



LAWS OF KENYA



## **KENYATTA UNIVERSITY ACT**

CHAPTER 210C

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**CHAPTER 210C**

**KENYATTA UNIVERSITY ACT**

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**CHAPTER 210C**

**KENYATTA UNIVERSITY ACT**

[Date of assent: 23rd August, 1985.]

[Date of commencement: 1st September, 1985.]

**An Act of Parliament to establish the Kenyatta University and to provide for the control, government and administration thereof; and for connected purposes**

[L.N. 217/1985, Act No. 13 of 1988, Act No. 6 of 1991.]

**PART I – PRELIMINARY**

**1. Short title**

This Act may be cited as the Kenyatta University Act.

**2. Interpretation**

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

“**Chancellor**” means the Chancellor of the University referred to in section 9;

“**constituent college**” means a college established under section 5;

“**Convocation**” means the Convocation of the University established under section 15;

“**Council**” means the Council of the University established under section 12;

“**Deputy Vice-Chancellor**” means a Deputy Vice-Chancellor of the University appointed under section 10;

“**faculty**” means a faculty of the University established by the statutes;

“**financial year**” means the financial year of the University determined under section 18;

“**graduate**” means a person upon whom a degree has been conferred by the University;

“**lecturer**” means a member of the staff of the University who is in the terms of his appointment, an associate professor, senior lecturer, lecturer, assistant lecturer or tutorial fellow, or who holds any other teaching post which the Council, on the recommendation of the Senate, has recognized as a post having academic status in the University;

“**librarian**” means the person appointed to be the librarian of the University;

“**professor**” means a professor of the University, but does not include an associate professor;

“**Senate**” means the Senate of the University established under section 14;

“**statute**” means a Statute made by the Council under section 23;

“**student**” means a person registered by the University for the purpose of obtaining a qualification of the University or any other person who is determined by the Senate to be a student;

“**students’ organization**” means the association of students recognised by the Council as being an organization representative of the students of the University;

“**University**” means the Kenyatta University established by section 3;

“**Vice-Chancellor**” means the Vice-Chancellor of the University appointed under section 10.

(2) References in this Act to offices or authorities of a constituent college shall be construed by reference to the legislation or other instruments by which that college is established or governed.

[Act No. 6 of 1991, s. 2.]

## PART II – ESTABLISHMENT AND FUNCTIONS OF THE UNIVERSITY

### 3. Establishment of the University

(1) There is hereby established a university to be known as the Kenyatta University which shall be the successor institution to the institution hitherto known as the Kenyatta University College.

(2) The University shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable or immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts for the proper performance of its functions under, and for the furtherance of the provisions of, this Act which may lawfully be done or performed by a body corporate.

### 4. Functions and objects of the University

(1) The functions and objects of the University shall be—

- (a) to provide directly or in collaboration with other institutions of higher learning facilities for university education including technological and professional education and research;
- (b) to provide and advance university education and training to appropriately qualified candidates leading to the award of degrees, diplomas and certificates and such other qualifications as the Council and the Senate shall from time to time determine and in so doing to contribute to the manpower needs of Kenya;

- (c) to conduct examinations for and to grant such academic awards as may be provided for in the statutes;
- (d) to participate in the discovery, transmission, and preservation of knowledge, and to stimulate cultural and intellectual life of the society;
- (e) to determine who may teach and what may be taught and how it may be taught in the University;
- (f) to play an effective role in the development and expansion of opportunities for Kenyans wishing to continue with their education.

(2) Admission to the University as candidates for degrees, diplomas, certificates or other awards of the University shall be open to all persons accepted as being qualified by the Senate, without distinction of ethnic origin, sect or creed, and no barrier based on any such distinction shall be imposed upon any person as a condition of his becoming, or continuing to be, a professor, lecturer, graduate or student of the University, or of his holding any office therein, nor shall any preference be given to, or advantage be withheld from any person on the grounds of ethnic origin, sect or creed.

#### **5. Constituent colleges of the University**

The President may, after consultation with the Council and with the Chancellor if he is not the Chancellor, by order published in the *Gazette*—

- (a) establish any college as a constituent college of the University;
- (b) declare an institution of learning or higher education, or any training establishment to be a constituent college of the University.

[Act No. 6 of 1991, s. 3.]

#### **6. Conferment of degrees, etc.**

(1) Subject to this Act, the University may confer any degree or grant any diploma, certificate or any other academic qualification which it is for the time being authorized by a statute of the University to confer or award.

(2) Subsection (1) applies to an honorary degree or academic distinction which the University may wish to confer on or award to a person who has rendered distinguished service in the advancement of any branch of learning or who has otherwise rendered himself worthy of such a degree or academic distinction.

#### **7. Award of certificates, etc.**

The University may, under conditions which it thinks fit, award certificates, fellowships, scholarships, bursaries and prizes and make other awards which it may consider necessary or desirable.

### **PART III – MEMBERSHIP AND GOVERNMENT OF THE UNIVERSITY**

#### **8. Members of the University**

The members of the University shall be—

- (a) the Chancellor;
- (b) the Vice-Chancellor;

- (c) Deputy Vice-Chancellor;
- (d) the principal of each constituent college;
- (e) the members of the Council;
- (f) the members of the Senate;
- (g) the members of the Council or other governing body of each constituent college;
- (h) the professors and lecturers of the University;
- (i) *deleted by Act No. 6 of 1991, s. 4;*
- (j) the secretary to the council or other governing body of each constituent college;
- (k) the students;
- (l) the Convocation;
- (m) such other members of the staff of the University or any other body formally admitted into association with the University or with any of its constituent colleges as the Council may from time to time determine.

[Act No. 6 of 1991, s. 4.]

## 9. The Chancellor

(1) The President shall, unless he sees fit to appoint some other person thereto, be the Chancellor of the University.

(2) A person who is appointed by the President to be the Chancellor shall hold office for such period as the President shall determine, but that person shall cease to hold office if, there is a change in the holder of the office of the President.

(3) The Chancellor—

- (a) shall be the head of the University and shall, in the name of the University, confer degrees and grant diplomas, certificates and other awards of the University;
- (b) may from time to time direct an inspection of the University or an inquiry into the teaching, research or any other work of the University;
- (c) may arrange for visitation to the University as may be provided in the Statutes;
- (d) shall enjoy such powers and privileges and perform such other functions as may be provided in the statutes;
- (e) may from time to time give advice to the Council which he considers necessary for the betterment of the University.

(4) Whenever the Chancellor is absent from Kenya or is for any reason unable to perform the functions of his office the President or a person authorized by him in that behalf may appoint a person to perform those functions during the absence or inability of the Chancellor.

[Act No. 6 of 1991, s. 5.]

**10. The Vice-Chancellor and Deputy Vice-Chancellor**

(1) There shall be a Vice-Chancellor of the University who shall be appointed by the President after consultation with the Council, and with the Chancellor if the President is not the Chancellor and who shall be the academic and administrative head of the University and shall have such powers and duties as may be provided by the statutes.

(2) The Council shall, in consultation with the Senate and the Chancellor, appoint three or more Deputy Vice-Chancellors who shall, under the general authority of the Vice-Chancellor, exercise such powers and perform such duties as may be provided under the statutes.

(3) The Vice-Chancellor and Deputy Vice-Chancellor shall hold office upon such terms and for such period as may be provided by the statutes and upon the expiration of that period shall be eligible for reappointment.

[Act No. 6 of 1991, s. 6.]

