

No. 999 of 1986.

Papua New Guinea University of Technology Act 1986.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. of 1986.

Papua New Guinea University of Technology Act 1986.

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Papua New Guinea University of Technology Act 1986,

Being an Act to provide for the governance and continued incorporation of the Papua New Guinea University of Technology established by the *Papua New Guinea University of Technology Act* (Chapter 170) and for the repeal of that Act and for related matters.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

- (1) This Act, to the extent that it regulates or restricts the right to freedom of information conferred by Section 51 of the *Constitution*, is a law that is made for that purpose.
- (2) For the purposes of Section 53 (*protection from unjust deprivation of property*) of the *Constitution* and of this Act and of any other law, the purposes of the University are public purposes.
- (3) For the purposes of Section 159 (*tribunals, etc., outside the national judicial system*) of the *Constitution*, the University is declared to be an association, the members of which include its employees and students.

2. INTERPRETATION.

In this Act, unless the contrary intention appears—

“**Academic Board**” means the Academic Board established under Section 11;

“**academic posts**” includes Professorships, Lectureships and any other category determined by the Council from time to time;

“**authority**” means an authority of the University as specified in Section 8;

“**by-laws**” means the by-laws of the University as approved by the Council;

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“**Minister**” means the Minister responsible for Department of Office of Higher Education Research, Science and Technology, if required.

“**connected institutions**” means institutions connected with the University in accordance with Section 6(d);

“**Council**” means the Council of the University established under Section 9;

“**graduate**” means a person whose name is inscribed on a roll to be kept by the Council of holders of degrees conferred by the University;

“**Rules**” means Rules made by an appropriate authority or officer of the University;

“**Statute**” means a Statute of the University in force under Part V;

“**this Act**” includes the Statutes, by-laws or Rules;

“**University**” means the Papua New Guinea University of Technology.

PART II. – THE UNIVERSITY.

3. CONTINUATION OF ESTABLISHMENT OF THE UNIVERSITY.

- (1) The Papua New Guinea University of Technology established by the *Papua New Guinea University of Technology Act* (Chapter 170) is, on the repeal of that Act, deemed to be established under this Act and shall continue its legal entity without interruption and shall be governed by the provisions of this Act.
- (2) The University—
 - (a) is a body corporate by the name of “The Papua New Guinea University of Technology”; and
 - (b) has perpetual succession; and
 - (c) shall have a common seal; and
 - (d) is capable by that name of—
 - (i) suing and being sued; and
 - (ii) taking, purchasing and holding property (including property devised, bequeathed or given to the University); and
 - (iii) granting, selling, alienating, assigning and demising property; and
 - (iv) doing all other matters and things incidental or appertaining to a body corporate.

4. CUSTODY AND USE OF THE SEAL.

- (1) The seal of the University shall be kept in such custody as the Council directs and shall not be used except by resolution of the Council or in such other manner as is authorized by the Statutes.
- (2) All courts, Judges and persons acting judicially shall take judicial notice of the seal of the University affixed to a document and shall presume that it was duly affixed.

5. OBJECTS OF THE UNIVERSITY.

The objects of the University are—

- (a) the advancement and dissemination of knowledge by teaching, research and otherwise, with particular reference to its practical application; and
- (b) the provision of liberal and professional education responsive to the needs of Papua New Guinea.

6. POWERS OF THE UNIVERSITY.

The University shall have the power—

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- (a) to grant or confer such degrees as are authorized by the Statutes and such diplomas, certificates or other academic awards as it determines; and
- (b) to provide instruction and facilities for study, education and research to persons registered as preparing for degrees, diplomas, certificates or other awards of the University; and
- (c) to provide facilities for extra-mural study and continuing education in such fields and in such manner as the University may from time to time determine; and
- (d) to co-operate, in pursuance of any of the objects of the University, with any other bodies or persons and to enter into agreements authorized by Statutes with institutions for their association with or incorporation into the University; and
- (e) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, to appoint academic, administrative and other staff on such terms and conditions of service as the University may determine; and
- (f) to provide for promoting the health and general welfare of the students of the University; and
- (g) to regulate and enforce discipline among the employees and students of the University by such measures as the University may determine; and
- (h) to cancel, annul or revoke any act done in the exercise of these powers; and
- (i) to do all such other acts or things as may be done under the provisions of this Act or as may be conducive to the exercise of these powers or to the attainment of any of the objects of the University.

