

The University Act

The University of Nairobi Act, 1985

THE REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT.

ACT, 1985

NAIROBI, 6TH SEPTEMBER, 1985

No. 11 of 1985

Date of Assent: 29th August, 1985

Date of Commencement: 6th September, 1985

An Act of Parliament to amend and consolidate the law providing for the establishment of the University of Nairobi and its control, government and administration; and for connected purposes

ENACTED by the Parliament of Kenya, as follows:-

PART I - PRELIMINARY

Short Title

I This Act may be cited as the University of Nairobi Act, 1985.

Interpretation

- 2 (1) In this Act, unless the context otherwise requires - "annual estimates" means the estimates prepared under section 22(1) in respect of any financial year.
"the Chancellor" means the Chancellor of the University referred to in section 10;
"college" means -
- (a) a college specified in the Schedule; and
 - (b) a college established within the University pursuant to an order made under section 4; but does not include a constituent college;
- "constituent college" means any institution declared to be or established as a constituent college of the University under section 5,
"the convocation" means the Convocation of the University established under section 17;
"the Council" means the Council of the University established under section 14;
"Deputy Vice-Chancellor" means a Deputy Vice-Chancellor of the University appointed under section 12(1);
"faculty" means a faculty of the University established by the statutes;
"financial year" means the financial year of the University determined under section 20(1);
"graduate" means a person upon whom a degree has been conferred by the University;
"institute" means an institute of the University established by the statutes;
"lecturer" means a person on the staff of the University who is a full professor, associate professor, senior lecturer, lecturer or assistant lecturer or a person who holds any other teaching or research 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 librarian of the University;
"principal" means the principal of a college appointed under section 13(1);
"specified territories" means Tanzania and Uganda and such other territories as the Minister may, after consultation with the Council, specify;
"school" means a school of the University established by the statutes;
"secretary to Council" means the person appointed as secretary to the Council;
"the Senate" means the Senate of the University established under section 16(1);
"staff association" means an association of the staff recognized by the Council as being an association representative of the staff of the University;
"statutes" means statutes of the University made by the Council under section 24;
"students" means a person registered by the University for the purposes of obtaining a qualification of the University or any other person who is determined by the Senate to be a student;
"students' organization" means an association of students recognized by the Council as being an



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organization representative of the students of the University;

“the University” means the University of Nairobi constituted under section 3(1);

“Vice-Chancellor” means the Vice-Chancellor of the University appointed under section 11(1).

(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 11-ESTABLISHMENT

AND

FUNCTIONS OF THE UNIVERSITY

3. (1) There shall be established a university at Nairobi to be known as the University of Nairobi which shall be constituted in accordance with this Act.
- (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; and
 - (d) 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.

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(3) The University is the successor to the University of Nairobi established by the University of Nairobi Act 1970 (now repealed) and, subject to this Act, all rights, duties, obligations, assets and liabilities of the University of Nairobi existing at the commencement of the Act shall be automatically and fully transferred to the University and any reference to the University of Nairobi in any contract or document shall for all purposes be deemed to be a reference to the University established under subsection (1).

Establishment of Colleges within the University

4. (1) The colleges specified in the Schedule are declared to be colleges established within the University.
- (2) The President may, on the advice of the Council, by order published in the Gazette, establish colleges within the University whose functions and powers shall be provided by that order.
- (3) A college established within the University shall consist of such faculties, institutes or schools as may be provided by the statutes.
- (4) An order made under subsection (2) shall have the effect of amending the Schedule by adding the College established by the order to the specified colleges.

Establishment of Constituent Colleges

5. The President may, on the advice of the Council, by order published in the Gazette, establish or declare an institution of learning or higher education or any training establishment to be a constituent college of the University.

Common Seal and Signification of Documents

6. (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 authorized by the Council in that behalf, and of a Deputy Vice-Chancellor.
- (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 the contrary is proved, any necessary order or authorization of the Council under this section shall be presumed to have been duly given.



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Functions and Objects of the University

7. (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 for research;
 - (b) to participate in the discovery, transmission and preservation of knowledge and to stimulate the intellectual life and cultural development of Kenya;
 - (c) to conduct examinations for and to grant such academic awards as may be provided for in the statutes
 - (d) subject to the Universities Act, to co-operate with the Government in the planned development of university education and in particular, to examine and approve proposals for new faculties, new departments, new degree courses, or new subjects of study submitted to it by any constituent college or other post-secondary institution;
 - (e) to determine who may teach and what may be taught and how it may be taught in the University.
- (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 any such 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.



Degrees, diplomas, etc.

8. (1) Subject to this Act, the University may-
- (a) confer the degrees of Bachelor, Master and Doctor and such other degrees as may be provided for in the statutes; and
 - (b) grant diplomas or certificates or other awards
- (2) Subsection(1) shall apply to an honorary degree or academic distinction which the University may wish to confer 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.