**11.** *Repealed by Act No. 6 of 1991, s. 7.*

**12. Constitution of the Council**

(1) There shall be a Council of the University which shall consist of—

- (a) a chairman, a vice-chairman and an honorary treasurer all of whom shall be appointed by the Chancellor or by the Chancellor after consultation with the President shall not be the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Deputy Vice-Chancellors;
- (d) the principal of each constituent college;
- (e) the Permanent Secretary to the Ministry for the time being responsible for university education;
- (f) the Permanent Secretary to the Ministry for the time being responsible for finance;
- (g) not more than eight members appointed by the President to represent the Government;
- (h) four persons elected by the Senate from among its members;
- (i) after a date appointed by the Council, two persons elected by the Convocation from among its members;
- (j) two members elected by non-Senate members of the academic staff from among themselves;
- (k) two members elected by the students' organization;
- (l) one person elected by the non-academic staff from among themselves;
- (m) not more than two members co-opted to the Council from time to time.

(2) Subject to subsection (3), a member of the Council, other than an *ex officio* member, shall hold office for a period of three years, but shall be eligible for re-appointment.

(3) The office of a member of the Council shall become vacant—

- (a) if, not being an *ex officio* member, he resigns his office by writing under his hand addressed to the Council Secretariat;
- (b) if the Council is satisfied that the member is, by reason of physical or mental infirmity, unable to exercise the functions of his office;
- (c) upon his death.

(4) Where the office of a member of the Council becomes vacant under subsection (3), the Council secretariat shall forthwith notify the vacancy to the appropriate appointing body or person.

(5) The procedure and the conduct and regulation of the affairs of the Council shall be vested in the Council.

[Act No. 6 of 1991, s. 8.]

### 13. Functions of the Council

(1) Subject to this Act, the Council shall be the governing body of the University through which the corporation of the University shall act and—

- (a) shall administer the property and funds of the University in a manner and for purposes which shall promote the best interests of the University; but the Council shall not charge or dispose of immovable property of the University without prior approval of the Chancellor and of the President if the President shall not be the Chancellor;
- (b) shall receive, on behalf of the University or a constituent college, donations, endowments, gifts, grants or other moneys and make disbursements therefrom to the constituent college or other bodies or persons;
- (c) shall provide for the welfare and discipline of the students of the University;
- (d) shall provide for the welfare and discipline of staff;
- (e) may, after consultation with the Senate, make regulations governing the conduct and discipline of the students of the University generally or specially authorized by the Council in that behalf.

(2) All documents, other than those required by law to be under seal, made on behalf of the Council and all decisions of the Council, may be signified under the hand of the chairman, the Vice-Chancellor, or a Deputy Vice-Chancellor responsible for finance or any other member of the Council.

[Act No. 6 of 1991, s. 9.]

### 14. The Senate

(1) There shall be a Senate of the University which shall consist of—

- (a) the Vice-Chancellor who shall be the chairman;
- (b) the Deputy Vice-Chancellors;
- (c) the principal of each constituent college;
- (d) the deans of the faculties, institutes and schools;
- (e) the chairmen of the teaching departments of the University;
- (f) the Deans of the faculties of each constituent college;

- 
- (g) the librarian;
  - (h) one representative of each of the faculty boards elected by that board from among its members;
  - (i) the professors of the University;
  - (j) two members elected by the students' organization; except that the members of the students' organization shall not be entitled to attend deliberations of the Senate on matters which are considered by the chairman of the Senate to be confidential and which relate to the general discipline of students, the academic performance of students and other related matters;
  - (k) any other members as may be provided for in the statutes.
- (2) The Senate shall have the following powers and duties—
- (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any degree, diploma, certificate or other award of the University and to report its findings thereon to the Council;
  - (b) to propose regulations to be made by the Council regarding the eligibility of persons for admission to a course of study;
  - (c) to propose regulations to be made by the Council regarding the standard of proficiency to be gained in each examination for a degree, diploma, certificate or other award of the University;
  - (d) to decide which persons have attained the prescribed standard of proficiency and are otherwise fit to be granted a degree, diploma, certificate or other award of the University;
  - (e) to initiate proposals relating to the conduct of the University generally, and to discuss any matter relating to the University and to make representations thereon to the Council;
  - (f) to make regulations governing such other matters as are within its powers in accordance with this Act or the statutes.

(3) Notwithstanding any other provisions of this Act, the Council shall not initiate any action in respect of the matters mentioned in paragraphs (a), (b) or (c) of subsection (2) except upon receipt of a report or proposal thereunder and the Council shall not reject any such report or reject or amend any regulations as proposed without further reference to the Senate.

[Act No. 6 of 1991, s. 10.]

## 15. The Convocation

(1) There shall be a Convocation of the University which shall consist of graduates and such other persons as may be prescribed by the statutes.

(2) The Convocation shall have the right to meet and discuss any matter relating to the University and to transmit resolutions thereon to the Council and the Senate, and may exercise such other functions as the Statutes may prescribe.

**16. Staff of the University**

(1) The academic staff of the University shall consist of the librarian and all members of the staff who are engaged in teaching or research.

(2) The administrative staff of the University shall consist of the Deputy Vice-Chancellors, finance officer of the University and such other members of the staff, not being engaged in teaching or research, as the Council may from time to time, determine.

(3) All the members of the staff of the University shall, subject to this Act, be appointed by the Council either—

- (a) upon the terms and conditions of service prescribed by the statutes; or
- (b) in the case of a person seconded to the service of the University from the service of another university or similar institution, the Government or any other public service, on terms and conditions agreed between the Council and the seconding body.

(4) The Council may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person or committee the power to appoint any member of the staff of the University.

(5) All members of the staff of the University shall—

- (a) be subject to the general authority of the Council and of the Vice-Chancellor;
- (b) be deemed to be employed on a full-time basis except as otherwise specifically provided by the Statutes or by the terms of a particular appointment.

[Act No. 6 of 1991, s. 11.]

**17. Performance of functions in absence, etc. of office holder**

(1) In the event of the incapacity of the Vice-Chancellor, the functions of the Vice-Chancellor may be performed by the Deputy Vice-Chancellors designated for the purpose by the chairman of the Council in consultation with the Chancellor or with the President if the President is not the Chancellor.

(2) In the event of the simultaneous incapacity of the Vice-Chancellors, and all the Deputy Vice-Chancellors, the Chancellors shall, after consultation with the chairman of the Council, and with the President if he is not the Chancellor, appoint a member of the academic staff of the University to perform the functions of the Vice-Chancellor during the period of incapacity.

(3) In the event of the incapacity of a member of the staff of the University other than the Vice-Chancellor, the Vice-Chancellor may appoint a suitable person to perform the functions of the member during the incapacity.

(4) In this section “**incapacity**” means absence from Kenya or inability for any other reason to perform the functions of the office concerned.

[Act No. 6 of 1991, s. 12.]

## PART IV – FINANCIAL PROVISIONS

**18. Financial year**

(1) The financial year of the University shall be the period of twelve months commencing on such day in each year as the Council may determine.

(2) In the event of any change in the financial year, and for the purposes of the transition from the old financial year to a new financial year consequent upon the change, the transitional period, whether more or less than twelve months, shall be deemed for the purposes of this Act to be a financial year.

**19. Investment of funds**

(1) The Council may invest any of the funds of the University in securities in which for the time being trustees may by law invest trust funds or in any other securities which the Treasury may from time to time approve for the purpose.

(2) The Council may place on deposit with such bank or banks as it may determine any moneys not immediately required for the purposes of the University.

**20. Annual estimates**

(1) Before the commencement of a financial year the Council shall cause to be prepared estimates of the revenue and expenditure of the University for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the University for the financial year concerned, and in particular shall provide—

- (a) for the payment of the salaries, allowances, and other charges in respect of the staff of the University;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the University;
- (c) for the proper maintenance of the buildings and grounds of the University;
- (d) for the proper maintenance, repair and replacement of the equipment and other movable property of the University;
- (e) for the funding of the cost of the teaching and research activities of and in the University;
- (f) for the creation of such reserve funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of buildings or equipment, or in respect of such other matters as the Council may think fit.