7. NO DISCRIMINATION ON GROUNDS OF RELIGION, SEX OR RACE.

A person shall not be denied—

- (a) admission as a student to the University; or
- (b) appointment to an office or post of the University; or
- (c) graduation; or
- (d) any benefit or privilege of the University, on the grounds only of religious or political belief, sex or ethnic origin.

PART III. – ADMINISTRATION.

8. AUTHORITIES OF THE UNIVERSITY.

The authorities of the University consist of–

- (a) the Council, which is the governing body of the University; and
- (b) the Academic Board, which is the principal academic body of the University; and
- (c) such other authorities as may be established and declared by Statute to be authorities of the University.

9. THE COUNCIL.

(1) There is established a Council which shall consist of–

- (a) the Chancellor who shall be Chairman; and
- (b) the Pro-Chancellor; and
- (c) the Vice-Chancellor; and
- (d) the Deputy Vice-Chancellor; and
- (e) the Vice-Chancellor of the University of Papua New Guinea; and
- (f) A person nominated by the Departmental Head of Department of Higher Education, Research Science and Technology, who shall be *ex officio* members, and–
- (g) two Members of the Parliament elected by it; and
- (h) two Heads of Departments of the University of professorial status, elected by the Heads of Departments of the University; and
- (i) one member of the non-professorial full-time academic staff of the University elected by such staff; and
- (j) one member of the full-time non-academic staff of the University elected by such staff; and
- (k) two currently registered full-time students of the University, one man and one woman, elected by the whole body of students; and
- (l) subject to Subsection (2), not more than 14 persons, not being employees or students of the University, appointed by the Council, of whom eight shall be nominated by the Minister, and at least one shall be a woman.

(2) The members appointed under Subsection (1)(l) shall include persons experienced in–

- (a) the direction and management of industry or commerce; and
- (b) the promotion of trade union interests; and
- (c) the practice of professions relevant to the work of the University.

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10. FUNCTIONS OF THE COUNCIL.

(1) Subject to Subsection (2), the functions of the Council are—

- (a) to appoint Officers, Professors, Heads of Departments of the University, academic, administrative and other staff of the University; and
- (b) to have the charge of the management and administration of the income, property and personnel of the University, and the conduct of all matters relating to the University not otherwise provided for in or under subordinate legislation made in accordance with this Act; and
- (c) to approve the annual report, annual financial statements, the audit report thereon and the budget of the University for the next financial year; and
- (d) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act; and
- (e) generally, to take such action as appears to it best calculated to promote the interests of the University.

(2) In determining any matter which directly affects the academic policy of the University, the Council shall consult with the Academic Board.

10A The National Executive Council shall all appointments that are proposed to be made under Subsection 9 (1) (g) & (i) before the nominations and appointments are confirmed.

11. ACADEMIC BOARD.

There is established an Academic Board which shall consist of—

- (a) the Vice-Chancellor who shall be Chairman; and
- (b) the Deputy Vice-Chancellor; and
- (c) the University Librarian; and
- (d) the Professors of the University; and
- (e) the Heads of Academic Departments of the University, who shall be *ex officio* members and—
- (f) two currently registered full-time students of the University, one man and one woman, elected by the whole body of the students; and
- (g) one full-time non-professorial member of the academic staff of each Academic Department of the University elected from among their number by the full-time non-professorial members of the academic staff of each Academic Department; and
- (h) such Heads of connected institutions as the Council may determine.

12. FUNCTIONS OF THE ACADEMIC BOARD.

The functions of the Academic Board are—

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- (a) to have the control and general regulation, and be responsible for the maintenance of standards of admission, instruction, education, research and examination; and
- (b) to decide matters relating to the award or conferment of degrees, diplomas, certificates and other academic distinctions; and
- (c) to exercise such other powers and perform such other duties as may be conferred or imposed on it by this Act.

13. OTHER AUTHORITIES.

The composition, chairmanship, powers and functions of such other authorities as may be declared by Statute to be authorities of the University, shall be as prescribed by the Statutes under which they are established.

