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SCHEDULE  
EXPLANATORY MEMORANDUM

EXPLANATORY MEMORANDUM TO THE UNIVERSITIES REGULATIONS, 2014 NO  
L.N 76/2014

LAID BY  
SEN. JUDITH  
SIENTI

PART I

NAME OF THE STATUTORY INSTRUMENT: UNIVERSITIES REGULATIONS, 2014

NAME OF THE PARENT ACT: THE UNIVERSITIES ACT, NO 42 OF 2012

(Vice chairman  
Standing Committee  
or Delegated  
Legislation)

ENACTED PURSUANT TO: SECTION 70 OF THE UNIVERSITIES ACT, 2012

NAME OF THE MINISTRY/DEPARTMENT: MINISTRY OF EDUCATION SCIENCE  
AND TECHNOLOGY

DEPARTMENT OF EDUCATION

Gazetted on: 13th June, 2014

TABLED ON:.....

PART II

1. PURPOSE OF THE STATUTORY INSTRUMENT

To operationalize the Universities Act, No. 42 of 2012 based on section 70 of the Universities Act that provides for the making of Regulations prescribing development, establishment, accreditation and governance of University Education in-line with the functions of the Commission as spelt out in article five of the Act.

2. LEGISLATIVE CONTEXT

To operationalize the Universities Act No 42 of 2012 with respect to the quality of University Education in Kenya.

3. POLICY BACKGROUND

The recommendations of the policy Sessional paper No 14 of 2012, on the alignment of the Higher Education, Science and Technology Sector with the Constitution informed the Universities Act 2012. The recommendations also caused a major shift of focus in the education sector in Kenya aiming at globally competitive quality education for sustainable development and public/private sector linkages in the promotion of education. In addition the mandate of the national regulatory agency in charge of University education in Kenya was expanded to incorporate public Universities thus placing both private and public universities

the same legal framework. Foreign universities seeking to offer university education in Kenya were also put under the same regulatory framework.

In 2013 the Cabinet Secretary, having studied the Universities Act, 2012 and considering global best practices in university education drafted the Universities regulations. The later were subjected to stakeholder interrogation through uploading them on the Commission for University Education website in June 2013 and holding a two day stakeholders workshop in October 2013 in order to discuss and validate the draft Universities Regulations. The stakeholders, who were a total of 200 participants, included Top management from Universities in Kenya, representatives from professional bodies and relevant Ministries. Based on feedback received from the stakeholders, the draft university regulations were further refined and the refined copy was forwarded to the Attorney General for drafting as a legal document. The draft copy was sent back to the Ministry by the Attorney General for confirmation of content in May 2014. Upon revision of the Universities Regulations, the ministry forwarded the Universities Regulations to the Attorney General for publication

#### **4. CONSULTATION OUTCOME**

The key participants who were consulted were Vice –chancellors, Deputy Vice Chancellors (academic affairs), University Librarians, Universities Legal adviser, Universities quality assurance co-ordinators, professional bodies' representatives and ministry representatives. Upon presentation of the universities regulations, the participants were grouped based on their expertise to interrogate the draft Universities Regulations in the areas of:

1. Establishment of Universities
2. Academic programmes
3. Collaborations and licensing of students recruitment agencies
4. Recognition and equations of qualifications
5. Data on universities and general provisions document

The participants then gave their consolidated feedback through their appointed chairs in the plenary. The document was adopted by the participants subject to the consideration of the aspects raised by the various groups, thus validating the Universities Regulation.

#### **5. GUIDANCE**

Once the Universities Regulations are published the Commission for University Education shall distribute them to all Universities in Kenya and upload them on the Commission website for ease of reference by any interested party. In addition the Commission shall train sensitize its resource person and universities on various aspect of the University Regulation, 2014.

## **6. IMPACT**

### **6.1 The Impact on Fundamental Rights and Freedoms**

The access to quality education as per the provision of Article 43 (1)(f) of the Constitutional.

### **6.2 The Impact on the Private Sector**

The Universities Regulations encourages public/private partnerships in innovative activities, research and entrepreneurship. The quality of graduates will further enhance achievement of a knowledge based society the will contribute towards the growth of the private sector. The establishment of private Universities shall enhance the human capital that will contribute towards Kenya being middle level economy.

### **6.3 The Impact on the Public Sector**

Under fourth Schedule of the Constitution the functions of ensuring Education policy, standards, curricula, examinations and granting of the University Charters is on the National Government. The Universities Regulations 2014 shall contribute to Vision 2030 which aims at creating a globally competitive and prosperous nation with a high quality of life through the channelling out of highly competitive and innovative graduates.

## **7. MONITIRING AND REVIEW**

The purpose of these universities regulations is to ensure provision of quality university education in, the Commission shall monitor and review university education through:

1. Requiring regular reports from the Institutions offering University Education
2. Carrying out routine checks
3. Every five years carrying out Institutional Quality Audits to ensure maintenance and enhancement of quality of University Education in Kenya.
4. Regularly collecting and analysing data on University Education for purposes of advising the Cabinet Secretary on policies relating to University education in Kenya.
5. Opening its Communication channels to the publics to receive feedback on the quality of University Education in the Institutions in Kenya.

## **8. CONTACT**

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LEGAL NOTICE NO. 76

THE UNIVERSITIES ACT

(No. 42 of 2012)

THE UNIVERSITIES REGULATIONS, 2014

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THE UNIVERSITIES ACT

(No. 42 of 2012)

IN EXERCISE of the powers conferred by section 70 of the Universities Act, 2012, the Cabinet Secretary for Education, Science and Technology makes the following Regulations—

THE UNIVERSITIES REGULATIONS, 2014

PART I—PRELIMINARY

- 1. These Regulations may be cited as the Universities Regulations, 2014. Citation.

2. In these Regulations, unless the context otherwise requires — Interpretation.

“academic programme” means the design of learning content, which is multi-dimensional and includes intentions, structure of content, delivery modes, academic resources and assessment modes;

“academic recognition” refers to the recognition of qualifications awarded by a foreign university;

“academic staff” means any person who has been appointed to teach, train or to do research at a university;

“academic year” means a period of teaching and examination organised in a full year in either two, three or four segments;

“access” means the right of qualified candidates to apply and to be considered for admission to a university;

“accreditation” means the procedure by which the Commission formally recognizes an institution or an academic programme of a university;

“Act” refers to the Universities Act, 2012;

“admission” means the act of, or system for, allowing qualified applicants to pursue studies in university education at a given institution or in a given programme;

“Cabinet Secretary” means the Cabinet Secretary for the time being in charge of university education;

“certificates and diplomas” means post-graduate certificates and diplomas;

“certified translation” means an official document constituting the verbatim translation, by a legally certified translator, from a foreign language into English;

“collaboration” means an arrangement between a foreign university and a Kenyan university or a tertiary institution for purposes of offering academic programmes;

“Commission” means the Commission for University Education established under Section 4 of the Universities Act, 2012;

“course” means a single unit in a programme of study;

“curriculum” means any documented programme of study;

“department” means an academic division into which a faculty is divided for purposes of teaching, examinations and administration;

“duration of study” refers to the recognized period of study that must be completed from admission to graduation of an academic programme;

“faculty/school” means an academic division so designated or established under the instruments constituting a university;

“foreign university” means a university established outside Kenya;

“institution” means an organization founded for purposes of university education and research;

“private university” means a university which is established or maintained out of funds other than public funds;

“professional recognition” refers to recognition of a professional training by law;

“programme of study” means the prescribed syllabus that students must be taught at each key stage;

“public university” means a university established and maintained or assisted out of public funds;

“qualification” means any degree, diploma or certificate issued as evidence of successful completion of a university education programme;

“recognition” means the formal acknowledgement by the Commission in a particular country of the appropriateness of a foreign qualification for access to related educational and/or employment opportunities in the receiving country;

“standard” is a reference point against which different aspects of the institution and programme are compared or evaluated for quality.

