

LEGAL NOTICE NO. 202

THE UNIVERSITIES ACT

(No. 42. of 2012)

MOI UNIVERSITY CHARTER

IN EXERCISE of the powers conferred by section 21 of the Universities Act, 2012, the Minister for Higher Education, Science and Technology certifies that this Charter set out in the Schedule hereto has been granted to Moi University in accordance with the provisions of the Act.

SCHEDULE

Preamble:

WHEREAS the Government of Kenya established Moi University situated in Uasin Gishu County in the Republic of Kenya;

AND WHEREAS the said Moi University has applied to the Commission for University Education, for grant of Charter to provide for the establishment, control, governance, and administration of the University and for connected purposes, in the manner prescribed by the Universities Act, 2012;

AND WHEREAS the Commission for University Education has visited and inspected the said institution, and is satisfied that the objects of Moi University are consistent with the advancement of university education in Kenya;

AND WHEREAS the Commission for University Education is also satisfied that Moi University has complied with the provisions of the Universities Act, 2012;

AND WHEREAS the Commission for University Education has submitted a draft Charter, the text whereof is annexed hereto, to the Minister for Higher Education, Science and Technology on the said institution, and the Minister is satisfied that Moi University should be granted this Charter;

AND WHEREAS the Minister for Higher Education, Science and Technology has submitted this Charter to me with recommendations thereon;

AND WHEREAS, I am satisfied that the granting of this Charter will be of benefit to the advancement of university education in Kenya;

NOW WHEREFORE, by these presents, be it known in exercise of the powers conferred upon me by section 19 of the Universities Act, 2012, I, Mwai Kibaki, President and Commander-in-Chief of the Defence Forces of the Republic of Kenya, grant this Charter annexed hereto to Moi University.

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MOI UNIVERSITY CHARTER

PART I—PRELIMINARY

1. This Charter may be cited as the Moi University Charter, 2013. Short Title.

2. In this Charter, unless the context otherwise requires— Interpretation.

“academic staff” means any person appointed to teach, train or to do research at the University and any other appointee designated as such by the Council;

“Act” means the Universities Act, 2012;

“Alumni Association” means the association of all graduates and former students of the University;

“Cabinet Secretary” means Cabinet Secretary for the time being responsible for university education;

“Chairman of Council” means the Chairman of the Council of the University ;

“Chancellor” means the Chancellor of the University appointed in accordance with section 10 of this Charter;

“College” means a college established within the University; but does not include a Constituent College;

“Constituent College” means a Constituent College of the University established under this Charter;

“Council” means the Council of the University established under section 16 of this Charter;

“Dean” means an officer elected or appointed by the Vice-Chancellor as head of a Faculty or a School or as Dean of Students;

“Deputy Vice-Chancellor” means a Deputy Vice-Chancellor of the University under section 13 of this Charter;

“Director” means an officer appointed by the Vice-Chancellor to head a School, an Institute, a Directorate, or a Board;

“Faculty” means an academic administrative unit within the University comprising several departments and concerned with a major division of knowledge ;

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

“Institute” means a unit within the University, organized for the advanced instruction and research in a relatively narrow field or subject matter;

“librarian” means the officer appointed to be the librarian of the University ;

“Management Board” means the Management Board of the University under section 19 of this Charter;

“School” means an academic unit within the University, headed by a dean and equivalent to a Faculty, comprising several departments, with a focus on a cluster of related disciplines ;

“Senate” means the Senate of the University constituted under section 19 of this Charter;

“Staff Association” means an association or union of staff recognized by the Council as being representative of staff on matters of terms and conditions of employment ;

“Statutes” means a set of regulations of the University formulated by Council under section 33 of this Charter;

“Students’ Association” means an association of the students recognized by the Council as being representative of the students of the University under section 21 of this Charter;

“University” means the Moi University established under section 3 of this Charter;

“Vice-Chancellor” means the Vice-Chancellor of the University appointed under section 12 of this Charter.

PART II— ESTABLISHMENT AND FUNCTIONS OF THE UNIVERSITY

Establishment and incorporation of the University.

3. (1) The University is the successor to Moi University established by the Moi University Act, CAP 210 A.

