

LEGAL NOTICE NO. 153

THE UNIVERSITIES ACT

(No. 42 of 2012)

IN EXERCISE of the powers conferred by section 20 (3) of the Universities Act, the Cabinet Secretary for Education, Science and Technology makes the following order:—

THE ALUPE UNIVERSITY COLLEGE ORDER, 2015

PART I—PRELIMINARY

1. This order may be cited as Alupe University College Order, 2015.

Short title.

2. In this Order, unless the context otherwise requires—

Interpretation.

“Academic Board” means the academic board of the University College established under paragraph 13;

“Act” means the Universities Act, 2012;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to higher education;

“Chancellor” means the Chancellor of the Moi University;

“Council” means the Council of the University College established under paragraph 11;

“Deputy Principal” means the Deputy Principal appointed by the Council of the University College under paragraph 9;

“faculty” means a Faculty of the University College established under the Statutes;

“financial year” means the financial year of the University College as determined under paragraph 17;

“graduate” means a person upon whom an award of the University has been conferred in accordance with paragraph 5;

“incapacity” means inability to perform functions of the office concerned;

“Institute” means an institute of the University College established under the Statutes;

“lecturer” means a member of the staff of the University College who is, in terms of appointment, a Professor, an Associate Professor, Senior Lecturer, Lecturer, Assistant Lecturer, or Tutorial Assistant, or a person who holds any other teaching post which the Council has recognized as a post having academic status in the University College;

"Librarian" means the person appointed to be the Librarian of the University College;

"Principal Secretary" means the Principal Secretary in the Ministry responsible for Higher Education;

"Principal" means the Principal of the University College appointed by the Council;

"professor" means a full professor of the University College;

"Registrar" means the Registrar appointed by the Council of The University College;

"School" means a School of the University College established under the Statutes;

"Senate" means the Senate of the University;

"staff association" means an association of the staff recognized by Council as being an association representative of the staff of the University College;

"Statutes" means statutes of the University College made by the Council under this Order;

"student" means a person registered by the University College for the purposes of obtaining a qualification of the University College or any other person who is determined by the Academic Board to be a student;

"students' organization" means an association of the students recognized by the Council being an organization representative of the students of the University College;

"University College" means the Alupe University College established under paragraph 3;

"University" means the Moi University;

"Vice-Chancellor" means the Vice-Chancellor of the University.

PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE UNIVERSITY COLLEGE

3. (1) There shall be established a university college to be known as the Alupe University College which shall be a constituent college of the Moi University.

Establishment of the University College.

(2) The University College shall be a body corporate with perpetual succession and a common seal, and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) receiving, investing, borrowing and lending money; and

- (d) doing or performing any such other things or acts, including entering into such contracts as may be necessary or expedient, for the furtherance of the provision of this Order which may lawfully be done by a body corporate.

(4) The University College shall be the successor to the Alupe University Campus, a campus of the Moi University, existing immediately before the commencement of this Order, and all rights, liabilities and assets held by or on behalf of the said Alupe University Campus, by any person immediately before the commencement of this Order shall be automatically and fully transferred to the University College.

4. (1) The functions and objects of the University College shall be—

Functions and
Objects.

- (a) to provide directly, or in collaboration with other institutions of higher learning, facilities for university education (including technology, scientific and professional education) integration of teaching, research and effective application of knowledge and skills to the life and work and welfare of the citizens of Kenya;
- (b) to participate in the discovery, transmission and preservation and enhancement of knowledge and to stimulate the intellect participation of students in the economic, social, scientific, technological and cultural development of Kenya;
- (c) to provide and advance university education and training to appropriately qualified candidates leading to the conferment of degrees and award of diplomas and certificates and such other qualifications as the Council and the senate may from time to time determine and in so doing, contribute to the manpower needs;
- (d) to conduct examinations for such academic awards as may be provided in the statutes pertaining to the University College;
- (e) to examine and make proposals for new faculties, schools, institutes, departments, resource and research centres, degree courses and subjects of study;
- (f) to play a leading role in the development and expansion of the opportunities for higher education and research;
- (g) to contribute to industrial and technological development through innovations and technology transfer;
- (h) to develop as an institution of excellence in teaching, training, scholarship, entrepreneurship, innovations, research, and consultancy services;
- (i) participate in commercial ventures and other activities for the benefit of the University College, the community and stakeholders;

- (j) contribute to agriculture, industrial and technological development of Kenya in collaboration with industrial and other institutions through the transfer of appropriate technology;
- (k) develop and provide educational, cultural, professional, technical and vocational services to the community and in particular foster corporate social responsible and the practical arts;
- (l) provide programmes, products and services, in ways that reflect the principles of equity and social justice;
- (m) to facilitate student mobility between different programmes at different technical training institutions, universities and industry; and
- (n) to foster the general welfare of all staff and students.

