

REPUBLIC OF NAURU

HIGHER EDUCATION ACT, 1986

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AN ACT

To provide for the efficient administration
in the matter of higher education and for
matters incidental thereto or auxiliary
therewith

(Certified: 17/10/86)

BE IT ENACTED by the Parliament of the
Republic of Nauru as follows:-

CHAPTER I
PRELIMINARY

SHORT TITLE

1. This Act may be cited as the Higher Education Act 1986.

COMMENCEMENT

2. This Act shall come into force on a date to be notified by the Minister in the Gazette.

INTERPRETATION

3. In this Act, unless the context otherwise requires-

"Board of Regents" means the Governing Authority of
a Higher Education Institution appointed under Section 32.

"Commission" means the Higher Education Commission
established under Section 4;

"Foreign Institution" means an Institution which being
a body corporate operates outside Nauru and imparts
instructions similar to those as are imparted by a
Higher Education Institution established by or under
this Act;

"Higher Education Institution" means a University or a
College or a Degree Granting Institution howsoever described;

"member" means a member of the Commission;

"Minister" means the Minister for Education;

" Private Higher Education Institution" means a Private Higher Education institution established under the permission or charter of the Minister under sub-section (2) of Section 27;

"Public Higher Education Institution" means a Public Higher Education Institution established by an order under sub-section (1) of Section 27.

CHAPTER II
HIGHER EDUCATION COMMISSION

ESTABLISHMENT OF COMMISSION

4. (1) There is established hereby a Commission by the name of Higher Education Commission.

(2) The Commission shall consist of three members to be appointed by the President.

(3) The President shall appoint one of the members to be Chairman of the Commission.

TERM OF OFFICE

5. A member shall hold office for such period, not exceeding five years, as is specified in the instrument of his appointment but shall be eligible for re-appointment:

Provided that where any member vacates his office before the expiry of his term of office or his office falls vacant for any reason whatsoever, any person appointed in his place shall, subject to any lesser period specified in the instrument of his appointment, hold office for the remainder of the term of office of such member.

RESIGNATION

6. A member may resign his office by writing under his hand addressed to the President, but the resignation shall not be effective until such time as it is accepted by the President.

LEAVE OF ABSENCE

7. The President may, upon such terms and conditions as he determines, grant leave of absence to a member.

REMUNERATION TO MEMBERS

8. The members shall be entitled to receive such remuneration or allowances as the President may, from time to time, determine.

APPOINTMENT OF TEMPORARY MEMBER

9. Where the Chairman or any other member of the Commission is, due to any cause sufficient in the opinion of the President, unable to perform the duties of his office temporarily, the President may appoint any other member to act as Chairman and in the case of any other member, any other person to act as a member for such period as he considers fit.

INCORPORATION OF THE COMMISSION

- 10 (1) The Commission -
- (a) is a body corporate with perpetual succession and corporate seal;
 - (b) may acquire, hold and dispose off real and personal property; and
 - (c) may sue and be sued in its corporate name.

(2) All Courts, Judges and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to a document and shall presume that it was duly affixed.

STAFF

11. (1) The Commission may, with the prior approval of the Minister, appoint -

- (a) a Secretary; and
- (b) such other officers and employees as it may consider necessary for the performance of its functions under this Act.

(2) The terms and conditions of the Secretary and other officers and employees of the Commission shall be such as are determined by the Commission with the previous approval of the Minister.

MEETINGS

12. (1) The Chairman shall convene such meetings of the Commission as he considers necessary for the performance of its functions, but in any case, there shall be not less than one meeting in every three months.

(2) The Chairman shall when requested by both other members to do so, convene a meeting of the Commission.

(3) The Chairman shall preside at the meetings of the Commission.

(4) The quorum at a meeting of the Commission shall be two members.

(5) Questions arising at a meeting of the Commission shall be determined by majority of the members and in the event of equality of votes, the Chairman shall have a casting vote.

PROCEDURE AT THE MEETINGS

13. Subject to the foregoing section and to any regulations made by the Minister in that behalf, the Commission shall regulate its own procedure for the transaction of its business at any meeting.

STANDING COMMITTEES

14. The Commission may, from time to time and subject to any general or special order made by the Minister in that behalf, appoint such Committees consisting of such number of members, for the purpose of advising it on any matter as it may determine:

Provided that the Chairman of such Committee shall always be a member of the Commission.

DELEGATION OF POWERS

15. (1) The Commission may delegate to the Chairman or any member or Secretary or any other officer or employee thereof, either generally or subject to such conditions as the Commission may impose, any of its foregoing powers (except this power of delegation).

(2) The delegation under this Section is revocable at will and shall not prevent the exercise of any of its powers by the Commission.

