

No. 1692

14 November 2003

**HIGHER EDUCATION ACT, 1997 (ACT No. 101 OF 1997)
INCORPORATION OF A SUBDIVISION OF A PUBLIC HIGHER
EDUCATION INSTITUTION WITH ANOTHER PUBLIC HIGHER
EDUCATION INSTITUTION**

**INCORPORATION OF THE EAST LONDON CAMPUS OF RHODES
UNIVERSITY WITH THE UNIVERSITY OF FORT HARE**

I, Professor Kader Asmal, MP, Minister of Education, in accordance with section 24(1) of the Higher Education Act, 1997 (Act No. 101 of 1997), as amended, and after consulting the Council on Higher Education, hereby incorporate the East London Campus of Rhodes University with the University of Fort Hare. The date of the incorporation and the transitional arrangements required to ensure the effective implementation of the incorporation process are set out in the Schedule hereto.

Kader Asmal
Professor Kader Asmal, MP
Minister of Education

11 November 2003

SCHEDULE

The date of the incorporation
1 January 2004

The transitional arrangements

1. The Higher Education Act, as amended, prescribes that notwithstanding sections 197 and 197A of the Labour Relations Act, 1995 (Act No. 66 of 1995), the contracts of employment between the public higher education institution (the old employer) and its employees are transferred automatically to the incorporating public higher education institution as from the date of the incorporation. In this regard –
 - the contracts of employment between the Rhodes University and its employees are transferred automatically to the University of Fort Hare as from 1 January 2004. Any subsequent redeployment of an employee as a consequence of the merger is subject to applicable labour legislation;
 - all the rights and obligations between Rhodes University and its employees at the time of the incorporation continue in force as if they were rights and obligations between the University of Fort Hare and each employee and anything done before the incorporation by or in

- relation to the old employer is considered to have been done by or in relation to the new employer;
- the incorporation does not interrupt the employee's continuity of employment.
2. The Higher Education Act, as amended, prescribes that the incorporation does not affect the liability of any person to be disciplined for, prosecuted for, convicted of and sentenced for any offence or misconduct.
 3. In terms of the Higher Education Act, as amended, an employee or a student is subject to the disciplinary codes and rules applicable to the University of Fort Hare as from 1 January 2004, but if any enquiry into incapacity or any proceedings in respect of a charge of misconduct had been instituted or commenced against any employee or student before the date of the incorporation, such enquiry or proceedings continue in terms of the codes and rules applicable at the East London Campus of Rhodes University.
 4. The Higher Education Act, as amended, requires that the incorporating institution continues with all academic programmes offered by the old higher education institution under the rules applicable to such higher education institution immediately before the date of the incorporation, until such programmes and rules are amended or restructured by the incorporating institution's council. In this regard, the University of Fort Hare continues with all academic programmes offered by the East London Campus of Rhodes University under the rules applicable to the East London Campus of Rhodes University immediately before the date of the incorporation, until such programmes and rules are amended or restructured by the council of the University of Fort Hare.
 5. The Higher Education Act, as amended requires that an incorporating institution awards a degree, diploma or certificate to a student who qualifies before or after the date of the incorporation in its own name, but such degree, diploma or certificate must also reflect the name of the education institution at which the student was registered immediately before the date of the incorporation if the student was so registered. In this regard, the University of Fort Hare awards a degree, diploma or certificate to a student who qualifies before or after the date of the incorporation in its own name, but such degree, diploma or certificate must also reflect the name of Rhodes University where the student was registered immediately before the date of the incorporation if the student was so registered.