
GOVERNMENT NOTICE

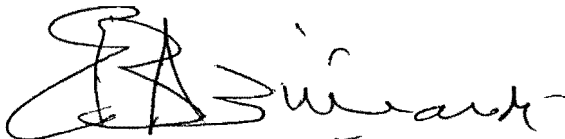
DEPARTMENT OF HIGHER EDUCATION AND TRAINING

No. 343

15 April 2011

*HIGHER EDUCATION ACT (ACT 101 OF 1997)***APPOINTMENT OF AN ADMINISTRATOR TO THE UNIVERSITY OF ZULULAND**

I, Bonginkosi Emmanuel Nzimande, MP, Minister of Higher Education and Training, in terms of Section 41A of the Higher Education Act, 1997 (Act No. 101 of 1997), hereby appoint Professor Chris de Beer as Administrator to the University of Zululand, following the report of the Independent Assessor, Professor Hugh Africa, into the affairs of the university. The terms of reference for this appointment are attached hereto.



Dr Bonginkosi Emmanuel Nzimande, MP

Minister of Higher Education and Training

11/04/11

TERMS OF REFERENCE
of the
MINISTER OF HIGHER EDUCATION & TRAINING
to the
ADMINISTRATOR FOR THE UNIVERSITY OF ZULULAND

PREAMBLE

In terms of the Higher Education Act, 1997 (Act No. 101 of 1997), as amended, the Minister of Education may appoint an Administrator for a public higher education institution in terms of section 41A of the Act, which states:

41A Appointment of administrator

- (1) If an audit of the financial records of a public higher education institution, or an investigation by an independent assessor as contemplated in section 47, reveals financial or other mal-administration of a serious nature at a public higher education institution or the serious undermining of the effective functioning of a public higher education institution, the Minister may, after consultation with the council of the public higher education institution concerned, if practicable, and notwithstanding any other provision of this Act, appoint a person as administrator to take over the authority of the council or the management of the institution and perform the functions relating to governance or management on behalf of the institution for a period determined by the Minister, and such period may not exceed two years.

[Sub-s. (1) substituted by s. 15 of Act 23 of 2001.]

- (2) The Minister may extend the period referred to in subsection (1) once for a further period not exceeding six months.
- (3) Notwithstanding subsection (1), if a council is deemed to have resigned as contemplated in section 27 (8), the Minister must appoint a person for a period of not longer than six months as an administrator on behalf of the institution to:
- (a) take over the authority of council;
 - (b) perform the council's functions relating to governance; and
 - (c) ensure that a new council is constituted.

[Sub-s (3) added by s11 of Act 63 of 2002.]

[S. 41A inserted by s. 6 of Act 55 of 1999.]

In terms of section 45 (a) of the Higher Education Act (Act 101 of 1997), the Minister of Higher Education Training appointed an Independent Assessor to conduct an investigation into the affairs of the University of Zululand. The general purpose of the investigation was to advise the Minister and the university council on:

- The nature of problems facing the institution, including those relating to governance, financial practices, management and procurement practices, administrative matters, student governance, and any other matters that may arise
- Measures required to resolve problems identified in all areas
- Clear short, medium and long-term recommendations

In this regard the Minister of Higher Education and Training appointed Professor Hugh Africa as the Independent Assessor at the University of Zululand. Professor Africa was supported by a team of specialists in the broad areas of governance and management structures, and finance as per the terms of reference.

The Independent Assessor commenced his work on 22 November 2010, and reported to the Minister of Higher Education and Training within 30 days as required in terms of Section 47 of the Higher Education Act 101 of 1997. The initial reporting period was extended because of the December holidays. The final report was submitted to the Minister of Higher Education and Training at the end of January 2011.

The specific terms of reference of the Independent Assessor were:

Assess the financial management systems of the University.

Conduct a detailed analysis of and provide a report on the current situation of the university governance and executive management structures, in particular their functioning and efficacy, and relationships between the various structures and portfolios

- Conduct a thorough investigation of the financial policy and procedures of the institution, with a specific focus on internal audit processes, procurement and tender procedures, expenditure on legal fees, donor funding management, the management of NSFAS allocations, and any specific allegations of financial irregularity that may be brought to the attention of the Independent Assessor
- Investigate the operations of the Office of the Registrar in relation to management of academic affairs, registration and certification matters and any other matters that the Independent Assessor believes warrants investigation
- Investigate the problems in the area of student governance, including a review of the 2009 SRC elections and related violence and the mechanisms in place to resolve these problems
- Investigate and report on any other matters that, in the opinion of the Independent Assessor, may impact on the effective functioning of the university, from the analysis of problems relating to governance and management

To make Recommendations on:

- The restoration of good governance, specifically in relation to the Executive Management of the university and its Council
- Short, medium and long-term solutions required to address any issues identified in relation to the areas in the Terms of Reference
- Any action required to ensure effective academic operations at the university; and

- Ways of resolving the challenges relating to student governance
- Any other areas of action required to ensure the effective functioning of the university

I have received and considered the report of the Independent Assessor and the advice of the Council of the University of Zululand in this regard. It is evident in the report that there are serious problems in the governance and management of the University, which are undermining the effective functioning of the institution. The key recommendations of the Independent Assessor are:

1. The current Council must be disbanded and an Administrator appointed to assume the role, functions and powers of Council. Clearly, some members of the present Council are persons of integrity committed to the betterment of the University. However, the fact that there is no limit to the number of terms that can be served has both positive and negative implications for the governance of UNIZULU.
2. New members of Council must be inducted into their role as Councillors and the standard codes of conduct and confidentiality must be instituted. Conflicts of interest relating to membership on Council and personal business interests must be avoided. Common and best practice in this regard must be observed.
3. The Council on Higher Education recently concluded an audit of the University and its recommendations must be implemented. The primacy of the academic enterprise must be recognised and the academic staff must assume leadership in re-structuring the academic programmes to enable the University to meet its mandate as a comprehensive university.
4. A special forensic investigation must be conducted to establish the causes for the malpractices in appointments, remuneration and procurement. To date several investigations covering student issues, graduation and the registrar's office have been conducted and reports tabled. However, there appears to be no follow-up and corrective measures taken. Sadly, not enough has been done to investigate issues pertaining to finance, procurement and human capital/resources issues. A full forensic investigation on the total well-being of the institution must be undertaken. In particular the basis for the annual subsidy for UNIZULU must be investigated.
5. The internal systems of the University relating to admissions, registration, general enrolment, the conduct and security of examinations, entry and change

I have accepted the report and recommendations of the Independent Assessor, In this regard, I, BE Nzimande MP, Minister of Higher Education and Training have decided to appoint Professor Chris de Beer as Administrator for the University of Zululand in terms of section 41A of the Higher Education Act, with the following terms of reference:

TERMS OF REFERENCE

The general and specific terms of reference of the Administrator are:

- To take over the authority of the Council of the University of Zululand, for a period not exceeding two years, subject to review of progress after 12 months.

- To identify and initiate processes and initiatives that restore proper governance and administration at the University of Zululand.
- To initiate the appointment of a new Council at the University of Zululand, including the establishment of necessary Council sub-committees and the drafting and submission to the Minister of Higher Education and Training, of a new statute for the University.
- To initiate and conclude, the forensic audit of the University as recommended by the Report of the Independent Assessor and any other matters that may have arisen.
- To initiate and conclude, disciplinary procedures against members of staff who are charged from the outcome of any investigation, including the forensic audit.
- To ensure that the University has a legally constituted Council in terms of the new statute of the University of Zululand, to be approved by the Minister of Higher Education and Training.

The Administrator will commence duties on 18 April 2011.