3. (1) These Regulations shall apply to—

Scope.

(a) all universities in Kenya, including—

- (i) private universities;
- (ii) public universities;
- (iii) technical universities;
- (iv) the Open university; and
- (v) any foreign university intending to offer university education in Kenya;

(b) specialized degree awarding institutions established under the Act;

(c) any student recruitment agency operating in Kenya;

(d) any agent or agency a university or institution specified in paragraphs (a), (b) and (c) operating or intending to operate as or on behalf of such university within Kenya.

(2) Except as may be expressly enacted to the contrary or otherwise provided, no institution shall, after the commencement of these Regulations, without the authority of the Commission—

(a) advertise or continue to advertise or in any manner hold itself out to the public as a university or a degree awarding institution; or

(b) admit or continue to admit students to or conduct programmes of study leading to the award of degrees, certificates or diplomas.

(3) Authority to operate in any of ways specified in the paragraph (2) or to perform any other function consistent therewith shall only be granted in the manner specified in the Act and these Regulations.

#### PART II—ESTABLISHMENT OF A UNIVERSITY

4. (1) The following shall be eligible to apply to the Commission for authority to establish a university or, as the case may be, to constitute itself into a university in terms of this Part—

Eligibility and application procedure.

- (a) any person who intends to be or is a sponsor of a university; or
- (b) any body corporate or other institution having as one of its objects the provision of university education.

(2) Any person or institution eligible to apply for authority to establish or constitute itself into a university under this regulation shall do so by submitting to the Commission an application in the format prescribed by the Commission duly completed and certified by him or her or on its behalf by a person competent to do so.

5. (1) An application under Regulation 4 (2) shall be accompanied with a proposal setting out—

Proposal as to particulars and resources.

- (a) the vision, mission, philosophy and justification of the university;
  - (b) the experience of the sponsor in the provision of university education;
  - (c) the resources, including land, physical facilities, finances, staff, library services and equipment appropriate to and adequate for the proposed academic programmes to be conducted at that university which have been or can be procured and the manner in which these shall be maintained on a long term basis;
  - (d) the proposed name, location and academic character of the university;
  - (e) the functions, aims, objectives and strategies consistent with the needs of university education in Kenya for which the university is to be established;
  - (f) the form of governance through which the academic and administrative affairs of the university are to be conducted;
  - (g) an outline of the academic programmes intended to be offered at the university;
  - (h) a timetable indicating the steps expected to be taken in the next four years towards the realization of the aims and objects for which the university is to be established; and
  - (i) any other information which may be required by the Commission.
- (2) The proposal shall have the following appendices—
- (a) a draft Charter in the manner specified in Section 13 (3) of the Act;

- (b) academic programmes;
- (c) a trust deed for the university in case of a private university;
- (d) a description of the University library;
- (e) physical resources including title deeds, change of user, completion certificates, borehole log, tests of water, architectural drawings;
- (f) master plan and strategic plans;
- (g) regulations governing student conduct and terms and conditions of service of staff;
- (h) the student handbook;
- (i) certificates by statutory and or relevant certification bodies; and
- (j) any other document deemed to be necessary by the Commission.

(3) The Commission shall not process any application unless the requirements of this regulation are complied with.

6.(1) The Commission shall schedule a meeting or series of meetings with each applicant whose proposal has been received at which the available documentation or evidence in respect of the resources indicated therein shall be examined.

Issuance of Letter of  
Interim Authority

(2) The Commission shall order a detailed and independent inspection for the purpose of evaluation of the resources available, and shall, in that connection have power to order the production of such further information or documentation as would enable it to make a proper assessment of the matter.

(3) For purposes paragraph (2) above, the Commission shall set up an Inspection Committee which shall include—

- (a) at least two academicians of senior lecturer grade and above, one of whom must be conversant with university management;
- (b) a university librarian;
- (c) a registered Architect;
- (d) relevant officers of the Commission; and
- (e) any other professional that the Commission may determine to be necessary.

(4) All costs associated with the verification and evaluation of resources under this regulation shall be borne by the applicant.

(5) The Inspection Committee shall prepare a report and submit it to the Commission.

(6) The Commission shall deliberate on the merits of each application, and where it is satisfied that—

- (a) the particulars given under Regulation 5 do not in any way reproduce or otherwise duplicate those of an existing or prospective university;
- (b) the resources declared under Regulation 5 are available;
- (c) the applicant is following realistic plans to achieve the aims and objects for which the university is to be established;
- (d) the university, when established, is likely to attain and maintain standards set out in the schedules on a long-term basis; and
- (e) the establishment of the university is in the interest of university education in Kenya,

the Commission shall recommend to the Cabinet Secretary the issuance of a Letter of Interim Authority to operate in the manner specified in Section 15 of the Act until such time as it is revoked, or until accreditation is granted in the manner set out in Part III of the Act.

(7) A Letter of Interim Authority shall confer the powers, rights and privileges as set out in Section 15 of the Universities Act.

(8) Institutions operating under Letter of Interim Authority shall comply with Section 16 of the Act.

(9) An institution operating under Letter of Interim Authority may set up governance organs to include the Council, Senate and Management Board.

(10) A Letter of Interim Authority as specified in section 14 of the Act issued under this Regulation shall be published in the Gazette.

7.(1) The Cabinet Secretary may, on recommendation of the Commission and by notice published in the Gazette, revoke a Letter of Interim Authority if—

Revocation of a Letter of Interim Authority.

- (a) the person or institution named therein has not within four years of issuance of the letter made any progress in respect of the matters set out in Regulation 5 (1), or notifies the Commission of his or its intention not to proceed with the establishment of a university, or is, in any event, patently incapable of complying with the standards set out in Part IV;
- (b) in the opinion of the Commission such fundamental changes have since occurred that had such changes been in existence at the time of its deliberations under Regulation 6 (6) the letter would not have been issued; or
- (c) at any time before the lapse of four years it becomes apparent that the institution named therein is not making any progress, is not likely to make any progress and that its continued existence is not in public interest.

(2) The Commission shall only recommend revocation of a Letter of Interim Authority upon conducting an inspection of the institution.

(3) In all cases where a Letter of Interim Authority is revoked under this regulation, the Commission shall not entertain any

subsequent application by the same person or institution, or in respect of the same or substantially similar proposal within four years of that revocation.

(4) Upon revocation of a Letter of Interim Authority, the Cabinet Secretary may, in consultation with the Commission and the sponsor, appoint such person or persons as the Cabinet Secretary may deem appropriate to administer and manage the institution for the better protection of the interests of the students and staff of the university.