14. MEMBERSHIP OF AUTHORITIES GENERALLY.

- (1) Subject to Subsection (3), a person other than a student appointed or elected to an authority holds office for a period of two years and, subject to the provisions of any Statute to the contrary, is eligible for re-appointment or re-election.
- (2) A student appointed or elected to an authority holds office for one year and is not eligible for re-appointment or re-election.
- (3) The periods of the first appointments made to an authority following the coming into operation of this Act shall—
 - (a) in the case of the Council and the Academic Board—be in accordance with the provisions of Schedule 1; and
 - (b) in the case of any other authority—be in accordance with the Statute under which it is established.

15. DISQUALIFICATIONS.

A person who—

- (a) is not of the full age of 18 years, unless he is a student of the University; or
- (b) is an undischarged bankrupt or has his affairs under liquidation by arrangement with his creditors; or
- (c) has been convicted of an offence and sentenced to imprisonment and who has not been granted a free pardon or undergone the sentence; or
- (d) is a person of unsound mind within the meaning of the laws relating to insanity or unsoundness of mind; or
- (e) is barred from membership under the provisions of a Statute governing staff or student discipline,

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is not qualified to be elected or appointed as, or to remain as, a member of an authority.

16. VACATION OF OFFICE.

- (1) If a member of an authority—
 - (a) dies; or
 - (b) declines to act; or
 - (c) resigns his seat; or
 - (d) is absent without leave from three consecutive meetings of the authority; or
 - (e) in the case of a Member of the Parliament—ceases to be a Member of the Parliament; or
 - (f) in the case of a student—ceases to be a student or to reside permanently in the country; or
 - (g) not being a person referred to in Paragraph (e) or (f)—ceases to have the qualification by virtue of which he was elected; or
 - (h) becomes a person referred to in Section 15, his seat becomes vacant and shall be filled as a casual vacancy in accordance with Section 17.
- (2) For the purposes of Subsection (1)(e), a Member of the Parliament shall be deemed not to have ceased to be a Member of the Parliament while he continues to be paid an allowance under the *Salaries and Remuneration Commission Act 1988*.

17. FILLING OF VACANCIES.

- (1) Where a person ceases to be a member of an authority—
 - (a) on the expiration of his term of office; or
 - (b) for some other reason or in some other circumstances, the election or appointment to fill the vacancy shall, subject to Section 18(2), be held or made as soon as is practicable, and in any case not later than two months after the date on which the vacancy occurs.
- (2) Where, as a result of the failure of a body so empowered, to appoint, elect or nominate sufficient members to an authority by the date prescribed, a vacancy occurs in the authority—
 - (a) the Chancellor, where the body concerned is under the control of the University; and
 - (b) the Minister, in all other cases, may appoint a person to fill the vacancy, and the person so appointed shall hold office as if appointed, elected or nominated as required by this Act.

18. CASUAL VACANCIES.

- (1) In the event of a casual vacancy in an authority, a member shall be elected or appointed in accordance with the appropriate provisions relating to the election or appointment of that member to that authority, and shall hold office, subject to this Act, for the residue of his predecessor's term of office.
- (2) If a casual vacancy occurs within three months before the expiration of the term of office of a member, the vacancy shall not be filled for the remainder of the term.

19. QUORUM AT MEETING.

At a meeting of an authority, unless a Statute otherwise provides, not less than 40% of the total number of members for the time being is a quorum.

20. VOTING AT MEETINGS.

- (1) All questions to be decided at a meeting of an authority shall be decided by a majority of the members present.
- (2) The member presiding at a meeting of an authority shall have a deliberative and, in the case of an equality of votes on any question, also a casting vote.
- (3) A member of an authority shall not be entitled to vote either in the authority or in any committee thereof on any subject in which he has a direct pecuniary interest.

21. LIMITATIONS ON STUDENT MEMBERS OF AUTHORITIES.

- (1) Student members of—
 - (a) the Council; and
 - (b) the Academic Board; and
 - (c) such other authorities or committees as the Council or the Academic Board may from time to time determine,shall not—
 - (d) participate in the consideration of; or
 - (e) receive or be entitled to receive papers relating to, reserved business.
- (2) For the purpose of Subsection (1), “**reserved business**” includes business relating to—
 - (a) appointments, promotions and other matters affecting the personal affairs of staff; and
 - (b) admission and assessment of individual students.