(3) Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate, and shall be submitted to the Minister for approval, and after the Minister has given his approval the Council shall not increase any sum provided in the estimates without the consent of the Minister.

(4) No expenditure shall be incurred for the purposes of the University except in accordance with the annual estimates approved under subsection (3) or in pursuance of an authorization of the Council given with the prior approval of the Minister.

(5) For the purposes of this section, “**annual estimates**” means estimates prepared under subsection (1).

## **21. Accounts and audit**

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

(2) Within a period of three months from the end of each financial year the Council shall submit to the Auditor-General (Corporations) or an auditor appointed under subsection (3) the accounts of the University together with—

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the University on the last day of that year.

(3) The accounts of the University shall be audited by the Auditor-General (Corporations) or an auditor appointed by the Council with the approval of the Minister in concurrence with the Auditor-General (Corporations).

(4) The employment of an auditor shall not be terminated by the Council without the consent of the Minister in concurrence with the Auditor-General (Corporations).

(5) The Auditor-General (Corporations) may give general or special directions to an auditor appointed under subsection (3) and the auditor shall comply with those directions.

(6) An auditor appointed under subsection (3) shall report directly to the Auditor-General (Corporations) on any matter relating to the directions given under subsection (5).

(7) Within a period of six months after the end of the financial year the auditor shall report on the examination and audit of the accounts of the University to the Council and the Minister; and where the auditor has been appointed under subsection (3) he shall also transmit a copy of the report and accounts to the Auditor-General (Corporations).

(8) Nothing in this Act shall be construed as prohibiting the Auditor-General (Corporations) from carrying out the inspection of the University accounts or records if it appears to him desirable.

(9) Notwithstanding anything in this Act, the Auditor-General (Corporations) may transmit to the Minister a special report on any matters incidental to his powers under this Act, and section 19(3) and (4) of the Exchequer and Audit Act (Cap. 412) shall, *mutatis mutandis*, apply to any report made under this section.

(10) In the exercise of his powers and duties under this Act the Auditor-General (Corporations) and any auditor appointed under this section shall have the same powers as those conferred on the Auditor-General (Corporations) by section 105(3) and (5) of the Constitution and section 8 of the Exchequer and Audit Act (Cap. 412).

(11) The Minister shall lay the auditor's report before the National Assembly as soon as practicable after the report has been submitted to him under this section.

[Act No. 13 of 1988, Sch.]

## PART V – MISCELLANEOUS PROVISIONS

### **22. Common seal and signification of documents**

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

(2) The common seal of the University shall be authenticated by the signature of the Vice-Chancellor, or of one other member of the Council duly authorised by the Council in that behalf, and of the University Deputy Vice-Chancellor in charge of Finance.

(3) The common seal of the University when affixed to any document and duly authenticated under this section shall be judicially and officially noticed and, unless and until the contrary is proved, any necessary order or authorization of the Council under this section shall be presumed to have been duly given.

[Act No. 6 of 1991, s. 13.]

### **23. Statutes**

(1) In the performance of its functions under this Act, the Council shall, subject to this Act, make statutes generally for the government, control and administration of the University and for the better carrying into effect of the purposes of this Act, and in particular for—

- (a) the establishment of faculties, institutes and schools of the University;
- (b) the description of degrees;
- (c) the requirements for the award of degrees;
- (d) the conduct of examinations;
- (e) prescribing fees and other charges;
- (f) settling the terms and conditions of service, including the appointment, dismissal and recommendation of retiring benefits of the members of the staff of the University;
- (g) the constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council.

(2) Notwithstanding subsection (1), the Council shall not make, amend or revoke any statutes relating to the functions or privileges of the Chancellor, the Vice-Chancellor or the Senate without first ascertaining the opinion of the Senate.

(3) Statutes shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-fourths of the members present and voting being not less than half of the total membership of the Council.

(4) Statutes or regulations made by the Senate under this Act shall be published in the *Gazette* but section 27, 31(e) and 34 of the Interpretation and General Provisions Act (Cap. 2) shall not apply to the Statutes or to the regulations.

#### **24. Protection of name**

(1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies or business names shall accept for such registration any name which includes together with the word "University" the word "Kenya" unless the application or such registration is accompanied by the written consent of the Council.

(2) Any person who, except with the written consent of the Council, uses the word "University" together with the word "Kenya" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession shall be guilty of an offence and be liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both:

Provided that nothing in this subsection shall be construed as preventing the *bona fide* use by any person of any title in pursuance of the grant to him of a degree, diploma or certificate by the University.

[Act No. 6 of 1991, s. 14.]

#### **25. Transfer of property, assets and staff**

(1) All immovable and movable property and assets which immediately before the commencement of this Act were vested in or possessed by Kenya University College shall by virtue of this section vest in the University without further conveyance, transfer or assignment.

(2) All rights, obligations and liabilities which immediately before the commencement of this Act were vested in or imposed on Kenya University College are deemed to be the rights, obligations and liabilities of the University.

(3) All references to Kenya University in any agreement or instrument relating to any property, assets, rights, obligations or liabilities transferred under subsection (1) or (2) and subsisting immediately before the commencement of this Act shall, unless the context otherwise requires, be read as references to the University.

(4) Except as the Council otherwise directs, all persons who were members of the staff of Kenya University College immediately before the commencement of this Act shall be members of the staff of the University and shall be deemed to have been appointed under this Act on the terms and conditions of service applicable to them immediately before the commencement.

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**CHAPTER 210C**

**KENYATTA UNIVERSITY ACT**

SUBSIDIARY LEGISLATION

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**PWANI UNIVERSITY COLLEGE ORDER, 2007**

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[Subsidiary]

**PWANI UNIVERSITY COLLEGE ORDER, 2007**

[Section 5, L.N. 164/2007.]

**1. Citation**

This Order may be cited as the Pwani University College Order, 2007.

**2. Interpretation**

In this Order, unless the context otherwise requires—

“**Academic Board**” means the Academic Board of the University College established under paragraph 13;

“**alumni association**” means the alumni association of the University College established under paragraph 15;

“**Chancellor**” means the Chancellor of the University;

“**Council**” means the Council of the University College established under paragraph 11;

“**Deputy Principal**” means the Deputy Principal appointed by the Council of the University College under paragraph 9;

“**faculty**” means a faculty of the University College established under the statutes;

“**financial year**” means the financial year of the University College as provided for under paragraph 18;

“**graduate**” means a person upon whom a degree has been conferred in accordance with paragraph 5;

“**incapacity**” means inability to perform functions of the office concerned;

“**institute**” means an institute of the University College established by the statutes;

“**lecturer**” means a member of the staff of the University College who is, in terms of appointment, a professor, an associate professor, senior lecturer, lecturer, assistant lecturer, or tutorial assistant, or a person who holds any other teaching post which the Council has recognized as a post having academic status in the University College;

“**librarian**” means the person appointed to be the librarian of the University College;

“**Minister**” means the Minister for the time being responsible for University education;

“**Principal**” means the Principal of the University College appointed under paragraph 8;

“**professor**” means a professor of the University College;

“**registrar**” means the registrar appointed by the Council;

“**school**” means a school of the University College established under the statutes;

“**Senate**” means the senate of the University;

“**staff association**” means an association of the staff recognized by Council as being an association representative of the staff of the University College;

[Subsidiary]

“**statutes**” means statutes of the University College made by the Council under this Order;

“**student**” means a person registered by the University College for the purposes of obtaining a qualification of the University College or any other person who is determined by the Academic Board to be a student;

“**students organization**” means an association of the students recognized by the Council being an organization representative of the students of the University College;

“**University College**” means the Pwani University College established under paragraph 3;

“**University**” means the Kenyatta University established under section 3 of the Act; and

“**Vice-Chancellor**” means the Vice-Chancellor of the University appointed under section 10 of the Act.

