



Government Gazette Staatskoerant

REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Vol. 700

27

October
Oktober

2023

No. 49582



N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-5845



AIDS HELPLINE: 0800-0123-22 Prevention is the cure

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

<i>No.</i>	<i>Gazette No.</i>	<i>Page No.</i>
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS		
Higher Education and Training, Department of / Hoër Onderwys en Opleiding, Departement van		
4015	Higher Education Act (101/1997): Appointment of an Administrator for the University of South Africa	49582 3

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF HIGHER EDUCATION AND TRAINING

NO. 4015

27 October 2023

HIGHER EDUCATION ACT, 1997 (Act No. 101 of 1997)**APPOINTMENT OF AN ADMINISTRATOR FOR THE UNIVERSITY OF SOUTH
AFRICA**

I, **Dr BE Nzimande**, Minister of Higher Education, Science and Innovation, in accordance with Section 49B of the Higher Education Act (Act 101 of 1997, as amended) hereby appoint an Administrator for the University of South Africa.

The background to the appointment and the terms of reference of the Administrator are attached in the Schedule.

**Dr BE Nzimande, MP****Minister of Higher Education, Science and Innovation****Date:** 26/10/2023

TERMS OF REFERENCE
MINISTER OF HIGHER EDUCATION, SCIENCE AND INNOVATION
THE ADMINISTRATOR FOR THE UNIVERSITY OF SOUTH AFRICA

PREAMBLE

1. According to Section 49B (1) of the Higher Education Act (Act 101 of 1997, as amended) (the Act), notwithstanding any other provision of the Act, the Minister may appoint a person as administrator, if any of the following circumstances occur:
 - (a) An audit of the financial records of a public higher education institution or the report by an independent assessor or any other report or information reveals financial or other maladministration of a serious nature or serious undermining of the effective functioning of the public higher education institution;
 - (b) In the event that the Minister has reasonable grounds to believe that the council of the public higher education institution concerned has failed to comply with the directive within the stated period, or the steps taken, fail to remedy the deficiency within a reasonable period of time;
 - (c) the council of the public higher education institution requests such appointment; or
 - (d) if the council of the public higher education institution is deemed to have resigned as contemplated in section 27 (8).
2. Subsection 49(B)(1A) requires that the Minister **must**, before appointing an administrator,
 - (a) give written notice that complies with section 42 (3) to the council of the higher education institution concerned of his or her intention to make such an appointment;
 - (b) provide the council of the higher education institution concerned with the reasons for the appointment;
 - (c) give the council of the higher education institution a reasonable opportunity to make written representations; and
 - (d) consider the representations contemplated in paragraph (c).
3. Subsection 49(B)((2) also states that the Minister may only act in terms of subsection (1) (a) or (b) if he or she has reason to believe that the appointment of an administrator is in the best interest of the public higher education institution concerned and of higher education in an open and democratic society.

4. Furthermore, Sections 49BA and 49F provides for the publication of appointment of an Administrator; and the role, powers, functions and duties of the Administrator, respectively.

BACKGROUND

5. By Notice No. 2480 in the Government Gazette No. 46904 of 13 September 2022, the Minister appointed Professor Themba Mosia as the Independent Assessor (IA) to (a) conduct an investigation into the affairs of UNISA, (b) report in writing to me of the findings of his investigation together with the reasons upon which the findings are based; and (c) suggest in the report appropriate measures and provide the reasons why the measures are needed.
6. The Minister extended the appointment for a period not exceeding 90 days from 13 December 2022 (Notice No 2869 in Government Gazette No 47738 of 14 December 2022).
7. The Report of the Assessor was submitted to the Minister on 30 March 2023. In terms of section 47(2) of the Act, the Minister provided the copy of the IA Report to the Council of the University on Friday 12 May 2023, published it by Notice No. 3461 in the Government Gazette 48660 of 26 May 2023; and tabled before the National Assembly on 29 May 2023.
8. The Independent Assessor Report finds that:
 - a. The current Vice-Chancellor (VC) assumed office when UNISA was transitioning from the period 2016 - 2020 that was described as problematic by many, as was pointed out that she did not inherit a properly working institution. The Management Committee (ManCom) knowingly took irregular financial decisions that had and have far-reaching consequences for the University. These include ManCom's decision to implement selective salary adjustments to academic staff, and some portion of the support staff; the laptop scheme, etc.
 - b. The condonation of financial irregularities by Council and its failure to hold Management accountable points to Council's failure.
 - c. Overall, the Council is found to have failed to fulfil its fiduciary responsibilities and being careless in the execution of its fiduciary duties; to ensure that the University is well-managed and yet performance bonuses were being paid to the executive management; and in its duty to protect the good name and reputation of the University.
 - d. The Assessor concludes that there is overwhelming evidence that the functioning and efficacy of both Council and Management fall below the expected standard of an effective university that looks after the best interests of its students, staff and resources.