OBJECTS

16. The objects of the Commission shall be-

(a) to plan and co-ordinate higher education;

- (b) to apportion to Higher Education Institutions anywhere, of funds provided therefor in any manner and to monitor and review the expenditure of such funds by Higher Education Institutions;
- (c) to establish, maintain and review academic standards in Higher Education Institutions;
- (d) to exercise, perform and discharge such powers, duties and functions as are conferred or imposed on, or assigned to the Commission by or under this Act; and
- (e) to carry out such directions of the Minister as may be issued by him, from time to time, for the performance of its duties or carrying into effect the provisions of this Act.

FUND

17. (1) A Fund is hereby established to be known as the Higher Education Fund.

(2) There shall be paid into such Fund -

- (a) all such sums of money as may be provided by law for the use of the Commission;
- (b) all such sums of money as may be received by the Commission by way of donations, gifts or grants from any source, whatsoever, and fees charged for services rendered by the Commission; and
- (c) all public scholarships, or similar funds received from whatever source.

VESTING AND ADMINISTRATION OF THE FUND

18. The Fund is vested in the Commission and shall, subject to any general or special directions of the Minister, be administered by it.

APPLICATION OF THE FUND

19. (1) There shall be paid out of the Fund -
- (a) remuneration, salaries or allowances, as the case may be, of the members, secretary or other officers and employees of the Commission; and
 - (b) all sums of money required to defray any expenditure incurred by the Commission in the conduct of its business or in the exercise, performance and discharge of its powers, duties and functions under this Act.

ACCOUNTS

20. (1) The Commission shall cause its accounts in relation to each financial year to be maintained in such form and manner as may be determined by the Minister.

(2) The books of accounts of the Commission shall be kept at the office of the Commission.

AUDIT

21. (1) The accounts of financial transactions of the Commission shall be audited by an Auditor appointed in that behalf by the Minister.

(2) The Auditor shall audit the accounts of the Commission and draw the attention of the Minister to any irregularities, revealed by the audit, which in the opinion of the Auditor, is of sufficient importance to justify his doing so.

(3) The Auditor or a person authorised by him in that behalf shall be entitled at all reasonable times to access to all accounts, records, documents or other papers of the Commission relating in any manner, to the receipt or payment of any monies by or on behalf of the Commission.

(4) The Auditor or any other person authorised by him in that behalf may make copies of or take extracts from any such accounts, records, documents or papers as may be necessary in connection with the audit as aforesaid.

(5) The Auditor may call for such information from the Commission as may be necessary for the purpose of audit as aforesaid.

ANNUAL REPORT OF THE COMMISSION

22. (1) The Commission shall, not later than the 30th day of November in each year or by such further time as the Minister may, in his absolute discretion allow, submit to the Minister a report relating to the activities of the Commission during the last twelve months prior to the 30th day of June in that year and of the performance of its duties and functions and exercise of its powers under this Act during that period.

(2) A copy of the report made to the Minister under the preceding sub-section shall be laid before Parliament by him on, or between seven days, after the first sitting day of Parliament next after the copy is received by him.

COMMISSION TO FURNISH INFORMATION

23. The Commission shall furnish to the Minister or the Cabinet such further information relating to its activities as the Minister or the Cabinet, as the case may be, from time to time, require.

POWERS OF THE COMMISSION

24. The Commission shall have the following powers namely:-

- (a) to inquire into or investigate, from time to time, the financial circumstances and needs of each Higher Education Institution;
- (b) to review and determine in consultation with the Board of Regents of each Higher Education Institution, the courses which shall be provided therein, and the degrees, diplomas, and other academic distinctions which shall be awarded;
- (c) to review and determine, from time to time, in consultation with the Board of Regents of each Higher Education Institution, the total number of students which shall be admitted annually to each Higher Education Institution and the apportionment of that number to the different courses of study therein;
- (d) to review and approve, in consultation with the Board of Regents of each Higher Education Institution,

the examinations prescribed for its students;
and

- (e) to do such other acts or things as may be necessary for effectively exercising any of the powers specified by this Act and for the attainment of the objects set out in section 16.

COMMISSION MAY CALL FOR RETURNS ETC.

25. The Commission may, by notice, require the Board of Regents of any Higher Education Institution to furnish to the Commission, within such period as may be specified in the notice, such returns or information in relation to such matters as may be necessary to enable the Commission effectively to exercise, perform and discharge any of its powers, duties and functions under this Act, and that Board of Regents shall comply with the requirements of such notice.

REGULATIONS

26. (1) The Commission may make regulations prescribing such matters as may be necessary to enable it effectively to exercise, perform and discharge its powers, duties and functions under this Act.