PART 111 - MEMBERSHIP

AND

GOVERNMENT OF THE UNIVERSITY

Membership of the University

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 Principal of each College within the University;
- (f) the Members of the Council;
- (g) the Members of the Senate;
- (h) the Members of the government body of each Constituent College**
- (i) the Professors and Lecturers of the University;
- (j) the Librarian

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- (k) the Secretary to the governing body of each Constituent College;
- (l) the Students;
- (m) the Convocation;
- (n) such other members of the staff of the University or of 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.

The Chancellor

10. (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 change in the holder of the office of 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 into the general administration and organization of the University in such manner as may be provided in the statutes;
 - (d) may from time to time give advice to the Council which he considers necessary for the betterment of the University
 - (e) shall enjoy such powers and privileges and perform such other functions as may be provided in the statutes.
- (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 such 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, 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 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 re-appointment.

The Deputy Vice-Chancellors

12. (1) The Council shall, in consultation with the Chancellor appoint from among the professors of the University two 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 by the statutes.
- (2) A 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 re-appointment.

The Principals of Colleges

13. (1) The Council shall, in consultation with the Chancellor, for each college within the University appoint a Principal who shall be the academic and administrative head of the college and shall under the general authority of the Vice-Chancellor, have such other powers and duties as may be provided by the statutes.
- (2) A person appointed as a principal 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 re-appointment.

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The Council

14. (1) There shall be a Council of the University which shall consist of:-
- (a) a chairman, 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 Principal of each College within the University;
 - (f) not more than ten members appointed by the President to represent the Government;
 - (g) one member of the Senate from each College appointed by the Senate.
 - (h) one person appointed by the Gandhi Memorial Academy Society
 - (i) two persons appointed by the Convocation from among its members;
 - (j) one person appointed by the Government of each State which is, for the time being, a specified territory;
 - (k) one member appointed by the Staff Association of the University;
 - (l) two members elected by the students' organization;
 - (j) 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 Secretary to the Council.
 - (b) if the Council is satisfied that such member is, by reasons 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 secretary to the Council 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.

Function of the Council

15. (1) Subject to this Act and without prejudice to any legislation, trust deed or other instrument by or under which a college is established, the government, control and administration of the University shall be vested in the Council.
- (2) Notwithstanding subsection (1), the Council shall have power
- (a) to administer the property and funds of the University, other than property and funds of a Constituent College, in such a manner and for such purposes as will, in the opinion of the Council, promote the best interests of the University except so however that the Council shall not charge or dispose of immovable property of the University without prior approval of the Chancellor
 - (b) to receive, on behalf of the University or a constituent college, gifts, donations, grants or other moneys and to make disbursements there from to the Constituent College or other bodies or persons;
 - (c) to provide for the welfare of the staff and students of the University;
 - (d) to enter into any association with other universities, or other institutions of learning, whether within Kenya or otherwise as the Council may deem necessary and appropriate
 - (e) to make, after consultation with the Senate, regulations governing the conduct and

discipline of the students.

(3) 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 administration and finance or any other member of the Council generally or specially authorized by the Council in that behalf.

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 Principal of each College within the University;
 - (e) the Deans of the faculties and Directors of Institutes and Schools;
 - (f) the Chairmen of the teaching departments of the University;
 - (g) not more than two professors who are not members of the Senate by virtue of this section elected by the academic board from within each college;
 - (h) two members elected by the academic board or equivalent body (if any) of each constituent college from among the members of such board or body
 - (i) the librarian;
 - (j) one representative of each of the boards of the faculties, institutes and school appointed by that board from among those of its members who are not professors and are not members of

He prepared documents for restructuring Kenya's education system and hand copied them to Dr. Gikonyo Kiano (then one of the six African legislative members) for distribution to the others.

It was no surprise then that at independence, he was appointed to chair a milestone commission to chart the country's education system in 1964. The Ominde Report, remains the cornerstone of Kenya's education system.

Meanwhile, his interest in the study of local material that would enhance relevance in the education system had led to his choice of a theme for his PhD thesis; "*Land and Population Movements in the Western districts of Nyanza Province, Kenya*".

He wrote the thesis as an internal student of the University of London, which then enjoyed a special relationship with Makerere, and was awarded the doctorate in 1963. There began his involvement in research and teaching in the field of population.

His promotion to Senior Lecturer at Makerere came in 1963. The following year he was transferred to the University College, Nairobi where he was appointed Professor and Head of Geography Department, thus becoming the first indigenous professor in the University of East Africa.

But both titles did not come easy; Ominde did not hanker for administrative posts in the university and believed that those responsible for appointing department and faculty heads would do so when he was ripe for it.