(2) The University shall be a body corporate and in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing or lending money; and
- (d) doing or performing all such other things or acts for the furtherance of the provisions of this Charter which may lawfully be done or performed by a body corporate.

(3) Subject to this Charter, all rights, duties, obligations, assets and liabilities of Moi University existing at the commencement of this Charter shall be automatically and fully transferred to the University.

Functions of the University.

4. (1) The functions of the University shall be to—

- (a) provide directly, or in collaboration, with other institutions of higher learning, facilities for technological, professional, and scientific education;
- (b) advance knowledge and its practical application by research and other means;

- (c) disseminate the outcomes of research by various means, and commercially exploit the results of such research;
- (d) participate in scientific and technological innovation as well as in the discovery, transmission and enhancement of knowledge and stimulate the intellectual life in the economic, social, cultural, scientific, and technological development;
- (e) contribute to scientific, industrial and technological development of society in collaboration with industry and other organisations;
- (f) make proposals for new programmes of study including those that culminate with degrees, diplomas and certificates;
- (g) make proposals for the establishment of constituent colleges, campus colleges, campuses, faculties, schools, directorates, institutes, departments, centres, and other resource and administrative units as may be appropriate;
- (h) inculcate a culture of innovation in technology, engineering, and science, amongst staff, students, and society;
- (i) promote education in science, technology, engineering, and mathematics within the institution and society;
- (j) develop an institution of excellence in teaching, training, scholarship, entrepreneurship, research, consultancy, community service, among other educational services and products, with emphasis on technology and its development, impact and application to society;
- (k) provide a multi-level system of education and training that is relevant to the needs of the community covering a wide range of fields and levels with provision for recognition of prior learning and flexibility of transition between educational levels;
- (l) provide for the development of technical and vocational education and training and related activities within the institution and the wider society;
- (m) play a leading role in the development and expansion of opportunities for technological and vocational education and training;
- (n) provide high quality educational, research, residential, commercial, cultural, social, recreational, sporting, and other facilities;
- (o) facilitate student mobility between programmes of study at different technical training institutions, polytechnics, and universities;
- (p) promote critical enquiry and creativity in education, training and research within the University;

- (q) participate in commercial ventures and activities that promote the objectives of the University;
- (r) foster the general welfare of staff and students;
- (s) provide opportunities for development and further training for staff of the University;
- (t) develop and provide educational, cultural, professional, technical and vocational services to the community and in particular the fostering of corporate social responsibility;
- (u) provide programmes, products, and services in ways that reflect the principles of equity and social justice;
- (v) conduct examinations for, and grant such academic awards as may be provided for in the Statutes, and syndicate examinations for awards at other institutions as may be approved by the Senate;
- (w) generally facilitate the development and provision of appropriate and accessible academic and other programmes.

(2) Admission to the University as candidates for degrees, diplomas, certificates, or other awards shall be open to all persons accepted as being qualified by the Senate in accordance with this Charter and Statutes without distinction of race, ethnicity, language, place of origin or residence or other local connections, political opinion, colour, creed, physical ability or gender; and no barrier based on any such distinction shall be imposed upon any person as a condition of their becoming, or continuing to be, a professor, lecturer, graduate or student of the University, or of their holding any office therein, nor shall any preference be given to, or advantage withheld from any person on the grounds of any such distinction.

Establishment of
Constituent
Colleges.

5. The Cabinet Secretary may, on the advice of the Council and the recommendation of the Commission for University Education, by order published in the Gazette, establish or declare an institution of learning or higher education or any other training establishment to be a Constituent College of the University.

Establishment of
Campus Colleges
and Colleges
within the
University.

6. (1) The Council may, on the advice of the Senate, establish colleges within the University whose functions and powers shall be provided for in the statutes.

(2) A College established within the University shall consist of such faculties, schools, institutes, or centres as may be provided for by the statutes.

Conferment,
granting,
cancellation and
withdrawal of
degrees,
diplomas,
certificates and
other awards

7. (1) Subject to this Charter, the University may--

- (a) grant diplomas, certificates or other awards;
- (b) confer the degrees of Bachelor, Master and Doctorate and such other degrees as may be provided for by the Statutes;
- (c) confer honorary degrees or any other academic distinction to a person who has rendered distinguished service to the

advancement of any branch of learning or who has otherwise rendered service in any field of human endeavour worthy of such a degree or academic distinction.