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

5. (1) The degrees and postgraduate diplomas to be awarded by the University College shall be the degrees and postgraduate diplomas conferred by the Moi University.

Degrees, Diplomas,
etc.

(2) Notwithstanding subparagraph (1), the University College shall have powers to grant diplomas, certificates, or other academic qualifications which may, for the time being, be authorized by the statutes of the University College.

6. Subject to this Order, the University College may award scholarships, bursaries and prizes and make other awards which may be provided for by the statutes.

Scholarships,
Bursaries, etc.

PART III—MEMBERSHIP AND GOVERNANCE OF THE UNIVERSITY COLLEGE

7. The members of the University College shall be—

- (a) the Chancellor of the Moi University;
- (b) the Vice-Chancellor of the Moi University;
- (c) the Principal;
- (d) the Deputy Principals;
- (e) the members of the Council;

Membership of the
University College.

- (f) the members of the Academic Board;
- (g) the Librarian;
- (h) the Professors of the University College;
- (i) the lecturers of the University College;
- (j) the Finance Officer;
- (k) students of the University College; and
- (l) the Dean of students;
- (m) the Director ICT services;
- (n) the Alumni; and
- (o) such other members of staff of the University College or any other body formally admitted into association with the University College, as the Council may from time to time determine.

8. (1) There shall be a Principal of the University College who shall be appointed through a competitive process in accordance with Section 35 (1) (a) (v) of the Act.

The Principal.

(2) The Principal shall be the chief executive of the University College and shall-

- (a) be the academic and administrative head of the University College;
- (b) have overall responsibility of the direction, organization, administration and Programmes of the University College; and
- (c) have such powers and duties as may be provided by the Statutes.

(3) The Principal shall hold office for a term of five years and shall be eligible for appointment for one further term of five years

(4) Notwithstanding sub-paragraph (1), the Cabinet Secretary may on the commencement of the Order, appoint the first Principal of the University College on an acting capacity for a period of six months on the recommendation of the Council of the Moi University, and the persons so appointed shall be deemed to be the Principal appointed under sub paragraph (1).

9. (1) There shall be a Deputy Principal of the University College who shall be appointed through a competitive process in accordance with Section 35 (1) (a) (v) of the Act.

The Deputy Principal.

(2) The Deputy Principal shall hold office for a term of five years and shall be eligible for reappointment for one further term of five years.

10. (1) The Council shall, after a competitive process, appoint for each Faculty, School, Institute, Centre, or Department a Dean, Director, or a Chairman, who shall be the academic and administrative head of such School, Institute, or Centre, and who shall, under the general direction of the Principal, have such powers and duties as may be provided by the Statutes.

Deans and Directors
of Faculties,
Schools, Institutes
and Centres.

(2) A person appointed as Dean or Director shall hold office upon such terms and for such period as may be provided by the Statutes and upon expiration of that period shall be eligible for reappointment for one further term.

11. (1) There shall be a Council of the University College appointed by the Cabinet Secretary in accordance with section 36 of the Act.

The Council.

(2) The Principal shall be the secretary to the Council.

(3) Subject to paragraph (4), a member of the Council other than an *ex-officio* member, shall hold office for a period of three years, but shall be eligible for reappointment for one further term.

(4) The office of a member of the Council shall become vacant –

- (a) if, not being an *ex-officio* member, he resigns his office by writing under his hand addressed to the Principal;
- (b) if the Council is satisfied that the member is, by reasons of physical or mental infirmity, unable to exercise the functions of his office; or
- (c) upon his death.

