
GOVERNMENT NOTICE

DEPARTMENT OF EDUCATION

No. 976

11 September 2008

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

CENTRAL UNIVERSITY OF TECHNOLOGY, FREE STATE

STATUTE

The Council of THE Central University of Technology, Free State, 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), as amended, which is in terms of section 33 of the Act, hereby published with the approval of the Minister of Education and which comes into operation on the date of this publication.

SCHEDULE

To introduce a Statute for the Central University of Technology, Free State to give effect to the Higher Education Act, 1997 (Act No. 101 of 1997) and to promote the effective management of governance of the university of technology in respect of matters not expressly prescribed by any law.

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DEFINITIONS

1. Definitions

1.1 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), as amended, has the meaning so assigned to it, and unless the context indicates otherwise:

1.1.1 "**CUT**" means Central University of Technology, Free State;

1.1.2 "**academic employee**" means any person appointed to teach or to conduct research at the CUT, and any other employee designated as such by the Council of the CUT;

1.1.3 "**Act**" means the Higher Education Act, 1997 (Act No. 101 of 1997), as amended;

1.1.4 "**after consultation with**" means the process of approaching a structure or individual for information, advice or an opinion on a matter for consideration by the presenter without having to reach agreement with the structure or individual consulted regarding the matter presented for consultation;

1.1.5 "**Chancellor**" means the person contemplated in paragraph 3;

1.1.6 "**Convocation**" means the Convocation contemplated in paragraph 9;

1.1.7 "**Council**" means the governing body of the CUT contemplated in paragraph 4;

1.1.8 "**days**" include Saturdays, Sundays and public holidays;

1.1.9 "**diplomate**" means a person who has been awarded a diploma of the CUT;

1.1.10 "**donor**" means a person, body or entity that has made a donation, which, in the opinion of the Council, warrants that person, body or entity being recognised as a donor as contemplated in paragraph 13;

1.1.11 "**employee**" means an academic employee or a non-academic employee of the CUT;

1.1.12 "**employer**" means the Council of the CUT;

- 1.1.13 "**entity**" means any organisation, forum or body and includes any organisational structure provided for in the Act or determined by the Council;
- 1.1.14 "**functions**" include powers and duties and vice versa;
- 1.1.15 "**graduate**" means a person who has been awarded a degree of the CUT;
- 1.1.16 "**in consultation with**" means the process of approaching a structure or individual for information, advice or an opinion on a matter and then reaching an agreement with that structure or individual regarding the matter presented for consultation;
- 1.1.17 "**institution**" means a public institution contemplated in section 20 of the Act;
- 1.1.18 "**Institutional Forum**" means the Institutional Forum contemplated in paragraph 7 of this Statute and section 31 of the Act;
- 1.1.19 "**management**" means executive management, as well as management as contemplated in paragraph 10 of this Statute;
- 1.1.20 "**majority**" means 50% + 1 (FIFTY PERCENT PLUS ONE) of the votes cast;
- 1.1.21 "**Minister**" means the Minister of Education;
- 1.1.22 "**month**" means calendar month;
- 1.1.23 "**non-academic employee**" means any employee who is not an academic employee of the CUT;
- 1.1.24 "**office-bearer**" means a functionary provided for in the Act or as determined by the Council;
- 1.1.25 "**professor**" means an academic employee who has been given the title of professor by the CUT or by another institution, but does not include an emeritus or associate professor;
- 1.1.26 "**qualification**" means a certificate, a diploma or a degree;
- 1.1.27 "**quorum**" means 50% + 1 (FIFTY PERCENT PLUS ONE) of the members; the attendance of 50 members constituting a quorum would only be applicable to convocation meetings.
- 1.1.28 "**representative employees' organisation**" means an organisation consisting of employees, excluding members of CUT management, formally associated together and organised

in a staff association or trade union for the purpose of regulating relations between themselves and the CUT and which is recognised by the Council on such conditions as have been negotiated between the Council and the employees' organisation, which have been reduced to writing in the collective or recognition agreement;

1.1.29 "**rules**" mean rules made by the CUT, as contemplated in section 32 of the Act;