### 3. Establishment of the University College

(1) There is hereby established a university college to be known as the Pwani University College which shall be a constituent college of Kenyatta University.

(2) The University College shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing any such other things or acts, including entering into such contracts as may be necessary or expedient, for the furtherance of the provision of this Order which may be done by a body corporate.

(3) The University College shall be the successor to the Kilifi Agriculture Training Institute.

(4) All rights, liabilities and assets held by or by any body on behalf of the Kilifi Agriculture Training Institute, existing at the commencement of this Order, shall be automatically and fully transferred to the University College.

### 4. Functions and objects of University College

(1) The objects and functions of the University College shall be—

- (a) to provide directly, or in collaboration with other institutions of higher learning, facilities for university education (including technological, scientific and professional education), the integration of teaching, research and effective application of knowledge and skills to the life, work and welfare of the citizens of Kenya;
- (b) to participate in the discovery, transmission and preservation and enhancement of knowledge and to stimulate the intellectual participation of students in the economic, social, cultural, scientific and technological development of Kenya;
- (c) to provide and advance university education and training to appropriately qualified candidates, leading to the conferment of degrees and award of diplomas and certificates and such other qualifications as the Council and the Senate shall from time to time determine and in so doing, contribute to manpower needs;

**[Subsidiary]**

- (d) to conduct examinations for such academic awards as may be provided in the statutes pertaining to the University College; and
- (e) to examine and make proposals for new faculties, schools, institutes, departments, resource and research centres, degree courses and subjects of study.

(2) Admission to the University College as candidates for degrees, diplomas, certificates, or other awards shall be open to all persons accepted as being qualified by the Academic Board in accordance with this Order and the Act without distinction of race, ethnicity, place of origin or residence or other local connections, political opinion, colour, creed, physical ability or gender; and no barrier based on any such distinction shall be imposed upon any person as a condition of their becoming, or continuing to be, a professor, lecturer, graduate or student of the University College, or of their holding any office therein, nor shall any preference be given to, or advantage withheld from any person on the grounds of any such distinction.

**5. Conferment of degrees, etc.**

(1) The degrees to be awarded by the University College shall be the degrees conferred by the University.

(2) Notwithstanding subparagraph (1), the University College shall have powers to grant diplomas, certificates, or other academic qualifications which may, for the time being, be authorized by the statutes of the University.

**6. Award of scholarships, etc.**

Subject to this Order, the University College may award scholarships, bursaries and prizes and make other awards which may be provided for by the statutes.

PART III – MEMBERSHIP AND THE GOVERNMENT OF THE UNIVERSITY  
COLLEGE

**7. Membership of the University College**

The members of the University College shall be—

- (a) the Chancellor of the Kenyatta University;
- (b) the Vice-Chancellor of Kenyatta University;
- (c) the Principal;
- (d) the Deputy Principals;
- (e) the members of the Council;
- (f) the members of the Academic Board;
- (g) the librarian of the University College;
- (h) the alumni association;
- (i) the professors of the University College;
- (j) the lecturers of the University College;
- (k) the students of the University College; and
- (l) such other members of staff of the University College or any other body formally admitted into association with the University College, as the Council may from time to time determine.

**8. The Principal**

(1) There shall be a Principal of the University College who shall be appointed by the Minister on the recommendation of the Council.

[Subsidiary]

(2) The Principal shall be the chief executive of the University College and shall—

- (a) be the academic and administrative head of the University College;
- (b) have overall responsibility of the direction, organization, administration and programmes of the University College; and
- (c) have such powers and duties as may be provided by the statutes.

(3) The Principal shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period shall be eligible for re-appointment.

(4) Notwithstanding subparagraph (1), Minister may appoint the first Principal on the recommendation of the Council of the University and the person so appointed shall be deemed to be a Principal appointed under subparagraph (1).

#### **9. The Deputy Principal**

(1) The Council shall appoint one or more Deputy Principals, who shall, under the general direction of the Principal, exercise such powers and perform such duties as may be provided by the statutes.

(2) A Deputy Principal shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period shall be eligible for re-appointment.

#### **10. Deans, directors and chairmen of faculties, etc.**

(1) The Council shall, on advice of the Principal, appoint for each faculty, school, institute, centre, or a department, a dean, director, or a Chairperson who shall be the academic and administrative head of the faculty, school, institute, centre, or department and shall, under the general direction of the Principal, have such powers and duties as may be provided by statutes.

(2) A person appointed as dean, director or Chairperson shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period shall be eligible for re-appointment.

#### **11. The Council**

(1) There shall be a Council of the University College which shall consist of—

- (a) the Chairperson and the Vice-Chairperson, both of whom shall be appointed by the President;
- (b) the Vice-Chancellor of the University;
- (c) the Principal;
- (d) the Deputy Principals;
- (e) the Permanent Secretary of the Ministry for the time being responsible for university education;
- (f) the Permanent Secretary of the Ministry for the time being responsible for finance;
- (g) the Permanent Secretary of the Ministry for the time being responsible for agriculture;
- (h) the following persons appointed by the Minister—
  - (i) two persons nominated by the Academic Board from amongst its members;
  - (ii) one person nominated by the Senate from amongst its members;
  - (iii) one person to represent special interests;

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**[Subsidiary]**

- (iv) one person nominated by the alumni association from among its member;
  - (v) one person to represent professional associations;
  - (vi) one person nominated by the academic staff;
  - (vii) one person nominated by the non-academic staff;
  - (viii) one person nominated by the student organization;
  - (i) not more than two persons co-opted by the Council.
- (2) The Principal shall be the secretary to the Council.
- (3) Subject to paragraph (4), a member of the Council, other than an *ex-officio* member, shall hold office for period of three years, but shall be eligible for re-appointment.
- (4) The office of a member of the Council shall become vacant—
- (a) if, not being an *ex-officio* member, he resigns his office by writing under his hand addressed to the Principal;
  - (b) if the Council is satisfied that the member is, by reasons of physical or mental infirmity, unable to exercise the functions of his office;
  - (c) upon his death.
- (5) Where the office of a member of the Council becomes vacant, the Principal shall forthwith notify the vacancy to the appropriate appointing authority.
- (6) The procedure, conduct and regulation of the affairs of the Council shall be determined by the Council.
- (7) The Council shall exercise prudent leadership, innovative enterprise, and good judgement in directing the University College and shall always act in the best interest of the University College.

**12. Functions of the Council**

- (1) Subject to this Order, the Council shall be the governing body of the University College through which the University College shall act and—
- (a) shall administer the property and funds of the University College in a manner and for the purposes which shall promote the interest of the University College; but the Council shall not charge or dispose of immovable property of the University College except in accordance with the procedures laid down by the Government of Kenya;
  - (b) shall receive, on behalf of the University College, donations, endowments, gifts, grants or other moneys and make disbursements therefrom to the University College or other bodies or persons;
  - (c) shall approve the appointment criteria and the terms and conditions of service of staff;
  - (d) shall provide for the welfare of the staff and students of the University College;
  - (e) may enter into association with other universities, university colleges or other institutions of learning, whether within Kenya or otherwise, as the Council may deem necessary and appropriate; and
  - (f) may, after consultation with the Academic Board, make regulations governing the conduct and discipline of the students of the University College.
- (2) All documents, other than those required by law to be under seal, made on behalf of the Council, and all decisions of the Council may be signified under the hand of the

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Chairperson, the Principal or any other members of the Council generally or specifically authorized by the Council in that behalf.