(5) Where the office of a member of the Council becomes vacant, the Principal shall forthwith notify the vacancy to the appropriate appointing authority and request for a replacement.

(6) The procedure and the conduct and regulation of the affairs of the Council shall be vested in the Council.

(7) It shall be the duty of the Council to exercise prudent leadership, innovative enterprise, and good judgement in directing the affairs of the University College and to act always in the best interest of the University College.

12. (1) Subject to this Order, the Council shall be the governing body of the University College through which the University College as a body corporate shall act, and in that regard –

Functions of the
Council.

- (a) shall administer the property and funds of the University College in a manner and for the purposes which shall promote the interests of the University College, except that the Council shall not charge or dispose of immovable property of the University College except in accordance with the procedures laid down by the relevant laws;
- (b) shall receive, on behalf of the University College, donations, endowments, gifts, grants or other moneys and

- make disbursements therefrom to the University College or other bodies or persons;
- (c) shall provide for the welfare of the staff and students of the University College.
 - (d) may enter into association with other universities, university colleges or other institution of learning, whether within Kenya or otherwise, as the Council may deem necessary and appropriate; and
 - (e) may, after consultation with the Academic Board, make regulations governing the conduct and discipline of the students of the University College.
- (2) All documents made on behalf of the Council, other than those required by law to be under seal, and all decisions of the Council may be signified under the hand of the Chairman, the Principal or any other members of the Council generally or specifically authorized by the Council in that behalf.
- (3) The Council shall ensure that a proper management structure is in place and that the structure functions in such a manner as to maintain corporate integrity, reputation and responsibility.
- (4) The Council shall monitor and evaluate the implementation of the strategies, policies, and management criteria and plans of the University College.
- (5) The Council shall constantly and at least once every year, review the viability and financial sustainability of the University College.
- (6) The Council shall ensure that the University College complies with all the relevant laws, regulations, governance practices, and accounting and auditing standards.
13. (1) There shall be an Academic Board of the University College which shall consist of –
- (a) the Principal, who shall be the Chairman;
 - (b) the Deputy Principals;
 - (c) the Deans of the Schools, and Directors of Institutes and Centres;
 - (d) the heads of the teaching departments of the University College;
 - (e) the Librarian;
 - (f) one representative of each of the Academic Boards of the Schools appointed by such boards from among their members; and
 - (g) two representatives elected by the students' organization of the University College:

The Academic Board.

Provided that the representatives of the student's organisation shall not be entitled to attend the deliberations of the Academic Board on matters relating to examinations, the general discipline of students, or any other matter considered by the chairman to be confidential.

- (2) The Deputy Principal for the time being in charge of academics shall be the Secretary to the Academic Board.
- (3) The Academic Board shall have the following powers and duties—
 - (a) to satisfy itself regarding the content and academic standard of any course of study in respect of any degree, diploma, certificate or other award of the University College and to report its findings thereon to the Senate;
 - (b) to propose regulations for consideration by the Senate regarding the eligibility of persons for admission to a course of study;
 - (c) to propose regulations for consideration by the Senate regarding the standard of proficiency to be gained in each examination for a degree, diploma, certificate or other award of the University College;
 - (d) to decide which persons have attained the prescribed standard of proficiency and therefore fit to be granted a degree, diploma, certificate or other award of the University College and to report its decision thereon to the Senate; and
 - (e) to make regulations governing such other matters may be within its powers in accordance with this Order or the Statutes.
- (4) Notwithstanding any of the provisions of this Order, the Senate shall not initiate any action under subparagraphs (2) (a), (b) or (c) except upon receipt of a report or proposal there-under and the Senate shall not reject any such report, or reject or amend any regulations as proposed without further reference to the Academic Board.

14. (1) There shall be a Management Board of the University College, which shall be made up of-

Management Board.

- (a) the Principal, who shall be the chairman;
- (b) the Deputy Principal for the time being in charge of finance and administration, who shall be the secretary;
- (c) the Deputy Principals;
- (d) the Registrar in charge of administration, who shall be the Secretary;
- (e) the Finance Officer; and
- (f) such other members of the senior management as the Council may determine.

