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# GOVERNMENT NOTICE

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## DEPARTMENT OF EDUCATION

No. 108

3 February 2006

### HIGHER EDUCATION ACT, 1997 (ACT No. 101 OF 1997)

### THE STATUTE OF THE UNIVERSITY OF SOUTH AFRICA

#### DEFINITIONS

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

#### SCHEDULE

To introduce a new Statute for the University of South Africa to give effect to the Higher Education Act, 1997 (Act No. 101 of 1997) and to promote the effective management and governance of the University in respect of matters not expressly prescribed by any law.

#### DEFINITIONS

##### 1 Definitions

In this Statute any word or expression to which a meaning has been assigned by the Higher Education Act, 1997 (Act No. 101 of 1997), has the meaning so assigned to it, and unless the context otherwise indicates

**“academic employee”** means any person appointed by council to teach or to conduct research or employees designated by council as academic employees, provided that members of senior management are not considered academic employees;

**“Act”** means the Higher Education Act, 1997 (Act 101 of 1997, as amended);

**“congregation”** is a graduation ceremony or a ceremony for the inauguration of the vice chancellor;

**“day”** means working day;

**“deputy vice chancellor”** is a vice principal designated as deputy vice chancellor by council on the recommendation of the vice chancellor for such period as council may determine;

**“employee other than an academic employee”** means an employee who renders administrative, student or institutional support services;

**“joint committee”** means a committee referred to in section 29(3) of the Act, namely a joint committee of council and senate;

**“pro vice chancellor”** is a member of senior management designated by council and performs functions assigned to or delegated by council or the vice chancellor;

**“qualification”** means any formal University qualification, including a degree, diploma and certificate;

**“representative employees’ organisation”** means any organisation of employees that has representation which is sufficient as determined by council;

**“rule”** means an institutional rule of the University, made by the University in terms of section 32(1)(b) of the Act and includes a policy;

**“senior management”** means the vice chancellor, pro vice chancellor, vice principal or vice principals and registrar or registrars;

**“short learning programme”** means all short programmes, whether credits are awarded or not, and includes skills programmes, credit bearing short course and non credit bearing short courses. Such programmes include all non subsidised short learning programmes, short courses or programmes, skills programmes, advanced short courses or programmes, workshops and seminars offered;

“**statute**” means this institutional statute of the University which must be read in conjunction with and subject to the Act ;

“**student**” for purposes of paragraphs 8(1)(g), 23(1)(o) and 39(1)(h) and for voting for or to be elected as a member of the students' representative council, means a person registered for a qualification at the University;

“**university**” in the application of this statute means the University of South Africa;

“**vice chancellor**” also means principal or principal and vice chancellor.

## **PUBLIC HIGHER EDUCATION INSTITUTION**

### **Name, seat and powers**

2. (1) The name of the institution is the University of South Africa.
- (2) The University has its main office in the Metropolitan City of Tshwane.
- (3) The University is a juristic person.

### **Constitution of university**

3. (1) The University is constituted of office bearers and structures.
- (2) The office bearers are -
  - (a) the chancellor;
  - (b) the principal and vice chancellor;
  - (c) the pro vice chancellor;
  - (d) the deputy vice chancellor;
  - (e) the vice principal or vice principals;
  - (f) the registrar, and
  - (g) such other officers, as council may determine.
- (3) The structures are -
  - (a) council;
  - (b) senate;

- (c) college boards;
  - (d) inter college board;
  - (e) the management committee;
  - (f) extended management committee;
  - (g) the institutional forum;
  - (h) the convocation;
  - (i) the students' representative council; and
  - (j) such other structures, as may be determined by council.
- (4) No vacancy in any of the offices contemplated in subparagraph (2), nor any deficiency in the numbers or defect in the composition of the structures contemplated in subparagraph (3), has any effect on the existence or functioning of the University as provided by the Act or this Statute.

## **CHANCELLOR**

### **Functions**

4. (1) The chancellor is the titular head of the University.
- (2) The chancellor or his or her nominee confers all University qualifications on behalf of the University.
- (3) The chancellor or his or her nominee opens and dissolves a congregation of the University.
- (4) The chancellor performs such other functions assigned to him or her by council.

### **Election**

5. (1) The chancellor is elected by council as follows -
- (a) The chairperson of council sets the date for a meeting of council to elect a chancellor.
  - (b) The secretary to council notifies the members of council of the date, time and venue of this meeting.