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- (3) In any case where there is doubt as to whether business is reserved business under Subsection (2), the chairman of the meeting of the authority at which it is to be discussed or decided shall, in his own absolute judgement, decide whether or not it is reserved business.

22. CHAIRMANSHIP.

In the absence of the chairman of an authority at a meeting of the authority, a member elected by the members present from amongst their own number shall preside.

23. COMMITTEES.

- (1) An authority may by resolution constitute and appoint such committees as it thinks fit.
- (2) A committee constituted in accordance with Subsection (1) shall exercise, subject to the jurisdiction of the various authorities, such powers as are conferred on it by the resolution constituting the committee.

24. DELEGATION.

An authority may by resolution delegate any of its powers and functions (other than the power of delegation and, in the case of the Council, its power to make Statutes) to—

- (a) any member of the authority; or
- (b) a committee consisting of members of the authority with or without other persons; or
- (c) an officer of the University.

PART IV. – OFFICERS.

25. OFFICERS OF THE UNIVERSITY.

The Officers of the University shall be—

- (a) the Chancellor; and
- (b) the Pro-Chancellor; and
- (c) the Vice-Chancellor; and
- (d) the Deputy Vice-Chancellor; and
- (e) such other persons in the service of the University as may be declared by Statutes to be Officers of the University.

26. THE CHANCELLOR.

- (1) There shall be a Chancellor who shall be appointed by the National Executive Council.
- (2) The Chancellor shall be the ceremonial head of the University and, if present, shall preside at convocations of the University for conferring degrees and at meetings of the Council.
- (3) The Chancellor shall perform such other functions and duties as may be prescribed by this Act.

27. THE PRO-CHANCELLOR.

- (1) There shall be a Pro-Chancellor who shall be appointed by the National Executive Council.
- (2) The Pro-Chancellor shall, in the absence of the Chancellor, perform the functions of the Chancellor.

28. THE VICE-CHANCELLOR.

- (1) There shall be a Vice-Chancellor who shall be appointed in the manner and for the period prescribed by the Statutes subject to approval of appointment by the National Executive Council.
- (2) The Vice-Chancellor shall be a full-time salaried Officer of the University and, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, matters relating to his emoluments and other terms and conditions of employment shall be prescribed by the Statutes.

29. FUNCTIONS AND POWERS OF VICE-CHANCELLOR.

The Vice-Chancellor shall—

- (a) be the academic and administrative head of the University and shall exercise general supervision and control over the affairs of the University; and

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- (b) give effect to the decisions of the authorities of the University and shall ensure that the provisions of this Act are duly observed; and
- (c) where, in his opinion, there has arisen an emergency which requires that immediate action be taken, take such action as he deems necessary and report the same to the next meeting of the authority which, in the ordinary course, would have dealt with the matter; and
- (d) be the *ex officio* chairman of the Academic Board and of such authorities as the Council shall determine and shall, in the absence of the Chancellor and the Pro-Chancellor, preside at any convocation of the University for conferring degrees; and
- (e) exercise such other powers and perform such other functions as may be prescribed by this Act.

30. THE DEPUTY VICE-CHANCELLOR.

- (1) There shall be a Deputy Vice-Chancellor who shall be appointed in the manner and for the term prescribed by the Statutes.
- (2) The Deputy Vice-Chancellor shall, in the absence of the Vice-Chancellor, exercise the powers, perform the functions and discharge the duties of the Vice Chancellor.
- (3) The Deputy Vice-Chancellor shall exercise such powers, perform such functions and discharge such duties as the Vice-Chancellor may, from time to time delegate to him, or as may be imposed or conferred on him by this Act.

31. OTHER OFFICERS.

The powers, duties and functions of other Officers shall be prescribed by the Statutes.

PART V. – STATUTES.