1.1.30 "**seat of the institution**", for the purposes of paragraph 2.1 of this Statute and section 65 A of the Act, means the physical location of the institution set out in the notice contemplated in section 20 (1), section 21 (1) and section 23 (1) of the Act;

1.1.31 "**Senate**" means the body responsible for academic matters contemplated in paragraph 5;

1.1.32 "**SRC**" means the Students' Representative Council of the CUT contemplated in paragraph 8;

1.1.33 "**student**" means a person registered for a course/module or qualification at the CUT;

1.1.34 "**sufficiently representative**" means sufficient representation by a representative employees' organisation, as determined by the particular structure to which the representation applies.

1.1.35 "**supernumerary contract**" means that, upon the expiry of the employment contract, the incumbent reverts back to his/her permanent position.

2. INSTITUTION

2.1 Name, seat and powers

2.1.1 The CUT's name may only be changed in terms of section 65 (1) of the Act.

2.1.2 The CUT's seat, in accordance with section 20 (1), Section 21 (1) and section 23 (1) of the Act, is Bloemfontein, whilst institutional operations are in Bloemfontein and Welkom."

2.1.3 The CUT is a juristic person, as contemplated in section 20 (4) of the Act.

2.1.4 Notwithstanding subparagraph 2.1.3, the CUT may not, without the concurrence of the Minister, dispose of or alienate, in any manner, any immovable property acquired with the financial

assistance of the State, or grant to any person any real right therein or servitude.

- 2.1.5 The CUT may confer degrees and honorary degrees and may award diplomas and certificates in its own name as contemplated in section 65 B and section 65 C of the Act.

2.2 Constitution of the CUT

2.2.1 The CUT consists of:

- (a) the Chancellor;
- (b) the Council;
- (c) the Senate;
- (d) the Vice-Chancellor and Principal, within the meaning of section 30 of the Act;
- (e) officers, each of whom is called deputy vice-chancellor, or such other title as the Council may determine;
- (f) the Registrar;
- (g) the SRC;
- (h) the Institutional Forum;
- (i) the faculties, the schools, the programmes and such other academic structures of the CUT as may be recommended by Senate and approved by the Council;
- (j) the academic employees of the CUT;
- (k) the non-academic employees of the CUT;
- (l) the students of the CUT;
- (m) the Convocation of the CUT; and
- (n) such other offices, bodies or structures as may be established by the Council.

- 2.2.2 No vacancy in any of the offices contemplated in subparagraph 2.2.1 or any deficiency in the numbers or defect in the composition of the bodies or structures contemplated in subparagraph 2.2.1 impair or affect neither the existence of the CUT as a juristic person nor any function conferred by the Act or this Statute upon the CUT.

3. CHANCELLOR

3.1 Functions of the Chancellor

- 3.1.1 The Chancellor is the titular head of the CUT.

- 3.1.2 The Chancellor must at all times embody the aspirations and values of the CUT and actively advance the interests of the CUT.

- 3.1.3 The Chancellor, or in his or her absence the person appointed by the Council as the case may be to act on behalf of the Chancellor, presides at all congregations of the CUT and, in the

name of the CUT, confers all degrees and awards all diplomas and certificates.

3.2 Election and appointment of the Chancellor

3.2.1 The Chancellor is elected by the Council in the following manner:

- (a) The chairperson of Council determines the date on which a meeting of the Council is to be held for the purpose of electing a Chancellor;
- (b) the secretary of Council gives due notice to the Council members of the date and time of and venue for the meeting contemplated in subparagraph 3.2.1 (a);
- (c) the secretary of Council invites the members of the Council, members of the Senate and members of the Institutional Forum to submit nominations for the office of Chancellor;
- (d) the nominations contemplated in subparagraph 3.2.1 (c) must reach the secretary of Council at least 20 (TWENTY) working days before the meeting contemplated in subparagraph 3.2.1 (a);
- (e) the nominations contemplated in subparagraph 3.2.1 (c) must be in writing in the prescribed format and must include the nominee's written consent and complete curriculum vitae;
- (f) the secretary of Council must, within 5 (FIVE) working days after the closing date for nominations, inform members of the Council, the Senate and the Institutional Forum in writing of the nominations received;
- (g) a special meeting of the Institutional Forum must be held before the meeting contemplated in subparagraph 3.2.1 (a) for purposes of considering the nominations and advising the Council on the appointment of a candidate to the office of Chancellor;
- (h) a special meeting of the Senate must be held before the meeting contemplated in subparagraph 3.2.1 (a) for purposes of considering the nominations and advising the Council on the appointment of a candidate to the office of Chancellor;
- (i) the Chancellor is elected by secret ballot and a majority of the members present at the meeting contemplated in subparagraph 3.2.1 (a); and
- (j) if no candidate receives a majority of votes, successive rounds of voting are held and in each successive round of voting the candidate receiving the fewest votes is eliminated as a candidate.

