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GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. 361

22 March 2002

HIGHER EDUCATION ACT, 1997 (ACT No. 101 of 1997)

AMENDMENT OF THE STATUTE OF THE UNIVERSITY OF TRANSKEI

The University of Transkei has made the Statute set out in the Schedule hereto, in accordance with section 32 of the Higher Education Act, 1997 (Act No. 101 of 1997), which is, in terms of the provisions of section 33 of the said Act, hereby published with the approval of the Minister of Education and which comes into operation on the date of this publication.

SCHEDULE

1. *In this Schedule the expression "the Statute" means the Statute of the University of Transkei promulgated by the Republic of Transkei Government Notice No. 118 of 12 August 1977, amended by Government Gazette No 20255, Government Notice No 831 of 29 June 1999, which is hereby amended.*
2. *Paragraph 1 of the Statute is hereby amended by the deletion of the following definition:*

"the Private Act" means the University of Transkei (Private) Act, 1996 (Act No. 81 of 1996);".
3. *Paragraphs 10 up to and including paragraph 27 of the Statute are hereby amended by the substitution for these paragraphs for the following paragraphs:*

"CHAPTER III COUNCIL

Functions of council

10. (1) Subject to the Act and this Statute the council governs the University.
- (2) The council members must –
 - (a) have knowledge and experience relevant to the objects and governance of higher education institutions; and
 - (b) participate in the deliberations of the council in the best interest of the University;
- (3) The council may, on such conditions as it may determine, delegate any of its powers except those powers specified in subparagraph (5)(m).

(4) Notwithstanding subparagraph (5) the council remains responsible for the exercise and performance of the functions so delegated or assigned.

(5) Without derogating from the generality of subparagraph (1), the council-

- (a) may determine, after consultation with the senate, the faculty to which each academic department, school or other academic structure belongs;
- (b) determines, subject to the applicable labour laws, the conditions of service, the disciplinary provisions and the privileges and functions of its employees, and may, in the manner set out in the disciplinary Rules, suspend or dismiss any employee of the University;
- (c) may order an employee whom it has suspended to refrain from being on any premises under the control of the University and to refrain from participating in any of the University activities;
- (d)
 - (i) may establish committees as provided for in section 29 of the Act to perform any of its functions except those functions specified in subparagraph (5)(m);
 - (ii) may appoint persons who are not members of the council as members of such committees;
 - (iii) must take note of any action taken by a committee, contemplated in subparagraph (d)(i), in exercising its delegated powers or functions when such committee reports to council at the next meeting of the council.
- (e)
 - (i) may establish, in consultation with the senate, joint committees of the council and the senate in terms of section 29(3) of the Act to perform functions that are common to the council and the senate;
 - (ii) is not divested of responsibility for the performance of any function delegated or assigned to a committee under this paragraph;
- (f) may set the procedural requirements for committees established in terms of subparagraph (d) and (e);
- (g) appoints all employees of the University, but, in the case of academic employees of the University, it may do so only after consultation with the senate;
- (h) must, subject to the policy determined by the Minister, and with the concurrence of the senate, determine the language policy of the University;
- (i) must, after consultation with the students' representative council a structure to advise on the policy for student support services within the University;
- (j) may make Rules for the better carrying out of its functions;
- (k) must, when creating academic structures other than faculties and departments, accord to the governance of that structure such functions, status and title as it deems appropriate;
- (l)
 - (i) determines what faculties, academic departments and other academic structures exist at the University;
 - (ii) may, after consultation with the senate, establish or disestablish any faculty, academic department, school or other academic structure;