- (c) The secretary to council invites council, employees, students of the University and members of the convocation to submit nominations for the office of chancellor.
  - (d) Such nominations must reach the secretary of council at least twenty days before the meeting referred to in subparagraph (1)(a).
  - (e) The nominations must be in writing and must include the nominee's written consent and his or her curriculum vitae.
  - (f) Within five days after the closing date for nominations, the secretary of council must inform members of council and the institutional forum in writing of nominations received.
  - (g) A special meeting of the institutional forum must be held before the meeting referred to in subparagraph (1)(a) to consider the nominations and advise council on the appointment of a candidate to the office of chancellor.
  - (h) After due consideration of the advice of the institutional forum, council elects a chancellor by secret ballot and a majority of members present at the meeting referred to in subparagraph (1)(a).
  - (i) If no candidate receives a majority of votes, successive rounds of voting are held.
  - (j) In each successive round of voting the candidate receiving the fewest votes is eliminated as a candidate.
- (2) After council has elected a chancellor, his or her name is announced by the chairperson of council.

#### **Term of office**

6. (1) The chancellor holds office for five years, unless he or she resigns or is removed from office in accordance with subparagraph (5).
- (2) No person may be elected for more than two consecutive terms of office.
- (3) If the chancellor is unable, for any reason, to perform the functions of the office, or if the office of chancellor becomes vacant, the principal and vice chancellor, or his or her official designate, performs the functions of chancellor.

- (4) The term of office of the chancellor terminates in the event of –
  - (a) death or incapacity;
  - (b) resignation; or
  - (c) removal from office by council.
- (5) The chancellor may only be removed from office by council by a resolution passed by at least two-thirds of the members of council and then only after he or she has been given the opportunity to answer to the reasons provided by council for his or her removal from office.

## **COUNCIL**

### **Functions**

- 7. (1) The function of council is to govern the University in accordance with the provisions of the Act and generally recognized principles of good governance.
- (2) Without derogating from the generality of subparagraph (1), council –
  - (a) approves the institutional statute and any amendments thereto;
  - (b) makes rules for the University;
  - (c) establishes council committees and determines the composition and functions of each committee;
  - (d) establishes, in consultation with senate, joint committees of council and senate to perform functions common to council and senate;
  - (e) appoints all employees of the University, subject to the condition that it may appoint academic employees only after consultation with senate; appoints senior management in accordance with section 31(1)(iii) of the Act read with paragraph 38(1)(c) of this Statute;
  - (f) determines the conditions of service, disciplinary provisions, privileges and functions of employees subject to applicable labour law;
  - (g) determines the language policy of the University, in consultation with senate;

- (h) after consultation with senate, determines what academic structures are required and the functions of each structure, to ensure efficient governance;
- (i) determines tuition fees;
- (j) determines the student admission policy of the University, after consultation with senate;
- (k) identifies and provides student support services after consultation with the students' representative council;
- (l) approves the annual budget of the University;
- (m) may enter into a loan or overdraft agreement, subject to section 40(2) of the Act;
- (n) may enter into an agreement for the construction of a permanent building or developments and the purchase or long term lease of immovable property, subject to section 40(3) of the Act;
- (o) seeks the advice of the institutional forum as stipulated by the Act.

### Composition

8. (1) Subject to the provisions of the Act, council consists of the following members -
- (a) the principal and vice chancellor;
  - (b) the pro vice chancellor;
  - (c) the deputy vice chancellor;
  - (d) three persons appointed by the minister;
  - (e) two members of senate, elected by senate;
  - (f) two further permanent academic employees who are not members of senate, elected by the permanent academic employees;
  - (g) two students, elected by the students' representative council;
  - (h) two permanent employees other than academic employees, elected by such employees;
  - (i) two members of the convocation;
  - (j) the chairperson of the board of the graduate school of business leadership;
  - (k) one nationally recognized local government sector representative;

- (l) one person nominated by the board of trustees of the Unisa foundation;
  - (m) ten members with a broad spectrum of competencies in fields such as education, business, finance, law, marketing, information technology, human resource management and organized labour nominated and elected by council;
  - (n) such other member as co-opted by council.
- (2) Council may grant observer status to a person which will entitle him or her to attend a council meeting.
  - (3) The composition of council must reflect sensitivity to race, gender and disability.
  - (4) At least sixty per cent of the members of council must be persons who are not employees or students of the University.