3.2.2 Once the Council has elected a Chancellor, the name of the Chancellor is announced by the chairperson of Council.

3.3 Term of office of the Chancellor

3.3.1 The Chancellor holds office for a period of 4 (FOUR) years, unless he or she resigns or is removed from office in accordance with subparagraph 3.3.4.

3.3.2 If the Chancellor is unable, for any reason, to perform the functions of his or her office, or if the office of Chancellor becomes vacant, the Vice-Chancellor and Principal or the acting Vice-Chancellor and Principal performs the functions of Chancellor.

3.3.3 The term of office of the Chancellor terminates in the event of:

- (a) death or incapacity;
- (b) resignation; or
- (c) removal from office by the Council.

3.3.4 The Chancellor may only be removed from office by the Council.

4. COUNCIL

4.1 Functions of the Council

4.1.1 Subject to the Act and this Statute, the Council governs the CUT.

4.1.2 Without derogating from the generality of subparagraph 4.1.1, the Council:

- (a) approves policies, procedures and other institutional regulatory documents for the CUT;
- (b) establishes Council committees and determines the composition and functions of each committee;
- (c) establishes, in consultation with the Senate, joint committees of the Council and the Senate to perform functions common to the Council and the Senate;
- (d) appoints all employees of the CUT, but, in the case of academic employees of the CUT, it may do so only after consultation with the Senate;
- (e) determines the student admission policy of the CUT, in consultation with the Senate and the Students' Representative Council;
- (f) determines, with the approval of the Senate and after consultation with the Students' Representative Council, the entrance requirements in respect of particular CUT programmes, the number of students who may be admitted to a particular CUT programme and the manner of their selection, and the minimum requirements for readmission to study at the CUT;

- (g) may, with the approval of the Senate and after consultation with the Students' Representative Council, refuse readmission to a student who fails to satisfy the minimum requirements for readmission;
- (h) determines and provides student support services after consultation with the SRC; and
- (i) after consultation with the Students' Representative Council, provides for a suitable structure to advise on the policy for student support services within the CUT.

4.1.3 Without derogating from the generality of subparagraph 4.1.1, the Council:

- (a) formulates the institutional Statute and any amendments thereto;
- (b) approves the constitution of the SRC, as well as any amendments thereof;
- (c) directly appoints the executive management, as defined, of the CUT;
- (d) determines the conditions of service, disciplinary provisions, and privileges and functions of its employees;
- (e) may, in the manner set out in the disciplinary rules, suspend or dismiss any executive employee of the CUT;
- (f) may order an executive employee whom it has suspended to refrain from being on any premises under the control of the CUT and to refrain from participating in any of the CUT's activities, or issue such other conditions as it may deem necessary;
- (g) determines the language policy of the CUT, in consultation with the Senate;
- (h) approves, in consultation with the Senate, the academic structures required and the functions of each structure, in order to ensure efficient governance;
- (i) determines tuition fees, accommodation fees and any other fees payable by students, as well as accommodation and tuition fees payable by employees;
- (j) approves the annual budget of the CUT;
- (k) may conclude a loan or overdraft agreement, subject to the proviso that the approval of the Minister is required whenever the aggregate of existing borrowings plus the new contemplated borrowing exceeds 5% (FIVE PERCENT) of the average income of the CUT received during the 2 (TWO) years immediately preceding such agreement;
- (l) may enter into an agreement for the construction of a permanent building or other immovable infrastructural development, the purchasing of immovable property or the long-term lease of immovable property, subject to the proviso that the approval of the Minister is required if the value of such development or property exceeds 5% (FIVE

PERCENT) of the average income of the CUT received during the 2 (TWO) years immediately preceding the agreement;

- (m) approves restructuring and redeployment of executive employees in the institution; and
- (n) approves the performance management system of the employees.

