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THE MASENO UNIVERSITY ACT, 2000

No. 7 of 2000

Date of Assent: 11th December, 2000

Date of Commencement: By Notice

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**An Act of Parliament to establish the Maseno University,
to provide for its powers and functions and for matters
connected therewith**

ENACTED by the Parliament of the Republic of Kenya as follows:-

PART I - PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Maseno University Act, 2000, and shall come into operation on such date as the President may, by notice in the Gazette, appoint.

Interpretation.

2.(1) In this Act, unless the context otherwise requires –

“Alumni Association” means the Alumni Association of the University established under section 17;

“annual estimates” means the estimates approved under section 22 in respect of any financial year;

“centre” means a centre of the University established by the Regulations;

“Chancellor” means the Chancellor of the University referred to in section 10;

“College” means a College established within the University under section 6(1);

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“Commission” means the Commission for Higher Education established by section 3 of the Universities Act;

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

“the Council” means Council of the University established under section 14;

“dean” means the dean of a faculty elected by the academic members of the faculty or institute in accordance with the Regulations;

“Deputy Vice-Chancellor” means the Deputy Vice-Chancellor appointed under section 12;

“faculty” means a faculty of the University established by the Regulations;

“Finance Officer” means the person appointed to be the Finance Officer of the University;

“financial year” means a financial year within the meaning of section 20;

“graduate” means a person upon whom a degree or other academic qualification has been conferred by the University;

“Head of Department” means the Head of teaching department appointed by the university under the Regulations;

“institute” means an institute in the University established by the Regulations;

“lecturer” means a member of the staff of the University who is, in the terms of his appointment, a professor, 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 recognised 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, and includes an associate professor;

“Principal” means a Principal of a college within the University appointed under section 13;

“Registrar” means a person appointed to be a Registrar of the University;

“Regulations” means the Regulations of the University made by the Council pursuant to section 25;

“school” means a school of the University established by the Regulations;

“the Senate” means the Senate of the University established under section 16;

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

“student” means a person for the time being 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 recognized by the Council as being an organization representative of the students of the University;

“the University” means the Maseno University established by section 3;

“Vice Chancellor” means the Vice-Chancellor of the University appointed under section 11.

(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.

PART II - ESTABLISHMENT AND FUNCTIONS OF THE UNIVERSITY

3.(1) There is hereby established a University to be known as the Maseno University.

Establishment of
the University.

(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 or disposing of moveable and immovable property;
- (c) borrowing or lending money;
- (d) entering into contracts; and
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

(3) The University is the successor to Maseno University College established by the Maseno University College Order, 1990 (now revoked) and subject to this Act, all rights, duties, obligations, assets and liabilities of the Maseno University College existing at the commencement of this Act shall be automatically and fully transferred to the University and any reference to the Maseno University College in any contract or document shall, for all purposes.

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be deemed to be a reference to the University established under subsection (1).

Functions and
objects of
the University.

4.(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, scientific, professional education and research;
- (b) to participate in the discovery, creation, transmission, preservation and enhancement of knowledge and to stimulate the intellectual participation of students and staff in economic, social, cultural, scientific and technological development;
- (c) to harness acquired knowledge of the natural, applied and social sciences to manage the environment and to maintain biodiversity;
- (d) to conduct examinations for and to grant such academic awards as may be provided for in the Regulations;
- (e) to determine who may teach, 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 University 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, sex, 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, sex, sect or creed.

(3) The University shall charge such fees or levy as may, from time to time, be approved by the Council from students admitted to the University for defraying expenses connected with their education.

5. The Chancellor may, after consultation with the Council, by Order in the Gazette -

Constituent colleges.

- (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.

6.(1) The Chancellor may, on the advice of the Council, establish colleges within the University.

Colleges within the University.

(2) A College established under this section shall consist of such faculties, institutes, centres or schools and shall have such functions and powers as may be provided by the Regulations.

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

Conferment of degrees etc.

(2) Subsection (1) shall apply to any honorary degree or academic distinction which the Council may wish to 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.

(Other awards.

8. Subject to this Act, the University may award fellowships, scholarships, bursaries and prizes and make other awards which may be provided for in the Regulations.

PART III - MEMBERSHIP AND GOVERNANCE OF THE UNIVERSITY

Membership of the University.

9. The members of the University shall be –

- (a) the Chancellor;
- (b) the Vice-Chancellor;
- (c) the Deputy Vice-Chancellors;
- (d) the Principal of each constituent college;
- (e) the Principals of colleges within the University;
- (f) the members of the Council;
- (g) the professors and lecturers of the University;
- (h) the librarian;
- (i) the Registrars;
- (j) the Finance Officer;
- (k) the students;
- (l) the members of the Alumni Association;
- (m) members of the Senate;
- (n) members of the governing body of each constituent college;
- (o) the secretary of the governing body of each constituent college;
- (p) such other members of staff of the University or any other body formally admitted into association with the University or any of its constituent colleges, as the Council may, from time to time, determine.

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

The Chancellor.

(2) If the President sees it fit to appoint some other person to be the Chancellor, he shall in consultation with the Commission, appoint such person, and a person so appointed shall become the Chancellor and shall perform such functions and exercise such powers of the Chancellor as are provided under this Act.