(2) Without prejudice to the generality of the powers conferred by the preceding sub-section, the Commission may make such regulations, in respect of all or any of the following matters -

- (a) terms and conditions of service of the Secretary and other officers and employees of the Commission;

- (b) establishment and maintenance of standards of instruction in Higher Education Institutions for the grant of degrees, diplomas, and other academic distinctions;
- (c) co-ordination of facilities in and around Higher Education Institutions;
- (d) nature and scope of extension services which may be provided and organised by Higher Education Institutions;
- (e) recognition of foreign degrees, diplomas, academic credit and other academic distinctions; and
- (f) any other matter connected with, or incidental to, any of the matters aforesaid.

(3) Any regulation made by the Commission under this Act shall be published in the Gazette and come into operation on a date specified therein and, if no such date is specified, then on the date of the publication as aforesaid.

CHAPTER III
HIGHER EDUCATION INSTITUTIONS
ESTABLISHMENT OF HIGHER EDUCATION INSTITUTIONS

27. (1) The Minister may, in consultation with the Commission and by an order published in the Gazette, establish a Public Higher Education Institution.

(2) Without prejudice to the provisions of the preceding sub-section, the Minister may in consultation with the Commission and by order published in the Gazette, permit or charter, subject to such terms and conditions as he may impose, any Nauruan or foreign organisation or foundation, howsoever described-

- (a) to establish a Private Higher Education Institution or an extension of an existing Private Higher Education Institution; or
- (b) to obtain affiliation of any Private Higher Education Institution run or controlled by it, to an existing University.

SPECIFICATION OF NAME ETC. OF THE INSTITUTION ESTABLISHED

28. An order establishing a Public Higher Education Institution or permitting a Private Higher Education Institution to be established shall also specify-

- (a) the name of the Institution;
- (b) location or site of such institution; and
- (c) the faculties of the department thereof.

POWERS OF A HIGHER EDUCATION INSTITUTION

29. Without prejudice to the powers of the Commission under this Act, a Higher Education Institution shall have power -

- (i) to admit students and to provide for instructions in any approved branch of learning;
- (ii) to hold examinations for the purpose of ascertaining the persons who have acquired proficiency in different branches of learning;
- (iii) to co-operate, by way of exchange of teachers, students and scholars or otherwise, with other such Institutions in the Republic or abroad, having objects similar or substantially similar to those of the Institution;
- (iv) to provide post-graduate courses, and for this purpose, to co-operate with other universities or authorities in the Republic or abroad, in such manner and for such purposes as the Institution may determine;

- (v) to grant and confer degrees, diplomas and other academic distinctions to and on persons who have pursued approved courses of study and in the Institution or in any recognised equivalent Institution and who have passed the examinations of the Institution prescribed by by-laws;
- (vi) to admit graduates or students of other similar Institutions to equal or similar degrees and courses of study of the Institution on such conditions as may be prescribed by by-laws and to register them as graduates or students of the Institution;
- (vii) to confer honorary degrees or other academic distinctions on persons recommended by the Board of Regents of the Institution;
- (viii) to recognize the examinations passed and periods of learning or study pursued by persons seeking admission to, or by students of, the Institution at other such schools or places of learning of similar status as are equivalent to such examinations and periods of learning or study in the Institution, or such part thereof, as may be prescribed by by-law, and to withdraw such recognition at any time;
- (ix) to erect, equip and maintain for the purpose of the Institution, libraries, laboratories and other buildings whether for instructional or residential purposes.

- (x) to institute Professorship, Associate Professorship, Senior Lectureships or Lectureships, and other posts as may be required for the purposes of the Institution;
- (xi) to institute and award fellowships, scholarships, exhibitions, bursaries, medals and other prizes;
- (xii) to regulate and provide for the residence, discipline and well-being of students and teachers, officers and other employees of the Institution;
- (xiii) to establish and manage halls of residence, to licence lodging-houses providing residential facilities to students and to provide such other services and facilities as may be necessary for the residence of students of the Institution;
- (xiv) to assist students of the Institution to obtain loans from banks and other agencies;
- (xv) to provide for extension services to the general public, including employees and school leavers, in trades and industry;
- (xvi) to make arrangements for conducting courses or parts of courses in educational institutions outside the Institution;
- (xvii) to demand and receive fees; and
- (xviii) to do all such other acts and things, incidental to the powers aforesaid, as may be requisite in order to further the objects of the Institution.

HIGHER EDUCATION INSTITUTION TO BE BODY CORPORATE

30. A Higher Education Institution established under Section 27 shall be a body corporate with perpetual succession and a common seal and may sue or be sued in and by its corporate name and also may acquire, hold or dispose off property.

RECOGNITION OF FOREIGN INSTITUTIONS

31. Notwithstanding the provisions of the preceding section, the Minister may, in consultation with the Commission and by an order published in the Gazette, recognise or authorise any Foreign Institution to exercise the powers conferred on a Higher Education Institution by or under this Act and a Foreign Institution so authorised or recognised shall be deemed to be a Higher Education Institution for the purposes of this Act.