8. (1) The Commission may once every year inspect all universities holding a Letter of Interim Authority to confirm the extent to which the university is—

- (a) upholding standards; and
- (b) making progress towards the award of the charter.

(2) The inspection referred to in paragraph (1) shall be conducted by an Inspection Committee constituted in accordance with Regulation 6 (3).

(3) The Inspection Committee shall compile an inspection report and submit it to the Commission.

(4) The Commission shall give written submissions to the institution inspected, detailing the issues to be addressed to ensure compliance with the standards of the Commission.

9. (1) During the fourth year after granting an institution a Letter of Interim Authority, the Commission shall require the institution to make a formal application for grant of Charter.

(2) The Commission shall then cause an Inspection Committee established in accordance with Regulation 6(3) to carry out a final inspection of the university.

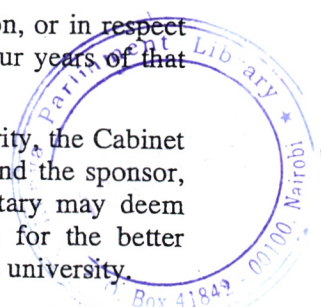
(3) The Inspection Committee shall submit its inspection report to the Commission.

10. (1) Where after deliberation on the application for the award of Charter, and the accompanying inspection report, the Commission is satisfied that—

- (i) the Draft Charter as submitted or as amended where necessary forms a sound basis for the academic and administrative organization of the university; and
- (ii) the university has effectively organized adequate human, physical, financial and other resources into an educational programme comparable to that of similar institutions authorized to operate in Kenya,

the Commission shall recommend to the Cabinet Secretary that the university be granted a Charter.

(2) Where the Commission is not satisfied as indicated in paragraph (1) it may recommend to the Cabinet Secretary an extension or revocation of the Letter of Interim Authority in the manner specified in Section 16 of the Act.



Inspection of universities.

Application for award of charter.

Accreditation process for Grant of Charter.

11. Where the Commission has made a recommendation for Charter with respect to an institution, it shall compile an accreditation report on the said institution outlining— Accreditation Report.

- (a) the historical background and philosophical basis of the university, including the vision and mission;
- (b) the accreditation process, including the various inspections and the findings of the Commission;
- (c) the resources available at the time of the final inspection;
- (d) The Master Plan and Strategic Plan for continued growth of the university;
- (e) the financial sustainability of the institution;
- (f) the academic programmes on offer in the institution;
- (g) research and innovation output; and
- (h) its final recommendations to the Cabinet Secretary.

12. (1) The Commission shall where satisfied, submit the Draft Charter and the Accreditation Report to the Cabinet Secretary, together with its written recommendation, for the university to be granted a Charter. Grant of charter.

(2) The Cabinet Secretary shall, where satisfied, submit the Draft Charter and Accreditation Report together with the Commission's and the Cabinet Secretary's own recommendation, to the President in accordance with Section 19 of the Act.

(3) The grant of the Charter shall be done in accordance with section 19 of the Act.

13. (1) A Charter granted as evidence of accreditation to any university may be varied or revoked in the manner specified in Section 22 of the Act. Variation or Revocation of Charter.

(2) Where a Charter is revoked there shall be put in place an arrangement in respect of the enrolled students.

14. Proposals for the change of the name of a university shall be forwarded to the Commission for consideration and approval. Change of name of a university.

15. (1) A sponsor of a private university authorized to operate in Kenya who intends to change the ownership of the university shall apply to the Commission and ensure that— Change of sponsorship of a private university.

- (a) the change of sponsorship safeguards the objects and purpose of the university;
- (b) the interests of the students and staff are safeguarded;
- (c) the change of sponsorship shall be limited to the Board of Trustees of the university;
- (d) the change of sponsorship shall not disrupt or affect the Council or Senate of the university;

- (e) the change shall ensure separation of powers of the various organs of the university; and
  - (f) the change conforms to the Constitution of the Republic of Kenya and the Act.
- (2) An application for change of sponsor under paragraph (1) shall be accompanied by—
- (a) a Status Report on the institution summarizing the status of the various facets of university enrolment including, staffing, programmes, facilities and finances;
  - (b) a draft Trust Deed amended as contemplated with the change of sponsor;
  - (c) a profile of the new sponsor, highlighting the background, experience in higher education, and any other institutions or businesses associated with the sponsor;
  - (d) a transition brief highlighting the measures to be put in place to ensure continuity for the students, or the staff of the university; any anticipated changes in the governance of the institution; and management of the assets of the university.
- (3) The Commission shall consider the application and where satisfied that—
- (a) the new sponsor is committed in propagating the objectives of the university;
  - (b) the interests of students and staff are adequately catered for;
  - (c) the assets of the university are well secured; and
  - (d) the proposed governance structure is likely to steer the university effectively, the Commission may approve the change of sponsor and communicate the same to the university.
- (4) Where the Commission is not satisfied that the new sponsor is likely to meet the provisions of paragraph 3 above, the Commission shall decline the application for change of sponsor.
- (5) A sponsor may re-submit a request for change of sponsor for re-consideration after addressing any issues raised by the Commission.

16. (1) Any foreign university which intends to operate in Kenya shall apply for accreditation, in the manner specified in Part III of the Act and Part II of these Regulations.

Accreditation of  
foreign universities.

(2) In addition to meeting the criteria set out in paragraph (1) above, a foreign university operating in Kenya shall ensure that not less than one-third of the representation in the Board of Trustees are Kenya citizens resident in Kenya.

17. (1) Every university authorized to operate under these Regulations shall prepare and submit to the Commission—

Institutional Quality  
Audits.

- (a) an annual report, in a prescribed format of its activities in each year of operation; and
- (b) a detailed self-assessment report, in a prescribed format, every five years on the steps it has taken towards the achievement of the aims and objects for which it was established.

(2) The Commission shall consider all reports submitted pursuant to paragraph(1) and may make such comments or give such other instructions thereon for action by the university concerned.

(3) The Commission shall undertake an institutional quality audit to confirm or otherwise the pronouncements made by the institution in the self-assessment report in paragraph (2).

(4) The quality audits shall be undertaken by an Institutional Quality Audit panel composed of—

- (a) at least two academicians of senior lecturer grade and above;
- (b) one person who has experience with university management;
- (c) a university librarian;
- (d) a registered Architect;
- (e) relevant officers of the Commission; and
- (f) any other professional that the Commission may determine to be necessary.

(5) Pursuant to paragraphs (2) and (3) above, and if satisfied that the institution has continued to maintain standards, the Commission shall issue a Certificate of Audit in a prescribed format that shall serve as a seal of quality maintenance and enhancement.

(6) Where the Commission is not satisfied that the institution has met the Regulations as set out in paragraph (1) the Commission shall send to the institution a detailed report setting out the matters that the institution shall need to address and the institution shall have one year to do so.

(7) If the matters outlined in the Commission's Quality Audit Report pursuant to paragraph (5) impact negatively on quality and the institution is unable or unwilling to resolve them within one year, the institution shall be placed under notice for one year during which no students shall be admitted in any of the academic programmes.