32. STATUTES.

- (1) The Council may make Statutes in respect of—
 - (a) any matter for which this Act specifically so provides; and (b) the attainment of any of the objects of the University; and
 - (c) the powers and duties of the Council, Academic Board, any authority or other body or any Officer of the University; and
 - (d) generally, the management and government of the University.
- (2) The Statutes may provide for empowering any authority or Officers of the University to make by-laws, rules or orders (not inconsistent with this Act) for—
 - (a) regulating any specified matter; or
 - (b) carrying out or giving effect to the Statutes, and any such by-law, rule or order has the same force and effect as a Statute.
- (3) No Statute affecting the constitution, powers or functions of any existing authority shall be made until such authority has been afforded the opportunity to submit a written report thereon to the Council.

33. APPROVAL AND PUBLICATION.

- (1) Every Statute shall be—
 - (a) sealed with the common seal of the University; and
 - (b) transmitted by the Chancellor to the Minister for approval by the Head of State, acting on advice, and when so approved shall be notified in the National Gazette.
- (2) The notification of a Statute in the National Gazette shall specify the place at which copies of the Statute may be purchased.
- (3) A Statute shall not be expressed to take effect from a date before the date of notification in a case where, if it so took effect—
 - (a) the rights of a person (other than the University) existing at the date of notification would be affected in a manner prejudicial to him; or
 - (b) liabilities would be imposed on a person (other than the University) in respect of anything done or omitted to be done before the date of notification.
- (4) A copy of each Statute shall be laid before the Parliament within six sitting days of the Parliament after notification of the Statute in the National Gazette.
- (5) The production of—
 - (a) a copy of a Statute under the common seal of the University; or

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- (b) a document purporting to be a copy of a Statute and to have been printed by the Government Printer or on behalf of the University, is, in all proceedings, sufficient evidence of the Statute.
- (6) The Statutes made in each secular year shall be numbered in regular arithmetical series, beginning with the number 1, in the order in which they are notified in the National Gazette.

PART VI. – FINANCE, PROPERTY, ETC.

34. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

The *Public Finances (Management) Act 1995* (other than Sections 53, 51 and 61) applies to and in relation to the University, subject to the exceptions, limitations, conditions, additions and modifications set out in Schedule 2.

35. BASIC FINANCE.

- (1) The State shall each year pay to the University a sum of money, which sum shall be determined by the National Executive Council on the advice and recommendation of the Minister responsible for Higher Education, Research & Technology.
- (2) ^{1 2}The amounts payable to the University under this section shall be paid out of the Consolidated Revenue Fund.

36. ACQUISITION, CONTROL AND MANAGEMENT OF PROPERTY.

- (1) The University may acquire any property by gift, bequest or devise and agree to carry out the conditions of the gift, bequest or devise and create and administer such trust funds as are necessary or expedient for carrying out the conditions.
- (2) Subject to this section, the Council has the control and management of all property vested in or acquired by the University, and may dispose of property in the name of and on behalf of the University.
- (3) The Council shall not, except with the approval of the Minister, alienate, mortgage, charge or demise any lands, tenements or hereditaments of the University, except by way of lease for a term not exceeding 21 years from the time the lease is made.

37. INVESTMENT FUNDS.

The Council may–

- (a) establish one or more investment funds for the collective investment of trust funds held by or in the custody of the University; and
- (b) without liability for breach of trust, bring into or withdraw from any such investment fund the whole or any part of any such trust fund.

38. BORROWING.

Subject to this Act, the Council may borrow money at interest by way of mortgage, bank overdraft or otherwise–

¹ Section 35(2) amended by *Appropriation (Administrative Arrangements) Act 1996* (No. 37 of 1996), s14.

² Section 35(2) amended by *Appropriation (Administrative Arrangements) Act 1996* (No. 37 of 1996), s14.

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- (a) for the purpose of carrying out or performing any of its powers, functions, duties and responsibilities; or
- (b) for the repayment or partial repayment of any sum previously borrowed, within such limits and on such conditions as to security or otherwise as the Minister approves.

39. LENDINGS.

- (1) Subject to Subsection (2), the University shall not advance or lend money to any person without the prior consent of the Minister.
- (2) Subsection (1) does not apply to or in relation to—
 - (a) money to which Section 36(1) or 37 applies; or
 - (b) loans to members of the staff or students, or the remission or postponement of fees.

PART VII. – REPEAL AND SAVINGS.