- (iii) has, for the better carrying out of its functions, the power to organise any portion of the University into a college or institution or body going by some other name and to set up for its governance a board or committee or authority going by some other name which, subject to the authority of the council and the senate, exercises such powers and receives such representation on the senate as may be determined by this Statute.
- (m) notwithstanding subparagraphs (10)(3), may not delegate any of the following functions -
 - (i) the establishment or disestablishment of faculties or departments;
 - (ii) the appointment of the vice-chancellor and principal and the vice-principal;
 - (iii) the modification of such general conditions of service or terms of appointment of the employees as may have been prescribed by the council;
 - (iv) the approval of the annual estimates of revenue and expenditure;
 - (v) the adoption of the annual accounts of revenue and expenditure and the balance sheet;
 - (vi) the determination of the fees to be paid by students;
 - (vii) the making or approval of the Statute;
 - (viii) the power to enter into a loan or overdraft agreement;
 - (ix) the decision to embark on the construction of a permanent building or other immovable infrastructural development; and
 - (x) the purchase of immovable property or entering into the long-term lease of immovable property
- (n)
 - (i) appoints all such persons as it considers necessary for the efficient conduct of the University and determines the title, status, powers, privileges, functions and duties of any person so appointed, and such persons are subject to any disciplinary provisions that may be determined by the Statute and any Rules made by the council;
 - (ii) determines, levies and collects the fees to be paid by students and the boarding charges to be paid by resident students and employees;
 - (iii) may not repeal or amend the composition of the senate without first consulting with the senate;
 - (iv) may not make, repeal or amend any Rules relating to the academic functions of the University without the concurrence of the senate; and
 - (v) after consultation with senate, determines the admission policy of the University.

Membership of council and manner of appointment, election or designation of council members

11. (1) The council, as contemplated in section 27 of the act consists of -

- (a) the principal;
- (b) the vice-principals;
- (c) five persons appointed by the Minister;

- (d) two persons elected by the senate from among its members in a manner determined by the senate;
- (e) two academic employees of the University, other than members of the senate, elected by secret ballot in an election conducted by the registrar academic who, by public notice, must call for nominations proposed and seconded by members of the constituency and such nominations must be in writing and must be accompanied by a statement of the nominee indicating the nominee's willingness to accept nomination;
- (f) two students of the University elected by the students' representative council in a manner determined by that council;
- (g) two non-academic employees of the University, elected by secret ballot in an election conducted by the registrar academic who, by public notice, must call for nominations proposed and seconded by members of the constituency, and such nominations must be in writing and must be accompanied by a statement from the nominee indicating the nominee's willingness to accept nomination;
- (h) the chairperson of the institutional forum, in so far as he or she is not a member of council by virtue of other provisions of this Statute.
- (i) two persons appointed by the Premier of the Province of the Eastern Cape;
- (j) two persons designated by the Umtata Local Government Council, provided that such persons are not employees or students of the University;
- (k) two persons nominated by persons who, in terms of this Statute are donors;
- (l) three persons designated by the convocation, provided that no person so designated is an employee or a student of the University;
- (m) a maximum of four other members appointed by the council, provided that no person so appointed is an employee or a student of the University.

(2) Members of council appointed in terms of subparagraphs (1)(c), (i), (j), (k), (l) and (m) must have a broad spectrum of competencies in the fields of education, education management, business, finance, law, marketing, information technology and human resource management and any other relevant competencies required by council.

(3) Members of council are appointed in their personal capacities.

(4) At least 60 per cent of the members of council must be persons not employed by, or students of the University.

(5) Except as provided in subparagraphs (1)(a), (b), (d), (e), (f), (g) and (h) -

- (a) no student or employee of the University and no other person in receipt of regular remuneration from the University is eligible for appointment or nomination for election or election as a member of the council;
- (b) a member of the council who becomes a student or an employee of the University or who enters into a contract with the University in terms of which he or she is to receive regular remuneration from the University must forthwith vacate his or her seat on the council.

Term of office of council members

12. (1) The term of office of the members of the council contemplated in paragraphs 11(c), (i), (j), and (k) is four years.

(2) The term of office of the members of the council contemplated in paragraphs 11(d), (e), (g) and (h) is two years.

(3) The term of office of the members of the council contemplated in paragraph 11(f) is one year.

(4) Student members of the council remain members of the council for the term of office determined by the students' representative council when they are elected, provided that membership ceases automatically when a student member ceases to be a registered student.

Chairperson and vice-chairperson of council

13. (1) The chairperson and the vice-chairperson of the council must not be elected from members contemplated in paragraph 11(1)(a), (b), (d), (e), (f), (g) and (h).

