LEGAL NOTICE NO. 112

THE UNIVERSITIES ACT
(Cap. 210 B)

IN EXERCISE of the powers conferred by section 21 of the Universities Act, the Minister for Education, Science and Technology, after consultation with the Commission for Higher Education, makes the following Rules—


1. These Rules may be cited as The Universities (Co-ordination of Post Secondary School Institutions for University Education) Rules, 2004.

2. In these Rules, unless the context otherwise requires—

“Committee” means the Inspection Committee established by rule 4;

“co-ordination” includes registration, categorization, standardization, validation, harmonisation and supervision of post secondary school institutions;

“course standards” means the standards prescribed under rule 10;

“diploma” means a qualification based on a structured course in a given discipline attained after the full cycle of secondary school education or its equivalent;

“post secondary school institution” means an institution registered or recognised under any law and which offers diploma or other courses for purposes of admission to a degree programme;

“programmes” means a course or courses of study offered by post secondary school institutions.

3. (1) A post secondary school institution may apply to the Commission for validation of its programmes.

(2) The application referred to in sub-rule (1) shall be in Form PSSI/CHE I set out in the Schedule and shall be submitted together with a detailed statement setting out the—

(a) vision, mission, philosophy, aims and objects for which the institution is established;

(b) particulars of incorporation or registration of the institution under any law;
(c) form of governance through which the academic and administrative affairs of the institution shall be conducted;

(d) curriculum of programmes offered by the institution including the—

(i) mechanism for curriculum design and development;

(ii) evaluation and assessment; and

(iii) quality assurance mechanism.

(e) student support services including guidance and counselling, student records and feedback mechanism;

(f) list and academic qualifications of all members of staff on or expected to be on full-time employment with the institution;

(g) list of the total number of students enrolled in each programme offered at the institution which list shall also specify the number of residential students;

(h) size and quality of the library, information communication technology and equipment which have been developed for each course offered at institution;

(i) size financial resources available for the exclusive use of the institution, including the primary sources of funding and the existing budget, certified by an accountant qualified to practise as such under the Accountants Act but who is not an employee or a sponsor of the applicant; and

(j) type number and size of the physical facilities including buildings and land available for the exclusive use of the institution.

4. (1) Upon receipt of the application referred to in rule 3, the Commission shall appoint an Inspection Committee which shall have powers to—

(a) inquire into and ascertain the veracity of the particulars submitted under rule 3;

(b) inquire into the general academic, administrative and social affairs of the institution;

(c) make such other investigations relevant to the validation process as it may deem necessary.

(2) The Committee shall submit a factual and evaluative report of its findings under sub-rule (1) to the Commission within six months of the date of its appointment.

5. (1) Upon receipt of the report under rule 4(2), the Commission shall consider the report, the application and all documentation relevant to the application and may suggest amendments to be made by the institution before the application is approved for validation.
(2) Where, after full deliberation on the merits for validation of the programmes, the Commission is satisfied that -

(a) the programmes meet the course standards; and

(b) the institution has adequate human, physical, financial and other resources to warrant validation of its programmes;

the Commission shall issue a certificate of validation in Form PSSI/CHE 2 set out in the Schedule upon such terms and conditions as it may deem necessary.

(3) Where the Commission declines to issue a certificate of validation, it shall inform the institution of the conditions the institution needs to fulfil in order to qualify for issuance of the certificate.

6.(1) The Commission shall maintain—

(a) a register of the institutions whose programmes have been validated; and

(b) a register of the institutions granted authority to collaborate with other institutions.

(2) The registers under sub-rule (1) shall contain the -

(a) name, postal and physical address of the institution;

(b) programmes validated or programmes in respect of which an institution may enter into an agreement to collaborate with other institutions;

(c) date of validation or granting authority to collaboration;

(d) terms and conditions upon which a certificate of validation or authority to collaborate was granted; and

(e) Such other information that the Commission may deem necessary.

7.(1) The Commission shall cause the certificate of validation issued under these Rules and the particulars of the programmes validated to be published in the gazette.

(2) The name of the institution whose programmes have been validated shall be entered in the register of validated programmes maintained under rule 6 and such institution shall be deemed registered with the Commission as an institution offering validated programmes.

(3) Subject to these Rules, an institution whose programmes have been validated by the Commission shall be eligible to apply for authority of the Commission to collaborate with other post secondary school institutions or universities for purposes of offering validated or degree programmes.