(3) A person who is appointed by the President to be the Chancellor under subsection (1) shall hold office for a period of five years but shall be eligible for reappointment.

(4) 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, visitation or inquiry of the University or an inquiry into the teaching, research or any other work of the University;
- (c) may, from time to time, give advice to the Council which he considers necessary for the development of the University;
- (d) shall enjoy such powers and privileges and perform such other functions as may be provided in the Regulations.

(5) Whenever the Chancellor (not being the President) is absent from Kenya or is for any reason unable to perform the functions of his office, the President or any person authorised by him in that behalf may appoint a person to perform those functions during the absence or inability of the Chancellor.

The Vice-Chancellor.

11.(1) There shall be a Vice-Chancellor of the University who shall be appointed by the Chancellor on the advice of the Council.

(2) The Vice-Chancellor shall --

- (a) be the chief executive of the University;
- (b) have the overall responsibility for the direction, organization and administration of programmes of the University;
- (c) be the chairman of the Senate;
- (d) be responsible to the Council for the general conduct and discipline of the students and staff of the University; and
- (e) be the secretary to the Council.

(3) The Vice-Chancellor shall hold office for a period of five years, but shall be eligible for reappointment for one further term.

The Deputy

Vice-Chancellors.

12.(1) The Council shall, in consultation with the Chancellor, appoint two or more Deputy Vice-Chancellors from among the professors who shall, under the general authority of the Vice-Chancellor, exercise such powers and perform such duties as may be provided by the Regulations.

(2) A Deputy Vice-Chancellor shall hold office for such period as may be provided by the Regulations, but shall be eligible for reappointment for one further term.

13.(1) The Council shall, in consultation with the Chancellor, appoint a Principal for each college within the University, who shall be the academic and administrative head of the college and who shall, under the general direction of the Vice-Chancellor, have such other powers as may be provided in the Regulations.

Principals of colleges within the University

(2) A person appointed as Principal shall hold office upon such terms and for such period as may be provided in the Regulations.

14.(1) There shall be a Council of the University which shall consist of --

The Council.

- (a) a chairman, a vice-chairman and an honorary treasurer all of whom shall be appointed by the Chancellor;
- (b) the Vice Chancellor;
- (c) the Deputy Vice-Chancellors;
- (d) the Principal of each constituent college;
- (e) the Principals of colleges within the University;
- (f) the Permanent Secretary in the Ministry for the time being responsible for education;
- (g) the Permanent Secretary in the Ministry for the time being responsible for finance;
- (h) the permanent Secretary to the Ministry for the time being responsible for public works;

- (i) the Director of Personnel Management;
- (j) not more than six members appointed by the Chancellor;
- (k) two persons appointed by the Senate from among its members;
- (l) two members elected by the members of the academic staff (other than the members of the Senate) from amongst their number;
- (m) two members elected by the students organization;
- (n) one person elected by the non-academic staff from among themselves;
- (o) one person elected by the Alumni Association from among its members who shall not be members of the staff of the University;
- (p) the secretary to the Commission;
- (q) not more than two other members co-opted to the Council.

(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 reappointment.

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

- (a) if, not being an *ex-officio* member, he resigns his office in writing under his hand addressed to the secretary of the Council; or

- (b) if the Council after due inquiry is satisfied that the member is, by reason of physical or mental infirmity, unable to exercise the functions of his office; or
- (c) upon his death; or
- (d) if he is adjudged bankrupt by a court of competent jurisdiction; or
- (e) if he is convicted of a criminal offence by a court of competent jurisdiction and sentenced to imprisonment for a term exceeding three months without the option of a fine; or
- (f) if he is absent from three consecutive meetings of the Council without the permission of the chairman.

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

(5) The authority with regard to the procedure and Regulations of the affairs of Council shall vest in the Council.

15.(1) Subject to this Act, the governance, control and administration of the University shall vest in the Council.

Functions of
the Council.

(2) Without prejudice to the generality of subsection (1), the Council shall have power to –

- (a) administer the property and funds of the University (other than the property and funds of a constituent college) in such manner and

for such purposes as shall promote the best interests of the University, but the Council shall not charge or dispose of the immovable property of the University without the approval of the Chancellor;

- (b) receive, on behalf of the University, donations, endowments, gifts, grants or other moneys and to make legitimate disbursements therefrom;
- (c) provide for the welfare of the staff and students of the University;
- (d) generate and raise funds for the purposes of the University from within or outside Kenya;
- (e) make, after consultation with the Senate, regulations governing the conduct and discipline of the students of the University;
- (f) determine, on the advice of the Senate, the maximum number of students to be admitted to the University at any one time from amongst those qualified for admission;
- (g) enter into association with other Universities or institutions of higher learning within or outside Kenya as the Council may deem necessary and in the interests of the University.

The Senate.