(2) Subject to this Charter, the University Council on the recommendation of Senate may cancel or withdraw such certificates, diplomas, degrees, including honorary degrees, or any other awards as may be provided for in the Statutes.

8. Subject to this Charter, the University may award scholarships, bursaries and prizes and make other awards as is provided for in the Statutes.

Award of scholarships.

PART III—GOVERNANCE AND MEMBERSHIP

9. The members of the University shall be—

Membership of the University.

- (a) the Chancellor;
- (b) the Chairman of Council;
- (c) the Vice-Chancellor;
- (d) the Deputy Vice-Chancellors;
- (e) the Principals of Constituent Colleges;
- (f) the Principals of Colleges within the University;
- (g) the members of the Council;
- (h) the members of the Senate;
- (i) the University Secretary;
- (j) the lecturers;
- (k) the administrative, technical and support staff;
- (l) the students;
- (m) Alumni association; and
- (n) such other members of staff of the University or any other body formally admitted into association with the University, as Council may from time to time determine.

10. There shall be a Chancellor of the University who shall be appointed and hold office in accordance with the provisions of the Act.

The Chancellor.

11. (1) There shall be a Chairperson of Council of the University who shall be appointed in accordance with the provisions of the Act.

The Chairman of Council.

(2) The Chairperson of Council shall hold office for a period of three years, provided that the person so appointed shall be eligible for re-appointment for a further one term.

12 (1) here shall be a Vice-Chancellor of the University who shall be appointed according to the provisions of the Act.

Vice-Chancellor.

(2) The Vice-Chancellor of the university shall hold office for a term of five years and shall be eligible for a further term of five years.

- (3) The terms and conditions of service of the Vice-Chancellor shall be provided for by the Statutes as determined by the Council.
- The Deputy Vice-Chancellors.**
13. (1) The Council shall appoint two or more Deputy Vice-Chancellors, through a competitive process.
- (2) The Deputy Vice-Chancellor shall, under the general authority of the Vice-Chancellor, exercise such powers and perform such duties as may be provided by the Statutes.
- (3) The Deputy Vice-Chancellor of the University shall hold office for a term of five years and shall be eligible for re-appointment for a further term of five years.
- The Principals of Constituent Colleges.**
14. (1) The Principal of a Constituent College shall be appointed competitively by the Cabinet Secretary on the recommendation of the University Council and shall be the academic and administrative head of the Constituent College.
- (2) The Principal shall hold office upon such terms and for such period as may be provided for by the Statutes and upon expiration of that period may be eligible for re-appointment for one further term.
- The Principals of Campus Colleges and Colleges within the University.**
15. (1) The Council shall, for each College, 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 for by the Statutes.
- (2) The Principal shall hold office upon such terms and for such period as may be provided for in the Statutes and upon expiration of that period shall be eligible for re-appointment for one further term.
- The Council.**
16. (1) There shall be a Council of the University whose members shall be appointed in accordance with the Act.
- (2) The members of the Council, other than the *ex-officio* member shall hold office for a period of three years and 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, the member resigns from office in writing addressed to the Vice-Chancellor;
 - (b) if the Council is satisfied that the member is, by reasons of physical or mental infirmity, unable to exercise the functions of the office; and
 - (c) upon death of the member.
- (4) Where the office of a member of the Council becomes vacant, the Vice-Chancellor shall forthwith notify the vacancy to the appointing authority.
- (5) The procedure, conduct and regulation of the affairs of the Council shall be determined in accordance with this Charter and the Statutes.
- (6) The Council shall exercise prudent leadership, innovative enterprise, and good judgment in directing the University and shall always charter in the best interest of the University.

(7) The members of the first University Council other than the *ex officio* members shall at the first meeting after their appointment determine by lot which of their number shall vacate office after a period of three and four years respectively to ensure continuity in the activities of the University Council.

(8) The Council shall ensure that a proper management structure is in place and make sure that the structure, functions to maintain corporate integrity, reputation and responsibility.