(2) The functions of the Management Board shall include assisting the principal in the day- to-day management of the University College and shall, in this respect, be responsible for-

- (a) the efficient management of the human, physical and financial resources of the University College;
- (b) making proposals to the Council and the Academic Board on policies that have application across the entire institution;
- (c) coordination of the University College strategic and development plans; and
- (d) any other matters related to the management of the University College.

15. (1) There shall be an Alumni Association of the University College which shall consist of graduates of the university college such other persons as may be prescribed by the Statutes.

Alumni Association.

(2) The Alumni Association shall have the right to meet and discuss any matter relating to the University College and transmit resolutions thereon to the Council, the Academic Board, and the Senate, and may exercise such other functions as may be prescribed by the Statutes.

16. (1) The academic staff of the University College shall consist of the Principal, the Deputy Principals, the Librarian and all members of staff who are engaged in teaching and research.

The Staff of the University College.

(2) The staff of the Alupe University Campus immediately before the commencement of this Order, including those on secondment, are eligible for employment by the University College subject to appraisal by the Council in accordance with the Statutes.

(3) The senior management staff of the University College shall consist of the Principal, the Deputy Principals, and the Deans of Schools and Directors of Institutes and such other members of staff as the Council may from time to time determine.

(4) The administrative staff of the University College shall consist of the Registrars, the Finance Officer and such other members of staff, not being engaged in teaching or research, as the Council may, from time to time, determine.

(5) The technical staff of the University College shall consist of the staff engaged in laboratory and field instruction in the teaching departments under the general direction of the heads of the teaching Departments, and such other staff as the Council may from time to time determine.

(6) The support staff of the University College shall consist of the staff engaged in general duties and as the Council may from time to time determine.

(7) All members of staff of the University College shall, subject to this Order, be appointed either -

- (a) in the manner and upon the terms and conditions of service prescribed by the Statutes; or
- (b) in the case of a person seconded to the service of the University College from the service of another institution, the Government or any other public service, on terms and conditions agreed upon between the Council and the seconding body.

(8) The Council may, subject to such restrictions as it may impose, delegate, either generally or specially, to any person, committee, or body, the power to appoint any member of the staff of the University College.

(9) All members of staff of the University College shall -

- (a) be subject to the general authority of the Council and of the Principal;
- (b) be deemed to be employed in accordance with the statutes or as otherwise specifically provided by the statutes or by the terms of a particular appointment.

17. (1) In the event of the incapacity of the Principal, the Council may appoint one of the Deputy Principals to carry out the functions of the Principal during the period of incapacity.

Performance of functions in the absence of the office holder.

(2) In the event of the simultaneous incapacity of the Principal and the Deputy Principals, the Chancellor, after consultation with the Chairman of the Council may appoint any member of the academic staff of the University College to perform the functions of the Principal during the incapacity.

(3) In the event of the incapacity of a member of staff of the University College other than the Principal and Deputy Principals, the Principal may appoint a suitable person to perform the functions of the said officer during the period of incapacity.

PART IV—FINANCIAL PROVISIONS

18. The financial year of the University College shall be the period of twelve months commencing on the 1st July and ending on 30th June in the following year.

Financial Year.

19. (1) The Council may invest any of the funds of the University College in securities in which for the time being trustees may, by law, invest trust funds or in any other securities which the Treasury may, from time to time, approve for the purpose.

Investment of Funds.

(2) The Council may place on deposit with such banks as it may determine any moneys not immediately required for the purposes of the University College.

20. (1) Before the commencement of a financial year, the Council shall cause to be prepared estimates of the revenue and expenditure of the University College for that year.

• Annual Estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the University College for the financial year concerned, and in particular shall provide-

- (a) for the payment of the salaries, allowances and other charges in respect of the staff of the University College;
- (b) for the payment of the pensions, gratuities and other charges in respect of retirement benefits which are payable out of the funds of the University College;
- (c) for the proper maintenance of the buildings and grounds of the University College;
- (d) for the proper maintenance, repair and replacement of equipment and other movable property of the University College;
- (e) for the funding of the cost of teaching, research and outreach activities of the University College; and
- (f) for the creation of such funds to meet future or contingent liabilities in respect of retirement benefits, insurance or the replacement of buildings or equipment and such other matters as the Council may deem fit.

(3) In drawing up its annual estimates and development plans, the University College shall consult with the Government agency responsible for university grants.