(3) The Council shall ensure that a proper management structure is in place and make sure that the structure functions to maintain corporate integrity, reputation and responsibility.

(4) The Council shall monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the University College.

(5) The Council shall constantly review the viability and financial sustainability of the University College, and shall do so once every year.

(6) The Council shall ensure that the University College complies with all the relevant laws, regulations, governance practices, accounting and auditing standards.

### 13. The Academic Board

(1) There shall be a Academic Board of the University College which shall consist of—

- (a) the Principal, who shall be the Chairperson;
- (b) the Deputy Principals;
- (c) the deans of the faculties and directors of schools, institutes and centres;
- (d) the heads of the teaching departments of the University College;
- (e) the librarian;
- (f) the registrars;
- (g) one representative of each of the faculty or school boards appointed by the respective boards from among its members; and
- (h) two members elected by the students' organization, who shall not be entitled to attend deliberations of the Academic Board on matters which are considered by the Chairperson of the Academic Board to be confidential and which relate to examinations, the general discipline of students, and other related matters.

(2) The Deputy Principal for the time being in charge of academics shall be the secretary to the Academic Board.

(3) The Academic Board shall have the following powers and duties—

- (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any degree, diploma, certificate or other award of the University College and to report its findings thereon to the Senate;
- (b) to propose regulations for consideration by the Senate regarding the eligibility of persons for admission to a course of study;
- (c) to propose regulations for consideration by the Senate regarding the standard of proficiency to be gained in each examination for a degree, diploma, certificate or other award of the University College;
- (d) to decide which persons have attained the prescribed standard of proficiency and are otherwise fit to be granted a degree, diploma, certificate or other award of the University College and to report its decision thereon to the Senate; and
- (e) to make regulations governing such other matters as are within its powers in accordance with this Order or the statutes.

Notwithstanding any of the provision of this Order, the Senate shall not initiate any action in respect of paragraph (a), (b), (c) or (d) of subparagraph (2) except upon receipt

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of a report or proposal thereunder and the Senate shall not reject any such report, or reject or amend any regulations as proposed without further reference to the Academic Board.

**14. Management Board**

(1) There shall be established a Management Board made up of the following persons—

- (a) the Principal, who shall be the Chairperson;
- (b) Deputy Principal for the time being in charge of finance and administration, who shall be the secretary;
- (c) Deputy Principals;
- (d) registrar(s);
- (f) finance officer.

(2) The Management Board shall assist the Principal in the day to day management of the University College.

**15. Alumni association**

(1) There shall be alumni association of the University College which shall consist of graduates of the University College and such other persons as may be prescribed by the statutes.

(2) The alumni association shall have the right to meet and discuss any matter relating to the University College and transmit resolutions thereon to the Council, the Academic Board, or the Senate, and may exercise such other functions as the statutes may prescribe.

**16. Staff of the University College**

(1) The academic staff of the University College shall consist of the Principal, the Deputy Principals, the librarian and all members of staff who are engaged in teaching and research.

(2) The senior management staff of the University College shall consist of the Principal, the Deputy Principals, and the deans of schools and directors of institutes and such other members of staff as the Council may from time to time determine.

(3) The administrative staff of the University College shall consist of the registrars, the finance officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.

(4) The technical staff of the University College shall consist of those staff engaged in laboratory, field instruction, workshops and such similar environs in the teaching departments under the general direction of the heads of the teaching departments, and as the Council may from time to time determine.

(5) The support staff of the University College shall consist of those staff engaged in general duties and as the Council may from time to time determine.

(6) All members of staff of the University College shall, subject to this Order, be appointed either—

- (a) in the manner and upon the terms and conditions of service prescribed by the statutes; or
- (b) in the case of a person seconded to the service of the University College from the service of another institution, the Government or any other public service, on terms and conditions agreed upon between the Council and the seconding body.

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(7) The Council may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the University College.

(8) All members of staff of the University College shall—

- (a) be subject to the general authority of the Council and of the Principal; and
- (b) be deemed to be employed in accordance with the statutes or as otherwise specifically provided by the statutes or by the terms of a particular appointment.

#### **17. Performance of functions in absence of office holder**

(1) In the event of the incapacity of the Principal, the Chairperson of the Council may appoint one of the Deputy Principals to carry out the functions of the Principal during the period of incapacity.

(2) In event of the simultaneous incapacity of the Principal and the Deputy Principals, the Chairperson of the Council may appoint any member of the academic staff of the University College to perform the functions of the Principal during the incapacity.

(3) In the event of the incapacity of a member of staff of the University College other than the Principal and Deputy Principals, the Principal may appoint a suitable person to perform the functions of the said officer during the incapacity.

### **PART IV – FINANCIAL PROVISIONS**

#### **18. Financial year**

The financial year of the University College shall be the period of twelve months commencing on the 1st July and ending on the 30th June in the following year.

#### **19. Investment of funds**

(1) The Council may invest any of the funds of the University College in securities, treasury bonds, trust funds or in any other securities which the Treasury may, from time to time, approve.

(2) The Council may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the University College.

#### **20. Annual estimates**

(1) Before the commencement of a financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the University College for that year.

(2) The annual estimates shall make provisions for all the estimated expenditure of the University College for the financial year concerned, and in particular shall provide—

- (a) for the payment of the salaries, allowances and other charges in respect of the staff of the University College;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the University College;
- (c) for the proper maintenance of the buildings and grounds of the University College;
- (d) for the proper maintenance, repair and replacement of equipment and other moveable property of the University College;
- (e) for the funding of the cost of teaching, research and outreach activities of the University College;

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- (f) for development; and
- (g) for the creation of such funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of building or equipment and in respect of such other matters as the Council may think fit.

(3) In drawing its annual estimates and development plans, the University College shall consult with the Government agency responsible for university grants.

(4) Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate, and shall be submitted to the Minister for approval, and after the Minister has given his approval, the Council shall not increase any sum provided in the estimates without the consent of the Minister.

(5) No expenditure shall be incurred for the purpose of the University College except in accordance with the annual estimates approved under subparagraph (4) or in pursuance of an authorization of the Council given with the prior approval of the Minister.

**21. Accounts and audit**

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

(2) Within a period of three months from the end of each financial year, the Council shall submit to the Controller and Auditor-General, the accounts of the University College together with—

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the University College on the last day of that year.

(3) The accounts of the University College shall be audited by the Controller and Auditor General in accordance with the Public Audit Act, 2003 (No. 12 of 2003).

(4) The Controller and Auditor-General may transmit to the Minister a special report on any matters incidental to his powers under this Order, and section 24(3) and (4) of the Public Audit Act, 2003 (No. 12 of 2003) shall apply to any report made under this paragraph.

**PART V – MISCELLANEOUS****22. Common seal and signification of documents**

(1) The common seal of the University College shall be kept in such custody and used only as the Council shall direct.

(2) The common seal of the University College shall be authenticated by the signatures of the Principal together with any other person duly authorized by the Council.

(3) The common seal of the University College when affixed to any document and duly authenticated shall be judicially and officially noticed, and, unless and until the contrary is proved, any order or authorization of the Council under this paragraph shall be presumed to have been duly given.