(9) The Council shall monitor and evaluate the implementation of strategies, policies, and management criteria and plans of the University.

(10) The Council shall review the viability and financial sustainability of the University, and shall do so at least once every year.

(11) The Council shall ensure that the University complies with all the relevant laws, regulations, governance practices, accounting and auditing standards.

17. (1) The Council shall be the governing body of the University.

Functions of the Council.

(2) The Council—

- (a) shall administer the property and funds of the University in a manner and for the purposes which shall promote the interest of the University; but Council shall not charge or dispose of immovable property of the University except in accordance with the procedures laid down by the Government of Kenya;
- (b) shall receive, on behalf of the University, donations, endowments, gifts, grants or other monies and make disbursements therefrom to the University or other bodies or persons;
- (c) shall provide for the welfare of the students and staff of the University;
- (d) may enter into collaborations and linkages with other universities, or other institutions of learning, whether within Kenya or otherwise, as 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 in accordance with the Statutes; and
- (f) may, after consultation with the University Management Board, make regulations governing the conduct and discipline of the staff of the University in accordance with the Statutes.

18. (1) There shall be a Senate of the University which shall consist of—

The Senate.

- (a) the Vice-Chancellor, who shall be the Chairperson;

- (b) the Deputy Vice-Chancellors;
- (c) the Principal of each Constituent College;
- (d) the Principals of each college within the University;
- (e) the Deans of Schools, Directors of institutes, centres and other academic units;
- (f) the Chairpersons of Departments;
- (g) one members elected by the academic board or equivalent body (if any) of each constituent college from among the members of such board or body;
- (h) the University Librarian;
- (i) one representative of each of the school academic boards appointed by the respective boards from amongst its members;
- (j) the Dean of Students;
- (k) the Director of Information, Communication and Technology services of the University;
- (l) the Director of Quality Assurance;
- (m) two members elected by the Students' Association; and
- (n) such other member as Council may determine in accordance with the Statutes.

(2) The members of the Students' Association shall not participate in the deliberations of the Senate, which the Chairperson considers to be confidential or which relate to examinations, grades and such other issues that may pose a conflict of interest.

(3) The functions of the Senate shall be to—

- (a) to satisfy itself regarding the content and academic standard of any programme of study in respect of any degree, diploma, certificate or other award of the University;
- (b) to propose regulations to be made by Council regarding the eligibility of persons for admission to degree, diploma and certificate programmes;
- (c) to propose regulations to be made by Council regarding the standard of proficiency to be gained in each examination for a degree, diploma, certificate or other awards 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 awards of the University; and
- (e) to make regulations governing such other matters as are within its powers in accordance with this Charter or the Statutes.

(4) Notwithstanding any of the provision of this Charter, Council shall not initiate any action in respect of paragraph (a), (b) or (c) of subsection (3) except upon receipt of a report or proposal thereunder from Senate, and Council shall not reject any such report, or reject or amend any regulations as proposed without further reference to Senate.

19. There shall be a Management Board which shall consist of—

The Management Board

- (a) the Vice-Chancellor, who shall be the Chairperson;
- (b) the Deputy Vice-Chancellors;
- (c) the Principals of Colleges within the University;
- (d) the Finance Officer;
- (e) the Chief Legal Officer; and
- (f) such other member of senior management as Council may determine in accordance with the Statutes.

(2) The Management Board shall assist the Vice-Chancellor in the day-to-day management of the University and shall, in this respect, be responsible for—

- (a) the efficient management of human, physical and financial resources of the University;
- (b) the implementation of the University's policies;
- (c) making proposals to the Council and the Senate on policies that have University-wide application;
- (d) coordination and implementation of the University Strategic Plan; and
- (e) any other matter related to the management of the University.

20. (1) All members of staff of the University shall, subject to this Charter, be appointed by the Council and shall be so appointed either—

The staff of the University.

- (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.

(2) 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

(3) The members of staff shall—

- (a) be subject to the general authority of the Council and of the Vice-Chancellor;

The Students' Association.