9. The Assessor Report followed the Report of the Ministerial Task Team (MTT) of August 2021 into the Review of UNISA with a focus on the strategic mandate and purpose of the University within the South African context.
10. Of note, is the strong overlap between the Independent Assessor findings and the findings of the MTT. The MTT concluded that based on the evidence presented to it, UNISA suffers chronic management failures in many of the key support systems, and the Council was the root cause of the problems at the University.
 - a. The Council has dismally failed UNISA, as it has not equipped itself, or the ManCom, with the range of skills and competencies necessary to provide the appropriate strategic guidance and direction to a modern ODeL institution in the 21st Century.
 - b. The Council has not demonstrated the knowledge, skill, and experience to guide and direct the production of a comprehensive strategic plan for a modern ODeL institution in the 21st century.
 - c. UNISA's information and communications technology (ICT) infrastructure is outdated and has increasingly become less fit for purpose over the years. ICT management has deliberately frustrated the implementation of its strategic priorities. This points to a fundamental dereliction of duty on the part of Council for failing to deliver on its basic fiduciary responsibilities with respect to the infrastructures necessary for education delivery, a function vital to the sound functioning of a university; thus, failing to safeguard the health of the academic enterprise. This situation has persisted over several years and is unlikely to change without some drastic intervention. Furthermore, the failure to ensure a robust, modern, and secure ICT infrastructure has damaged Unisa's academic standing and administrative competence as a reputable HE institution.
 - d. The Council has failed to ensure the basic assurance services and functions necessary to secure effectiveness of governance, risk management and control processes. This places the institution at significant risk. There is scant understanding of the vital importance of compliance throughout the institution and the far-reaching consequences of its neglect. The culture of impunity is deeply embedded in the institution.
 - e. There has been a deliberate and systematic plan, over a sustained period, to establish a corrupt network which resulted in institutional capture. The Council then deliberately undermined and incapacitated ManCom with a view to achieve institutional capture and personal enrichment.
11. Recurring themes across the two Reports' findings include governance and management problems characterized by a gross neglect of consequence management; seriously compromised

performances of departments such as Supply Chain Management (SCM), Human Resource (HR) Management, Compliance functions and Finance.

12. As also pointed out in the Report of the Assessor, there is also a matter of the auditors. During 2022, the University failed to comply with the submission requirements of its 2021 Annual Report. The University's External Auditors resigned at the end of 2022 having deemed UNISA's risk profile too high for their (the auditors') risk tolerance limit. As a result, UNISA had to appoint a new external auditor for 2022-2026 in March 2023. The Auditor General of South Africa (AGSA) expressed serious concerns with the appointment of new auditors; and the failure of the University to put measures in place to mitigate the concerns. The University was unable to submit its 2022 Annual Report as per the Reporting Regulations for the second consecutive year.
13. The Minister has considered the Report of the Assessor in the main and the response of the Council to the Report. The Minister is persuaded that the Council is unable to take responsibility; and is incapable of taking meaningful action to address the many problems that face the institution. After careful consideration of the above, it is indicative that the fiduciary duty of the Council has been severely compromised, and the dissolution of the Council and the consequent appointment of an administrator in terms of section 49B of the Act is therefore in the best interest of the University.

TERMS OF REFERENCE OF THE ADMINISTRATOR

Powers, Functions and Duties of the Administrator

14. Having considered the circumstances, the powers, functions and duties of the Administrator are as follows:
- a) Take over the role, powers, functions and duties of the Council for a period of 24 months.
 - b) Carry out the role, exercise the powers, perform the functions and execute the duties of the Council to the extent that such role, powers, functions and duties relate to governance.
 - c) take over and execute the management of the University.
 - d) Identify and initiate processes and initiatives that will restore proper governance and management at the University.
 - e) Develop and begin the implementation of a turn-around plan that will address the range of problems and challenges that have been identified in the Independent Assessor Report.
 - f) Initiate an independent external investigation (a forensic audit) into the range of financial control weaknesses and financial irregularities identified in the Report as a matter of urgency. Further,

where criminal activity is evident, full legal processes must follow so that there is visible consequence management for illicit practice.

- g) Ensure that the Statute of the University is reviewed and submitted to the Minister for approval in terms of section 33(1) of the Act. This should concomitantly occur with the revision of existing policies and institutional rules that are outdated to ensure that they comply with changes in relevant legislation and regulations; and the development of new policies where necessary.
- h) Take measures to realign the strategic focus of the University as an Open Distance e-Learning (ODeL) institution which can focus on excellence in eLearning, lifelong learning provision, and acting as a national resource for ODeL.
- i) Review the strategies for supporting the student body at the University to improve the success rate of students.
- j) Ensure that a new council is constituted in accordance with the institutional statute as soon as is practicable; and that there is a proper induction of all members and an effective handover of the governance role to the new Council. Probity assessment for potential members of Council based on their educational qualifications, experience, expertise and ethical conduct, past practice must be conducted.
- k) Regarding the execution of the management of the University in (c) above, the current members of the University Executive Management should be allowed to serve out their current terms. The Administrator must, based on the performance assessment determine whether their terms should be extended or not. Where new senior management appointments must be made, the Administrator must ensure that there are necessary employment probity assessments for new recruits.

Assistance to Administrator

- 15. In accordance with section 49C of the Act, the Administrator may with the approval of the Minister, appoint any other person with suitable knowledge and experience to assist him in the performance of these functions.
- 16. The Administrator should as per the above provisions appoint a multi-disciplinary team of experts in areas not limited to enrolment management, facilities management, finance, human resources, information and communication technology to assist in the performance of the outlined duties.

Remuneration

17. In terms of Section 49D of the Act, the Minister, in consultation with the Minister of Finance, must determine the remuneration and allowances to be paid to the Administrator and any other persons appointed in terms of paragraph 15 above.
18. All costs associated with the appointment of the Administrator and any other person contemplated in paragraph 16 above, are for the account of the University of South Africa.

Period of Appointment

19. The Administrator is appointed for a period of 24 months from **27 October 2023**.
20. In terms of Section 49E, the UNISA Council is dissolved from the date the Administrator is appointed.
21. While the appointment is for 24 months, should the Administrator complete the work in a shorter time frame, the administration will cease earlier.

Reporting

22. The Administrator shall report to the Minister or any delegated officials in the Department of Higher Education and Training in writing on a biannual basis; and must at the completion of the appointment period, submit a written report to the Minister within 30 days.

Details of the Administrator

23. The details of the Administrator are as follows:

Name: Professor Ihron Rensburg

Address: 123 Francis Baard, Pretoria

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065