#### **Term of office**

- 9. (1) The term of office of members of the council is four years, except for –
  - (a) members referred to in paragraphs 8(1)(a) to 8(1)(c) who serve by virtue of their office;
  - (b) members referred to in paragraphs 8(1)(e),(f) and (h) whose term of office is two years; and
  - (c) members elected by the students' representative council in terms of paragraph 8(1)(g) whose term of office is determined by the students' representative council when they are elected, provided that membership terminates automatically when a student member ceases to be a member of the students' representative council.
  - (d) Members of council are eligible for re-election for two consecutive terms of office.
- (2) A vacancy arising in council, is filled in the same manner in which it was filled originally.
- (3) A person nominated, appointed or elected in terms of subparagraph (2) to fill a casual vacancy, holds office for the unexpired period of his or her predecessor's term of office.



- (4) A member of council, other than members who are employees or students of the University, vacates office if he or she -
- (a) resigns in writing;
  - (b) was appointed or elected to the council by the minister or organisation or body, and the minister or such organisation or body terminates the member's appointment or election in writing at any time before the expiry of his or her term of office;
  - (c) is absent from three consecutive meetings without leave of council;
  - (d) becomes insolvent and council demands that he or she vacate his or her office;
  - (e) is found guilty of an offence which in the opinion of council renders such member unfit to hold office;
  - (f) in the opinion of council, becomes incapacitated; or
  - (g) is appointed as an employee of or registers as a student at the University.
- (5) Council is entitled to suspend any member if it deems such suspension appropriate under the circumstances.

#### **Chairperson and vice chairperson**

10. (1) At the first meeting of council, and thereafter whenever it becomes necessary, the members of council elect from the members, who are not employees or students of the University, a chairperson and a vice chairperson who each holds office for a period of two years, or for such shorter period as they each may be a member of council.
- (2) The chairperson and vice chairperson are eligible for re-election.
  - (3) Nominations for the office of chairperson and vice chairperson of council must be addressed to the secretary of council in writing.
  - (4) If more than one candidate for each position is nominated, voting is by secret ballot as contemplated in paragraph 14 of this Statute.
  - (5) A chairperson or vice chairperson of council must be elected by a majority of all the members present at the meeting of council.

- (6) (a) Whenever a vacancy occurs in the office of chairperson or vice chairperson, the provisions of subparagraphs (3) to (5) apply with the necessary changes to the filling of such vacancy.
- (b) A person elected in terms of subparagraph (a) to fill a casual vacancy holds office for the unexpired period of his or her predecessor's term of office.

### **Secretary**

11. (1) The secretary of council and its committees is the registrar, provided that the principal and vice chancellor may assign any other employee to assist the secretary or to act as secretary.
- (2) The secretary acts as electoral officer at all meetings of council and its committees.
- (3) The secretary attends all meetings of council and its committees.
- (4) The secretary has no vote in decisions of council.

### **Meetings**

12. (1) The chairperson must during each calendar year convene at least four meetings of council.
- (2) A quorum consists of at least 50 per cent of the total number of members of council of whom more than 50 per cent of those present are not employees and students of the University.
- (3) If there is no quorum the meeting adjourns and another meeting is scheduled.
- (4) An agenda with the supporting documentation must be submitted to the members of council at least seven days before the meeting, provided that, with the consent of the chairperson, a member may raise urgent matters at the meeting without prior notice.
- (5) With the permission of council, a person with observer status may take part in the debates of council but may not vote.
- (6) Council may, from time to time, invite any person or persons to attend a council meeting to provide advice as may be required.

### Extraordinary meetings

13. (1) The chairperson of council may call, or council may resolve to call, an extraordinary meeting of council after at least seven days' notice, and the chairperson must call such meeting when requested in writing to do so by any ten members of council, provided that at least three of such members are not employees or students of the University, and the object of the meeting is stated clearly in the request.
- (2) No matters other than those appearing on the agenda of the meeting may be dealt with at such a meeting, except with the unanimous consent of the meeting.

### Voting

14. (1) Except where otherwise provided in this statute, all matters are decided by a majority of members present.
- (2) The chairperson has an ordinary vote and a casting vote.
- (3) Council decides by a majority of members present when a secret ballot must be conducted and in any vote where there is no majority, the chairperson has the casting vote.
- (4) If members present during any vote on a motion abstain from voting, their abstentions may be minuted if required by such members.
- (5) If the meeting so decides, the number of members voting for or against or abstaining on any motion must be recorded.
- (6) Each member of council has only one vote during a ballot and no proxy is allowed.
- (7) Where no less than 70 per cent of all the members of council have agreed on a matter referred to them by the chairperson by letter, mail, telefax or electronic mail without a meeting having been convened, and have conveyed their resolution by letter, mail, telefax or electronic mail, such resolution is deemed to be a resolution of council and must be recorded in the minutes of the next ordinary meeting.