(2) The chairperson and the vice-chairperson of the council are elected for a period of two years.

(3) The chairperson and the vice-chairperson are eligible for re-election.

(4) Nominations for the office of the chairperson and the vice-chairperson of the council must be in writing and be directed to the secretary of the council.

(5) If more than one candidate is nominated, voting is by secret ballot.

(6) Each member of the council has only one vote during a ballot and no proxy is allowed.

(7) A majority of all members present elects the chairperson and the vice-chairperson.

(8) Whenever a vacancy occurs in the office of the chairperson or the vice-chairperson, the provisions of subparagraph (4) to (7) apply with the necessary changes to the filling of such vacancy.

(9) A person who fills a vacancy in terms of subparagraph (8) holds office until the end of the predecessors' term.

(10) If neither the chairperson nor the vice-chairperson is available for a council meeting, or for part of such meeting, the council must elect an acting chairperson to preside at the meeting or part thereof.

(11) The council has power to suspend, take disciplinary action or terminate the tenure of the chairperson or the vice-chairperson by a 75 per cent majority, should he or she, in opinion of the council be deemed not to be fulfilling their fiduciary responsibilities.

Secretary to council

14. (1) The secretary to the council is the designated registrar as contemplated in section 26(4)(b) of the Act.

(2) The secretary acts as an electoral officer at all council meetings.

(3) The secretary attends all meetings and keeps all relevant documents of the council.

Council members on senate

15. (1) The council must elect members to serve as members of the senate.

(2) If any member elected by the council in terms of subparagraph 15(1) ceases to be a member of the council before his or her term of office as a member of the senate expires, the council must, at its next meeting, elect another member to serve for the unexpired term of office of his or her predecessor.

Council members on institutional forum

16. (1) The council must elect members to serve as members of the institutional forum.

(2) If any member elected by the council in terms of subparagraph 15(1) ceases to be a member of the council before his or her term of office as a member of the institutional forum expires, the council must, at its next meeting, elect another member to serve for the unexpired term of office of his or her predecessor.

Vacancy on council

17. The secretary must give notice of a vacancy to the body or person who elected, designated or appointed the member whose membership has fallen vacant, with the request that another member be elected, designated or appointed.

Termination of membership of council members

18. (1) A member of the council other than the principal and the vice-principals vacates his or her office on the council if he or she -

- (a) is absent from two successive ordinary meetings of the council without the permission of the council or of the chairperson of the council;
- (b) is convicted by a court of law of an offence involving dishonesty;
- (c) is found guilty by a court of law of an offence which in the majority opinion of the council renders the member not fit and proper to hold office;
- (d) is declared insolvent;
- (e) in the majority opinion of the council is deemed to be incapacitated to hold office; or
- (f) resigns by written notice to the secretary.

(2) The council has the power to suspend, take disciplinary action or terminate a members' membership if he or she, in the opinion of a 75 per cent majority of the council is deemed not to be fulfilling his or her fiduciary responsibilities.

(3) If 75 per cent or more of the members of the council resign, the council is deemed to have resigned.

(4) If the council resigns as contemplated in subparagraph (3) a new council must be constituted in terms of this Statute.

Quorum for council meetings

19. One half plus one of the total members of the council constitutes a quorum.

Ordinary meetings of council

20. (1) The council has at least four ordinary meetings during each academic year.

(2) Notice of any motion for consideration at the next ordinary meeting must be in writing and must be lodged with the secretary at least 21 days before the date determined by

the council for such meeting, provided that any matter of an urgent nature may, without prior notice, by consent of the chairperson and a majority of the members present, be considered at such meeting.

(3) At least 14 days prior to the date of an ordinary meeting, the secretary gives due notice to each member of all the matters to be dealt with at such meeting and states the time and place of such meeting.

Special meetings of council

21. (1) A special meeting of the council may be called by the chairperson whenever he or she deems it necessary and must be called by him or her when requested to do so by any five members of the council, provided that the request must be in writing and must clearly state the matters to be considered by the special meeting.

(2) The secretary must give at least seven days' notice in writing to all members of the council of such meeting.

