.

### **34. Quality Audit of a Specialized Degree Awarding Institution**

The Commission shall audit a Specialized Degree Awarding Institution in accordance with the provisions of Regulation 17.

35. Deleted

36. Deleted

37. Deleted

## **PART V-ESTABLISHMENT OF A CONSTITUENT COLLEGE**

### **38. Eligibility**

- (1) A chartered university wishing to establish a constituent college in Kenya shall apply in writing to the Commission in a prescribed format for accreditation following consultation between the Cabinet Secretary and the Commission.
- (2) The nature of the consultation between the Cabinet Secretary and the Commission shall entail:
  - (a) confirmation by the Commission that the application for the establishment of a constituent college has complied with minimum requirements which shall include submission of:
    - (i) a Constituent College Proposal in a format prescribed by the Commission;
    - (ii) documentary evidence of the resources available to the Constituent College;
    - (iii) list of proposed academic programmes, which shall be approved programmes of the mentoring university;
    - (iv) a draft Legal Order for the establishment of the Constituent College; and
    - (v) any other information the Commission may require.
  - (b) Submission by the Commission of a technical report and recommendation upon conducting an inspection to evaluate the available resources in the proposed Constituent College in accordance with the procedures set out in Regulation 6 (2)(3) and (4).

39 Deleted

40 Deleted

#### **41. Consideration for Constituent College**

- (1) The Commission, under Regulation 38(2)(b), may or may not recommend the establishment of a Constituent College and shall communicate the recommendation to the Cabinet Secretary.
- (2) The Cabinet Secretary, if satisfied, shall by order published in the Gazette establish or declare the Institution to be a Constituent College of the mentoring university.

#### **42. Operations and tenure**

- (1) A Constituent College shall:
  - (a) be a body corporate with an independent governance structure;
  - (b) commence with the number of accredited academic programmes of the mentoring university for which adequacy of academic resources has been verified by the Commission;
  - (c) ensure that any subsequent mounting of academic programmes has prior approval by the Commission; and
  - (d) award qualifications to students through the Senate of the mentoring university.
- (2) A Constituent College shall be subjected to annual inspection as provided for in these Regulations.

- (3) A Constituent College established under a Legal Order shall make a formal application for award of Charter at least eight months before the end of four years of its existence.
- (4) Notwithstanding the above provisions, a Constituent College shall be expected to comply with the provisions of Regulation 17A.

#### **42A. Revocation of a Legal Order establishing a Constituent College**

The provisions of Regulation 8 on revocation of a Letter of Interim Authority shall apply *mutatis mutandis* to the revocation of a Legal Order establishing a Constituent College

### **PART VI: ESTABLISHMENT OF A UNIVERSITY CAMPUS**

#### **43. Eligibility**

A chartered university authorized to operate in Kenya shall be required to apply to the Commission for authority to establish a university campus, prior to commencement.

#### **44. Proposal particulars and resources**

An application under Regulation 43 shall be accompanied by:

- (a) documentary evidence of Senate and Council approval;
- (b) a campus establishment policy statement;
- (c) a campus profile with documentary evidence in a prescribed format, highlighting:
  - (i) the location and address;
  - (ii) justification for establishment of the campus;
  - (iii) the physical resources, library facility, and equipment available for the exclusive use of the campus;
  - (iv) full time academic and administrative staff dedicated to the campus;
  - (v) the proposed quality assurance systems;
  - (vi) student enrolment; and
  - (vii) evidence of ownership of land on which the campus shall be situated.
- (d) projection of academic programmes and student enrolment as prescribed by the Commission.
- (e) the financial resources including the financial viability and a five (5) year financial projection plan.

#### **45. Authority to operate a campus**

- (1) A Chartered university may apply to establish a campus.
- (2) The Commission shall evaluate an application under Regulation 44 for the establishment of a campus and where satisfied that:
  - (a) such an establishment is justified;
  - (b) the resources available are adequate to support the proposed programmes and student enrolment and that they meet the requirements of the Universities Standards and Guidelines; and
  - (c) adequate measures have been put in place to assure quality,

the Commission shall approve establishment of the campus and communicate the same to the institution.

- (3) the approval for establishment referred to in Regulation 45 2(c) will lead to either provisional accreditation or a full accreditation for three years;
- (4) Where provisional accreditation has been given it will be for a specified period.
- (5) Where the Commission is not satisfied as specified in Regulation 45 (2) it shall decline the application and communicate the decision to the institution in writing.

#### **46. Operations and Tenure**

- (1) A University campus shall:
  - (a) be the smallest institutional unit of a university;
  - (b) have localized administrative structures clearly linked with the main campus of the University;
  - (c) commence with the number of accredited academic programmes of the University for which adequacy of academic resources has been verified by the Commission;
  - (d) ensure that mounting of any additional academic programmes has prior approval of the Commission upon verification of academic resources;
  - (e) not relocate from the accredited site unless with prior approval of the Commission; and
  - (f) be audited after every three (3) years.
- (2) A university campus shall not share premises with an incompatible business or be situated in unsuitable health and or environmental conditions.

#### **47. Open, Distance and e-Learning Centre**

- (1) A University intending to establish an Open, Distance and E-Learning (ODEL) centre shall apply to the Commission for approval.
- (2) The procedure for establishing an ODEL Centre shall be as provided in Regulations 43, 44 and 45.
- (3) Establishment of an Open, Distance and E-Learning Centre shall be with prior approval of the Commission.
- (4) Academic programmes offered under Open, Distance and E-Learning shall be accredited for this mode of delivery.
- (5) An Open and Distance Learning centre shall only be used for the accredited modes of delivery.
- (6) An Open and Distance Learning centre shall be a coordinating and support facility to bring services and facilities closer to students in line with national and international standards.
- (7) Upon approval of an ODEL centre any additional ODEL programme(s) to be supported at the centre shall be subject to prior approval by the Commission.