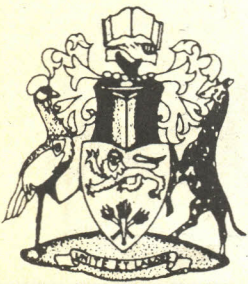
So following his successful chairmanship of the education commission, the then chairman of the University Council, B.M. Gecaga, invited his interests in the chair of the Geography Department.

But there had been some uneasiness in some circles over his appointment which he had to disapprove by running the department as effectively as the whites.

For about a year he served as '*de facto*' head of department until he was confirmed the following year.

In 1965, he crowned his academic career by becoming the first African to be appointed Dean of the Faculty of Arts. He served as Dean until 1974, and is a member of many national and international societies and commissions. He was a member of the Ndegwa and Gachathi Commissions' on Education. He received the Nigerian National Geographical Association Award for distinguished contribution to Geographical Science in 1978, and is a fellow of the Royal Geographical Society (FRGS) of Britain. The retired professor is one of the world authorities in Geography but more specifically on Kenya. He is a prolific writer and author of about 70 publications. ■

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the Senate by virtue of any other provision of this subsection;

(k) six students to be elected by the students' organization of the University; 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, examination results, the academic performance of students and other related matters.

(2) Notwithstanding the provision of the Universities Act, 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 such 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 to any of the matters mentioned in paragraphs (a) (b) or (c) of sub-Section (2) except upon receipt of a report or proposal thereunder, and the Council shall not reject any such report or amend any regulations so proposed without further reference to the Senate.

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

(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 function as the statutes may prescribe.

The Staff of the University

18. (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 consist of the Deputy Vice-Chancellors, the Principals of the colleges, the Finance Officer of the University and such members of the staff, not being engaged in teaching and 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 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 employment.

Performance of Functions in Absence of Office Holder

19. (1) In the event of the incapacity of the Vice-Chancellor, the functions of the Vice-Chancellor may be performed during the incapacity by one of the Deputy Vice-Chancellors designated for that purpose by the Chairman of the Council in consultation with the Chancellor.
- (2) In the event of the simultaneous incapacity of the Vice-Chancellor and all the Deputy Vice-Chancellors, the Chancellor, after consultation with the Chairman of the Council, may appoint a member of the academic staff of the University to perform the functions of the Vice-Chancellor during 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 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

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.
- (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.

Investments of Funds

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 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.

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 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 on 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 building and grounds of the University;
 - (d) for the proper maintenance, repair and replacement, equipment and other movable property of the University;
 - (e) for the proper funding of the cost of 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.

Accounts and audit

23. (1) The Council shall cause to be kept all proper books and records and accounts of the income, expenditure, assets and liabilities of the University.
- (2) Within a period of three months from the end of each financial year, the Council shall submit to the Controller and Auditor-General or an auditor appointed under subsection (3) the accounts of



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the University together with-

(a) a statement of income and expenditure during that; 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 by the Controller and Auditor-General or an auditor appointed by the Council with the approval of the Minister in concurrence with the Controller and Auditor-general.

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

(5) The Controller and Auditor-General may give general or special directions to an auditor appointed under sub-section (3) relating to the directions given under subsection (5)

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

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

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

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

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

(12) The fee for any auditor not in the service of the Government shall be fixed and paid by the Council.



PART V - MISCELLANEOUS PROVISIONS

The Statutes

24. (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 degree;

(d) the conduct of examinations;

(e) prescribing fees and other charges;

(f) the settlement of the terms and conditions of service, retiring benefits, of the members of the staff of the University.

(g) the constitution and procedure of meetings of the council and establishment, composition and terms of reference of committees of the Council;

(h) prescribing the rules and regulation for the students organizations;

(i) Providing for or prescribing anything which, under this Act, may be provided for or prescribed by the statutes;

(2) Notwithstanding subsection (1), the Council shall not make, amend, revoke any statute relating to the function 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 less than half of the total membership of the Council.

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

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Protection of Name

25. (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 "Nairobi" 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 word "University" together with the "Nairobi" in furtherance or, or as, or in connection with, any advertisement for any trade, business, calling or profession shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding twelve 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.



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Repeal and Savings

26. (1) The University of Nairobi Act, in this section referred to as the former Act, is repealed.

(2) Notwithstanding the repeal of the former Act, all acts, directions, orders, appointments, requirements, authorizations, other things given, taken or done under, and all funds, assets and other property acquired in virtue of, that Act shall, so far as not inconsistent with this Act, be deemed to have been given, taken, done or acquired under this Act.

(3) All statutes or regulations made under the former Act and in force immediately prior to the commencement of this Act shall continue but may be amended or revoked by a statute or regulation made under this Act.

Colleges of the University

1. The College of Agriculture and Veterinary Sciences;
2. The College of Architecture and Engineering;
3. The College of Biological and Physical Sciences;
4. The College of Education and External Studies;
5. The College of Health Sciences;
6. The College of Humanities and Social Sciences;