4.1.4 Subject to section 68 of the Act, the Council may delegate any of the functions referred to in subparagraph 4.1.2, excluding approval of rules, policies, procedures or other institutional regulatory documents relating to Human Resources, Finances, and Audit and Risk Management. Council may also not delegate any of the functions referred to in subparagraph 4.1.3.

4.1.5 The Council is not divested of responsibility for the performance of any function delegated or assigned under subparagraph 4.1.4.

4.2 Composition of the Council

4.2.1 The Council, as contemplated in section 27 of the Act, consists of:

- (a) the Vice-Chancellor and Principal;
- (b) a maximum of 3 (THREE) deputy vice-chancellors;
- (c) 5 (FIVE) persons appointed by the Minister;
- (d) 2 (TWO) members of the Senate elected by the Senate;
- (e) 1 (ONE) academic employee of the CUT elected by the academic employees;
- (f) the SRC president and 1 (ONE) member of the SRC, as determined by the SRC constitution;
- (g) 1 (ONE) non-academic employee elected by the non-academic employees;
- (h) 1 (ONE) member of the Convocation elected by the Convocation, provided that such a member is not an employee or student;
- (i) 10 (TEN) external members with a broad spectrum of competencies in the fields of education (1 (ONE) member), business (1 (ONE) member), agriculture (1 (ONE) member), finance (2 (TWO) members), law (1 (ONE) member), marketing (1 (ONE) member), technology (2 (TWO) members) and human resources management (1 (ONE) member) appointed by the Council;
- (j) the chairperson of the Institutional Forum.

4.2.2 At least 60% (SIXTY PERCENT) of the members of the Council must be persons who are not employed by, or students of, the CUT and due regard must be paid to racial and gender representation on the Council.

4.2.3 The Council members must have knowledge and experience relevant to the objectives and governance of the CUT.

4.2.4 Except as provided in subparagraphs 4.2.1 (a), (b), (d), (e), (f), (g), and (j):

- (a) no student or employee of the CUT and no other person in receipt of regular remuneration from the CUT is eligible for appointment or nomination for election as a member of the Council; and
- (b) a member of the Council who becomes a student or an employee of the CUT or who enters into a contract with the CUT in terms of which he or she is to receive regular remuneration from the CUT must forthwith resign from the Council.

4.3 Election of Council members

4.3.1 Members of the Council are elected in the manner determined by the Council.

4.3.2 If the Council resigns as contemplated in subparagraph 4.5.3, all members of the Council are elected in the manner determined by the administrator referred to in Section 41 A of the Act.

4.4 Term of office of members of Council

4.4.1 Student members of the Council remain members of the Council for the term of office determined by the SRC when they are elected, provided that membership ceases automatically when a student member ceases to be a member of the SRC.

4.4.2 The term of office of members of the Council who are not students or employees of the CUT is 4 (FOUR) years.

4.4.3 Notwithstanding subparagraph 4.4.2, at the first meeting of the Council it must be decided by lot which 8 (EIGHT) members of the Council who are not students or employees of the CUT will hold office for a period of 3 (THREE) years.

4.4.4 The term of office of the elected members of Council who are employees of the CUT, except that of the Vice-Chancellor and Principal and the deputy vice-chancellors, is 2 (TWO) years.

4.4.5 A member may serve more than 1 (ONE) consecutive term of office as a Council member, up to a maximum of 2 (TWO) consecutive terms.