## **PART VII-ACADEMIC PROGRAMMES**

### **48. Accreditation/Approval of Academic Programmes**

- (1) All universities, including proposed universities, and proposed specialized degree awarding institutions shall submit all their new academic programmes to the Commission for accreditation/approval.
- (1A) Further to the provisions of Regulation 17, a university submitting an academic programme for accreditation/approval shall, and where applicable as far as a proposed university/institution is concerned, ensure:
  - (a) it has institutionalized regular internal review system of its academic programmes;
  - (b) the Vice-Chancellor of the University or the equivalent for the case of specialized degree awarding institution has signed the commitment form indicating that the applicant:
    - (i) has ensured that the laid down process of curriculum design and development has been adhered to;
    - (ii) has ensured that the report on academic resources to support the academic programme is accurate and up to date; and
    - (iii) has ensured that the Commission's evaluation report on the programme is acted upon within the stipulated timelines.
- (1B) Academic programmes submitted under Regulation 48 (1) shall, and where applicable as far as a proposed university/institution is concerned, be accompanied by:
  - (a) a needs assessment report on the proposed academic programme;
  - (b) duly signed minutes of the Senate Meeting at which the proposed programme was approved;
  - (c) a list of existing academic programmes, their student enrolment and available learning facilities; and
  - (d) a comprehensive report on availability, adequacy, appropriateness and accessibility of the academic resources for the support of the proposed academic programme.

**(1C) The admission criteria and credit transfers for academic programmes shall be as provided in the Universities Standards and Guidelines.**

- (2) For purposes of Regulation 48 (1), the Commission shall:
  - (a) evaluate the proposed academic programmes prior to their launch, by engaging the services of appropriately qualified peer reviewers who shall have training in quality assurance and shall be drawn from:
    - A. Universities, in which case, they shall:
      - (i) be holders of doctorate degrees in the relevant area;
      - (ii) be in the rank of at least a Senior Lecturer; and
      - (iii) in special cases, be at least a Lecturer and holder of a Master's degree in the relevant area with more than five (5) years working experience;
    - B. industry and professional bodies, in which case, they shall be:

- (i) holders of a Master's degree in a relevant field with more than five (5) years working experience in the field at senior position; and
  - (ii) registered members of professional bodies where applicable.
- (b) appoint a programme evaluation panel of peer reviewers for every academic programme under evaluation;
- (c) constitute the programme evaluation panel appointed in Regulation 48 (2)(b) whose members will individually analyse and consider the curriculum for:
  - (i) cohesiveness, breadth, and depth of the content of the academic programme;
  - (ii) purpose and objectives of the academic programme;
  - (iii) adherence to set standards and guidelines for structure of the academic programme;
  - (iv) appropriateness of the modes of delivery of the academic programme;
  - (v) appropriateness of the mode of assessment of the academic programme;
  - (vi) adherence to the academic character, niche and the vision and mission of the University; and
  - (vii) appropriateness and relevance of the academic programme to the job market, industry and development goals,
 and prepare individual evaluation reports on the curriculum in a prescribed format.
- (d) convene a meeting of peer reviewers in Regulation 2(b) to consider the individual reports and compile a consolidated evaluation report;
- (e) constitute a technical inspection team consisting of peer reviewer(s) and relevant officers of the Commission to carry out a site inspection of the institution for purposes of verifying:
  - (i) availability, appropriateness, adequacy, and accessibility of the academic resources for the support of the academic programme(s);
  - (ii) appropriateness of the learning environment of the University; and
  - (iii) co-curricular activities offered by the University,
 and compile a site inspection report.
- (2A) Where after a full deliberation on the findings from the reports in Regulation 48 (2)(c) and (e) the Commission is satisfied that the University has appropriately developed a curriculum and put in place adequate and appropriate resources that meet the standards under these Regulations, the Commission shall consider the programme for approval and communicate to the University.
- (2B) Accreditation and approval of all academic programmes shall be specific to a given mode of delivery which may include:
  - (i) Face to face;
  - (ii) Blended learning; or



- (111) Open, distance and electronic learning (ODEL) or any other mode within the realm.
- (2C) Notwithstanding the generality of Regulation 48 (2B), the accreditation/approval shall be construed to apply to the specific programme content, learning design, intent, structure, delivery mode, academic resources, and assessment mode submitted in the application for accreditation/approval of that specific academic programme.
- (2D) A university seeking accreditation/approval of academic programmes under ODEL mode of delivery shall conform to the Universities Standards and Guidelines set for ODEL.
- (3) The evaluation of a proposed academic programme shall be terminated if:
- (i) the institution fails to address the recommendations of a Commission's evaluation report within the prescribed timelines; or
  - (ii) the institution submits a plagiarized academic programme beyond the limits as set out in the Universities Standards and Guidelines.
- (4) Academic programmes leading to postgraduate qualification shall have curriculum content that enhances research knowledge and practice as provided for in the Universities Standards and Guidelines.
- (5) The validity of accreditation/approval of an academic programme shall be six (6) years.
- (6) A revised academic programme submitted to the Commission before the expiry of the validity period shall be deemed to be a new programme, thus warranting evaluation, if its core course content is over thirty percent (30%) different from the programme in the original curriculum.
- (7) For purposes of Regulation 48(5), the procedure for re-accreditation/re-approval shall be as provided for in the Standards and Guidelines.
- (8) All academic Programmes must meet the qualification level requirements of the Kenya National Qualifications Framework.
- (9) Fees chargeable for accreditation/approval of Diploma and Certificate academic programmes will be as specified in Schedule Three.

#### **49. Engagement of Professional Bodies in Accreditation/Approval of Academic Programmes**

- (1) The Commission may engage professional bodies and/or associations when accrediting professional academic programmes.
- (2) The Commission may formulate, develop and implement Standards and Guidelines for engaging professional bodies.

#### **50. Launch of Academic Programmes by Universities**

- (1) A university or a specialized degree awarding institution shall not launch any academic programme without prior accreditation/approval by the Commission.

- (2) NOTWITHSTANDING the provisions of Regulation 50(1), a Constituent College or a campus shall not launch any academic programme without prior accreditation/approval by the Commission as provided for in the Universities Standards and Guidelines.
- (3) A university shall ensure that all academic programmes meet the requisite instructional hours irrespective of the mode of delivery.
- (4) A university shall not exceed the approved enrolment in academic programmes as determined by the Commission guided by the available academic resources.

#### **51. Deleted (Replace by new 51A)**

##### **51A. Conditions for Credit Transfer and Waiver**

The conditions for credit transfer and/or waiver for certificate, diploma and degree programmes shall be as specified in the Universities Standards and Guidelines and applicable policies and criteria.