(8) For purposes of paragraph (7) violations shall include—

- (a) establishing unauthorized campuses, colleges or learning centres;
- (b) inadequate academic staff or resources in academic programmes on offer;
- (c) violation of the governance provisions set out in the Act;
- (d) mounting of academic programmes without the approval of the Commission;

- (e) refusal to abide by lawful directions of the Commission;
  - (f) financial instability for three consecutive years; and
  - (g) any other violation determined by the Commission to be grave and effectively communicated to the institution(s) in the previous six months.
- (9) If after one year of the issuance of a notice under paragraph (7)—
- (a) the institution satisfies the Commission on all matters set out in paragraph (6), the notice shall be lifted in writing and the institution shall be issued with a Certificate of Audit;
  - (b) (b) institution is unable or unwilling to address the issues raised in paragraph (6), the Commission shall recommend the revocation of the Charter of the said institution and the relevant penalties prescribed in the Act shall apply.

18. Notwithstanding the generality of Regulation 17 the Commission may carry out an audit on any institution as and when it is deemed necessary. Impromptu Audits.

### PART III—ESTABLISHMENT OF A TECHNICAL UNIVERSITY

19. A national polytechnic may apply, on the recommendation of the sponsor, to the Commission to be declared a Technical University. Eligibility.

20. An institution shall qualify to be declared a technical university if it satisfies the following criteria— Conditions for declaration.

- (a) the institution shall be offering programmes in applied science that lead towards application and practice;
- (b) the programmes on offer shall have a direct link to the needs of the labour market;
- (c) the institution shall show evidence of institution-industry linkages;
- (d) technologies in use at the institution shall be current or upgradable;
- (e) the institution shall show evidence of requisite staff and other academic resources to support the technical programmes; and
- (f) the institution shall be predominantly technical oriented.

21. (1) An institution shall apply by submitting to the Commission a form in the prescribed format duly completed and certified by the Chief Executive or other person competent to do so. Procedure for declaration.

(2) An application for accreditation shall, in addition to any other detail the Commission may in each case specify or request, be accompanied by—

- (a) a draft Charter containing the particulars required to be supplied by university under Section 13 of the Universities Act, 2012; and

- (b) a self-evaluation report, outlining *inter alia*—
- (i) the philosophy and technical orientation of the institution;
  - (ii) a list and academic qualifications of all members of staff on or expected to be on full-time employment with the institution;
  - (iii) a statement on the library facility and resources which have been developed for each programme being and to be offered at the institution;
  - (iv) a statement of the financial resources that are available for the exclusive use of the institution, certified by a person qualified to practice under the Accountants Act;
  - (v) an inventory of the physical facilities including land that are available for the exclusive enjoyment of the institution;
  - (vi) student enrolment and services;
  - (vii) development plans; and
  - (viii) research orientation and outputs.

22. (1) The Commission shall, before considering an application under Regulation 21 appoint an Inspection Committee with the power to—

Inspection of  
proposed technical  
University.

- (a) make enquiry into and for the purposes of ascertaining the veracity or otherwise of the particulars submitted under regulation 21(2);
- (b) make enquiry into the general academic, research, administrative and social affairs of the institution and in particular confirm compliance to the criteria set out in Regulation 21;
- (c) make such other investigation of relevance to the application as it may deem necessary.

(2) The Committee appointed under paragraph (1) shall comprise of—

- (a) a Professor or Associate Professor of a technical discipline, who shall also be conversant with university management, as the Chairperson;
- (b) at least two academicians of senior lecturer level or above, in technical university education;
- (c) a university librarian;
- (d) a registered Architect;
- (e) relevant officers of the Commission; and
- (f) any other professional that the Commission may determine to be necessary.

(3) The Inspection Committee shall submit a factual and evaluation report to the commission.

23. (1) As soon as the report of the Inspection Committee appointed under Regulation 22 (3) is received, the Commission shall consider all documentation relevant to the application and shall indicate what revisions or amendments, if any, the institution concerned should be required to make before the merits thereof are assessed.

Consideration of  
evaluation report.

(2) Where after deliberation on the merits of each application the Commission is satisfied that—

- (a) the draft Charter submitted forms a sound basis for the academic and administrative organizations of the university;
- (b) the institution has effectively organized adequate human, physical, financial and other resources into an educational programme comparable to that of similar institutions authorized to operate in Kenya;
- (c) a specific and unique mandate in teaching or research, in a technical area, is contained in the Charter;
- (d) the mandate in teaching or research is critical to national development or security; and
- (e) the institution satisfies the criteria set out in Regulation 23,

it shall recommend to the Cabinet Secretary that the institution be declared a Technical University.

(3) Where the Commission is not satisfied in the manner indicated in paragraph (2), it shall decline to recommend declaration of the Technical University;

(4) An applicant whose application is declined by the Commission may resubmit such application to the Commission one further time.

(5) The Commission shall not accept or entertain any application where the same has been resubmitted under paragraph (4) and declined;

(6) Where the Commission has recommended declaration of a Technical University as per Regulation 25(2) above, it shall compile an accreditation report, as provided under these Regulations, and submit it to the Cabinet Secretary.

24. (1) On receiving a recommendation from the Commission for the declaration of a Technical University, the Cabinet Secretary, if satisfied, shall submit the same to the President.

Declaration of a  
Technical University.

(2) The President, if satisfied, may declare the institution to be a Technical University in accordance with the provisions of Section 25 of the Act.

25. The Commission shall supervise Technical Universities in accordance with the supervision procedures outlined in the Act and of these Regulations.

Supervision of  
Technical  
Universities.

26. Any institution declared a Technical University shall have the following rights— Rights of a Technical University.

- (a) all the rights of an accredited university outlined in Section 20 of the Act; and
- (b) the right of access to such enhanced public funding as the Cabinet Secretary may in consultation with the Universities Funding Board determine.

27. A Charter issued as evidence of accreditation to any technical university may be varied or revoked in the manner specified in Section 22 of the Act. Variation or revocation of Charter of a Technical University.

#### PART IV—ESTABLISHMENT OF A SPECIALIZED DEGREE AWARDING INSTITUTION

28. Unless otherwise provided, these Regulations shall apply to specialized degree-awarding institutions as they apply to universities. General provision.

29. (1) This Part shall apply to any public institution that has been in existence for a least ten years and whose mandate is of strategic national importance. Application.

(2) Any institution eligible for establishment as a specialized degree awarding institution shall submit to the Commission an application in the prescribed format.

(3) The application shall be accompanied by a proposal and information as set out in Regulation 5.

30. An institution shall be eligible to be declared a specialized degree awarding institution if the institution— Criteria for declaration.

- (a) is a public institution offering programmes considered to be of national strategic importance;
- (b) has facilities for specialized training of human resource at degree level for a specific niche commensurate with the national development agenda;
- (c) has been in operation in the relevant field for at least 10 years;
- (d) has had linkages with universities for at least six years in specialized research and training;
- (e) has a critical mass of qualified staff in specific discipline of national importance and has been involved in institution-university or institution-industry linkages for at least six years; and
- (f) offers programmes limited to the mandate and philosophy of the established institution.

31. The provisions of Regulation 8 on the inspection of a university shall apply *mutatis mutandis* to a specialized degree awarding institution. Accreditation process.