4.5 Termination of membership and filling of vacancies

4.5.1 A Council member's term of office terminates if:

- (a) he or she tenders a written resignation;
- (b) the Minister, or the entity who appointed or elected the member to the Council, terminates the membership in writing at any time before the expiry of the member's term of office;
- (c) he or she is absent without leave from 3 (THREE) consecutive meetings of the Council;
- (d) he or she is declared insolvent;
- (e) he or she is removed from an office of trust by a court of law or is convicted of an offence for which the sentence is imprisonment without the option of a fine; and
- (f) he or she, in the majority opinion of the Council, is deemed to be incapacitated.

4.5.2 The Council has the power to take disciplinary action against a member and to suspend or terminate a member's membership.

4.5.3 If 75% (SEVENTY-FIVE PERCENT) or more of the members of the Council resign, the Council is deemed to have resigned as contemplated in section 27 (8) of the Act.

4.5.4 If the Council resigns as contemplated in subparagraph 4.5.3, a new Council must be constituted in terms of this Statute.

4.6 Election of the chairperson and vice-chairperson of Council and their terms of office

4.6.1 The chairperson and the vice-chairperson of Council must not be elected from amongst the members contemplated in subparagraph 4.2.1 (a), (b), (d), (e), (f), (g) and (j).

4.6.2 The chairperson and the vice-chairperson of Council are each elected for a period of 2 (TWO) years.

4.6.3 The chairperson and the vice-chairperson are eligible for re-election.

4.6.4 Nominations for the office of chairperson and vice-chairperson of Council must be in writing and be directed to the secretary of Council.

4.6.5 If more than 1 (ONE) candidate is nominated, voting is by secret ballot.

- 4.6.6 Each member of the Council has only 1 (ONE) vote during a ballot, and no proxy is allowed.
- 4.6.7 A majority of all members present elects the chairperson and the vice-chairperson.
- 4.6.8 Whenever a vacancy occurs in the office of the chairperson or the vice-chairperson, the provisions of subparagraph 4.6.4 to subparagraph 4.6.7 apply, with the necessary changes, to the filling of such vacancy.
- 4.6.9 A person who fills a vacancy in terms of subparagraph 4.6.8 holds office until the end of the predecessor's term.

4.7 Secretary of Council

- 4.7.1 The secretary of Council is the Registrar, as contemplated in section 26 (4) (b) of the Act.
- 4.7.2 The secretary acts as electoral officer.
- 4.7.3 The secretary attends all meetings and prepares and keeps all relevant documents of the Council.
- 4.7.4 The secretary may assign any other administrative employee to assist in discharging his or her responsibilities, but will remain accountable to Council for the execution of such delegated duties.

4.8 Meetings of the Council

- 4.8.1 The Council holds at least 4 (FOUR) ordinary meetings during each calendar year.
- 4.8.2 Notice of any motion for consideration at the next ordinary meeting must be in writing in the prescribed format and must be lodged with the secretary at least 21 (TWENTY-ONE) days before the date determined by the Council for such meeting, provided that any matter of an urgent nature may, without prior notice and with the consent of the chairperson and a majority of the members present, be considered at such meeting.
- 4.8.3 At least 7 (SEVEN) days prior to the date of an ordinary meeting, the secretary gives due notice to each member of all the matters to be dealt with at such meeting, and states the time and place of such meeting.
- 4.8.4 A special meeting may be called by the chairperson, and the objective of such meeting must be clearly stated, provided

further that at least 7 (SEVEN) days' notice of a special meeting is given.

- 4.8.5 A special meeting must be called by the chairperson at the written request of at least 5 (FIVE) members, with the objective of such meeting being clearly stated in the request, provided that at least 7 (SEVEN) days' notice of a special meeting is given.
- 4.8.6 No business other than that for which the special meeting was called may be transacted at such meeting.
- 4.8.7 An emergency meeting may be called by the chairperson, or in his or her absence by the Vice-Chancellor and Principal, at any time, provided that members are given at least 24 (TWENTY-FOUR) hours' notice of such meeting.
- 4.8.8 Notice of an emergency meeting must be given to all members in any manner convenient under the circumstances.
- 4.8.9 The objective of an emergency meeting must be stated to members, and no business other than that stated may be transacted at such meeting.