#### **52. Quality Assurance Systems for Academic Programmes**

- (1) A university has the primary responsibility for internal quality assurance of their academic programmes.
- (2) Each university shall establish and operationalize a Curriculum Development Committee to guide its programme development and ensure that the university's proposed curricula have gone through clear internal processes and meet the Commission's standards of curriculum development prior to being presented to the Senate of the university, and thereafter, to the Commission for evaluation and consideration.
- (3) Each university shall undertake a needs assessment, market survey and situational analysis, involving relevant stakeholders, for proposed programmes.
- (4) The university shall provide documentary evidence that all academic programmes have gone through the relevant academic organs which shall include:
  - (a) the Departmental Board;
  - (b) the Faculty or School Board; and
  - (c) the Senate.
- (5) A university shall review its curricula as per Regulation 48(5) and (6).
- (6) A university shall have mechanisms to ensure security and integrity of the examination process including security of academic certificates and awards.
- (7) Each university shall carry out self-assessment of its programmes for every cohort and submit a self-assessment report to the Commission for purposes of external review.

### **PART VIII A FOREIGN UNIVERSITY COLLABORATING WITH A LOCAL UNIVERSITY/INSTITUTION AUTHORIZED TO OPERATE IN KENYA**

#### **53. Requirements for a foreign university to collaborate**

A foreign university intending to collaborate with a local university/institution authorized to operate in Kenya shall:

- (1) Apply to the Commission for grant of authority to collaborate with a local university/institution in Kenya in the provision or offer of its academic programme or programme of instruction leading to the award of a degree, a double degree, a dual/multiple degree, a twinning degree or a joint degree, where applicable.
- (2) Submit to the Commission an application for grant of authority to collaborate under this Regulation, in the prescribed format.
- (3) Not enter an arrangement to collaborate with a local university/institution before the Commission grants authority to collaborate.
- (4) Not admit students into an academic programme offered under a collaborative arrangement without authority to collaborate granted by the Commission.
- (5) Be accredited and recognized in the country of origin.
- (6) Have the academic programme to be offered under collaboration also accredited and on offer in the country of origin.
- (7) Have graduated at least one cohort of students in the country of origin in the academic programme to be offered under collaboration.

#### **54. Obligations of a Local Collaborating University/Institution**

A local university/institution entering a collaborative arrangement with a foreign university under these Regulations:

- (1) shall provide the requisite resources to support the academic programme and where applicable, evidence of approval by the relevant professional body.
- (2) may collaborate with a maximum of two (2) foreign universities to offer a maximum of two (2) academic programmes under each collaboration.

#### **55. Obligations of a Foreign Collaborating University**

A foreign university entering a collaborative arrangement with a local university/institution under these Regulations shall:

- (1) be required to be accredited in the country of origin.
- (2) collaborate with a local Institution to offer a maximum of two (2) degree programmes.
- (3) collaborate with a maximum of two (2) local universities/institutions.

#### **56. Academic programmes under Collaboration**

The Academic programme(s) offered under collaboration between a foreign university and a local university/institution in Kenya shall be required to be:

- (1) Accredited and recognized in the country of origin of the foreign university and the Senate of the local university/institution, where applicable.
- (2) Approved by the Senate of the collaborating university/universities and by the Commission, in the case of a degree, a double degree, a dual/multiple degree, a twinning degree or a joint degree, where applicable.

- (3) Relevant to a specific market niche.

### **57. Collaboration Agreement**

- (1) A foreign university collaborating with a local university/institution shall submit to the Commission a duly signed Memorandum of Understanding between itself and the collaborating local university/institution.
- (2) The Memorandum of Understanding under Regulation 57(1) shall set out details of:
  - (a) the nature of the collaboration;
  - (b) a statement on the collaborating foreign university and the local university/institution;
  - (c) a statement on the degree to be awarded and by which university, in the case of collaboration between a foreign university and a local university;
  - (d) the rights and obligations of the students in the programme under collaboration;
  - (e) the Lead Institution in the case of joint/multiple/double/dual/twinning degrees;
  - (f) the rights and obligations of the collaborating foreign university;
  - (g) the rights and obligations of the collaborating local university/institution;
  - (h) financial arrangements; and
  - (i) mechanisms of variation and termination of the Memorandum.

### **58. Admission of Students under Collaboration**

- (1) The admission of students into programmes offered under collaboration shall be in line with the existing university admissions criteria in Kenya.
- (2) In the case of joint/multiple/double/dual/twinning degrees the students shall also be required to meet the minimum admission criteria of the foreign university collaborating with a local university/institution.

### **59. Collaboration Review Committee**

- (1) Upon receipt of the application referred to in Regulation 53, the Commission shall appoint a Collaboration Review Committee which shall comprise:
  - (a) at least two relevant peer reviewers; and
  - (b) relevant officers of the Commission.
- (2) The Collaboration Review Committee shall:
  - (a) verify the documents submitted under Regulation 53;
  - (b) verify the academic resources, management and administrative structures pertinent to the academic programme(s) of the local university/institution;
  - (c) inspect the local collaborating university/institution; and
  - (d) make such other follow-up inquiry relevant to the collaboration processes as may be deemed necessary.
- (3) The Collaboration Review Committee shall submit a written report to the Commission.

### **60. Approval of Collaboration**

- (1) The Collaboration Review Committee shall submit a factual and evaluative report of its findings under Regulation 59 to the Commission.
- (2) The Commission may, upon confirmation that the parties to the collaborative agreement meet conditions set out under these Regulations, approve the collaboration and grant authority to collaborate.
- (3) The Commission shall issue a Certificate of Authority to collaborate to the foreign university and local university/institution.
- (4) The Commission shall publish the approved on the Commission website and the particulars of the academic programme in respect of which the authority is granted.
- (5) Where parties to the collaborative agreement fail to address the issues highlighted in the report under Regulation 60 (1), the Commission shall not approve the collaboration.
- (6) Notwithstanding the provisions of Regulation 60 (5), the Commission shall accord the application a fair administrative process.

**60A. Register of Universities/Institutions granted authority to Collaborate**

The Commission shall maintain and update a register of Universities/Institutions granted authority to collaborate under this Regulations.

**60B. Monitoring of Universities/Institutions granted authority to Collaborate**

The Commission may conduct regular, impromptu and ad-hoc inspections, investigations and/or audits, on Universities/Institutions granted authority to collaborate under this Regulations, in accordance with the Universities Standard and Guidelines.