(4) The annual estimates of the University College shall be approved by the Council before the commencement of the financial year to which they relate, and shall thereafter be submitted to the Cabinet Secretary for approval, and after such approval, the Council shall not increase any sum provided in such estimates without the consent of the Cabinet Secretary.

(5) No expenditure shall be incurred for the purpose of the University College except in accordance with the annual estimates approved under subparagraph (4) or in pursuance of an authorization of the Council given with the prior approval of the Cabinet Secretary.

21. (1) The Council shall cause to be kept all proper books of accounts of the income, expenditure and assets and of the University College.

Accounts and Audit.

(2) Within a period of three months from the end of each financial year, the Council shall submit to the Controller and Auditor-General, the accounts of the University College together with:-

- (a) a statement of income and expenditure during that year; and
- (b) a statement of the assets and liabilities of the University College on the last day of that year.

(3) The accounts of the University College shall be audited by the Auditor-General under Part VII of the Public Audit Act, 2003.

(4) The Auditor-General may transmit to the Cabinet Secretary a special report on any matters incidental to his powers under this Order, and sub-sections 29 (3) and (4) of the Public Audit Act 2003 shall *mutatis mutandis* apply to any report made under this paragraph.

PART V — MISCELLANEOUS PROVISIONS

22. (1) The common seal of the University College shall be kept in such custody as the Council may direct and shall not be used except upon the order of the Council.

Common seal and
signification of
documents.

(2) The common seal of the University College shall be authenticated by the signature of the Principal or of any other member of the Council duly authorized by the Council in that behalf, and of a Deputy Principal.

(3) The common seal of the University College when affixed to any document and duly authenticated under this paragraph shall be judicially and officially noticed, and, unless and until the contrary is proved, any order or authorization of the Council under this paragraph shall be presumed to have been duly given.

23. (1) In the performance of its functions under this Order, the Council shall, subject to this Order, make statutes generally for the governance, control and administration of the University College and for the better carrying out of the purposes of this Order, and in particular for the—

The Statutes.

- (a) establishment of faculties, schools, and institutes of the University College;
- (b) description of degrees, diplomas, certificates, and other academic qualifications;
- (c) requirement for award of degrees, diplomas, certificates and other academic qualifications;
- (d) conduct of examinations;
- (e) prescribing fees and other charges;
- (f) setting the terms and conditions of service, including the appointment, dismissal and recommendation of retirement benefits of the members of the staff of the University College;
- (g) constitution and procedure of meetings of the Council, and the establishment, composition and terms of reference of committees of the Council;
- (h) providing for or prescribing or anything, which, under this Order, may be provided for or prescribed by statutes.

(2) Notwithstanding subparagraph (1), the Council shall not make, amend or revoke any Statutes relating to the functions and privileges of the Principal or Academic Board without first ascertaining the opinion of the Academic Board.

(3) Statutes shall only be made by a resolution passed at a meeting of the Council supported by a majority of not less than three-

quarters of the members present and voting, being not less than two-thirds of the total membership of the Council.

(4) Statutes or regulations made by the Council under this Order shall be published in the Gazette but sections 27, 31(e) and 34 of the Interpretation and General Provisions Act shall not apply to the statutes or to the regulations.

24. (1) No public officer performing functions relating to the registration of companies, business or societies shall accept for such registration any name which includes the word "Alupe" together with either or all the words "university", or "college" unless the application for registration is accompanied by the written consent of the Council.

Protection of Name.

(2) Any person who except with the written consent of the Council, uses the word "Alupe" together with either or all the words "university" or "college" in furtherance of, or as, or in connection with, any advertisement for any trade, business, calling, or profession, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding twelve months, or to both to such fine and imprisonment:

Provided that nothing in this paragraph shall be construed as preventing the *bona fide* use by any person of any title pursuant to the grant to him of a degree, diploma or certificate by the University College.

25. The status accorded to the University College by this Order as a constituent college of Moi University shall be transitional only and the University may initiate the necessary administrative and legal measures to ensure that the University College becomes a fully fledged University.

Conversion into a fully fledged University.

Dated the 7th July, 2015.

JACOB T. KAIMENYI,
Cabinet Secretary for Education, Science and Technology.