(4) A candidate awarded a diploma in any validated programme shall be qualified to apply for admission to a degree programme.
(5) The Commission shall, in respect of diplomas not covered by the provisions of sub-rule (4), establish a committee to advise on whether such diploma should be granted recognition under these Rules.

(6) Where after receipt of the report of the committee appointed under sub-rule (5), the Commission is satisfied that the diplomas in question ought to be recognised in terms of these Rules, it shall publish a notice to that effect in the gazette and such notice shall be irrevocable.

8.(1) (a) The Commission may, on application by an institution or of its own motion, vary the terms and conditions upon which a certificate of validation was granted if it is of the opinion that such variation is in the interest of education in Kenya or that such variation shall assist the institution to carry out its functions in a more efficient manner.

(b) The Commission may, at its discretion, not entertain an application for variation under paragraph (a) until after the expiry of four years from the date of the grant of the certificate of validation or from the date of the last variation of the terms.

(c) In every case where there is a variation of terms and conditions under these Rules, the Commission shall publish in the gazette the specific variations and shall give directions as to the period of time within which the varied terms and conditions shall be implemented.

(2) The Commission may, on application by an institution of its own motion revoke a certificate of validation granted under these Rules if it is of the opinion that—

(a) the institution has failed to comply with directions for variation of terms given under sub-rule (1) of this rule;

(b) the institution is in breach of the terms and conditions upon which the certificate of validation was issued;

(c) the institution is no longer offering the validated programmes for which the certificate was issued;

(d) the institution has ceased being a post secondary school institution;

(e) such changes have occurred which if they were in existence at the time of application for the certificate of validation, the certificate would not have been granted; or

(f) the revocation is in the interest of education in Kenya.

(3) The Commission shall not revoke a certificate of validation unless it has issued a notice to the institution in Form PSSI/CHE 3 set out in the Schedule, and the institution has, within twelve months from the date of the notice, failed to comply with the notice.

(4) Where the Commission revokes a certificate of validation, it shall issue a notice of the revocation in Form PSSI/CHE 4 set out in the Schedule to the affected institution and shall cause the notice to be published in the gazette.

(5) A certificate of validation issued under these Rules shall be deemed revoked on the date of publication of the notice under sub-rule (4) but such revocation shall not—

(a) affect the validity of programmes and academic awards granted by the institution before the date of revocation;

(b) affect the study of students admitted to the programmes before the date of revocation.

9. It shall be an offence for a person or post secondary school institution to advertise or in any other manner pass off an institution as an institution offering validated programmes if a certificate of validation has not been granted to such an institution, or after such certificate has been revoked in accordance with these Rules.

10. (1) The Commission shall prepare and publish in the gazette course standards for the purposes of co-ordination of programmes post secondary school institutions.

(2) Notwithstanding the generality of paragraph (1), the course standards shall set out—

(a) the minimum entry requirements for admission to any programmes offered at a post secondary school institution;

(b) the minimum number and duration of courses that shall be offered;

(c) the proficiency assessed in terms of content and contact hours, which students are expected to attain in respect of the programmes;

(d) the level or academic training which persons seeking recruitment into the teaching staff of the post secondary school institution shall possess;

(e) the basic ethical standards that shall regulate the conduct of all members of the post secondary school institutions.

(3) The Commission may, at the request of a post secondary school institution or of its own motion indicate the specific steps to be taken towards the attainment of the course standards referred to in sub-rule (2).

11.(1) Every post secondary school institution issued with a certificate of validation shall prepare and submit to the Commission—

(a) an annual report of its activities during the year; and

(b) a detailed self-evaluation report every three years of the steps it has taken towards the achievement of the aims and objects for which it was established.

(2) The Commission shall deliberate on the reports submitted under sub-rule (1) and make any comments or give any instructions for action
to be taken by the post secondary school institution and such comments or instructions shall specify whether or not the course standards are being complied with.

(3) The Commission may visit any institution to verify any of the matters raised in the reports under sub-rule (1).

12.(1) No person or post secondary school institution shall, without the Commission’s authority, enter into collaboration with another institution or university for the purposes of offering the programmes of that institution or university.

(2) A post secondary school institution which has been awarded a certificate of validation in respect of any of it’s programmes may apply to the Commission for authority to collaborate with another institution or university for the purposes of offering such programmes of that institution or university as the Commission may authorize.