32. (1) As soon as the report of the Inspection Committee appointed under Regulation 6(3) is received, the Commission shall Consideration of Report.

consider all documentation relevant to the application and shall indicate what revisions or amendments, if any, the institution concerned should be required to make before the merits thereof are assessed.

(2) Where after a full deliberation on the merits of each application the Commission is satisfied that—

- (a) the institution satisfies the criteria set out in Regulation 30;
- (b) the draft charter submitted forms a sound basis for the academic and administrative organizations of the university;
- (c) a specific and unique mandate in teaching and/or research, in a specialized area, is contained in the draft Charter;
- (d) the institution has effectively organized adequate human, physical, financial and other resources into a quality educational programme; and
- (e) the mandate in teaching and/or research is critical to national development or security,

the Commission shall recommend to the Cabinet Secretary that the institution be established as a Specialized Degree Awarding Institution;

(3) Where the Commission is not satisfied in the manner indicated in paragraph (2), it shall decline to recommend the establishment of a specialized degree awarding institution.

(4) An applicant whose application is declined by the Commission may resubmit application to the Commission one further time.

(5) The Commission shall not accept or consider any application where same has been resubmitted in accordance with paragraph (4) and declined.

(6) Where the Commission recommends the establishment of a Specialized Degree Awarding Institution as per paragraph (2) above, it shall compile an accreditation report, as provided for in Regulation 11 of these regulations, and shall submit it to the Cabinet Secretary.

33. (1) On receiving a recommendation from the Commission for the establishment of a Specialized Degree Awarding Institution, the Cabinet Secretary shall submit the same to the President.

Declaration of a specialized Degree-awarding Institution.

(2) The President may on the recommendation of the Cabinet Secretary, and with the approval of Parliament, award a Charter to establish a Specialized Degree Awarding Institution in accordance with the provisions of Section 24 of the Act.

34. The Commission shall supervise Specialized Degree Awarding Institution in accordance with the supervision procedures outlined in Regulation 17.

Supervision.

35. Any institution declared a Specialized Degree Awarding Institution shall have—

Rights of a Specialized Degree Awarding Institution.

- (a) all the rights of an accredited university outlined in Section 20 of the Act;

- (b) the right of access to such enhanced public funding as the Cabinet Secretary in consultation with the Universities Funding Board may determine; and
- (c) the right to have approval of its new programmes prioritized by the Commission.

36. The provision of Section 20 of the Act shall apply *mutatis mutandis* to a Specialized Degree Awarding Institution as they apply to a regular university under that Regulation. Obligations of a Specialized Degree Awarding Institution.

37. A Charter issued as evidence of accreditation to a specialized degree-awarding institution may be varied or revoked in the manner specified in Section 22 of the Act. Variation or revocation of Charter of a Specialized Degree Awarding Institution

#### PART V—ESTABLISHMENT OF A CONSTITUENT COLLEGE

38. A chartered university which is authorized to operate in Kenya may apply to the Commission for authority to establish a constituent college pursuant to the Act. Eligibility.

39. The application in Regulations 38 shall be accompanied with— Proposal as to particulars.

- (a) a college proposal in a format prescribed by the Commission;
- (b) documentary evidence of the resources available to the college;
- (c) a draft legal notice for the establishment of the Constituent college; and
- (d) any other information the Commission may require.

40. The Commission shall evaluate an application to establish a constituent college in accordance with the procedures set out in Regulation 5 (1) to (3). Declaration of a constituent college.

41. (1) Where the Commission is satisfied that an application for the establishment of a constituent college has complied with minimum requirements as determined in Regulation 40, the Commission shall recommend to the Cabinet Secretary for the declaration of the institution as a constituent college through a legal notice; and Consideration by the Commission.

(2) Where the Commission is not under paragraph (1) satisfied, it shall communicate its decision to the Cabinet Secretary and the proposed mentoring university with reasons.

42. (1) A constituent college shall—

- (a) be a body corporate with an independent governance structure; and
- (b) offer programmes and award qualifications to students through the Senate of the mentoring university.

(2) Approval for the establishment of a constituent college shall have the effect of a letter of Authority under section 15 of the Act.

(3) A constituent college in consultation with the mentoring university may, within a period of three years since its establishment, apply to the Commission for grant of a charter under the Act. Operation and tenure.

(4) Where the Commission is not satisfied it may recommend to the Cabinet Secretary an extension for a period of three years or conversion of the constituent college to a campus of the mentoring university.

#### PART VI—ESTABLISHMENT OF CAMPUSES

43. Any chartered university authorized to operate in Kenya may apply to the Commission for authority to establish a campus. Eligibility.

44. An application under this Part shall be accompanied by—

- (a) documentary evidence of Senate and Council approval;
- (b) a campus establishment policy statement;
- (c) a campus profile with documentary evidence in a prescribed format, highlighting-
  - (i) the location, address and justification for the same;
  - (ii) the physical, human and library resources available for the exclusive use of the campus;
  - (iii) the academic and administrative staff dedicated to the campus;
  - (iv) the proposed quality assurance systems; and
  - (v) confirmation of the level of student enrolment; and
- (d) the programmes proposed to be offered at the campus and their mode of delivery.

Proposal as to particulars and resources.

45. (1) The Commission shall evaluate an application for the establishment of a campus and where satisfied that— Authority to operate a campus.

- (a) such establishment is justified;
- (b) the resources available are adequate to support the proposed programs and enrolment and that they meet the standards of the Commission; and
- (c) adequate measures have been put in place to assure quality,

the Commission shall approve establishment of the campus and communicate the same to the institution.

(2) Where the Commission is not satisfied as specified in paragraph (1) shall decline the application and communicate the decision to the institution in writing.

46. A university campus shall—

- (a) be the smallest institutional unit of a university;
- (b) have localized administrative structures clearly linked with the main campus; and
- (c) offer programmes and award qualifications to students through the Senate of the university.

Operation and tenure.

47. (1) A university may apply to the Commission for approval for the establishment of Open and Distance Learning Centres. Open and Distance Learning Centres.

(2) An application under this Regulation shall follow the procedure for the establishment of university campuses.

#### PART VII—ACADEMIC PROGRAMMES

48. (1) Universities shall submit all their academic programmes to the Commission for accreditation. Launch of Academic Programmes.

(2) For purposes of paragraph (1), the Commission shall—

- (a) accredit the academic programmes of universities;
- (b) evaluate the proposed programmes, employing the use of qualified peers in accordance with the criteria set by the Commission, and ensuring that the said university meets the various requirements and academic standards prior to the programmes being launched;
- (c) ensure the evaluation process entails—
  - (i) assessment of curriculum for conformity to set guidelines of curriculum presentation;
  - (ii) evaluation of curriculum by peers for adherence to set standards and determination of cohesiveness, breadth, depth, appropriateness and relevance of the degree programme;
  - (iii) consideration of peer review reports by appropriate panels;
  - (iv) verification of appropriateness and adequacy of academic resources for the support of the programme by peers;
  - (v) revision of the programme by the university, based on feedback from the Commission; and
  - (vi) consideration for approval by the Commission.

(3) The evaluation of a proposed academic programme shall be terminated if the institution fails to meet the Commission's requirements within a period of four years.

(4) Academic programmes of proposed universities and universities operating with a Letter of Interim Authority shall only be launched after the completion of the entire evaluation process.