16.(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 Principals of colleges within the university;
 - (e) the Deans of the faculties, schools, centres and institutes of the University;
 - (f) the heads of teaching departments of the University;
 - (g) the librarian;
 - (h) one representative of each of the faculty boards appointed by each board from amongst its members;
 - (i) such number of full professors of the University as may be provided for in the Regulations;
 - (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 relate to examinations disciplines and confidential matters;
 - (k) one representative of the postgraduate students of the University;
 - (l) such other members as may be provided for in the Regulations.
- (2) The Deputy Vice-Chancellor for the time being responsible for academic affairs shall be the secretary to the Senate.
- (3) The Senate shall have the power to –
- (a) 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) propose Regulations to be made by the Council regarding the eligibility of persons for admission to a course of study;
- (c) propose Regulations for consideration by the Council regarding the standard of proficiency to be attained in each examination for a degree, diploma, certificate or other award of the University;
- (d) decide which persons have attained the prescribed standards of proficiency or are otherwise fit to be granted a degree, diploma, certificate or other award of the University;
- (e) initiate proposals relating to the conduct of the University's academic programmes or affairs generally and to make representations thereon to the Council;
- (f) make regulations governing such other matters as lie within its powers in accordance with this Act or the Regulations.

(4) Notwithstanding any other provision of this Act, the Council shall not initiate any action in respect of the matters mentioned in paragraphs (a), (b) or (c) of subsection (3) 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.

17.(1) There shall be an Alumni Association of the University which shall consist of graduates of the University and such other members as may be prescribed in the Regulations.

The Alumni
Association.

(2) The Alumni Association shall have the right to meet and discuss any matter relating to the University and transmit resolutions thereon to the Council or the Senate as may be appropriate and may exercise such other functions as may be prescribed in the Regulations.

(3) The Council shall make rules for the establishment and promotion of the Alumni Association.

18.(1) The academic staff of the University shall consist of the Vice-Chancellor, the Deputy Vice-Chancellors, the Principals of constituent colleges, the Principals of colleges within the University, the librarian, the librarian of each constituent college, the Registrars, the lecturers and all members of the staff who are engaged in teaching, research or extension.

Staff of
the University.

(2) The administrative staff of the University shall consist of the Vice-Chancellor, the Deputy Vice-Chancellors, the Principals and Deputy Principals of constituent colleges, the Principals of colleges within the University, the Deans of faculties, the Directors of schools, centres and institutes, chairmen of departments, the Registrars and Finance Officers of the University and of constituent colleges, and such other members of the staff, not being engaged in teaching or research or extension, as the Council may, from time to time, determine.

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

- (a) in the manner and upon the terms and conditions of service prescribed by the Regulations; 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 the terms and conditions agreed by the Council and the seconding body.
- (4) The Council may, subject to such restrictions as it may impose, delegate either generally or specifically to any person or committee the power to appoint any member of staff of the University.
- (5) All members of 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 Regulations or by the terms of a particular appointment.
- (6) The academic and administrative staff of a constituent college shall be subject to the Order establishing the college.

Performance of
functions in
absence of the
office holder.

19.(1) In the event of the incapacity of the Vice-Chancellor, the chairman of the Council in consultation with the Chancellor shall designate one of the Deputy Vice-Chancellors to carry out the functions of the Vice-Chancellor during the incapacity.

(2) In the event of the simultaneous incapacity of the Vice-Chancellor and the Deputy Vice Chancellors, the Chancellor, after consultation with the chairman of the Council, may appoint any member of the academic staff of the University to perform the functions of the Vice-Chancellor during the period of the incapacity.

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

PART IV - FINANCIAL PROVISIONS

20.(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.

Financial year.

(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.

21.(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 securities which the Treasury may from time to time approve for that purpose.

Investment of funds.

(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.

Annual estimates.

22.(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 for –

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

(3) The 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 the annual 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.

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

Accounts
and audit.

(2) Within a period of four 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 the year.

(3) The accounts of the University shall be audited and reported upon in accordance with section 29 and 30A of the Exchequer and Audit Act by the Auditor-General (Corporations) or by an auditor appointed by the Council under the authority of the Auditor-General (Corporations) given in accordance with section 29(2) (b) of the Exchequer and Audit Act.

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PART V - MISCELLANEOUS PROVISIONS

24.(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.

Common seal
and signification
of documents.

(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 authorized by the Council in that behalf and one of the Deputy Vice-Chancellors.

(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.

(4) 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 the Deputy Vice-Chancellor for the time being responsible for administration or any other member of the Council duly authorized by the Council in that behalf.

Regulations.

25.(1) In the performance of its functions under this Act, the Council shall subject to this Act, make Regulations generally for the governance, 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 description of diplomas, certificates and other academic awards;
- (d) the requirements for the award of degrees, diplomas, certificates and other academic awards;

- (e) determination and collection of fees;
- (f) the settlement of the terms and conditions of service, including the qualifications, appointment, discipline, dismissal, remuneration and retirement 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 thereof;
- (h) prescribing the rules and regulations of the students' organization.
- (i) providing for or prescribing anything which under this Act, may be provided for or prescribed by Regulations.

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

(3) Regulations 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) Regulations made by the Council under this Act shall be published in the Gazette but sections 27, 31(e) and 34 of the Interpretation and General Provisions Act shall not apply to the Regulations.