

THE OPEN UNIVERSITY OF MAURITIUS BILL
(No. XIX of 2009)

Explanatory Memorandum

1. The main object of this Bill is to provide for the establishment of the Open University of Mauritius which will replace the Mauritius College of the Air and enhance the provision of open and distance learning and multimedia-based education.
2. The Open University will, at local level, link up with Governmental and inter-governmental institutions as well as the private sector to support an enabling environment for the provision of education and training at certificate, diploma, graduate, post-graduate and research levels. At the international level, it will create partnerships with key institutions worldwide to deliver programmes of open and distance learning.
3. The Open University will be the focal point for open and distance learning in Mauritius and will be responsible for setting standards for the provision of open and distance learning.
4. The Open University will consist of several Divisions and Institutes.

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*Minister of Education, Culture
and Human Resources*

06 November 2009

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(No. XIX of 2009)

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A BILL

To provide for the establishment of the Open University of Mauritius

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Open University of Mauritius Act 2009.

2. Interpretation

In this Act –

“Academic Council” means the Academic Council referred to in section 15;

“academic staff” means persons engaged in imparting instruction in the Open University or giving guidance and rendering assistance to students of the Open University and includes the holder of such other post as may be specified by the Board to be an academic staff post;

“Board” means the Board of the Open University of Mauritius referred to in section 9;

“Chairperson” means the Chairperson of the Board, appointed under section 9;

“Committee” means a committee set up under section 14;

“Convocation” means the Convocation of the University, referred to in section 17;

“Director-General” means the Director-General of the Open University, appointed under section 18;

“Division”, “Institute”, “School”, “Centre” or “Unit” means a Division, an Institute, a School, a Centre or a Unit referred to in section 16;

“financial year” has the same meaning as in section 2A of the Finance and Audit Act;

“Financial Controller” means the person referred to in section 19(1)(f);

“general staff” means persons who hold office at the Open University to perform professional, technical, administrative, secretarial, clerical and manual work;

“learner” means a student of the Open University and includes any person who has enrolled for any programme of study or research at the Open University;

“Minister” means the Minister to whom responsibility for the subject of education is assigned;

“open and distance learning” means learning by using a combination of methods and media, including broadcasting, telecasting, narrowcasting, web, computer-based learning, e-learning, virtual learning, print, seminars and direct interaction and providing flexibility to learners to exercise choice in terms of pace, place and mode of study;

“Open University” means the Open University of Mauritius established under section 3;

“programme” means an educational or training activity imparting knowledge, skills and competencies, for which certificates, diplomas or degrees are awarded;

“Registrar” means the person referred to in section 19(1)(e);

“Statutes” means the Statutes of the Open University, set out in the Schedule;

“Tertiary Education Commission” means the Tertiary Education Commission established under the Tertiary Education Commission Act.

PART II – THE OPEN UNIVERSITY OF MAURITIUS

3. Establishment of Open University

(1) There is established, for the purposes of this Act, the Open University of Mauritius.

(2) The Open University shall be a body corporate.

4. Objects of Open University

The objects of the Open University shall be to –

- (a) advance and disseminate learning and knowledge through a diversity of means, with emphasis on information and communication technologies;
- (b) provide wider opportunities for education and training to the population, through open and distance learning, and promote lifelong learning;
- (c) encourage the use of open and distance learning at all levels of education and training through collaboration, optimal use of existing resources and good practices;
- (d) encourage and promote scholarship and conduct research and development in educational technology and related matters;
- (e) be the focal point for the provision of open and distance learning in Mauritius through the establishment of active partnerships with local public and private institutions, as well as overseas institutions engaged in providing education and training.

5. Functions of Open University

The Open University shall have such functions as are necessary to attain its objects most effectively and shall, in particular –

- (a) act as the national focal point for open and distance learning;
- (b) set standards for the provision of open and distance learning;
- (c) provide education and training through a diversity of means in such branches of knowledge, vocations and professions as the Open University may determine from time to time;
- (d) enter into affiliation with other institutions, local and overseas, which would assist in attaining any of the objects of the Open University;
- (e) co-operate with any local or overseas institution which has objects which are wholly or partly similar to its own;
- (f) provide consultancy and professional services, especially in open and distance learning;
- (g) plan and prescribe courses of study for degrees, diplomas or certificates through open and distance learning, with the collaboration of local and overseas providers of education and training;