**23. Statutes**

(1) In the performance of its function under this Order, the Council shall, subject to this Order, make statutes generally for the government, control and administration of the University College and for the better carrying into effect of the purposes of this Order, and in particular for the—

- (a) establishment of faculties, schools, and institutes of the University College;

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- (b) description of degrees, diplomas, certificates, and other academic qualifications;
- (c) requirement for conferment of degrees and award of diplomas, certificates and other academic qualifications;
- (d) conduct of examinations;
- (e) prescribing fees and other charges;
- (f) setting the terms and conditions of service, including the appointment, dismissal and recommendation of retirement benefits of the members of the staff of the University College;
- (g) constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council; and
- (h) providing for or prescribing anything, which, under this Order, may be provided for or prescribed by statutes.

(2) Notwithstanding subparagraph (1), the Council shall not make, amend or revoke any statutes relating to the functions and privileges of the Principal or Academic Board without first ascertaining the opinion of the Academic Board.

(3) Statutes shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-fourths of the members present and voting, being not less than two-thirds of the total membership of the Council.

(4) Statutes or regulations made by the Council under this Order shall not be published in the *Gazette* but sections 27, 31(e) and 34 of the Interpretation and General Provisions Act (Cap. 2) shall not apply to the statutes or to the regulations.

#### 24. Protection of name

(1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies, business or societies shall accept for such registration any name which includes the word "Pwani" together with either or all the words "University" or "College" unless the application for registration is accompanied by the written consent of the Council.

(2) Any person who except with the written consent of the Council, uses the word "Pwani" together with either or all the words "University" or "College" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling, or profession, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding twelve months, or both:

Provided that nothing in this paragraph shall be construed as preventing the *bona fide* use by any person of any title in pursuance of the grant to him of a degree, diploma or certificate by the University College.

#### 25. Conversion into a fully fledged university

The University shall initiate the necessary administrative and legal measures to ensure that the University College becomes a fully fledged university within a period of three years from the date of commencement of this Order.



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**MACHAKOS UNIVERSITY COLLEGE ORDER, 2011**

ARRANGEMENT OF ORDERS

*Order*

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2. Interpretation.

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE UNIVERSITY COLLEGE

3. Establishment of the University College.
4. Objects and functions of University College.
5. Conferment of degrees, etc.
6. Award of scholarships, bursaries etc.

PART III – MEMBERSHIP AND THE GOVERNMENT OF THE UNIVERSITY COLLEGE

7. Membership of the University College.
8. The Principal.
9. The Deputy Principal.
10. Deans, directors and chairmen of faculties, etc.
11. The Council.
12. Functions of the Council.
13. The Academic Board.
14. Management Board.
15. Convocation.
16. Staff of the University College.
17. Performance of functions in absence of office holder.

PART IV – FINANCIAL PROVISIONS

18. Financial year.
19. Investment of funds.
20. Annual estimates.
21. Accounts and audit.

PART V – MISCELLANEOUS

22. Common seal and signification of documents.
  23. Statutes.
  24. Protection of name.
  25. Conversion into a fully fledged university.
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[Subsidiary]

## MACHAKOS UNIVERSITY COLLEGE ORDER, 2011

[L.N. 130/2011.]

### 1. Citation

This Order may be cited as the Machakos University College Order, 2011.

### 2. Interpretation

In this Order, unless the context otherwise requires—

“**Academic Board**” means the Academic Board of the University College established under paragraph 13;

“**Chancellor**” means the Chancellor of the University;

“**Council**” means the Council of the University College constituted under paragraph 11;

“**convocation**” means the convocation of the University College constituted under paragraph 15;

“**Deputy Principal**” means the Deputy Principal appointed by the Council under paragraph 9;

“**faculty**” means a faculty of the University College established under the statutes;

“**financial year**” means the financial year of the University College as provided for under paragraph 18;

“**graduate**” means a person upon whom a degree has been conferred under paragraph 5;

“**institute**” means an institute of the University College established by the statutes;

“**lecturer**” means a member of the staff of the University College who is, in terms of appointment, a professor, an associate professor, senior lecturer, lecturer, assistant lecturer, or tutorial assistant, or a person who holds any other teaching post which the Council has recognized as a post having academic status in the University College;

“**librarian**” means the person appointed to be the librarian of the University College;

“**Management Board**” means the Management Board of the University College established under paragraph 14;

“**Minister**” means the Minister for the time being responsible for higher education;

“**Principal**” means the Principal of the University College appointed under paragraph 8;

“**professor**” means a full professor of the University College;

“**registrar**” means the registrar appointed by the Council;

“**school**” means a school of the University College established under the statutes;

“**Senate**” means the Senate of the University constituted under section 17 of the Act;

“**staff association**” means an association of staff recognized by the Council as being an association representative of the staff of the University College;

“**statutes**” means statutes of the University College made by the Council under this Order;

[Subsidiary]

“**student**” means a person registered by the University College for the purposes of obtaining a qualification of the University College or any other person who is determined by the Academic Board to be a student;

“**students organization**” means an association of the students recognized by the Council being an organization representative of the students of the University College;

“**University College**” means the Machakos University College established under paragraph 3;

“**University**” means the Kenyatta University established under section 3 of the Act; and

“**Vice-Chancellor**” means the Vice-Chancellor of the University appointed under section 10 of the Act.

## PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE UNIVERSITY COLLEGE

### 3. Establishment of the university college

(1) There is established a university college to be known as the Machakos University College which shall be a constituent college of the Kenyatta University.

(2) The University College shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and
- (d) doing or performing such other things or acts, including entering into such contracts as may be necessary or expedient for the furtherance of the provision of this Order which may be done by a body corporate.

(3) The University College shall be the successor to Machakos Technical Training Institute.

(4) All rights, liabilities and assets held by or by any body on behalf of Machakos Technical Training Institute existing at the commencement of this Order, shall be automatically and fully transferred to the University College.

### 4. Objects and functions of University College

(1) The objects and functions of the University College shall be—

- (a) to provide directly, or in collaboration with other institutions of higher learning, facilities for technical, vocational, professional and scientific education and research;
- (b) to participate in technological innovation and the discovery, preservation, transmission of knowledge and to stimulate the intellect participation of students in the economic, social, cultural, scientific and technological development of Kenya;
- (c) to conduct examinations for such academic awards as may be provided for in the statutes pertaining to the University College;
- (d) to examine and make proposals for new faculties, schools, institutes, departments, resource and research centres, degree courses and subjects of study;

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- (e) to play a leading role in the development and expansion of the opportunities for higher education and research;
- (f) to contribute to industrial and technological development through innovations and technology transfer;
- (g) to develop as an institution of excellence in teaching, training, scholarship, entrepreneurship, innovation, research and consultancy services;
- (h) to participate in commercial ventures and other activities for the benefit of the institution, the community and stakeholders;
- (i) to contribute to the agricultural, industrial and technological development of Kenya in collaboration with industrial and other institutions through the transfer of appropriate technology;
- (j) to develop and provide educational, cultural, professional, technical and vocational services to the community and in particular foster corporate social responsibility and the practical arts;
- (k) to provide programmes, products and services in ways that reflect the principles of equity and social justice;
- (l) to facilitate student mobility between different programmes at different training institutions, universities and industry; and
- (m) to foster the general welfare of all staff and students.

(2) Admission to the University College as candidates for degrees, diplomas, certificates, or other awards shall be open to all persons accepted as being qualified by the Academic Board in accordance with this Order and the Act without distinction of race, ethnicity, place of origin or residence or other local connections, political opinion, colour, creed, physical ability or gender; and no barrier based on any such distinction shall be imposed upon any person as a condition of their becoming, or continuing to be, a professor, lecturer, graduate or student of the University College, or of their holding any office therein, nor shall any preference be given to, or advantage withheld from any person on the grounds of any such distinction.

**5. Conferment of degrees, etc.**

(1) The degrees to be awarded by the University College shall be the degrees conferred by the University.