4.9 Meeting procedure of the Council

- 4.9.1 The Council members must participate in the deliberations of the Council in the best interests of the CUT.
- 4.9.2 Except where otherwise provided in this Statute, all acts or matters authorised or required to be carried out or decided by the Council or its committees, and all questions that may come before it, are carried out or decided by the majority of the members present at any meeting, provided that the number present at any meeting is at least 50% + 1 (FIFTY PERCENT PLUS ONE) of the total number of members of the Council or the committee in question who are holding office on the date of such meeting.
- 4.9.3 In the absence of the chairperson and the vice-chairperson of Council, the members present elect 1 (ONE) of their members to preside at such meeting.
- 4.9.4 The first act of an ordinary meeting, after being constituted, is to read and confirm, by the signature of the chairperson, the minutes of the preceding ordinary meeting and of any special or emergency Council meeting subsequently held, provided that the meeting may consider the minutes as read if a copy thereof was previously sent to every member of the Council, and provided

further that objections to the minutes of a meeting are raised and decided prior to confirmation of the minutes.

- 4.9.5 A member of the Council may not, without the consent of the meeting, speak more than once on a motion or on any amendment, and the mover of any motion or any amendment has the right to reply.
- 4.9.6 Every motion or amendment must be seconded and, if so directed by the chairperson, must be in writing.
- 4.9.7 A motion or an amendment seconded as contemplated in subparagraph 4.9.6 may not be withdrawn except with the consent of the meeting.
- 4.9.8 The chairperson has an ordinary vote on any matter and, in the event of an equality of votes, also a casting vote.
- 4.9.9 If so decided by the meeting, the number of members voting for or against any motion must be recorded in the minutes, and at the request of any member the chairperson must instruct that the vote of such member be likewise recorded.
- 4.9.10 When a majority of the members of the Council reaches agreement on a matter referred to them by the chairperson by letter or electronic means, without a meeting being convened, and where a resolution in this respect is conveyed by letter or electronic means, such resolution is equivalent to a resolution of the Council and must be recorded in the minutes of the next ordinary meeting.
- 4.9.11 The views of a member of the Council who is unable to attend a meeting may be submitted to the meeting in writing, but may not count as a vote of such member.
- 4.9.12 The ruling of the chairperson on a point of order or procedure is binding unless immediately challenged by a member, in which event such ruling must be submitted without discussion to the meeting, whose decision is final.

4.10 Conflict of interest of Council members

- 4.10.1 A member of Council may not have a conflict of interest with the CUT.
- 4.10.2 A member of Council who has a direct or indirect financial, personal or other interest in any matter to be discussed at a meeting and which entails or may entail a conflict or possible conflict of interest must, before or during such meeting, declare the interest.

4.10.3 Prior to a meeting any person may inform the chairperson in writing of a conflict or possible conflict of interest of a Council member of which such person may be aware.

4.10.4 The member is obliged to excuse him or herself from the meeting during the discussion of and voting on the matter.

4.11 Committees of Council

4.11.1 The Council appoints:

- (a) an executive committee;
- (b) a remuneration committee
- (c) an audit committee;
- (d) a planning, finance and resources committee;
- (e) a human resources committee; and
- (f) such other committees as may be required.

4.11.2 The composition and functions of the committees are determined by the Council.

4.11.3 At least 60% (SIXTY PERCENT) of the members of a committee must be persons who are not employees or students of the CUT.

4.11.4 The chairperson of a committee may not be an employee or a student of the CUT.

4.11.5 The chairperson of Council is also chairperson of the Executive Committee of Council and of the Remuneration Committee. The chairperson of Council does not serve on any other standing committee of Council.

4.12 Minutes of Council and committee meetings

4.12.4 The secretary of Council keeps the minutes of each meeting of the Council and includes such minutes in the agenda of the next Council meeting when the agenda is sent out in terms of subparagraph 4.8.3.

4.12.5 The minutes of all committee meetings must be included in the agenda of the next ordinary meeting of the Council following the respective committee meetings.

4.13 Drafting, amending or rescinding the Statute

4.13.4 No motion to draft, amend or rescind this Statute or a rule is of force and effect unless adopted by at least 75% (SEVENTY-FIVE PERCENT) of all members present at the meeting of Council, provided that such meeting is constituted by at least