**61. Notice to Revoke Authority to Collaborate**

- (1) The Commission may issue a notice of intention to revoke a Certificate of Authority to Collaborate, in writing, outlining the reasons for revocation.
- (2) Where a Certificate of Authority to Collaborate has been revoked:
  - (a) such revocation shall not affect the academic awards granted under the collaboration before the date of revocation; and
  - (b) the local collaborating University/Institution shall make necessary arrangements for the ongoing students to complete their programmes.
- (3) Notwithstanding the provisions of Regulation 61 (2), the collaborating institutions shall be accorded fair administrative action as provided for under Regulation 85.

**62. Revocation of Authority to Collaborate**

The Commission may revoke a certificate of authority to collaborate, on its own motion or upon application by any of the collaborating partners before the expiry of the term of the collaboration if:

- (1) in the opinion of the Commission, such revocation is in the interest of University education in Kenya;
- (2) any of the Universities/Institutions in the collaboration is in breach of the terms and conditions upon which the Authority to Collaborate was granted;

- (3) any of the Universities/Institutions is no longer offering the academic programme under collaboration for which the Authority to Collaborate was granted;
- (4) any of the Universities/Institutions has ceased to be an accredited or recognized University/Institution; or
- (5) such changes have since occurred which, if they had been in existence at the time of application for the Authority to Collaborate, such Authority to collaborate would not have been granted.

## **PART IX A LOCAL UNIVERSITY COLLABORATING WITH A LOCAL UNIVERSITY/INSTITUTION AUTHORIZED TO OPERATE IN KENYA**

### **63. Deleted**

### **64. Application procedure**

- (1) A local university shall apply to the Commission in the prescribed format, for grant of authority to collaborate with a local university/institution authorized to operate in Kenya.
- (2) The application referred to in 64(1) shall be submitted together with copies of the:
  - (a) proposed contract for collaboration between the applying local university and the university/institution with which it intends to collaborate;
  - (b) academic programme(s) to be offered under the collaboration;
  - (c) the nature of collaboration and the type of degree awarded;
  - (d) certificate of accreditation/registration of local university/local institution;
  - (e) evidence of accreditation status of the academic programme(s) to be offered under the collaboration.
- (3) The contract specified in Regulation 64(2) (a), shall specify:
  - (a) the terms of the contract;
  - (b) the mode of teaching;
  - (c) the assessment and awards system in respect of the academic programme(s) offered;
  - (d) the rights and obligations of the collaborating universities/institutions;
  - (e) the Academic resources including physical, library, human and financial resources devoted to the academic programme(s) in the local institution in accordance with the Universities Standards and Guidelines;
  - (f) the management and administration of the academic programme; and
  - (g) the financial arrangements for the collaboration.

### **65. Collaboration Review Committee**

The review of a collaborative arrangement shall be as provided under Regulation 59.

### **66. Grant of Authority to Collaborate**

Upon confirmation that all the requirements for grant of Authority to Collaborate as prescribed under Regulation 60 have been met, the Commission may grant Authority to Collaborate in the prescribed format.

#### **67. Publication of Grant of Authority to Collaborate**

The Commission shall publish the grant of Authority to Collaborate under these Regulations on the Commission website.

#### **68. Register of Universities/Institutions granted Authority to Collaborate**

The Commission shall maintain and update a register of universities/institutions granted authority to collaborate under these Regulations.

##### **68A. Monitoring of Universities/Institutions granted Authority to Collaborate**

The Commission may conduct regular, impromptu and ad-hoc inspections, investigations and/or audits, on Universities/Institutions granted Authority to Collaborate under this Regulations, in accordance with the Universities Standard and Guidelines.

#### **69. Notice to Revoke Authority to Collaborate**

- (1) The Commission may issue a notice of intention to revoke a Certificate of Authority to Collaborate, in writing, outlining the reasons for revocation.
- (2) The notice of intention to revoke shall be issued before the expiry of the term of collaboration if:
  - (a) it is in the opinion of the Commission that such revocation is in the best interest of education in Kenya;
  - (b) any of the Universities/Institutions is in breach of the terms and conditions upon which the Certificate of Authority to Collaborate was issued;
  - (c) any of the Universities/Institutions is no longer offering the programme under collaboration for which the certificate was issued;
  - (d) any of the Universities/Institutions has ceased being an accredited University/Institution; or
  - (e) such changes have since occurred which, if they had been in existence at the time of application for the certificate of authority to collaborate, such authority to collaborate would not have been granted.
- (3) Notwithstanding the provisions of Regulation 69 (2) and (3), the collaborating University(ies)/Institution(s) shall be accorded fair administrative action as provided for under Regulation 85.

#### **70. Revocation of Authority to Collaborate**

- (1) The Commission may revoke a certificate of authority to collaborate, on its own motion or upon application by any of the collaborating universities/institutions before the expiry of the term of the collaboration if:

- (a) in the opinion of the Commission, such revocation is in the best interest of University education in Kenya;
  - (b) any of the universities/institutions in the collaboration is in breach of the terms and conditions upon which the Certificate of Authority to Collaborate was issued;
  - (c) any of the universities/institutions is no longer offering the academic programme under collaboration for which the certificate was issued;
  - (d) any of the universities/institutions has ceased being an accredited or recognized University/institution; or
  - (e) such changes have since occurred which, if they had been in existence at the time of application for the certificate of authority to collaborate, such authority to collaborate would not have been granted.
- (2) The Commission shall publish the revocation of authority to collaborate on the Commission website.
- (3) Notwithstanding the provisions of Regulation 70 (1), the collaborating institutions shall be accorded fair administrative action as provided for under Regulation 85.

## **PART X LICENSING OF STUDENT RECRUITMENT AGENCIES AND ACTIVITIES OF FOREIGN UNIVERSITIES/INSTITUTIONS**

### **71. Application**

- (1) A Student Recruitment Agency or a foreign institution intending to recruit students from Kenya shall apply to the Commission, in a prescribed format, for a license.
- (2) For purposes of Regulation 71 (1), agencies of foreign universities and institutions include:
  - (a) foreign universities or institutions directly advertising, exhibiting or recruiting students;
  - (b) agencies for student recruitment into universities/institutions;
  - (c) agencies for advertising, exhibiting and marketing universities/institutions;
  - (d) a confederation of agencies for advertising, exhibiting and marketing universities/institutions; and
  - (e) a confederation of agencies for student recruitment into universities/institutions.
- (3) The Commission may from time to time prescribe standards and guidelines to govern student recruitment agencies and the activities of foreign universities/institutions in Kenya.