BOARD OF REGENTS

32. (1) The powers conferred on a Higher Education Institution by this Act shall, unless otherwise expressly provided, be exercised by a governing authority to be called Board of Regents.

(2) The Board of Regents shall consist of the following members:-

- (a) the Chief officer of the Higher Education Institution; and
- (b) such other persons -
 - (i) as the Minister, in the case of a Public Higher Education Institution; or
 - (ii) as the Organization or Foundation

establishing the Institution, in the case of a Private Higher Education Institution, with the approval of the Minister, may appoint in that behalf.

DELEGATION OF POWERS BY THE BOARD OF REGENTS

33. (1) A Board of Regents may delegate to the chief officer or any person referred to in clause (b) of sub-section (2) of Section 32 either generally or subject to such conditions as it may impose, any of its powers except this power of delegation;

(2) A delegation under this section is revocable at will and shall not prevent the exercise of any of its powers by the Board of Regents.

CHIEF OFFICERS OF THE HIGHER EDUCATION INSTITUTION

34. (1) A Higher Education Institution designated as a "University" shall have a Chancellor as its Chief Officer, and such other officers and employees as the University may deem necessary to the efficient operation of the University.

(2) A Higher Education Institution designated as a "College" shall have a President as its Chief Officer and such other officers and employees as the College may deem necessary to the efficient operation of the College.

(3) A Higher Education Institution designated as a Degree Granting Institution shall have a Dean as its Chief Officer and such other officers and employees as the Institution may deem necessary for the efficient operation of the Institution.

ANNUAL ACCOUNTS AND STATISTICS

35. (1) A Higher Education Institution shall, not later than 15th September in each year, prepare and file with the Commission a statement of accounts and statistics relating to its activities in relation to the financial year immediately preceding in such form and manner and containing such particulars as the Commission may specify from time to time.

(2) The books of accounts of a Higher Education Institution shall be kept in the office of that Institution.

AUDIT

36. (1) Each Higher Education Institution shall have its accounts audited each year by the Auditor.

(2) The provisions of section 21 shall mutatis mutandis apply to the audit of accounts of a Higher Education Institution.

(3) After review by the Commission of the audited accounts for each year, those audited accounts shall be filed with the Minister.

CHAPTER IV
MISCELLANEOUS

DISQUALIFICATIONS TO BECOME MEMBER OF
COMMISSION OR BOARD OF REGENTS

37. No person shall be qualified for being appointed or continuing as a member of, the Commission or a Board of Regents -

- (i) if he is convicted of any offence involving moral turpitude; or

- (ii) if he is, under any law in force, found or declared to be of unsound mind; or
- (iii) if he, directly or indirectly, by himself or by any person on his behalf or for his use or benefit, holds or enjoys any rights or benefit under any contract, other than his contract of employment, by or on behalf of any Higher Education Institution.

PROCEEDINGS NOT TO BE INVALID DUE TO ANY VACANCY, ETC.

38. No act, resolution or proceeding of the Commission or a Board of Regents shall be invalidated merely by reason of the existence of a vacancy or of vacancies among its member, or any defect in the appointment of such member or any member or members thereof being disqualified under section 37.

BONUS AND GIFTS ETC.

39. The Commission or any Higher Education Institution shall not grant any bonus or make any gift or division of money, other than death gratuity or payment for services rendered, to or between any of its members, except in accordance with this Act or any regulations or by-laws made thereunder.

OTHER INSTITUTIONS NOT TO CONFER DEGREES, ETC.

40. No Institution, other than a Higher Education Institution, shall grant or confer on any person any degree or other academic distinction whatsoever:

Provided that academic distinctions may be granted by professional bodies or research institutes by appropriate arrangement with a Higher Education Institution and with the concurrence of the Commission.

PROTECTION FOR ACTION TAKEN IN GOOD FAITH

41. No member of the Commission or of the Board of Regents shall be liable for anything done or purporting to have been done in good faith and the bona fide discharge of his duties or functions under and in accordance with this Act.

BY-LAWS OF HIGHER EDUCATION INSTITUTION

42. A Higher Education Institution may make by-laws not inconsistent with the Regulations made by the Commission under section 26, or with any directions, if any, of the Minister, in order to carry into effect its powers, duties and functions under this Act.

I hereby certify that the above is a fair print of a Bill for an Act entitled Higher Education Act, 1986 that has been passed by Parliament of Nauru, and is now presented to the Speaker for his Certificate under Article 47 of the Constitution.



Deputy Clerk of Parliament
17th October, 1986

Pursuant to Article 47 of the Constitution, I Reuben James Kun, Speaker of Parliament, hereby certify that the Higher Education Act 1986, has been passed by the Parliament of Nauru.



Speaker
17th October, 1986