(5) A chartered university may develop and mount new academic programmes and shall submit the same for review within six months to the Commission in accordance with programmes standards.

(6) A chartered university shall submit programmes for evaluation and review where—

- (a) it has a functional and approved Internal Quality Assurance (IQA) system, including an IQA policy, structure, and an

- established and filled position for a Quality Assurance Officer;
- (b) it has institutionalized regular peer review of its academic programmes and has submitted to the Commission a report on the same;
  - (c) the Vice-Chancellor has submitted to the Commission, for evaluation, a properly designed curriculum in accordance with the set guidelines;
  - (d) the Vice-Chancellor of the university has signed the commitment form indicating that the Vice-Chancellor—
    - (i) is responsible for ensuring that the laid down process of curriculum design and development has been adhered to; and
    - (ii) will ensure that the report on academic resources to support the academic programme is up to date and available at all times.
- (7) The curriculum submitted under paragraph (6) shall be accompanied by—
- (a) a needs assessment report on the proposed programme;
  - (b) duly signed minutes of the Senate Meeting at which the proposed programme was approved;
  - (c) a comprehensive report on available and accessible academic resources for the support of the programme that shall include—
    - (i) academic facilities and infrastructure;
    - (ii) equipment and learning materials;
    - (iii) core-texts and journals; and
    - (iv) academic and technical staff.

(8) In the case of a chartered university, the Commission shall verify available academic resources for the support of the given academic programme within six months, and shall approve such programme for full accreditation once the University has satisfactorily met the academic requirements of the programme.

49. The Commission shall only approve a professional programme when it confirms that—

- (a) the requisite basic programmes on which it is dependent are on offer at the said university; and
- (b) the relevant professional body recognized by law has granted its approval for the programme.

Conditions for approval of a professional programme.

50. (1) A university shall submit proposals for new programmes to the Commission for accreditation within six months for chartered universities and prior to mounting for universities with Letters of Interim Authority and proposed universities.

Submission of Academic Programmes by Universities.

(2) A revised academic programme submitted to the Commission shall be deemed to be a new programme, thus warranting evaluation, if its core course content is over thirty per cent different from the programme in the original curriculum.

51. (1) The Commission shall engage the services of suitably qualified peer reviewers in the evaluation of academic programmes.

Evaluation of  
Academic  
Programmes

(2) A panel of peer reviewers shall evaluate a programme based on standards and guidelines as provided in the schedules.

(3) The peer reviewers shall have the appropriate academic qualifications and experience in the relevant field as stipulated in this Regulation.

(4) The peer reviewers shall be required to have training in quality assurance and shall be drawn from—

- (a) universities, in which case, they shall—
  - (i) be holders of doctorate degrees in the relevant area and be in the rank of at least a senior lecturer; and
  - (ii) in special cases, be at least a Senior Lecturer and holder of a Master's degree in the relevant area;
- (b) industry and professional bodies, in which case, they shall be—
  - (i) holders of a Master's degree in a relevant field with more than five (5) years working experience in the field at senior position; and
  - (ii) members of a professional body where applicable, with appropriate professional licences.

52. (1) Upon establishment, each university shall have the primary responsibility for internal quality assurance of their academic programmes.

Quality Assurance  
Systems for Academic  
Programmes.

(2) Each university shall institute its own internal quality assurance policy, systems and mechanisms.

(3) Each university shall have a programme development committee to guide its programme development and ensure that the university's proposed curricula have gone through clear internal processes and meet the Commission's standards of curriculum development prior to being presented to the Senate of the university, and thereafter, to the Commission for evaluation and consideration.

(4) Each university shall undertake a needs assessment, market survey and situational analysis, involving relevant stakeholders, for proposed programmes.

(5) The university shall provide documentary evidence that all academic programmes have gone through the relevant academic organs which shall include—

- (a) the Departmental Board;

- (b) the Faculty or School Board; and
- (c) the Senate.

(6) Upon establishment each university shall submit to the Commission a five year peer review plan every five years.

(7) Each university shall carry out self-assessment of its programmes every cohort and submit a report on the same to the Commission for purposes of external review.

#### PART VIII—FOREIGN UNIVERSITY COLLABORATING WITH A LOCAL UNIVERSITY

53. (1) A foreign university may apply to the Commission for grant of authority to collaborate with a local university in the provision or offer of its academic programme or join programmes of instructions in Kenya and shall be subjected to the same regulations and standards as those that apply to the establishment and accreditation of universities in Part III of the Act Application.

(2) Except as may be expressly enacted to the contrary, no university shall cooperate with a foreign university in offering academic programmes or joint programmes after the commencement of these Regulations without the authority of the Commission.

(3) Any university wishing to apply for collaboration under this regulation shall do so by submitting to the Commission an application form as set out in the Eighth Schedule to the Act.

54. The local university shall provide the requisite academic resources to support the programme and where applicable, evidence of approval by the relevant professional body. Local Collaborating University.

55. A foreign university shall be eligible to collaborate with a local university if such university— Foreign Collaborating University.

- (a) is accredited or recognized in the country of origin;
- (b) has the programme under collaboration on offer in the country of origin; and
- (c) has at least one cohort of students who have graduated in the programme in the country of origin.

56. The programmes offered under the collaboration shall be required to be— Programmes under Collaboration.

- (a) be accredited or recognized in the country of origin;
- (b) not more than 10% of the programmes on offer in the local university; and
- (c) relevant to a specific market niche.

57. (1) A collaborating foreign university shall submit to the Commission a duly signed Memorandum of Agreement between the collaborating institutions. Collaboration Agreement.

(2) A memorandum under paragraph (1) shall set out details of—

- (a) the nature of the collaboration;

- (b) a statement on the collaborating institutions;
- (c) the university expected to award the degree;
- (d) the rights and obligations of the students;
- (e) the rights and obligations of each of the two institutions;
- (f) financial arrangements; and
- (g) mechanisms of variation and termination.

58. The admission of students into programmes offered under collaboration shall be governed by the existing admission criteria in the local university.

Students under  
Collaboration.

59. Upon receipt of the application referred to in Regulation 53 before, the Commission shall appoint a Collaboration Audit Committee which shall have powers to—

Collaboration Audit  
Committee.

- (a) verify the particulars of items submitted under the Regulation 57;
- (b) verify the academic resources, management and administrative and social affairs pertinent to the programme(s) of the local institution; and
- (c) make such other follow-up investigations relevant to the collaboration processes as it may deem necessary.

60. (1) The Collaboration Audit Committee shall submit a factual and evaluative report of its findings under Regulation 59 to the Commission.

Approval of  
Collaboration.

(2) The Commission may upon confirmation that the parties to the contractual agreement referred to in Regulation 58, meet conditions set out under these Regulations, may approve the application and grant authority to collaborate.

(3) The Commission shall publish the name of the foreign University approved under this Part on its website and the particulars of the programme in respect of which the authority is granted.

(4) The Commission shall issue a Certificate of Authority to collaborate to the universities granted such authority.

61. The Commission may, on application of any of the collaborating partners or on its own motion, revoke its approval before the expiry of the term of the collaboration if—

Revocation of  
Collaboration.