### **72. Conditions for operating a Student Recruitment Agency**

- (1) A Student Recruitment Agency shall be eligible to be licensed to operate in Kenya if such agency:
  - (a) is registered under the laws of Kenya;
  - (b) is a legal entity in the country of origin;
  - (c) represents an accredited university/institution in the country of origin;



- (d) has a physical address; and
  - (e) produces evidence of Memorandum of Understanding/Agreement with a university/institution it represents.
- (2) Foreign missions may be allowed to operate under short term licenses as may be prescribed by the Commission from time to time.

### **73. License to operate as a Student Recruitment Agency**

- (1) A license to operate under this provision shall be valid for a period of one year, and may be renewed subject to the agency's adherence to the conditions set out by the Commission.
- (2) The Commission may cancel a license to operate if it is of the opinion that the agency is in violation of the terms and conditions under which the license was issued.

### **74. Effects of the License**

An agency to which a license is issued may:

- (a) recruit qualified students for specified universities/institutions;
- (b) carry out marketing and liaison activities for the universities/institutions it represents;
- (c) provide student services; and
- (d) advertise its services.

### **75. Obligations of an agency**

An agency licensed to operate under these Regulations shall be obligated to:

- (a) recruit students who are qualified in accordance with the admissions criteria set out by the Commission;
- (b) place students into authorized, accredited and recognized universities/institutions;
- (c) carry out due diligence to establish the accreditation status of the universities/institutions and academic programmes;
- (d) operate within the relevant laws in Kenya;
- (e) ensure that all instructions issued by the Commission under these Regulations are complied with; and
- (f) provide student services.

### **76. Register of Student Recruitment Agencies**

- (1) The Commission shall maintain in its website a register of all agencies licensed under these Regulations.
- (2) A person who intends to enroll in any advertised degree programme, including an online one, may seek clarification on the accreditation status of the programme and the university/institution in question, from the Commission.

### **76A. Activities of Foreign Universities/Institutions**

#### **(1) Accreditation Status:**

A foreign University/institution wishing to recruit students directly from Kenya shall show evidence of the accreditation status of the university/institution in the home country

**(2) Application for licensing /Application fees**

(1) A foreign University intending to recruit students directly from Kenya shall apply to the Commission for licensing in a prescribed format and the license shall be for a specified period.

(2) The foreign university shall pay the Commission the prevailing fees for licensing at the time of application.

(3) Fees chargeable for these services will be in line with the Second Schedule.

**(3) Quality of Service**

A foreign university/institution licensed to recruit students shall observe the highest standards of student recruitment, advertising, exhibiting and marketing of its activities in Kenya.

**(4) Full Disclosure**

A foreign university/institution licensed to recruit students shall disclose to the prospective students all services rendered to students before and after they leave for their studies in the foreign university/institution.

**(5) Operational Space**

A foreign university/institution licensed to recruit students shall operate from an identifiable, designated, appropriate and adequate operational space as specified in the Universities Standard and Guidelines.

**(6) Human Resource**

A foreign university/institution licensed to recruit students shall have adequate and competent human resources to execute its mandate as specified in the Universities Standard and Guidelines.

**77. Monitoring of Student Recruitment Agencies**

(1) The Commission may conduct regular, impromptu and ad-hoc inspections, investigations and/or audits, on a Student Recruitment Agency to:

(a) confirm the extent to which the Agency is complying with the Act, Regulations, the Universities Standards and Guidelines and other statutory requirements; and

(b) assess whether the Agency can continue recruiting students;

(2) The audit, inspection and/or investigation referred to in paragraph (1) shall be conducted by an Audit, Inspection and/or Investigation Committee or an authorized officer(s) as specified in the Universities Standards and Guidelines.

(3) The Audit, Inspection and/or Investigation Committee or authorized officer(s) shall submit a written report to the Commission.

- (4) The Commission shall give written submissions to the Agency inspected, detailing the issues to be addressed within a specified time frame to ensure compliance with the Act, Regulations, Standards and Guidelines and other statutory requirements.
- (5) If the matters outlined in the report pursuant to Regulation 7(3) contravene the objects for which the Agency was licensed, the Commission may revoke the license.
- (6) An Agency or institution which is aggrieved by an act or decision of the Commission under this Regulation may appeal as provided for under Regulation 85.
- (7) An Agency which, without the written consent of the Commission, uses the name of a foreign university/institution in furtherance of or in connection with any advertisement for any trade or business, commits an offence and shall be liable to penalties set out under the Act and these Regulations.

## **PART XI: RECOGNITION AND EQUATION OF DEGREES, DIPLOMA AND CERTIFICATES CONFERRED OR AWARDED BY A FOREIGN UNIVERSITY AND INSTITUTION**

### **78. Scope of the Service**

- (1) Holders of degrees, diplomas and certificates conferred or awarded by foreign universities and institutions may seek recognition or equation of qualifications from the Commission.
- (2) The Commission may recognize and equate degrees, diplomas and certificates conferred or awarded by foreign universities and institutions in accordance with the Universities Standards and Guidelines.
- (3) The recognition or equation of qualifications issued under this Regulation shall not be deemed to be an award or a replacement of a qualification.

### **79. Principles of recognition and equation**

The following principles shall apply in respect of the assessment of foreign qualifications under this Regulation:

- (a) holders of foreign qualifications shall have adequate access, upon request, to an assessment of their qualifications;
- (b) The procedures and criteria for the assessment of foreign qualifications shall be transparent, coherent and reliable;
- (c) In recognizing foreign qualifications, both national and international legal frameworks shall be applied;
- (d) Where the qualification(s) presented cannot be recognized, the Commission shall inform the applicant the underlying reasons;
- (e) While the aim of the Commission shall be to assess foreign qualifications in qualitative terms, the assessment may rely on both qualitative and quantitative criteria, where quantitative criteria are considered relevant to quality and may supplement qualitative criteria; and

- (1) recognition shall be granted wherever possible, unless there is a substantial difference in terms of content, profile, workload, quality and learning outcomes with similar programmes available locally.