- (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 appointment.
21. (1) There shall be a Students' Association established in accordance with the Statutes.
- (2) The functions of the Students' Association are to—
- (a) oversee and plan, in consultation with the Senate, students' activities for the promotion of academic, spiritual, moral, harmonious communal life and social well-being;
 - (b) draw the attention of the appropriate authorities, where necessary, to the special needs of the students;
 - (c) offer suggestions to the Senate on matters affecting the wellbeing of students ;and
 - (d) undertake other functions as provided in its governance instruments approved by the Council.
- (3) There shall be Students' Council of the University which shall be elected by the Students' Association to manage its affairs, in accordance with procedures prescribed in the Statutes.

The Alumni Association.

22. (1) There shall be an Alumni Association of the University which shall consist of graduates and such other persons as may be prescribed by the Statutes.
- (2) The Alumni Association of the University shall participate in the process of appointment of the Chancellor within the provisions of the Act and the Statutes.
- (3) The Alumni Association 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 may be prescribed in the Statutes.

Performance of functions in absence of office holder.

23. (1) In the event of incapacity of the Chancellor, the President may appoint a person to perform functions of the Chancellor for a period of three months.
- (2) In the event of incapacity of the Vice-Chancellor, the Cabinet Secretary on the recommendation of the Council may appoint one of the Deputy Vice-Chancellors to carry out the functions of the Vice-Chancellor for a period of three months.
- (3) In the event of the simultaneous incapacity of the Vice-Chancellor and all the Deputy Vice-Chancellors, the Chairperson of the Council, in consultation with the Chancellor, may appoint a member of the academic staff of the University to perform the functions of the Vice-Chancellor for a maximum period of three months.
- (4) In the event of incapacity of any member of staff of the University other than the Vice-Chancellor, the Vice-Chancellor may appoint a suitable person to perform the functions of the said officer for a period of up to three months.

(5) In this section, “incapacity” means absence from Kenya or inability for any other reason to perform the functions of the office concerned or as may be provided for in the Statutes.

(6) Subject to the provisions of this section, at expiry of the above prescribed period, the position shall fall vacant and the process of filling up the position as provided for in the Act, Statutes, and or regulations shall commence.

PART IV—FINANCIAL PROVISIONS

24. In the event of any change in the financial year and for purposes of 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 Charter to be a financial year.

Financial Year.

PART V—MISCELLANEOUS PROVISIONS

25. (1) The symbols of authority shall be the Common Seal, the Mace, and the Logo.

Common Seal
and other
Instruments of
Authority.

(2) 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.

(3) The common seal of the University shall be authenticated by the signatures of the Vice-Chancellor together with any other person duly authorized by the Council.

(4) 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.

26. (1) In the performance of its functions under this Charter, the Council shall, subject to this Charter, make Statutes generally for the government, control and administration of the University, and for the better carrying into effect of the purposes of this Charter, and in particular for—

Statute.

- (a) establishment of colleges, faculties, institutes and schools of the University;
- (b) description of degrees, diplomas and certificates;
- (c) defining the requirements for conferment of degrees and award of diplomas and certificates;
- (d) the conduct of examinations;
- (e) prescribing fees and boarding charges;
- (f) setting the terms and conditions of service, and schemes of service, including the appointment, dismissal and recommendation of retiring benefits of the members of staff of the University;

- (g) describing the constitution and procedure of meeting of the Council, and the establishment, composition and terms of reference of committees of the Council; and
- (h) prescribing the rules and regulations for the Students' Association.

(2) The Council shall not make, amend or revoke any Statutes without reference to 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-fourth of the members present, and voting being not less than half of the total membership of the Council.

Protection of name.

27. (1) Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies, business or societies shall accept for such registration an entity that includes the words "Moi" and "University" together in any order, 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 words "Moi University" together in any order, and or in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling or profession, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding three years, or both.

(3) Notwithstanding the foregoing, nothing in this section shall be construed as preventing the bona-fide use by any person of any title in pursuance of the grant to her or him of a degree, diploma or certificate by the University.

Variation and revocation of this Charter.

28. This Charter may be varied, amended or revoked in accordance with the Act.

Given under my hand and the public seal of Kenya on the 1st day of March, 2013

MWAI KIBAKI,
President.

Dated the 1st March, 2013.

MARGARET KAMAR,
Minister for Higher Education, Science and Technology.