- (a) it is of the opinion that such revocation is in the interest of education in Kenya;
- (b) any of the institutions is in breach of the terms and conditions upon which the Certificate of Authority to Collaborate was issued;
- (c) the institution is no longer offering the programme under collaboration for which the certificate was issued;
- (d) any of the institutions has ceased being an accredited or recognized university; or

- (e) such changes have occurred which, if they were in existence at the time of application for the certificate of authority to collaborate, the authority would not have been granted.

62. (1) The Commission may revoke a certificate of authority to collaborate by issuing a notice in writing outlining the issues the institution will need to address to the university and according the university an opportunity to be heard.

Notice to Revoke  
authority to  
Collaborate.

(2) If after six months the university fails to address the issues highlighted in paragraph (1), the Commission shall issue a notice revoking the Certificate of Authority to Collaborate.

(3) Where a Certificate of Authority to Collaborate has been revoked—

- (a) such revocation shall not affect the academic awards granted by the institution before the date of revocation; or
- (b) the local university shall make necessary arrangements for the ongoing students to complete their programmes.

#### PART IX—COLLABORATION BETWEEN FOREIGN UNIVERSITIES AND LOCAL TERTIARY INSTITUTIONS

63. (1) Under this regulation a foreign university may collaborate with a local tertiary institution in offering only two programmes at bachelor's degree level only.

Conditions for  
Collaboration.

(2) The foreign university shall be allowed to collaborate with a maximum of two local institutions.

(3) A local tertiary institution may only collaborate with a maximum of two universities.

64. (1) A foreign university shall apply to the Commission for grant of authority to collaborate with a tertiary institution in offering university academic programmes in line with the form in the prescribed format.

Application  
procedure.

(2) The application referred to in sub-regulation (1) shall be submitted together with copies of the—

- (a) proposed contract for collaboration between the foreign university and the local institution;
- (b) academic programme(s) to be offered under collaboration;
- (c) certificate of registration of the local institution;
- (d) evidence of accreditation status of the foreign university.

(3) The contract specified in regulation 2 (a), shall specify—

- (a) the terms of the contract;
- (b) the mode of teaching;
- (c) the assessment and awards system in respect of the programme(s) offered;

- (d) the rights and obligation of the collaborating institutions;
- (e) the Academic resources including physical, library, human and financial resources devoted to the programme(s) in the local institution in accordance with Commission standards;
- (f) the management and administration of the programme; and
- (g) the financial arrangements of the collaboration;

65. (1) Upon receipt of the application referred to in Regulation 64 The Commission shall appoint a Collaboration Review Panel which shall have powers to—

Collaboration Review Panel.

- (a) assess and ascertain the veracity of the particular items submitted under the Regulation 64;
- (b) verify the academic resources, management and administrative and social affairs pertaining to the programmes of the tertiary Institution; and
- (c) make such other follow-up investigations relevant to the collaboration processes it may deem necessary.

(2) The Collaboration Review Panel shall submit a factual and evaluation report of its findings under sub-regulation (1) to the Commission.

66. The Commission, upon confirmation that all the requirements have been met may grant its authority to collaborate in the form set out in the prescribed format upon such terms and conditions as it may deem fit.

Grant of Authority to Collaborate.

67. The Commission shall publish the grant of authority under regulation 66 in at least three newspapers as prescribed in section 28(4) of the Act.

Publication of Grant of authority.

68. The Commission shall maintain a register of the institutions granted authority to collaborate with other institutions.

Register of institutions.

69. The Commission may, on application of any of the collaborating partners or on its own motion revoke the grant of authority before the expiry of the term of the collaboration if—

Revocation of Collaboration.

- (a) it is of the opinion that such revocation is in the interest of education in Kenya;
- (b) any of the institutions is in breach of the terms and conditions upon which the Certificate of Authority to Collaboration was issued;
- (c) the institution is no longer offering the programme under collaboration for which the certificate was issued;
- (d) any of the institutions has ceased being an accredited university; or
- (e) such changes have occurred which, if they were in existence at the time of application for the Certificate of Authority to Collaborate, the Authority to Collaborate would not have been granted.

70. (1) The Commission may revoke a Certificate of Authority to collaborate by issuing a notice in writing to the university outlining the issues requiring attention and according the university an opportunity to be heard.

Notice to Revoke  
Authority to  
Collaborate.

(2) If within six months the university has not addressed the issues highlighted in sub-regulation (1) above, the Commission shall issue a notice in the Gazette revoking the Certificate of Authority to Collaborate.

(3) Where a Certificate of Authority to Collaborate is revoked—

- (a) it shall not affect the academic awards granted by the institution before the date of revocation; and
- (b) the local institution shall make necessary arrangements for the ongoing students to complete their programme.

#### PART X—LICENSING OF STUDENT RECRUITMENT AGENCIES AND ACTIVITIES OF FOREIGN UNIVERSITIES

71. (1) A foreign university or a Student Recruiting Agency acting on behalf of such a university, may apply to the Commission for a Licence to operate in Kenya—

Application.

(2) For purposes of paragraph (1), agencies of foreign universities include—

- (a) local agencies for student recruitment into foreign universities;
- (b) agencies for advertising, exhibiting and marketing foreign universities; and
- (c) foreign universities directly advertising, exhibiting or recruiting students.

(4) The application referred to in paragraph (1) shall be in the prescribed format.

(5) The Commission may from time to time prescribe guidelines to govern student recruitment.

72. An agency shall be eligible to be licensed to operate in Kenya if such body—

Conditions for  
operating a Student  
Recruitment Agency.

- (a) is registered under the laws of Kenya;
- (b) represents an accredited university in its country of origin;
- (c) has a physical address in Kenya; and
- (d) produces evidence of a memorandum of understanding with the university it represents.

73. (1) A licence to operate under this Part shall be valid for a period of one year, and may be renewed subject to adherence to the conditions set out by the Commission.

Licence.

(2) The Commission may cancel a licence to operate if it is of the opinion that the agency is in violation of the terms and conditions under which the licence was issued.

74. An agency to which a licence is issued may—

Effects of license.

- (a) recruit qualified students for specified foreign universities;
- (b) carry out marketing and liaison activities for the foreign university it represents;
- (c) provide student services; and
- (d) advertise its services.

75. An agency licensed to operate under these regulations shall be obligated to—

Obligations of an agency.

- (a) recruit students who are qualified in accordance with the admission criteria set out by the university's placement service;
- (b) place students into accredited/recognized institutions;
- (c) carry out due diligence to establish the accreditation status of the institutions and programmes;
- (d) operate within the relevant laws in Kenya;
- (e) ensure that all instructions issued by the Commission under these Regulations are complied with; and
- (f) provide student services.

76. The Commission shall maintain in its website a register of all agencies licensed under this Part.

Register.

77. The Commission may inspect an agency as and when it deems necessary.

Monitoring of agencies.

#### PART XI—RECOGNITION AND EQUATION OF QUALIFICATIONS AWARDED BY FOREIGN UNIVERSITIES AND INSTITUTIONS

78. (1) Holders of degrees, diplomas and certificates conferred or awarded by foreign universities and degree awarding institutions may seek recognition or equation of their qualifications from the Commission.

Scope of the Service.