## **80. Evaluation of Foreign Qualifications**

- (1) The Commission shall evaluate, recognize and equate foreign degrees, diplomas and certificates conferred or awarded by foreign universities and institutions.
- (2) In its evaluation under Regulation 80 (1) the Commission shall:
- (a) establish whether a university or institution belongs to a country operating under the auspices of any international or regional convention;
  - (b) establish whether the higher education institution belongs to the countries operating under the auspices of any international or regional conventions;
  - (c) take due account of the established quality assurance system, including the system of formal evaluation of higher education institutions and programmes in the country of origin;
  - (d) identify the qualification in the system of the country in which recognition is sought which is most comparable to the foreign qualification, and where available, the Commission shall refer to the National Qualifications Framework and Regional Qualifications Frameworks and global conventions;
  - (e) consider differences in the content, profile, workload, quality and learning outcomes. In such cases the evaluation shall seek to establish alternative recognition that may include:
    - (i) recognition of the foreign qualification as compared to a qualification of Kenya, but not that indicated by the applicant;
    - (ii) partial recognition of the foreign qualification; and
    - (iii) full or partial recognition of the foreign qualification subject to the applicant successfully taking additional examinations, further study, aptitude tests or other compensatory measures;
  - (f) take into account prior learning, credit transfer, different forms of recognised access to higher education, joint degrees and lifelong learning in recognition of some academic qualifications which are awarded in short duration, without diminishing the learning outcomes. A decision not to grant recognition shall not be motivated by duration alone.
  - (g) consider previous levels of education only where these levels have a bearing on the outcome of the evaluation, and shall as far as possible, be limited to qualifications of a level immediately preceding the qualification for which recognition is sought;
  - (h) apply best professional skills/practices and take note of all relevant information; and
  - (i) exercise due diligence when taking note of the learning outcomes and the education programme during evaluation.
- (3) Where qualifications are under previous higher education structures the following principles shall apply:

- (a) the field in which the qualification is awarded as well as activities undertaken by the applicant after attaining the qualification;
- (b) the Qualifications Framework and status of the qualification in the issuing country;
- (c) older qualifications shall be recognized in comparison with recent and similar qualifications issued in Kenya, taking into account the purpose for which such recognition is sought and relevant work experience; and
- (d) learning outcomes, the quality of the academic programme and its duration shall be taken as some of the indicators of the level of achievement reached at the end of the programme.

### **81. Criteria for recognition and equation of qualifications**

The criteria for recognition and equation of qualifications shall be as provided for in the Universities Standards and Guidelines (Fourth Schedule).

### **82. Moved to form new 18B and 18C**

## **PART XII GENERAL PROVISIONS**

### **83. Fees**

The fees charged for services rendered under these Regulations shall be determined and gazetted by the Commission from time to time, a breach of which shall lead to cessation or denial of services by the Commission.

### **84. Penalties**

- (1) A person who, without the written consent of the Commission, uses the name “Commission for University Education” or the name “University” in furtherance of or in connection with any advertisement for any trade, business, calling or profession, commits an offence and shall be liable to penalties set out under the Act and these Regulations.
- (2) If an offence under the Act or these Regulations is committed by a university or other body corporate with connivance of or attributable to any officer of the university or any other person who was purporting to act in any such capacity, that officer or the other person shall be guilty of that offence.

### **85. Reviews/Appeals**

- (1) Any person or institution who or which is aggrieved by an act or decision of the Commission taken in accordance with any of the provisions of these Regulations, who desires to question that act or decision, or any part of it, may, within thirty days of the date of such act or decision:
  - (a) seek review of the decision in writing to the Commission which shall review and decide on the matter in question and respond within a period of three months; and

- (b) appeal to the Cabinet Secretary thereafter, if not satisfied with the decision of the Commission following the results of the review. Following the appeal, the Cabinet Secretary may give such orders or instructions as may be deemed necessary within a period of three months.
- (2) Notwithstanding the provisions of Regulation 85(1)(b) the decision of the Cabinet Secretary shall be final unless otherwise provided by the Act.

## **86. Transitional Arrangements**

- (1) Any University/Institution which at the commencement of these Regulations had Authority to Collaborate, shall be deemed to have been granted the authority under these Regulations and the applicable provisions shall apply.
- (2) Deleted
- (3) Deleted
- (4) A University, being a holder of Letter of Interim Authority that was in existence before the coming into operation of these Regulations shall apply to the Commission and be assessed for award of Charter in the manner prescribed under these Regulations.
- (5) Any University college, campus, or ODEL Centre that was accredited before the enactment of these Regulations shall be deemed to have been accredited under these Regulations.
- (6) Any University which at the commencement of these amendments is offering certificate and diploma academic programmes leading to the award of certificate and diploma in the name of the university, shall within six months from the date of coming into operation, apply to the Commission for approval under these Regulations and the Universities Standards and Guidelines.
- (7) Notwithstanding the provisions of Regulation 86 (6), a University which at the commencement of these amendments is offering certificate and diploma academic programmes examined by an authorized examining body other than the university, shall within six months from the date of coming into operation, apply to the Commission for approval.

## **87. Preparation of Standards and Guidelines**

- (1) The Commission may from time to time prepare and publish in the Gazette a set of standards, herein referred to as “Universities Standards and Guidelines”, to govern the performance, operations and general conduct of all universities authorized to operate under these Regulations.
- (2) Notwithstanding the generality of Regulation 87 (1), the Universities Standards and Guidelines may, in particular set out minimum standards among others on:
  - (a) governance and management;
  - (b) establishment of universities/institutions
  - (c) physical facilities;
  - (d) academic programme(s);
  - (e) library facilities and information services;
  - (f) human resources;

- (g) financial resources;
- (h) open, Distance and e-Learning;
- (i) institutionalization of quality assurance;
- (j) collaborations;
- (k) recognition and equation of qualifications;
- (l) student Recruitment Agencies;
- (m) university information and data;
- (n) information and Communication Technology;
- (o) safety and security;
- (p) revocation and winding up of university/institution;
- (q) mergers and acquisitions; and
- (r) fair administrative procedures;

### **88. Declaration of Standards and Guidelines**

- (1) The standards contained in the Schedules are declared to have been prepared and published in accordance with Section 5 (1) (c) of the Universities Act.
- (2) The Commission may add to, delete or otherwise amend the contents of the Schedules provided, however, that any amendment made in accordance with this Regulation shall be published in the Gazette.

**FIRST SCHEDULE**

**GOVERNANCE AND MANAGEMENT OF A UNIVERSITY**

**(REGULATION 12A)**

**1. Sponsor**

- (1) The Sponsor of a public University shall be the Government of Kenya whilst the Sponsor of a private University shall be an individual or a duly registered or incorporated legal entity.
- (2) A Sponsor shall:
  - (a) Apply for the establishment of the University;
  - (b) Commit to the overall financing, development, implementation, construction, maintenance and management of the University in line with the provisions of the Act; and
  - (c) Apply for change of name and/or sponsorship of a University, where necessary as provided for in the Regulations
- (3) In carrying out his/her functions, the sponsor shall appoint a Board of Trustees or its equivalent to hold the University in trust.