(3) No matters other than that for which the special meeting was called, must be considered at such meeting.

(4) An emergency meeting may be called by the chairperson, or in his or her absence, by the deputy chairperson at any time, provided that members are given not less than 24 hours notice of such meeting.

(5) Notice of an emergency meeting may be given in any manner convenient under the circumstances.

(6) The object of an emergency meeting must be stated to members and no business other than that stated may be transacted at such meeting.

Minutes of council meetings

22. (1) The secretary must keep the minutes of each meeting of the council and such minutes must be included with the notice of the next ordinary meeting of the council.

(2) The minutes of a meeting of the council must be read at the next ordinary meeting of the council and, after approval, must be confirmed by the signature of the chairperson.

(3) A meeting may, by resolution, consider the minutes as read if a copy thereof was forwarded to every member of the council.

(4) The minutes of all committee meetings must be disclosed at the next ordinary meeting of the council.

Council meeting procedures

23. (1) Except where otherwise provided in this Statute, all acts or matters authorised or required to be done or decided by the council or its committees and all questions that may come before it are done or decided by the majority of the members present at any meeting, provided that the number present at any meeting is not less than one half plus one of the total number of members of the council or its committees holding office on the date of such meeting.

(2) The first act of an ordinary meeting, after being constituted, is to read and confirm by the signature of the chairperson the minutes of the last preceding ordinary meeting and of any special meeting subsequently held, provided that the meeting may consider the minutes as read if a copy thereof was previously sent to every member of the

council, provided further that objections to the minutes of a meeting are raised and decided before confirmation of the minutes.

(3) The chairperson must have a casting vote in addition to an ordinary vote.

(4) Where so provided in this Statute or when the meeting so decides, voting on a matter is by secret ballot.

(5) When voting on a particular matter has taken place by secret ballot, the chairperson does not have a casting vote.

(6) If, on any matter, an equality of votes prevails, and the chairperson does not exercise his or her casting vote, the matter must be considered not to have been approved by the meeting.

(7) The number of votes for and against a motion must be recorded in the minutes if the meeting so decides.

(8) At the request of a member, the vote of such member must be recorded in the minutes.

(9) Every motion and amendment thereto must be seconded and, if the chairperson so directs, must be submitted in writing.

(10) A motion or amendment seconded as contemplated in subparagraph 10 may not be withdrawn without the consent of the meeting.

(11) The ruling of the chairperson of a meeting on a point of order or procedure is binding unless it is immediately challenged by a member, in which case it must be submitted without discussion to the meeting, whose decision is final.

(12) A member may not without the consent of the chairperson speak more than once to a motion or to an amendment thereto, provided that the mover may reply, provided further that if the meeting decides to go into committee, members may speak more than once.

(13) If a member moves a motion on a point of order to the effect that the matter be tabled, and the motion is seconded and adopted, the motion under discussion must be tabled to the meeting without further discussion.

(14) When a majority of the members of the council reaches agreement on a matter referred to them by letter or electronic means by the chairperson, without convening a meeting, and conveys such resolution by letter or electronic means, such resolution is equivalent to a resolution of the council and must be recorded in the minutes of the next succeeding ordinary meeting.

(15) The views of a member of the council who is unable to attend a meeting may be submitted to the meeting in writing but may not count as a vote of such member.

Financial and other interests of council members

24. (1) Any member of the council or a committee of the council who has a direct financial or personal interest in any matter to be discussed at a meeting must, before or during such meeting, declare such interest.

(2) Any member of the University community has the right to inform the chairperson in writing, before any meeting, of any possible conflict of interest in respect of any member of the council or a committee.

(3) After such declaration or finding that such interest exist, such member of the council or a committee of the council must excuse himself or herself from the meeting before such issue is discussed.