(2) The Commission may recognize or equate degrees, diplomas and certificates conferred or awarded by foreign universities and institutions in accordance with the standards and guidelines set by the Commission from time to time.

(3) The Commission shall not be deemed to award any qualifications through the services provided under this Part.

79. The following principles shall apply in respect of the assessment of foreign qualifications under this Part—

Principles of recognition and equation.

- (a) holders of foreign qualifications shall have adequate access, upon request, to an assessment of their qualifications;
- (b) the procedures and criteria for the assessment of foreign qualifications shall be transparent, coherent and reliable, and

shall be reviewed periodically with a view to increasing transparency, taking account of developments in the education field;

- (c) in the assessment of the foreign qualifications concerning higher education, the international and national legal frameworks shall be applied in a flexible way with a view to making recognition possible;
- (d) in cases where the decision of the commission is different from the recognition requested by the applicant, including cases where no form of recognition is possible, the Commission shall inform the applicant of the reasons for the decision reached and his or her possibilities for appealing against it;
- (e) while the aim of the Commission to assess the foreign qualification in qualitative terms, the assessment shall be undertaken without to some extent relying on both qualitative and quantitative criteria where quantitative criteria are relevant to quality and may supplement qualitative criteria; and
- (f) recognition shall be granted wherever possible, unless there is a substantial difference in terms of content, profile, workload, quality and learning outcomes with similar programmes available locally.

80. (1) The Commission shall evaluate, recognize and equate foreign degrees, diplomas and certificates conferred or awarded by foreign universities and institutions.

Evaluation of Foreign Qualifications.

- (2) In its evaluation under paragraph (1) the Commission shall—
  - (a) establish the status of the qualifications presented taking into account the status of the institution and/or programmes through which the qualifications were awarded;
  - (b) establish whether the higher education institution belongs to the countries operating under the auspices of any international or regional conventions;
  - (c) take due account of the established quality assurance system, including the system of formal evaluation of higher education institutions and programmes in the originating country;
  - (d) identify the qualification in the system of the country in which recognition is sought which is most comparable to the foreign qualification, and where available, the Commission shall refer to the National Qualifications Framework and Regional Qualification Frameworks;
  - (e) consider differences in the content, profile, workload, quality and learning outcomes. In such cases the evaluation shall seek to establish alternative recognition that shall include—
    - (i) recognition of the foreign qualification as compared to a qualification of Kenya, but not that indicated by the applicant;

- (ii) partial recognition of the foreign qualification; and
  - (iii) full or partial recognition of the foreign qualification subject to the applicant successfully taking additional examinations, further study aptitude tests or other compensatory measures;
  - (f) take into account prior learning, credit transfer, different forms of access to higher education, joint degrees and lifelong learning in recognition of some academic qualifications which are awarded in short duration, without diminishing the learning outcomes, and a decision not to grant recognition shall not be motivated by duration alone;
  - (g) consider previous levels of education only where these levels have a bearing on the outcome of the evaluation, and shall as far as possible, be limited to qualifications of a level immediately preceding the qualification for which recognition is sought; and
  - (h) apply best professional skills and take note of all relevant information. Where adequate information on the learning outcomes is available, this shall take precedence in the evaluation over consideration of the education programme which has led to the qualification.
- (3) Where qualifications are under previous higher education structures the following principles shall apply—
- (a) the field in which the qualification is awarded as well as activities undertaken by the applicant since the qualification was issued;
  - (b) the status of the qualification of the issuing country, and where a national qualifications framework exists in the issuing country, whether previous qualifications are recognized thereunder;
  - (c) older qualifications shall be recognized along the same lines as the more recent and similar qualifications issued in Kenya, taking into account the purpose for which such recognition is sought and relevant work experience shall be considered for dated qualifications; and
  - (d) learning outcomes, the quality of the programme and its duration shall be taken as some of the indicators of the level of achievement reached at the end of the programme.

81. The criteria for recognition and equation of qualifications shall be the same as the standards established by the Commission.

Criteria for recognition and equation of qualifications.

82. (1) Universities shall submit correct data on university education to the Commission on an annual basis in a prescribed format.

University data.

(2) It shall be an offence to submit falsified data to the Commission.

## PART XII—GENERAL PROVISIONS

83. The fees chargeable for services rendered under these regulations shall be determined and gazetted by the Commission from time to time.

Fees.

84. (1) A person who commits offence against these Regulations shall be liable to the penalties prescribed under. Penalties.

(2) A person who, without the written consent of the Commission, uses the name of the Commission in furtherance of or in connection with any advertisement for any trade, business, calling or profession, commits an offence and shall be liable penalties set out under the Act.

85. Any person or institution who or which is aggrieved by an act or decision of the Commission taken in accordance with any of the provisions of these Regulations, who desires to question that act or decision, or any part of it, may, within thirty days of the date of such act or decision, appeal in writing to— Appeals.

- (a) the Commission which shall review and decide on the matter in question and respond within a period of three months; and
- (b) thereafter to the Cabinet Secretary, if not satisfied with the decision of the Commission, and the Cabinet Secretary may give such orders or instructions as may be deemed necessary.

86. (1) Any foreign university which at the commencement of these Regulations is providing programmes in collaboration with a local university or tertiary institution shall, within six months from the date of commencement of the Regulations, apply to the Commission for recognition of such collaboration. Transitional Arrangements.

(2) Any local university which at the commencement of these Regulations is providing programmes in collaboration with a local tertiary institution shall, after a period of one year from the date of the coming into operation of these regulations, cease admissions of new students into the programmes under collaboration.

(3) Any agency which at the commencement of these Regulations is recruiting students into foreign universities, shall, within six months from the date of the coming into operation of these Regulations, apply to the Commission for licensing under these Regulations.

(4) Any university, being a holder of Letter of Interim Authority or a Certificate of Registration that was in existence before the coming into operation of these Regulations shall apply to the Commission and be assessed for award of Charter in the manner prescribed under these Regulations, provided that—

- (a) the Letter of Interim Authority or Certificate of Registration has been held for at least three years; or
- (b) the Letter of Interim Authority or Certificate of Registration has not been revoked.

(5) Any university college, campuses and ODEL learning centers that were in existence before the enactment of these Regulations shall be audited by the Commission to assess their conformity to set standards and guidelines within 12 months on the commencement of the regulations.

87. (1) The Commission may from time to time prepare and publish a set of standards, herein referred to as Universities Standards. Preparation of Standards.

and Guidelines, to govern the performance, operations and general conduct of all universities authorized to operate under these Regulations.

(2) Notwithstanding the generality of paragraph (1), the Universities Standards and Guidelines may, in particular set out minimum standards among others on—

- (a) a university as an institution;
- (b) physical facilities;
- (c) academic programme(s);
- (d) open distance and e-learning;
- (e) technical universities;
- (f) collaborative arrangements; and
- (g) specialized degree-awarding institutions.

88. (1) The standards contained in the Schedules are declared to have been prepared and published in accordance with section 5 (1) (c) of the Universities Act.

Declaration of Standards.

(2) The Commission may add to, delete or otherwise amend the contents of the Schedules provided, however, that any amendment made in accordance with this paragraph shall be published in the Gazette.

Dated the 27th May, 2014.

J. KAIMENYI,  
*Cabinet Secretary for Education, Science and Technology.*