(2) Notwithstanding subparagraph (1), the University College shall have powers to grant diplomas, certificates, or other academic qualifications which may, for the time being, be authorized by the statutes of the University College.

**6. Award of scholarships, bursaries etc.**

Subject to this Order, the University College may award scholarships, bursaries and prizes and make such other awards which may be provided for by the statutes.

PART III – MEMBERSHIP AND THE GOVERNMENT OF THE UNIVERSITY  
COLLEGE

**7. Membership of the University College**

The members of the University College shall be—

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Principal;
- (d) the Deputy Principals;

- (e) the members of the Council;
- (f) the members of the Academic Board;
- (g) the professors of the University College;
- (h) the lecturers of the University College;
- (i) the Registrars;
- (j) the librarian;
- (k) the Finance Officer;
- (l) the Dean of students;
- (m) the Director of ICT services;
- (n) the students of the University College;
- (o) the members of the convocation; and
- (p) such other members of staff of the University College or any other body formally admitted into association with the University College, as the Council may from time to time determine.

### 8. The Principal

(1) There shall be a Principal of the University College who shall be appointed by the Minister on the advice of the Council and in consultation with the Chancellor.

(2) The Principal shall be the chief executive of the University College and shall—

- (a) be the academic and administrative head of the University College;
- (b) have overall responsibility of the direction, organization, administration and programmes of the University College; and
- (c) have such powers and duties as may be provided by the statutes.

(3) The Principal shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period, shall be eligible for re-appointment for one further term.

(4) Notwithstanding subparagraph (1), the Minister may appoint the first Principal on the recommendation of the Council of the University and the person so appointed shall be considered to be the Principal appointed under subparagraph (1).

### 9. The Deputy Principal

(1) The Council shall, in consultation with the Chancellor appoint one or more deputy principals, who shall, under the general direction of the Principal, exercise such powers and perform such duties as may be provided by the statutes.

(2) A Deputy Principal shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period, shall be eligible for re-appointment for one further term.

### 10. Deans, directors and chairmen of faculties, etc.

(1) The Council shall, after a competitive process, appoint for each faculty, school, institute, centre, or a department, a dean, a director, or a chairman who shall be the academic and administrative head of the faculty, school, institute, centre, or department and shall, under the general direction of the Principal, exercise such powers and duties as may be provided by statutes.

(2) A person appointed as dean, director or chairman shall hold office upon such terms and for such period as may be provided by the statutes and upon expiration of that period shall be eligible for re-appointment for one further term.

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## 11. The Council

(1) There shall be a Council of the University College which shall consist of—

- (a) the Chairman and Vice-Chairman, both of whom shall be appointed by the President in consultation with the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Principal;
- (d) the Deputy Principals;
- (e) the Permanent Secretary of the Ministry for the time being responsible for higher education;
- (f) the Permanent Secretary of the Ministry for the time being responsible for finance;
- (g) two persons nominated by the Academic Board from among its members;
- (h) one person nominated by the Senate of the University from among its members;
- (i) three persons appointed by the Minister to represent professional associations and industries;
- (j) not more than two persons appointed by the Minister to represent special interest;
- (k) one person nominated by the convocation from among its members;
- (l) one person nominated by the non-academic staff to represent their interests;
- (m) one person nominated by the academic staff to represent their interests;
- (n) two persons nominated by the student organisation; and
- (o) not more than two persons co-opted by the Council.

(2) The Principal shall be the secretary to the Council.

(3) Subject to subparagraph (4), a member of the Council, other than an *ex officio* member, shall hold office for a period of three years, but shall be eligible for re-appointment for a further term.

(4) The office of a member of the Council shall become vacant—

- (a) if, not being an *ex officio* member, he resigns from office by giving a notice, in writing, to the Principal;
- (b) if the Council is satisfied that the member is, by reasons of physical or mental infirmity, unable to exercise the functions of his office; or
- (c) upon his death.

(5) Where the office of a member of the Council becomes vacant, the Principal shall forthwith notify the vacancy to the appropriate appointing authority.

(6) The procedure, conduct and regulation of the affairs of the Council shall be determined by the Council.

(7) The Council shall exercise prudent leadership, innovative enterprise and good judgement in directing the University College and shall act in the best interest of the University College.

## 12. Functions of the Council

(1) Subject to this Order, the Council shall be the governing body of the University College through which the University College shall act and—

- (a) shall administer the property and funds of the University College in a manner and for the purposes which shall promote the interest of the

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University College; but the Council shall not charge or dispose of immovable property of the University College except in accordance with the procedures laid down by the Government of Kenya;

- (b) shall receive, on behalf of the University College, donations, endowments, gifts, grants or other moneys and make disbursements therefrom to the University College or other bodies or persons;
- (c) shall approve the appointment criteria and the terms and conditions of service of staff;
- (d) shall provide for the welfare of the staff and students of the University College;
- (e) may enter into association with other universities, university colleges or other institutions of learning, whether within Kenya or otherwise, as the Council may deem necessary and appropriate; and
- (f) may, after consultation with the Academic Board, make regulations governing the conduct and discipline of the students of the University College.

(2) All documents, other than those required by law to be under seal, made on behalf of the Council, and all decisions of the Council may be signified under the hand of the Chairman, the Principal or any other member of the Council generally or specifically authorized by the Council in that behalf.

(3) The Council shall ensure that a proper management structure is in place and make sure that the structure functions to maintain corporate integrity, reputation and responsibility.

(4) The Council shall monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the University College.

(5) The Council shall constantly review the viability and financial sustainability of the University College, and shall do so once every year.

(6) The Council shall ensure that the University College complies with all the relevant laws, regulations, governance practices, accounting and auditing standards.

### **13. The Academic Board**

- (1) There shall be an Academic Board of the University College which shall consist of—
- (a) the Principal, who shall be the Chairman;
  - (b) the Deputy Principals;
  - (c) the deans of the faculties, and directors of schools, institutes and centres;
  - (d) the heads of the teaching departments of the University College;
  - (e) the Registrar in charge of academic affairs;
  - (f) the librarian;
  - (g) one representative of each of the faculty or school academic boards appointed by the respective boards from among its members; and
  - (h) two members elected by the students' organization, who shall not be entitled to attend deliberations of the Academic Board on matters which are considered by the chairman of the Academic Board to be confidential and which relate to examinations, the general discipline of students, and other related matters.

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(2) The Deputy Principal for the time being in charge of academics shall be the secretary to the Academic Board.

(3) The Academic Board shall have the following powers and duties—

- (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any degree, diploma, certificate or other award of the University College and to report its findings thereon to the Senate;
- (b) to propose regulations for consideration by the Senate regarding the eligibility of persons for admission to a course of study;
- (c) to propose regulations for consideration by the Senate regarding the standard of proficiency to be gained in each examination for a degree, diploma, certificate or other award of the University College;
- (d) to decide which persons have attained the prescribed standard of proficiency and are otherwise fit to be granted a degree, diploma, certificate or other award of the University College and to report its decision thereon to the Senate; and
- (e) to make regulations governing such other matters as are within its powers in accordance with this Order or the statutes.

(4) Notwithstanding any of the provision of this Order, the Senate shall not initiate any action in respect of paragraph (a), (b), (c) or (d) of subparagraph (2) except upon receipt of a report or proposal thereunder and the Senate shall not reject any such report, or reject or amend any regulations as proposed without further reference to the Academic Board.

**14. Management Board**

(1) There shall be established a Management Board made up of the following persons—

- (a) the Principal, who shall be the chairman;
- (b) the Deputy Principals;
- (c) the Registrar in charge of administration, who shall be the secretary;
- (d) the Finance Officer; and
- (e) such other member of senior management as the Council may determine.