(3) The application referred to in sub-rule (2) shall be made in Form PSSI/CHE 5 set out in the Schedule and shall be submitted together with a copy of the proposed contract setting out the—

(a) terms of the contract;
(b) mode of teaching;
(c) mode of conducting examinations, assessment and meriting in relation to issuance of academic awards in respect of the programme offered;
(d) rights and obligations of the post secondary school institution;
(e) right and obligations of the collaborating institution or university;
(f) resources devoted to the programme; and
(g) management and administration of the programme;
(h) the accreditation status of the institution or university in it’s country of origin and the accreditation status of the programmes in the institution or university, provided that the programme must be on offer at the university with which the post secondary school institution proposes to collaborate with.

(4) The Commission, upon confirmation that the parties to the contractual agreement referred to in sub-rule (3) meet the qualifications set out in the Act and that the contractual agreement meets the conditions set out under these Rules, shall approve the application and grant its authority to collaborate in Form PSSI/CHE 6 set out in the Schedule upon such terms and conditions as it may deem fit.

13.(1) The Commission shall by notice in the gazette publish the name of the institution granted authority to collaborate and the particulars of the programme in respect of which the authority is granted.

(2) The name of the institution which has been granted authority to collaborate shall be entered in the register maintained under rule (6).

(3) It shall be an offence for any person or post secondary school institution to collaborate with another institution or university for purposes of offering programmes without the authority of the Commission.

14.(1) The Commission may, on application of any of the collaborating parties or of its own motion vary the terms and conditions upon which the authority to collaborate was granted or revoke such authority before the expiry of the term of the collaboration contract if it is of the opinion that such variation or revocation is in the interest of education in Kenya, or may assist the institution concerned to carry out its functions in a more efficient and professional manner.

(2) In the event of variation or revocation of authority to collaborate, the provisions of rule 8 of these Rules shall apply mutatis mutandis.

15. (1) A post secondary school institution, which has been granted a certificate of validation or has been authority to collaborate shall—

(a) ensure that course standards are maintained at all times;
(b) ensure that all instructions issued by the Commission under these Rules are complied with;
(c) ensure that no new degree programme is offered or regulations in respect thereof effected without the prior approval of the Commission; and
(d) submit to supervision by the Commission including inspection and visitation at such intervals as may be determined by the Commission.

(2) The Commission may inspect a post secondary school institution at such times as it may deem necessary.

16. The Commission may from time to time prescribe fees payable for any application made under these Rules.

17.(1) A person who commits an offence under any provisions of these Rules shall be liable to a fine exceeding six thousand shillings or to imprisonment for a term not exceeding six months or to both.

(2) A person who, without the written consent of the Commission, uses the name of the Commission in furtherance of 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 six thousand shillings or to imprisonment for a term not exceeding six months or to both.

18.(1) A person who is aggrieved by an act or decision of the Commission taken in accordance with any of the provisions of these Rules, may within thirty days of the date of the decision, apply to the Commission for a review of the decision.

(2) Any person aggrieved by the decision of the Commission on review under sub-rule (1) may, within fourteen days from the date of
the decision, appeal to the High Court whose decision shall be final.

19. Any post secondary school institution which at the commencement of these Rules is providing programmes in collaboration with other institutions or universities shall, within six months from the date of commencement of the Rules, apply to the Commission for recognition under these Rules.

SCHEDULE

FORM PSSI/CHE 1 (r. 3(2)

APPLICATION FOR VALIDATION OF PROGRAMMES

1. Name of Institution

2. Postal and Physical Address

3. Telephone

4. (a) Date of incorporation or registration (attach copy of certificate of incorporation)
(b) Name and designation of chief administrator
(c) Governing body
(d) Principle or proposed academic focus or discipline
(e) Principle research focus

5. Number and type of programmes (i.e. certificates, diplomas, degrees).
   (a)
   (b)
   (c)

6. Programme to be considered for purposes of validation—
   (a) name of the programme
   (b) minimum admission qualification
   (c) number of students enrolled in the programme
   (d) the period of time that the programme has been offered by the institution since incorporation

7. Envisaged benefits of validation of programme for education in Kenya generally

I hereby apply for validation of the programme here in before mentioned

Dated at this day of

Name
FORM PSSI/CHE 2  
CERTIFICATE OF VALIDATION  

This is to certify that –  
The programme referred to as ..............................................offered by ...........................................
situated at .................................................. of Postal Address ..................................................
Telephone ........................................................ is a programme that has met the academic
excellence set by the Commission for Higher Education.
Dated this ................................................. day of .................................................. 20

COMMISSION SECRETARY  
SEAL

FORM PSSI/CHE 3  
NOTICE OF INTENTION TO REVOKE  

To: ..............................................................................................................................................
Postal Address ................................................................................
Physical Address ............................................................................................
TAKE NOTICE that the Commission for Higher Education makes the following
complaints against you