40. INTERPRETATION.

In this part “**the repealed Act**” means the Act repealed by Section 41.

41. REPEAL.

The *Papua New Guinea University of Technology Act* (Chapter 170) is repealed.

42. CONTINUATION OF ESTABLISHMENT OF UNIVERSITY.

Notwithstanding the repealed Act, the University continues its establishment as provided by Section 3 and all the assets, property, rights, obligations and liabilities which, immediately before the commencement of this Act, were vested in or imposed on the University shall, on that commencement, continue to be vested in or imposed on the University.

43. PRIVILEGES, HONOURS, ETC., TO BE DEEMED TO HAVE BEEN GRANTED UNDER THIS ACT.

All privileges, awards, degrees, honours, distinctions and duties granted, conferred, awarded, imposed or incurred under the repealed Act shall be deemed to have been granted, conferred, awarded, imposed or incurred under this Act.

44. OFFICERS APPOINTED, ETC., UNDER REPEALED ACT.

All Officers of the University elected, nominated or appointed under the repealed Act shall continue to hold such offices on the terms and conditions determined under the repealed Act and until the expiry of the period for which they were elected, nominated or appointed or until such Officers are elected, nominated or appointed under this Act, whichever shall first happen.

45. SAVING OF CONTRACTS.

All contracts, agreements, conveyances, leases, deeds, licences and other instruments and undertakings entered into by, made with or addressed to the University, whether alone or with any other person, before, and in effect immediately before, the commencement of this Act, continue on that commencement, to the extent that they were previously binding on and enforceable against the University, to be binding and of full force and effect in every respect against or in favour of the University as if entered into by, made with or addressed to, the University after the commencement of this Act.

46. ACTIONS, ETC., NOT TO ABATE.

Where, immediately before the commencement of this Act, any action, arbitration or proceeding, or any cause of action, arbitration or proceeding, was

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pending or existing by, against or in favour of the University, it does not, on that commencement, abate or discontinue or be in any way affected by any provision of this Act, but it may be prosecuted, continued and enforced by, against or in favour of the University as if this Act had not been made.

PART VIII. – MISCELLANEOUS.

47. VALIDITY OF PROCEEDINGS.

No act or proceedings of any authority or committee or by any person acting as a member thereof or as an Officer of the University shall be invalidated by reason of—

- (a) a defect in the appointment of such a person; or
- (b) a disqualification of such a person; or
- (c) a defect in the convening of a meeting; or
- (d) a vacancy in the number of members of an authority or of a committee.

SCHEDULE 1 – PERIODS OF FIRST APPOINTMENTS TO THE COUNCIL AND THE ACADEMIC BOARD FOLLOWING THE COMING INTO OPERATION OF THIS ACT.

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(a) Council.

- (i) Of the two Members of the Parliament elected by it under Section 9(1)(g), one shall be elected for a period of one year and one shall be elected for a period of two years; and
- (ii) of the two Heads of Departments elected under Section 9(1)(h), one shall be elected for a period of one year and one shall be elected for a period of two years; and
- (iii) the member of the non-professional full-time academic staff elected under Section 9(1)(i) shall be elected for a period of one year; and
- (iv) the number of the full-time non-academic staff elected under Section 9(1)(j) shall be elected for a period of two years;
- (v) of the persons appointed under Section 9(1)(l), one half (or, in the event of an uneven number being appointed, one more than one half) shall be appointed for one year and the remainder for two years.

(b) Academic Board.

- (i) of the full-time non-professorial members elected under Section 11(g), one half (or, in the event of there being an uneven number elected, one more than one half) shall be elected for one year and the remainder for two years; and
- (ii) of such Heads of connected institutions appointed under Section 11(h), one half (or, in the event of an uneven number being appointed, one more than one half) shall be appointed for one year and the remainder for two years.

**SCHEDULE 2 – EXCEPTIONS AND MODIFICATIONS TO THE PUBLIC FINANCES
(MANAGEMENT) ACT 1995.**

Sec. 34.

Provision	Modification etc.
Section 61	The Council is responsible for carrying out the duties referred to in Section 61.
Section 63	The report and financial statements in Section 63(1) shall be prepared by the Council as soon as practicable after the close of each University year.
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