(2) The Management Board shall assist the Principal in the day to day management of the University College and shall, in this respect, be responsible for—

- (a) the efficient management of the human, physical, and financial resources of the University College;
- (b) making proposals to the Council and the Academic Board on policies that have application across the entire institution;
- (c) the coordination of the University College strategic and development plans; and
- (d) any other matters related to the management of the University College.

**15. Convocation**

(1) There shall be a convocation of the University College which shall consist of graduates of the University College and such other persons as may be prescribed by the statutes.

(2) The convocation shall have the right to meet and discuss any matter relating to the University College and transmit resolutions thereon to the Council, the Academic Board, or the Senate, and may exercise such other functions as the statutes may prescribe.

**16. Staff of the University College**

(1) The staff of the Machakos Technical Training Institute, existing prior to the commencement of this Order including those on secondment are eligible for employment by the University College subject to appraisal by the Council in accordance with the statutes.

- (a) The academic staff of the University College shall consist of the Principal, the Deputy Principals, the librarian and all members of staff who are engaged in teaching and research.
- (b) The senior management staff of the University College shall consist of the Principal, the Deputy Principals, and the deans of schools and faculties and directors of institutes and such other members of staff as the Council may from time to time determine.
- (c) The administrative staff of the University College shall consist of the registrars, the Finance Officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.
- (d) The technical staff of the University College shall consist of staff engaged in laboratory, field instruction, workshops and such similar environs in the teaching departments under the general direction of the heads of the teaching departments, and as the Council may from time to time determine.
- (e) The support staff of the University College shall consist of those staff engaged in general duties and as the Council may from time to time determine.
- (f) All members of staff of the University College shall, subject to this Order, be appointed either—
  - (1) in the manner and upon the terms and conditions of service prescribed by the statutes; or
  - (2) in the case of a person seconded to the service of the University College from the service of another institution, the Government or any other public service, on terms and conditions agreed upon between the Council and the seconding body.
- (g) The Council may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the University College.
- (h) All members of staff of the University College shall—
  - (1) be subject to the general authority of the Council and of the Principal; and
  - (2) be considered to be employed in accordance with the statutes or as otherwise specifically provided by the statutes or by the terms of a particular appointment.

**17. Performance of functions in absence of office holder**

(1) In the event of the incapacity of the Principal, the Council may appoint one of the Deputy Principals to carry out the functions of the Principal during the period of incapacity.

(2) In the event of the simultaneous incapacity of the Principal and the Deputy Principals, the Chancellor, after consultation with the Chairman of the Council, may appoint any member of the senior management staff of the University College to perform the functions of the Principal during the incapacity.

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(3) In the event of the incapacity of a member of staff of the University College other than the Principal and Deputy Principals, the Principal may appoint a suitable person to perform the functions of the said officer during the incapacity.

(4) In this paragraph “**incapacity**” means absence from Kenya or inability, for any other reason, to perform the functions of the office concerned.

**PART IV – FINANCIAL PROVISIONS****18. Financial year**

The financial year of the University College shall be the period of twelve months commencing on the 1st July and ending on 30th June in the following year.

**19. Investment of funds**

(1) The Council may invest any of the funds of the University College in securities, treasury bonds, trust funds or in any other securities which the Treasury may, from time to time, approve.

(2) The Council may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the University College.

**20. Annual estimates**

(1) Before the commencement of a financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the University College for that year.

(2) The annual estimates shall make provisions for all the estimated expenditure of the University College for the financial year concerned, and in particular shall provide—

- (a) for the payment of the salaries, allowances and other charges in respect of the staff of the University College;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the University College;
- (c) for the proper maintenance of the buildings and grounds of the University College;
- (d) for the proper maintenance, repair and replacement of equipment and other movable property of the University College;
- (e) for the funding of the cost of teaching, research and outreach activities of the University College;
- (f) for development; and
- (g) for the creation of such funds to meet future or contingent liabilities in respect of retiring benefits, insurance or replacement of building or equipment and in respect of such other matters as the Council may think fit.

(3) In drawing its annual estimates and development plans, the University College shall consult with the University and the Government agency responsible for university grants.

(4) Annual estimates shall be approved by the Council before the commencement of the financial year to which they relate, and shall be submitted to the Minister for approval, and after the Minister has given his approval, the Council shall not increase any sum provided in the estimates without the consent of the Minister.

(5) Expenditure shall not be incurred for the purpose of the University College except in accordance with the annual estimates approved under subparagraph (4) or in accordance with an authorization of the Council given with the prior approval of the Minister.

**21. Accounts and audit**

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

(2) Within a period of three months from the end of each financial year, the Council shall submit to the Auditor-General, the accounts of the University College together with—

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the University College on the last day of that year.

(3) The accounts of the University College shall be audited by the Auditor General in accordance with the Public Audit Act (No. 12 of 2003).

(4) The Auditor-General may transmit to the Minister a special report on any matters incidental to his powers under this Order, and section 24(3) and (4) of the Public Audit Act (No. 12 of 2003) shall apply to any report made under this paragraph.

**PART V – MISCELLANEOUS****22. Common seal and signification of documents**

(1) The common seal of the University College shall be kept in such custody and used only as the Council shall direct.

(2) The common seal of the University College shall be authenticated by the signatures of the Principal together with any other person duly authorized by the Council.

(3) The common seal of the University College when affixed to any document and duly authenticated shall be judicially and officially noticed, and, unless and until the contrary is proved, any order or authorization of the Council under this paragraph shall be presumed to have been duly given.

**23. Statutes**

(1) In the performance of its functions under this Order, the Council shall, subject to this Order, make statutes generally for the government, control and administration of the University College and for the better carrying into effect of the purposes of this Order, and in particular for the—

- (a) establishment of faculties, schools, and institutes of the University College;
- (b) description of degrees, diplomas, certificates, and other academic qualifications;
- (c) requirement for conferment of degrees and award of diplomas, certificates and other academic qualifications;
- (d) conduct of examinations;
- (e) prescribing of fees and other charges;
- (f) setting the terms and conditions of service, including the appointment, dismissal and recommendation of retirement benefits of the members of the staff of the University College;
- (g) constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council; and
- (h) providing for or prescribing anything, which, under this Order, may be provided for or prescribed by statutes.

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(2) Notwithstanding subparagraph (1), the Council shall not make, amend or revoke any statute relating to the functions and privileges of the Principal or Academic Board without first ascertaining the opinion of the Academic Board.

(3) Statutes shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-fourths of the members present and voting, being not less than two-thirds of the total membership of the Council.

(4) Statutes or regulations made by the Council under this Order shall not be published in the *Gazette* but sections 27, 31(e) and 34 of the Interpretation and General Provisions Act (Cap. 2) shall not apply to the statutes or to the regulations.

**24. Protection of name**

(1) Despite the provisions of any other written law, no public officer performing functions relating to the registration of companies, business or societies shall accept for such registration any name which includes the words "Machakos" together with either or both the words "University" or "College" unless the application for the registration is accompanied by the written consent of the Council.

(2) Any person who except with the written consent of the Council, uses the words "Machakos" together with either or both the words "University" or "College" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling, or profession, commits an offence and shall be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months or to both:

Provided that nothing in this paragraph shall be construed as preventing the *bona fide* use by any person of any title in pursuance of the grant to him of a degree, diploma or certificate by the University College.

**25. Conversion into a fully fledged university**

The status accorded to the University College by this Order as a constituent college of the University shall be transitional only and the University shall initiate the necessary administrative and legal measures to ensure that the University College becomes a fully fledged university.

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