- (h) hold examinations and grant degrees, including honorary degrees, diplomas, certificates or other academic awards, acting on its own or jointly with any other education and training institution;
- (i) accept examinations and periods of study of students at other universities or places of learning as equivalent to appropriate examinations and periods of study in the Open University and withdraw such acceptance at any time;
- (j) institute professorships, lectureships, tutorships and other academic positions necessary for imparting instruction, for preparing educational material or for conducting other academic activities, including supervision, designing and delivery of courses and evaluation of the work done by learners and appoint persons to such positions;
- (k) institute and award fellowships, scholarships, prizes and such other awards for recognition of merit as it thinks fit;
- (l) set up and maintain Regional Centres within this region of the world for the purpose of coordinating and supervising the work of regional study centres in the region and for performing such other functions as may be conferred on them by the Academic Council;
- (m) set up, maintain and recognise study centres, telecentres and practice centres for the purpose of advising, counselling, tutoring, obtaining practical experience or rendering any other assistance required by learners;
- (n) provide for the preparation, reception and distribution of instructional materials through differentiated media, including terrestrial, satellite, video, radio, print, web or compact disc media and others;
- (o) make provision for research and development in educational technology, instructional design, learner support and related matters;
- (p) provide, control and maintain discipline among the learners and academic and general staff and lay down the conditions of service of such staff, including their codes of conduct;
- (q) determine standards and specify conditions for the admission of learners to programmes of study at the Open University, which may include recognition of prior learning, experience, examination, evaluation and any other method of testing;
- (r) link up with Governmental and inter-governmental institutions and the private sector to support an enabling environment for the provision of education and training at certificate, diploma, graduate, post-graduate and research levels;

- (s) create partnerships with key institutions worldwide to deliver programmes of open and distance learning.

6. Powers of Open University

The Open University shall have such powers as are necessary to attain its objects and discharge its functions most effectively and may, in particular –

- (a) receive donations and gifts, contract loans, and lease, acquire, hold, maintain and dispose of any property, movable or immovable, including trust and Government property;
- (b) demand and receive such fees and charges as may be charged for courses of study, research and practical training and for admission to the examinations for degrees, diplomas and other academic qualifications;
- (c) co-operate with other universities and institutions of higher learning, professional bodies and organisations, both locally and from overseas, for such purposes as it considers necessary, including credit transfers and the award of joint degrees;
- (d) subject to the Public Procurement Act, enter into such contract or other arrangement as may be necessary;
- (e) subject to any other enactment, establish such broadcasting facility as may be required to enable the Open University to perform its functions;
- (f) appoint, on contract or otherwise, visiting professors, consultants, fellows, scholars, artists, course writers and other persons from within and outside Mauritius who may contribute to the advancement of the objects of the Open University;
- (g) do such other act as may be necessary for attaining any of its objects and carrying out its functions.

7. Admission of learners

- (1) Subject to subsection (2), the Open University shall be open to everyone.
- (2) Nothing in subsection (1) shall require the Open University to –
 - (a) admit to any course of study or research any person who does not possess the prescribed academic qualifications or standard, or prior experiential learning;
 - (b) retain on its roll a learner whose academic record is below the minimum standard required for the award of a degree, or other academic qualification; or

- (c) admit or retain any learner whose conduct is prejudicial to its interests, or the rights and privileges of other learners or of the staff of the Open University.

8. Inquiries

(1) Subject to subsection (2), the Prime Minister may, in respect of any matter connected with the Open University, institute an inquiry to be made by such person as he may appoint, in such manner as he may determine.

(2) Where the Prime Minister decides to institute an inquiry under subsection (1), he shall, in every case, give notice to the Chairperson of the Board of his intention to do so and the Board shall be entitled to be represented at such inquiry.

(3) The Prime Minister –

- (a) shall communicate to the Board his views with reference to the result of any such inquiry; and
- (b) may, after ascertaining the opinion of the Board, advise the Open University regarding the action to be taken and fix a time-limit for taking such action.

(4) The Board shall, within the time-limit so fixed, report to the Prime Minister the action taken or proposed to be taken on any advice tendered under subsection (3)(b).

(5) Where the Board does not take action within the time fixed or the action taken by the Board is, in the opinion of the Prime Minister, not satisfactory, the Prime Minister may, after considering any explanation or representation made by the Board, issue such directions as thinks fit and the Board shall comply with any such directions.

PART III – ADMINISTRATION

9. The Board

There shall be a Board which shall consist of –

- (a) a Chairperson, to be appointed by the Prime Minister;
- (b) 7 persons to be appointed by the Minister, out of whom –
 - (i) 2 shall be executive heads of local public tertiary education institutions having developed partnerships with the Open University;

- (ii) 2 shall have substantial knowledge and experience of tertiary education and open and distance learning;
 - (iii) one person shall be from the private sector and shall have substantial industrial experience;
 - (iv) one person shall be from the public sector;
 - (v) one person shall be from civil society and engaged in community service;
- (c) a person who shall be elected by and from the academic staff;
 - (d) a person who shall be elected by and from the general staff; and
 - (e) the Director-General.