**Drafting or amending statute or rule**

18. (1) Any motion to draft or amend the statute or a rule must be in accordance with the provisions of section 32(2) of the Act.
- (2) No motion to draft or amend the Statute or a rule is of force and effect unless adopted by a majority of the members present at the meeting, provided that not less than 50 per cent of the total number of members is present at the meeting.

**Financial and other interests of members**

19. (1) Any member of council or of a committee of council who has a direct financial or personal interest in any matter to be discussed at a meeting must, before or during such meeting, declare his or her interest on becoming aware of it.
- (2) If a member of council participates without council's permission in proceedings of council or a committee of council in a matter in which he or she has a financial or personal interest, voting by council or a committee of council on such a matter is invalid.
- (3) Before any meeting, any member of the University community has the right to inform the chairperson in writing, of any possible conflict of interest in respect of any member of council or a committee of council.
- (4) After a declaration or finding that a conflict of interest exists, the member of council or a committee of council must excuse him or herself from the meeting before the matter is discussed.

**Executive committee**

20. (1) Council appoints an executive committee, which consists of at least the following members -
- (a) the chairperson of council;
  - (b) the vice chairperson of council;
  - (c) the principal and vice chancellor;
  - (d) the pro vice chancellor;

- (e) the deputy vice chancellor; and
  - (f) the chairpersons of the committees of council.
- (2) The functions of the executive committee are determined by council.

#### **Other committees**

21. (1) Council appoints such other committees as may be required including -
- (a) a finance committee;
  - (b) an audit committee;
  - (c) a human resources committee;
  - (d) a remuneration committee;
  - (e) the board of the Graduate School of Business Leadership nominated according to the charter of the School.
- (2) Council, in consultation with senate, appoints such joint committees of council and senate as may be necessary.
- (3) Council determines the composition and functions of the committees of council.
- (4) At least 50 per cent of the members of a committee of council must be persons who are not employees or students of the University.
- (5) The chairperson of a committee of council may not be an employee or a student of the University.
- (6) The chairperson of council may not be the chairperson of the finance committee and audit committee of council.

### **SENATE**

#### **Functions**

22. (1) Senate is responsible for the teaching, learning, academic and research functions within the University in terms of the rules of senate and is accountable to council.
- (2) Senate must advise council on the integration and co-ordination of the activities in subparagraph (1).

- (3) Senate must perform any other function delegated or assigned to it by council.
- (4) As senate is accountable to council, it must submit to council –
  - (a) reports on all its activities;
  - (b) recommendations on any matter referred to it by council; and
  - (c) recommendations on any matter of interest to the University.

### Composition

23. (1) Senate shall consist of the following members -
- (a) the principal and vice chancellor;
  - (b) the pro vice chancellor;
  - (c) the vice principals;
  - (d) the registrar;
  - (e) the executive deans of the colleges;
  - (f) the deputy executive deans of the colleges;
  - (g) the directors of schools, institutes and centres, that are formally constituted;
  - (h) the heads or chairpersons of academic departments;
  - (i) all the executive directors;
  - (j) the dean of students;
  - (k) a full professor from each department of a college, elected by the permanent academic employees of the department concerned;
  - (l) a permanent employee other than an academic employee from each college, elected by employees of the college who are not academic employees;
  - (m) a permanent academic employee who is not a full professor from each college, elected by the permanent academic employees of the college concerned;
  - (n) two members of council, who are neither employed by nor students of the University, elected by council;
  - (o) two students elected by the students' representative council;
  - (p) not more than five additional persons designated by senate for their knowledge, expertise or contribution to the University.

- (2) The majority of senate members must be academic employees.
- (3) The manner of election of members of senate is as determined by each constituency and must reflect sensitivity to race, gender and disability.

#### **Term of office**

24. (1) Members of senate serve for two years, except -
  - (a) members referred to in paragraph 23(1)(a) to 23(1)(j) who serve by virtue of their offices;
  - (b) members elected by the students' representative council in terms of paragraph 23(1)(o) whose term of office is determined by the students' representative council, provided that membership automatically lapses when a student ceases to be a registered student or a member of the students' representative council.
- (2) The council procedures governing the filling of vacancies, the vacation of office and the suspension of a member, apply to senate with the necessary changes.

#### **Chairperson**

25. (1) The principal and vice chancellor is the chairperson of senate and presides at senate meetings.
- (2) The chairperson performs such other functions as senate may determine.

#### **Vice chairperson and secretary**

26. (1) The pro vice chancellor is the vice chairperson of senate and performs such functions with regard to the academic functions of the University as may be assigned to him or her by the principal and vice chancellor and senate.



- (2) If the chairperson, and the vice chairperson are absent from any meeting of senate, the chairperson or vice chairperson appoints a person to act as chairperson for the meeting.
- (3) The secretary of senate is the registrar.
- (4) The secretary performs those functions as determined in the senate rules.

### **Meetings and procedure at meetings**

27. (1) There must be at least three meetings per calendar year.
- (2) The procedures governing the meetings of senate are set out in the senate rules.

### **Executive committee**

28. (1) Senate appoints an executive committee, which consists of the following members -
  - (a) the principal and vice chancellor;
  - (b) the pro vice chancellor;
  - (c) the vice principal: academic and research;
  - (d) the registrar;
  - (e) the executive deans of the colleges;
  - (e) the deputy executive deans of the colleges, or in the absence of a deputy executive dean a director of a school of the college;
  - (f) ten members of senate, elected by senate, which will reflect sensitivity to race, gender and disability;
  - (g) the dean of students;
  - (h) executive directors, as nominated by the chairperson.

### **Functions**

29. The functions of the executive committee of senate are -
  - (1) to implement resolutions adopted by senate and referred to it;
  - (2) to dispose of matters delegated to it by council and senate; and

- (3) to perform, between meetings of senate, such functions and duties as assigned to it by senate.

#### **Other committees**

30. (1) Senate appoints such other committees as may be required.
- (2) The composition of such committees is determined by senate and must reflect sensitivity to race, gender and disability.
- (3) The functions of such committees are also determined by senate.

#### **COLLEGE BOARD**

##### **College Board**

31. A college board is established for each college to assist senate.

##### **Functions**

32. A college board must –
  - (1) ensure broader representation from academic departments in academic issues;
  - (2) consider academic issues and policies at operational level; and
  - (3) make recommendations to and obtain approval on academic matters from senate.

##### **Composition**

33. (1) A college board consists of the following members -
  - (a) the executive dean of the college;
  - (b) the deputy executive dean or deputy executive deans of the college;
  - (c) the directors of schools of the college;
  - (d) the heads or chairpersons of academic departments;
  - (e) all permanent academic employees within the college;
  - (f) a nominated representative from each other college;

- (g) two students, nominated by the students' representative council from the students of the college;
  - (h) a subject librarian; and
  - (i) such other persons as may be co-opted by the college board for a particular purpose.
- (2) The majority of the college board members must be academic employees.

#### **Chairperson**

34. The executive dean of the college is the chairperson of the college board.

#### **Meetings**

35. (1) There must be at least three meetings per calendar year.
- (2) The procedures governing senate meetings apply with the necessary changes to the meetings of a college board.

### **INTER COLLEGE BOARD**

#### **Functions**

36. (1) The inter college board is established to assist senate in respect of academic units which do not form part of colleges.
- (2) The inter college board is equal in status to a college board.
- (3) The composition and functions of the inter college board are determined by council.

#### **Meetings**

37. (1) There must be at least three meetings per calendar year.
- (2) The procedures governing senate meetings apply with the necessary changes to the meetings of the inter college board.

## INSTITUTIONAL FORUM

### Functions

38. The institutional forum must -
- (1) advise council on issues affecting the institution, including -
    - (a) the implementation of the Act and the national policy on higher education;
    - (b) race and gender equity policies;
    - (c) the selection of candidates for senior management positions;
    - (d) codes of conduct, mediation and dispute resolution procedures; and
    - (e) the fostering of an institutional culture which promotes tolerance and respect for fundamental human rights and creates an appropriate enabling environment for teaching, research and learning; and
  - (2) perform such functions as determined by council.

### Composition

39. (1) Subject to the Act, the institutional forum, consists of the following representatives -
- (a) two members of senior management, designated by the management committee;
  - (b) the dean of students;
  - (c) the executive director: learner support;
  - (d) two members of council, who are neither employees nor students of the University, elected by council;
  - (e) two members of senate, elected by senate;
  - (f) two permanent academic employees elected by such employees;
  - (g) two permanent employees other than academic employees elected by such employees;
  - (h) four students from the students' representative council elected by such council;