**2. Board of Trustee**

- (1) A Board of Trustees shall:
  - (a) Be constituted in accordance with the Trustees Act Cap 167;
  - (b) Have members representing the interests of the Sponsor but, members of the sponsoring family in case of a sponsor who is an individual or members of a sponsoring entity, in case of an institutional sponsor, may not constitute more than a third of the Board of Trustees; and
  - (c) Have a third of its members being Kenyans in the case of a foreign sponsor.
- (2) The functions of the Board of Trustees shall be as specified in the Universities Act.
- (3) The Board of Trustees shall appoint the University Council and the Chancellor in accordance with provisions in its Charter, and in the case of an institution with Letter of Interim Authority, its Proposal.

**3. Chancellor**

- (1) The function and procedures of appointment of a Chancellor shall be as stipulated in the Universities Act.
- (2) A Private University shall provide in its Charter, or in the case of an institution with a Letter of Interim Authority, in its proposal, the procedure for appointment of a Chancellor which shall specify among other things, the tenure and qualifications.
- (3) Every University shall clearly articulate the powers and privileges of the Chancellor in its Charter, or in the case of an institution with a Letter of Interim Authority, in its proposal.
- (4) The Vice Chancellor shall, at least twice every year, brief the Chancellor on the performance of the University. Such briefing shall include information on student enrollment and progression, staffing, finances, academic programmes and quality assurance.



- (2) The Chancellor shall, on an annual basis, hold an official meeting with the Council to discuss the performance of the University.

#### **4. Vice Chancellor of a Public University**

- (1) The Vice-Chancellor shall be a person appropriately qualified as provided for in the Act, these Regulations and Universities Standards and Guidelines.
- (2) The tenure of a Vice-Chancellor of a public University shall be as stipulated in the Universities Act.
- (3) The procedure of appointment and re-appointment of a Vice-Chancellor of a public University shall be as provided for in the Act.
- (4) Notwithstanding the provisions of the Act, the Vice Chancellor shall:
  - (a) Be the Accounting Officer of the University and shall be responsible to the University Council for the maintenance and promotion of the objectives of the University.
  - (b) Be the Secretary and ex-officio Member to the University Council.
  - (c) Be the Chairperson of Senate; Chairperson of the University Management Board and any other Committee as specified in the Charter and Statutes; and
  - (d) Have such powers and duties as may be conferred by the University Council in accordance with the University Charter and Statutes.
- (5) The Vice-Chancellor may, from time to time, assign or delegate any of his/her duties to a Committee or a member of the University Staff for the proper functioning of the University and may withdraw any such assignment or delegation as may be deemed necessary. The Vice-Chancellor shall retain overall responsibility over the decisions made under the delegated powers.
- (6) In the case where a Vice-Chancellor is unable to discharge his duties for whatever reason, the University Council shall appoint, in acting capacity one of the Deputy Vice-Chancellors to perform the duties of the Vice-Chancellor for a period not exceeding six months.
- (7) The Council in consultation with the Cabinet Secretary may terminate the appointment of a Vice-Chancellor on the basis of:
  - (a) Serious violation of the Constitution or any other written law as pronounced by a competent Court of law;
  - (b) Violation of the principles of Public Service;
  - (c) Violation of National Values including the tenets of leadership and integrity;
  - (d) Gross misconduct;
  - (e) Physical or mental incapacity as declared by competent medical practitioners to perform the functions of the office;
  - (f) Incompetence;
  - (g) Unsatisfactory performance; or
  - (h) Bankruptcy, as adjudged by a court of competent jurisdiction.
- (8) The termination in (7) shall:
  - (a) be subject to the Vice Chancellor being accorded a fair hearing as provided for in Section 63 of the Act; and

- (b) take into consideration the relevant laws and University Statutes and Policies.
- (9) Where the position of Vice Chancellor falls vacant, the Council shall appoint an acting Vice Chancellor from among the Deputy Vice Chancellors or any other suitably qualified person for a period not exceeding six (6) months or until a substantive Vice Chancellor is appointed whichever comes earlier.
- (10) The provisions of this Section shall apply to the Principal of a Constituent College.

#### **5. Vice Chancellor of a Private University**

- (1) A private University shall define the procedure of appointment and the tenure of its Vice-Chancellor in its Charter and Statutes and in the case of an institution with Letter of Interim Authority, in its Proposal.
- (2) The procedure defined in (1) shall take into consideration provisions in the Universities Act and the Universities Standards and Guidelines.
- (3) The duties of a Vice Chancellor shall be spelt out in the Charter and statutes, and in the case of an institution with a Letter of Interim Authority, its Proposal, and shall be in line with the provisions of the Universities Act.
- (4) Notwithstanding the provisions of (3), the Vice Chancellor shall:
  - (a) Be the Accounting Officer of the University and shall be responsible to the University Council for the maintenance and promotion of the objectives of the University.
  - (b) Be the Secretary and ex-officio Member to the University Council.
  - (c) Be the Chairperson of Senate; Chairperson of the University Management Board and any other Committee as specified in the Charter and Statutes; and
  - (d) Have such powers and duties as may be conferred by the University Council in accordance with the University Charter and Statutes.

