

## **KENYATTA UNIVERSITY ACT, 1985**

No. 10 of 1985

Date of Assent: 23rd August, 1985

Date of Commencement: 1st September, 1985

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

**Enacted by the Parliament of Kenya as Follows:-**

#### **Part I – Preliminary**

##### **1. Short title and Commencement:**

This Act may be cited as the Kenyatta University Act, 1985 and shall come into operation on a day to be appointed by the Minister by notice in the Gazette.

## 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 the Deputy Vice-Chancellor of the University appointed under Section 10 (2);

"**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 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;

"**Registrar**" means the Registrar of the University appointed under Section 11 (3);

"**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 recognized by the Council as being an organization representative of the students of the University;

"**University**" means the Kenyatta University established by Section 3;

"**University Secretary**" means the University Secretary appointed under Section 11 (1);

"**Vice-Chancellor**" means the Vice-Chancellor of the University appointed under Section 10.

## Part II – Establishment and Functions of the University

### 3. Establishment of the Kenyatta University

(1) There is hereby established a 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 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 objectives of the University

(1) The functions and objectives 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 Senate shall from time to time determine and in so doing 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 to 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, 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.

#### **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 University**

#### **8. Membership of the University**

The members of the University shall be:-

- a) The Chancellor;
- b) The Vice-Chancellor;
- c) The 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) The Registrar;
- j) The Librarian;
- k) The secretary to the council or other governing body of each constituent college;
- l) The students;
- m) The Convocation;
- n) Such other members of staff of the University or any other body formally admitted into association with the University or with any of its constitution with the University or with any of its constituent colleges, as the Council may from time to time determine.

#### **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 the election of a President results in a change of the holder of the office of President.
- (3) The Chancellor:-
- 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;
  - 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;
  - May arrange for visitation to the University as may be provided into the statutes;
  - Shall enjoy such powers and privileges and perform such other functions as may be provided in the statutes;
  - 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.

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

- (1) There shall be a Vice-Chancellor of the University who shall be appointed by Chancellor after consultation with 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 Council shall, after consultation with the Senate, appoint a Deputy Vice-Chancellor from among the Professors of the University to assist the Vice-Chancellor in matters pertaining to the academic activities and administration of the University.
- (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 re-appointment.

#### **11. Appointment of Chief Officers**

- (1) There shall be a University Secretary who shall be appointed by the Council and who shall under the directions of the Vice-Chancellor, be responsible to the Council for the administration of the University, including the administration of the funds and other assets of the University.
- (2) The University Secretary shall be the Secretary to the Council.
- (3) There shall be a Registrar who shall be appointed by the Council and who shall, under the direction of the Vice-Chancellor, be responsible to the Council for all matters pertaining to the academic activities of the University.
- (4) The Registrar shall be the Secretary to the Senate.

#### **12. Constitution**

- (1) There shall be a Council of the University which shall consist of:-
- A chairman, a vice-Chairman and an honorary treasurer – all of whom shall be appointed by the Chancellor;
  - The Vice-Chancellor;
  - The Deputy Vice-Chancellor
  - The principal of each constituent college;
  - The Permanent Secretary to the Ministry for the time being responsible for University education;
  - The Permanent Secretary to the Ministry for the time being responsible for finance;
  - Not more than eight members appointed by the President to represent the Government;
  - Four persons appointed by the Senate from among its members;

- i) After a date appointed by the Council, two persons appointed 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 sub-section (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 University Secretary;
  - 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 University Secretary 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.

### **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 off immovable property of the University without prior approval of the Chancellor;
  - b) Shall receive, on behalf of the University or a constituent college, donations, endowments, gifts, grants or other moneys and make disbursements there from to the constituent college or other bodies or 'persons';
  - c) Shall provide for the welfare of the students of the University;
  - d) May enter into association with other universities, or other institutions of learning, whether within Kenya or otherwise, as the Council may deem necessary and appropriate.
  - e) May, after consultation with the Senate, make regulations governing the conduct and discipline of the students of the University.
- (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 signed under the hand of the Chairman, the Vice-Chancellor, the University Secretary, the Registrar or any other member of the Council generally or specially authorized by the Council in that behalf.

### **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-Chancellor;
  - c) The principal of each constituent college;
  - d) The Deans of the faculties, institutes and schools;
  - e) The Chairman 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 appointed 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 Senate to be confidential and which relate to the general discipline of students, examination results, the academic performance of students and related matters;

- k) Any other members as may be provided for in the statutes.
- (2) The Senate shall have the following powers:-
  - 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 there on to the Council;
  - b) Subject to the Universities Act, 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 sub-section (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.

**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 Deputy Vice-Chancellor, the Librarian and all members of the staff who are engaged in teaching or research.
- (2) The administrative staff of the University Secretary, the Registrar, a finance officer 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 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 a particular appointment.

**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-Chancellor, during the incapacity.
- (2) In the event of the simultaneous incapacity of the Vice-Chancellor and the Deputy Vice-Chancellor, 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 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.

#### **Part IV – Financial Provisions**

##### **18. Financial Year**

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.

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 Estimates year the Council shall cause to be prepared estimates for the revenue and expenditure of the University for that year.
- (2) The annual estimates shall make provision for all the estimates 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 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 Controller and Auditor – General or an auditor appointed under sub-section (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 controller and Auditor – General or an auditor appointed by the Council with the approval of the Minister in concurrence with the Controller and Audit-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 subsection (3) and the auditor shall comply with those directions.
- (6) An Auditor appointed under subsection (3) shall report directly to the Controller and Auditor – General on any matter relating to the directions given under sub-section (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 sub-section (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 construed as prohibiting the Controller and Auditor – general from carrying out the inspection of the University accounts or records if it appears to him desirable.
- (9) Notwithstanding anything in this Act, the Controller and Auditor-General may transmit to the Minister a special report on any matter incidental to his powers under this Act, and Section 19(3) and (4) of the Exchequer and Audit Act 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 report has been submitted to him under this Section.

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 authorized by the Council in that behalf, and of the University Secretary.
- (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.

## **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; the description of degrees;
  - b) The requirements for the award of degrees;
  - c) The conduct of examinations;
  - d) Prescribing fees and other charges;
  - e) Settling the terms and conditions of service, including the appointment, dismissal and recommendations of retiring benefits of the members of the staff of the University;
  - f) 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 by section 27, 31 (e) and 34 of the Interpretation and General Provisions Act 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 “Kenyatta” 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 “Kenyatta” 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 liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months or 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.

**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 Kenyatta 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 Kenyatta University College or deemed to be the rights, obligations and liabilities of the University.
- (3) All references to Kenyatta 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 Kenyatta 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.

**26. Amendments to Cap 210**

The University of Nairobi Act is amended:-

- a) In section 2 (1), by deleting the words “Kenyatta College” appearing in the definition of “constituent college”,
- b) In section 3 (1), by deleting paragraph (a);
- c) In section 7, by deleting paragraph (j) and substituting the following paragraph:- (j) “the secretary to the Council or other governing body of each constituent college.: