

ACTS SUPPLEMENT

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Act 3 *Universities and Other Tertiary Institutions
(Amendment) Act* **2006**

THE UNIVERSITIES AND OTHER TERTIARY INSTITUTIONS
(AMENDMENT) ACT, 2006.

ARRANGEMENT OF SECTIONS.

Section.

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SCHEDULE.

**THE UNIVERSITIES AND OTHER TERTIARY
INSTITUTIONS (AMENDMENT) ACT, 2006.**

An Act to amend the Universities and Other Tertiary Institutions Act, 2001, Act 7 of 2001, in order to provide for the establishment of institutions that award degrees but are not Universities; to empower the National Council for Higher Education to accredit not only institutions of higher education, but also the academic and professional programmes of those institutions in consultation with Professional Associations and Regulatory Bodies, to streamline certain academic, administrative and other relations between Makerere University and Makerere University Business School, to empower the Minister to issue directives of a policy nature to institutions of higher education, and to provide for other related matters.

DATE OF ASSENT: 28th February, 2006.

Date of Commencement: See section 1(2).

BE IT ENACTED by Parliament as follows:

1. Short title and commencement.

(1) This Act may be cited as the Universities and Other Tertiary Institutions (Amendment) Act, 2006.

(2) This Act shall come into force on a date appointed by the Minister by statutory instrument.

2. Amendment of section 2 of principal Act.

Section 2 of the Universities and Other Tertiary Institutions Act, 2001, in this Act referred to as the “principal Act”, is amended by—

(a) substituting for the definition of “Governing Council” the following new definition—

“Governing Council” means the Governing Council of any Other Degree Awarding Institution established under section 82A or the Governing Council of a Tertiary Institution established under section 77 of this Act”; and

(b) inserting in the appropriate alphabetical order the following new definitions—

“Letter of Interim Authority” means the authorisation referred to in section 95A and issued by the National Council to the promoter of a private University to enable the promoter mobilise resources for the further development of the proposed university;

“Other Degree Awarding Institution” means any public or private institution or centre of higher education other than a University, one of the objects of which is the provision of post secondary education offering courses of study leading to the award of certificates, diplomas and degrees and conducting research and publishing the results of the research.”

“promoter of a private University” means a person intending or proposing to establish and operate a private University in Uganda;

“person” includes any individual, firm, company, association, or body of persons, whether incorporated or not;

3. Replacement of paragraph (d) of section 5 of principal Act.

For paragraph (d) of section 5 of the principal Act there is substituted the following new paragraph—

“(d) to receive, consider and process applications for—

(i) the establishment and accreditations of private Tertiary Institutions, private Other Degree Awarding Institutions and private Universities; and

(ii) the accreditation of the academic and professional programmes of those institutions in consultation with Professional Associations and Regulatory Bodies;”

4. Insertion of new paragraph (ja) in section 5 of principal Act.

Section 5 of the principal Act is amended by inserting immediately after paragraph (j) a new paragraph (ja) as follows—

“(ja) to require and ensure that all universities, whether private or public, adhere to minimum criteria set by the National Council for admission to under-graduate and higher degree programmes;”

5. Insertion of new section 6A immediately after section 6 of principal Act.

The principal Act is amended by inserting immediately after section 6 a new section 6A as follows—

“6A. Minister to issue policy directions.

The Minister may issue directives of a policy nature to all institutions of higher education, whether public or private, and the institutions shall give effect to those directives.”

6. Replacement of section 25 of principal Act.

For section 25 of the principal Act, there is substituted the following—

“**25.** The location of a Public University established under this Act shall be as may be provided in the instrument establishing it; however that University may, with the prior approval of the National Council, establish a branch or a campus of the University in any other part of Uganda.”

7. Amendment of section 26 of principal Act.

Section 26 of the principal Act is amended by inserting immediately after subsection (3) the following new subsection—

“(3A). Nothing contained in subsections (1), (2) and (3) shall be construed as preventing the National Council from inspecting and conducting visitations to any Public University.”

8. Repeal of subsection (4) of section 29 of principal Act.

Subsection (4) of section 29 of the principal Act is repealed.

9. Replacement of subsection (2) of section 49 of principal Act.

For subsection (2) of section 49 of the principal Act there is substituted the following new subsection—

“(2) Each Department shall have a Board composed of the academic staff of the Department.”

10. Replacement of subsection (1) of section 55 of principal Act.

For subsection (1) of section 55 of the principal Act, there is substituted the following new subsection—

“(1) If two-thirds of the University Council are satisfied that the Vice-Chancellor or a Deputy Vice-Chancellor should be removed from office on the grounds of misconduct or inability to perform the functions of the office of the Vice-Chancellor or Deputy Vice-Chancellor, the University Council shall—

- (a) give notice in writing to the Vice-Chancellor or Deputy Vice-Chancellor concerned; and

- (b) on the recommendation of the University Appointments Board, recommend to the Chancellor that the Vice-Chancellor or Deputy Vice-Chancellor should be removed from office.”

11. Replacement of subsections (1) and (2) of section 57 of principal Act, etc.

(1) For subsections (1) and (2) of section 57 of the principal Act, there is substituted the following new subsections—

“(1) A member of staff may appeal to the University Staff Tribunal against a decision of the Appointments Board within fourteen days after being notified of the decision.

(2) In any appeal under subsection (1), the Tribunal shall within forty five days confirm, vary, amend or set aside the decision appealed against or give such decision as it thinks appropriate.

(3) A member of staff aggrieved by the decision of the Tribunal under subsection (2) may within thirty days from the date he or she is notified of the Tribunal’s decision apply to the High Court for judicial review.

(4) On an application to the High Court under this section, the High Court may make such orders as it may consider just.”

(2) In consequence of the amendment effected by and under subsection (1), subsection (3) of the Act shall be renumbered as subsection (5).

12. Amendment of section 74 of the principal Act.

(1) Section 74 of the principal Act is amended—

- (a) in subsections (1) and (2), by the insertion immediately after “University Council” and “University Councils” wherever they appear in those subsections of the words “or other Governing Council” and “other Governing Councils” as appropriate;
- (b) in subsection (4), by the insertion immediately after “Universities” wherever it appears in that subsection “and Institutions”.

13. Insertion of new PART XIII A under DIVISION FOUR of principal Act.

The principal Act is amended by inserting immediately after PART XIII of DIVISION FOUR a new PART XIII A to read as follows—

“PART XIII A—ESTABLISHMENT AND MANAGEMENT OF OTHER DEGREE AWARDING INSTITUTIONS.

82A. Establishment of Other Degree Awarding Institutions.

(1) The Minister may, by statutory instrument, on the recommendation of the National Council and by resolution of Parliament, establish any Other Degree Awarding Institution as a public Tertiary Institution.

(2) The National Council shall, within thirty days of the publication of the statutory instrument in the *Gazette*, register any Other Degree Awarding Institution established under subsection (1).”

82B. Other Degree Awarding Institution to be a body corporate.

Any Other Degree Awarding Institution established under section 82A shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name and, subject to this Act, may do all such things as bodies corporate may lawfully do.

82C. Other provisions relating to Other Degree Awarding Institutions.

The provisions of the principal Act specified in the Schedule to this Act shall apply to any Other Degree Awarding Institution established under this Act, subject to such modifications, qualifications, reservations and other changes as the Minister may, on the recommendations of the National Council, by statutory instrument specify.

82D. Application to establish a Private other Degree Awarding Institution

(1) A person, firm or organisation proposing to establish and operate a Private Other Degree Awarding Institution or a post-secondary institution proposing to constitute itself into a Private Other Degree Awarding Institution shall in a prescribed form, make an application to the National Council for Higher Education for a provisional licence to establish and operate an Other Degree Awarding Institution.

(2) An application made under subsection (1) shall be accompanied by—

- (a) the proposed name, physical location and academic character of the University;
- (b) the aim and objective for which the University is to be established;
- (c) the detailed financial base of the proposed University;
- (d) the form of governance through which the academic and administrative affairs of the University are to be conducted;
- (e) an outline of the academic programmes intended to be conducted by the University;

- (f) the academic facilities including library services and property equipment proposed for the academic programme;
- (g) existing or proposed human resources including academic and senior administrative staff;
- (h) existing or proposed physical infrastructure;
- (i) financial control and administration;
- (j) the timetable indicating the steps to be taken for three years after establishment of the University towards the realisation of the objects of the University.

(3) The National Council shall, on receipt of the application under this section organise a meeting or series of meetings with the applicant to verify the resources and information given with the application.

(4) A detailed report of the findings of the National Council under subsection (3) shall be submitted to the Minister.

82E. Provisional Licence for Private Other Degree Awarding Institution

- (1) On being satisfied that—
 - (a) the resources declared are available or are likely to be established;
 - (b) the applicant is following realistic plans to achieve the objects of the Private Other Degree Awarding Institution;
 - (c) the Private Other Degree Awarding Institution is likely to attain and maintain the academic standards set by the National Council; and
 - (d) the establishment of the Private Other Degree Awarding Institution is in the interest of the public in relation to higher education;

the National Council may issue a provisional licence to the applicant to establish and operate a Private Other Degree Awarding Institution according to the resources and information attached to the application.

(2) The National Council shall publish the name and particulars of a Private Other Degree Awarding Institution issued with a provisional licence in the *Gazette*.

(3) A provisional licence shall be valid for at least three years from the date of publication of the Private Private Other Degree Awarding Institution in the *Gazette*, within which period the National Council shall be monitoring the University to establish its viability for accreditation.

82F. Application of other provisions to an Other Degree Awarding Institution

The provisions of this Act relating to Private Universities shall apply to a Private Other Degree Awarding Institution subject to such modifications qualifications, reservations and other changes as may be determined by the National Council by legal notice.”

14. Insertion of new section 95A into principal Act.

The principal Act is amended by inserting immediately before section 96 the following new section—

“95A. Letter of Interim Authority.

(1) A promoter of a private University shall, prior to making an application for a provisional licence, apply to the National Council for a Letter of Interim Authority.

(2) An application made under subsection (1) shall be accompanied by—

(a) the name of the proposed University and its proposed physical location;

- (b) the name or names of the promoters of the University;
- (c) the vision, mission, objectives and philosophy for which the University is to be established;
- (d) the proposed governance structure of the University;
- (e) the proposed human resources that will be required to operate the University;
- (f) the expected source of financial resources;
- (g) the time table indicating the steps proposed to be taken towards the realization of the objectives specified in subsection (3).

(3) A letter of Interim Authority shall be valid for a period of up to three years during which the holder of the Authority shall not admit students into the University but shall—

- (a) mobilise funds;
- (b) acquire requisite infrastructures and academic facilities;
- (c) organise academic and administrative human infrastructures; and
- (d) do any other thing that may further the development of the proposed University to maturity.

15. Amendment of section 96 (1) of principal Act.

Subsection (1) of section 96 of the principal Act is amended by the deletion of the words “firm or organization” in the first line.

16. Amendment of section 111 (1) of principal Act.

Section 111 of the principal Act is amended by—

- (a) substituting the following for the marginal or side notes—

“Constituent colleges or campuses of and affiliation to a

Private University.”; and
(b) substituting for subsection (1) the following—

“(1) A Private University may, with the prior approval of the National Council—

- (a) establish any college or institution as a Constituent College of the University;
- (b) with the approval of the institution, declare a Private Tertiary Institution as a constituent college of the University;
- (c) establish a branch or campus of the University in any part of Uganda.”.

17. Insertion of new section 119A after section 119 of principal Act.
The principal Act is amended by the insertion immediately after section 119 of the following new section—

“119A .Accreditation of institutions and their academic and professional programmes.

119A. For the avoidance of doubt, no person shall operate a University, Other Degree Awarding Institution or a Tertiary Institution, without the prior accreditation of its academic and professional programmes by the National Council for Higher Education.”

18. Insertion of new subsection (4A) in section 132 of principal Act
Section 132 of the principal Act is amended by the insertion immediately after subsection (4) of the following new subsection—

“(4A) Notwithstanding any provision of this Act or any other written law—

- (a) Makerere University Business School shall be represented directly in the Senate of Makerere University and the Makerere University Council shall be informed of the Senate’s decisions relating to

Makerere University Business School; and

- (b) for as long as Makerere University Business School remains affiliated to Makerere University, Makerere University shall be represented on the Governing Council and Academic Board of Makerere University Business School.”

19. Uganda Management Institute.

(1) At the commencement of this Act, the Uganda Management Institute shall be deemed to have been established as a public Tertiary Institution having the status of an Other Degree Awarding Institution.

(2) The National Council shall ensure that the Uganda Management Institute is fully established as an Other Degree Awarding Institution.

SCHEDULE

SECTION 82C

Provisions of principal Act that apply to Other Degree Awarding Institutions, subject to such modifications, qualifications, reservations and other changes as the Minister may specify by statutory instrument.

- (a) PART VII, relating to the establishment of a Public University, and incorporating section 23 (2) to section 29.
- (b) PART VIII, relating to Officers of a Public University, and incorporating section 30 to section 37.
- (c) PART IX, relating to the Public University Organs, and incorporating section 38 to section 49.
- (d) PART X, relating to Staff of a Public University, and incorporating section 50 to section 57.
- (e) PART XI, relating to Financial Provision for Public Universities, and incorporating section 58 to section 64.
- (f) PART XII, containing general provisions relating to Public Universities, and incorporating section 65 to section 74.