#### **6. Council of a Private University**

- (1) A private University shall outline the procedure for appointment of Council in its Charter and in the case of Institutions with Letter of Interim Authority, in their Proposals.
- (2) A private university shall provide for the qualifications and procedures of appointment of its Chairperson and members of Council in its Charter and Statutes, and in the case of an institution with Letter of Interim Authority, in its Proposal.
- (3) A private University shall outline the procedure for appointment of Council in its Charter and in the case of Institutions with Letter of Interim Authority, in their Proposals.
- (4) The functions of a council of a private university shall be as prescribed in the Act. In addition, a University shall:
  - (a) clearly stipulate the composition and functions of the Council in its Charter and Statutes, and in the case of an institution with Letter of Interim Authority, in its Proposal;

- (b) determine and outline the staff required for the optimum performance of the University in its Charter, Proposal or Legal Notice in the case of a chartered University, institutions with Letter of Interim Authority or Constituent College respectively;
- (c) Approve a Human Resource Policy to govern the terms and conditions of the staff in line with the Constitution, the relevant statutory provisions, Universities Regulations, Universities Standards and Guidelines, Charter, Proposal and the Legal Notice;
- (d) institute mechanisms, for appraisal, reward and sanction of staff which shall be documented;
- (e) institute mechanisms of ensuring that the contractual obligations to staff and statutory requirements are met in a timely manner;
- (f) approve statutes, plans, policies, budgets and any other relevant documents submitted by the University Management Board;
- (g) consider and approve proposals of Senate for associations, collaborations, partnerships, networks and linkages with other bodies or organizations in furtherance of the purpose for which the University was established, where the same bear financial implication;
- (h) receive regular progress reports on academic and administrative functions of the University for purposes of monitoring the performance of the University; and
- (i) regularly brief the Sponsor/Board of Trustees on the performance of the University in the promotion of the objectives for which the University was established.

## **7. Council of a Public University**

- (1) A Council shall employ staff and in so doing the Council shall:
  - (a) determine and outline the staff required for the optimum performance of the University in its Charter, Proposal or Legal Notice in the case of a chartered University, institutions with Letter of Interim Authority or Constituent College respectively;
  - (b) approve a Human Resource Policy to govern the terms and conditions of the staff in line with the Constitution, the relevant statutory provisions, Universities Regulations, Universities Standards and Guidelines, Charter, Proposal and the Legal Notice;
  - (c) institute mechanisms, for appraisal, reward and sanction of staff which shall be documented; and
  - (d) institute mechanisms of ensuring that the contractual obligations to staff and statutory requirements are met in a timely manner.
  
- (2) A Public University shall outline in its Charter and Statutes, and in the case of a Constituent College, in its Legal Notice, the process of determining the tenure of its Council members during the first meeting of an initially appointed full Council, in line with the provisions of the Universities Act.

- (3) The Chairperson of the Council shall communicate to the Cabinet Secretary the members who will serve for a term of three years, and a term of four years.
- (4) For subsequent appointments of new Council members, the tenure shall be three years.
- (5) The Cabinet Secretary, in exercising his powers of appointment, may terminate the appointment of a member or members of Council or dissolve an entire Council for:
  - (a) Serious violation of the Constitution or any other written law as pronounced by a competent Court of law;
  - (b) Violation of the principles of public Service;
  - (c) Violation of National Values including the tenets of leadership and integrity;
  - (d) Gross misconduct;
  - (e) Physical or mental incapacity as declared by competent medical practitioners to perform the functions of the office;
  - (f) Incompetence;
  - (g) Unsatisfactory performance; or
  - (h) Bankruptcy, as adjudged by a court of competent jurisdiction.
- (6) In the case of appointment of Council members under Section 36(1) (d) of the Act, the Cabinet Secretary shall constitute a Selection Panel, chaired by the Principal Secretary in charge of University education to advertise, shortlist, interview and make recommendations to the Cabinet Secretary on qualified applicants for consideration as Council members in line with Section 36(3) of the Act.
- (7) The Cabinet Secretary, upon receipt of the recommendations of the Selection Panel, shall consider, appoint and cause to be published in the Kenya gazette the members of Council for a University.
- (8) A University shall outline the standing committees of the various governing organs and describe their composition, functions and responsibilities in the Charter, Legal Notice or Proposal, for institutions with Charter, Constituent College or Letter of Interim Authority respectively.
- (9) The Council shall rationalize the positions of Deputy Vice Chancellor and other managers of the University which shall be articulated in the statutes.
- (10) In the case where the position of Deputy Vice-Chancellor in charge of Administration, Finance or the equivalent has been established, the holders of the office must have demonstrated competence in finance and administration.

## **8. University Management Board**

- (1) The management board of a university shall –
  - (a) assist the Vice-Chancellor in the day to day management of the University;
  - (b) be responsible for implementation of the policies of the university; and
  - (c) undertake such other functions as shall be set out in the Charter.
- (2) The composition of the Management Board shall be stipulated in the Charter, Proposal, or Legal Notice in the case of institutions with Letter of Interim Authority or Constituent College respectively and the membership shall include the Vice Chancellor, Deputy Vice Chancellor and Managers of administrative functions of the University.

## **9. Senate**

- (1) The Senate of a university shall be in charge of all academic matters of a university.
- (2) The Senate shall formulate and implement academic programmes of the University.
- (3) Every University shall articulate the composition of the Senate in its Charter, or in the case of a University with a Letter of Interim Authority in its proposal and in the Legal Notice for a Constituent College.
- (4) The composition of Senate shall include but not limited to the Vice Chancellor, Deputy Vice Chancellor(s), Academic Deans', Chairpersons of Academic Departments, and Professors as well as representatives of the Student Council.
- (5) The members of Senate whose membership is by virtue of office, must have been appointed on merit to those offices through an open and transparent process that shall be stipulated in the University Charter and Statutes.
- (6) Decisions of Senate on any academic matter shall be in line with the provisions of the Universities Act, Universities Regulations and Universities Standards and Guidelines and approved plans and policies of the University.
- (7) The Senate shall on a regular basis carry out tracer studies of their graduates for purposes of appraising the programmes of the University.
- (8) The Senate shall put in place an integrated system for monitoring the progress of each enrolled student up to graduation.
- (9) The Senate shall ensure and confirm the availability of academic resources before an academic programme is launched and during implementation in any campus.
- (10) Notwithstanding the foregoing, the Senate of a university shall undertake the functions assigned to it in the Charter, Proposal and Legal Notice respectively.

## **10. Staff**

The academic and administrative staff of a university shall be as provided in its Charter, Proposal or Legal Notice in the case of institutions with Letter of Interim Authority or Constituent College respectively.

## **11. Student's Association**

Every University shall provide for the students association in its Charter, Proposal or Legal Notice in the case of institutions with Letter of Interim Authority or Constituent College respectively.

## **12. Alumni Association**

- (1) A University shall establish an Alumni Association, which may consist of graduates of the university and such other persons as may be declared to be members in its Charter and Proposal in the case of institutions with Letter of Interim Authority.
- (2) Every University shall put in place mechanisms to capture contact details of its graduating students who will form the alumni database.
- (3) An Alumni Association shall act as an interactive forum for the members and perform such other function as may be specified in the Act, Charter and Statutes.