Composition and function of executive committee of council

25. (1) The council must constitute an executive committee.
- (2) The chairperson and the vice-chairperson of the council, and the chairpersons of the finance and the audit committees, and the principal and the vice-principals are members of the executive committee, by virtue of their offices.
- (3) The council may appoint such additional members to the executive committee as it deems fit, provided that at least 60% of the members of the executive committee are not employees or students of the University and all members of the executive committee are members of the council.
- (4) The executive committee of the council -
- (a) must consider any matters referred to it by the council; and
 - (b) has the power to dispose of urgent business on behalf of the council, provided that all business dealt with by the executive committee under subparagraphs (a) and (b) is reported to the next ordinary meeting of the council and where necessary is ratified by the council.

Other committees of council and joint committees of council and senate

26. (1) The council appoints -
- (a) an audit committee;
 - (b) a finance committee;
 - (c) an information technology committee;
 - (d) a remuneration committee; and
 - (e) such other committees as may be required.
- (2) The composition and functions of the committees are determined by the council.
- (3) Each committee must have at least one council member who is not an employee or a student of the University on such committee.
- (4) The committees mentioned in subparagraph 25(1)(a), (b) (c) and (d) must have at least two knowledgeable external members.
- (5) The chairperson of a committee may not be an employee or a student of the University.

Amending or rescinding of Statute

27. (1) Notice of any motion, duly seconded, to amend or rescind any part of this Statute must be submitted in writing to the secretary.
- (2) The motion must be set forth in detail in the notice contemplated in subparagraph (1).
- (3) The secretary must give at least 14 days' notice of the motion to all members of the council.
- (4) No motion to draft, amend or rescind a statute or a rule is of force and effect unless adopted by not less than 75 per cent of all members present at the meeting; provided a meeting is constituted by not less than 50 per cent of the total members.
- (5) Any motion to draft, amend or rescind a statute or a rule must be in accordance with the provisions of section 32(2) of the Act.

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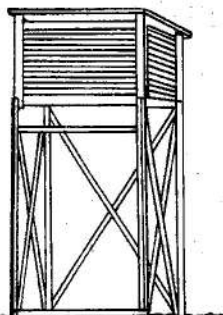
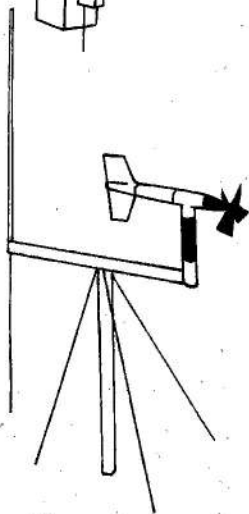
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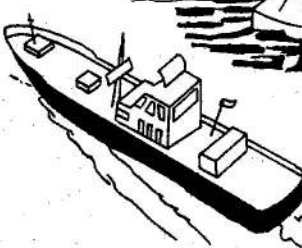
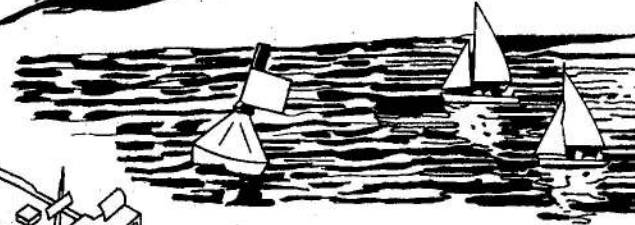
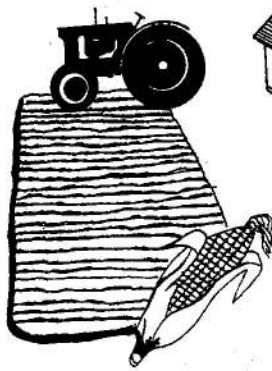
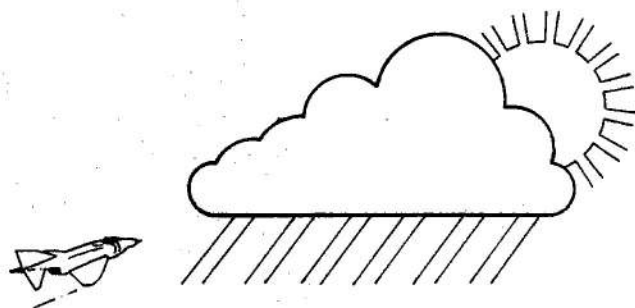
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