You are hence required to take the following steps and or measure to remedy the situation

TAKE FURTHER NOTICE that if you do not comply with this Notice to the satisfaction
of the Commission within twelve months from the date of this Notice, the certificate of
validation/authority to collaborate issued on the .......................................... day of
............................................... in respect of the programme referred to as
..................................... shall be revoked forthwith.
Dated this ................................................. day of 20

Designation ..........................................................  
Signature ............................................................  
Full postal address ..............................................
NOTICE OF REVOCATION

To: ....................................................................
Postal Address ................................................
Physical Address .............................................

TAKE NOTICE that the certificate of validation/authority to collaborate issued by the Commission on ................................................................. day of ............................................. in respect of the programme known as .................................................................... offered by the institution known as ........................................................................................... .......................... situated ................................................................. and care of Post Office Box Number .............................................................. has been revoked with effect from ................................................................. day of ............ 20.............. Dated this .......................................................... day of .............................................. 20..............

APPLICATION FOR AUTHORITY TO COLLABORATE

1. Name of institution............................................................................................................
2. Postal and physical address ..............................................................................................
3. Telephone ...........................................................................................................................
4. Name of programme to be offered under the collaboration contract ............................
5. Date of validation of programme ......................................................................................
6. Term of the contractual period ........................................................................................
7. Name, postal and physical address of the collaborating partner ........................................
8. Details of the accreditation status of the collaborating partners ........................................
9. Current status of programme offered in collaboration (state whether the programme is currently being offered or otherwise) ..............................
10. Any additional resources particularly developed for the use of the validated programme.

11. Principle academic focus or discipline

12. Number of students enrolled for the programme since it was validated.

13. Principle research focus

14. Name and qualifications of staff employed on a full time basis to offer the programme

15. Changes in the library capacity and resources made since the date of validation that are particularly designed to accommodate the collaboration programme

16. Other facilities (specify)

17. Present budget:
   (a) capital (in Kshs.)
   (b) recurrent (in Kshs.)

18. Primary source(s) of funding:
   (a)
   (b)
   (c)

19. Envisaged benefits of the collaboration in the education in Kenya generally
I hereby apply for the Commission’s authority to collaborate with the institution known as ................................................................. of Post Office Box Number .............................................. Physical Address ......................................................... for purposes of offering the programme known as ................................................................. that will lead to an award of ....................................................... (academic qualification) and attach hereto a copy of certificate of validation of programme issued on ................................................................. day of ................................................................. and a statement of the terms of the contractual agreement together with documents of accreditation of the collaborating partner.

Name .................................................................
Designation .................................................................
Signature .................................................................
Full postal address .................................................................

FORM PSSI/CHE 6 r. 15(3)
LETTER OF AUTHORITY TO COLLABORATE
The Commission for Higher Education hereby grants authority to collaborate to:
Name .................................................................
Postal Address .................................................................
Physical Address .................................................................
Telephone .................................................................
To collaborate with (name of institution) .................................................................
Postal Address .................................................................
Physical Address .................................................................
Telephone .................................................................
To offer the programme known as .................................................................
For the award of .................................................................
Dated this ................................................................. day of ................................................................. 20.......................

COMMISSION SECRETARY
SEAL

GEORGE SAITOTI,
Minister for Education, Science and Technology.

Kenya Gazette Supplement No. 66 22nd October, 2004

(Legislative Supplement No. 42)

CORRIGENDA
IN Legal Notice No. 110 of 2004—
Delete the expression “2004” appearing at the end of paragraph 1 and insert “2005”.
Delete the expression “6 (5)” appearing in the fourteenth line immediately before the words “the Seventh Schedule”.
Delete the words “of the Seventh” appearing at the beginning of the Seventeenth line.

LEGAL NOTICE NO. 113

THE IMMIGRATION ACT
(Cap. 172)
EXEMPTION

IN EXERCISE of the powers conferred by section 4 (3) (h) of the Immigration Act, the Vice-President and Minister for Home Affairs exempts from the provisions of that section—

(a) all persons who are in the employ of Nest Children’s Home Charitable Trust and who are not engaged in any other employment, occupation, trade, business or profession (whether or not for remuneration or profit); and

(b) any wife or child of such persons who is not engaged in any employment, occupation, trade, business or profession (whether or not for remuneration or profit).


MOODY AWORI,
Vice-President and Minister for Home Affairs.