10. Functions and powers of Board

(1) The Board shall be the governing body having the direction and superintendence of the Open University and its principal functions shall include –

- (a) devising or approving strategic plans and policies for the Open University;
- (b) overseeing its management and development;
- (c) monitoring and reviewing its operations; and
- (d) providing rigorous accountability standards in its various operations.

(2) The Board may –

- (a) on behalf of the Open University –
 - (i) confer honorary degrees;
 - (ii) appoint the academic and general staff;
 - (iii) manage and control its affairs, property and finance;
 - (iv) subject to the Public Procurement Act, enter into any contract or other arrangement;
 - (v) institute or discontinue courses of study; and

(vi) take any decision on a question of policy relating to its administration and functioning;

(b) do all such things as may be necessary for, or incidental or conducive to, the performance of its functions under subsection (1).

11. Chairperson of Board

The Chairperson shall –

(a) preside at every meeting of the Board and any Convocation;

(b) ensure that the decisions taken by the Board are implemented; and

(c) perform such other duties and exercise such other powers as may be assigned to him by this Act or the Statutes.

12. Term of office of members of Board

(1) (a) Every appointed or elected member of the Board shall hold office for a term of 3 years.

(b) An appointed member shall be eligible for reappointment for not more than one further term of 3 years.

(2) (a) The Chairperson may resign his office by writing to the Prime Minister.

(b) Any other appointed or elected member of the Board may resign his office by writing to the Minister.

(c) Any vacancy caused by the resignation, death or removal from office of an appointed or elected member of the Board shall, subject to subsection (4), be filled by a fresh appointment or election, as the case may be.

(3) The term of office of a member appointed or elected to fill a vacancy shall continue for the remainder of the term of the member in whose place he has been appointed or elected.

(4) Where a vacancy occurs less than 3 months before the expiry of a member's term of office, the Board may determine that the office shall be left vacant for the remainder of the term.

13. Meetings of Board

The procedure to be observed for the convening and holding of meetings of the Board shall be as specified in the Statutes.

14. Committees

(1) The Board shall set up a Planning and Monitoring Committee, a Finance Committee, a Human Resource Committee and such other committees as it thinks necessary to assist the Board in the performance of its functions.

(2) The composition and functions, and the procedure for the convening and holding of meetings, of every committee set up under subsection (1) shall be as specified in the Statutes.

PART IV – ACADEMIC AND MANAGEMENT STRUCTURE

15. Academic Council

(1) There shall be an Academic Council which shall –

- (a) be the principal academic body of the Open University;
- (b) have control and general regulation of teaching, examination, and research;
- (c) be responsible for the maintenance of appropriate standards and discipline among the learners of the Open University; and
- (d) grant transfer of credits to learners in respect of learning acquired in another institution.

(2) The constitution of the Academic Council, the term of office of its members, its functions and powers, and the procedure to be observed for the convening and holding of its meetings shall be as specified in the Statutes.

16. Divisions, Schools, Centres and Units

(1) The Open University shall comprise –

- (a) an Academic Affairs Division;
- (b) a Multimedia and ICT Services Division;
- (c) a Quality Assurance and Capacity Building Division;
- (d) an Open School Division;
- (e) an Administration Division;
- (f) a Finance Division;

- (g) a Confucius Institute;
- (h) a Language Institute; and

such other Divisions and Institutes as may be specified in the Statutes.

(2) The Divisions and Institutes shall comprise such Schools, Centres and Units as may be decided by the Board on the recommendation of the Academic Council.

17. Convocation

There shall be a Convocation of the Open University, the procedure for which shall be as specified in the Statutes.

PART V – OFFICERS OF OPEN UNIVERSITY

18. Director-General

There shall be a Director-General of the Open University who shall –

- (a) be appointed by the Prime Minister on the recommendation of the Minister;
- (b) be the chief executive and academic officer of the Open University; and
- (c) hold office on such terms and conditions as may be specified in the Statutes.

19. Heads of Divisions and Institutes

(1) The Head of a Division or of an Institute shall be known, in the case of –

- (a) the Academic Affairs Division, as the Director of that Division;
- (b) the Multimedia and ICT Services Division, as the Director of that Division;
- (c) the Quality Assurance and Capacity Building Division, as the Director of that Division;
- (d) the Open School Division, as the Director of that Division;
- (e) the Administration Division, as the Registrar;
- (f) the Finance Division, as the Financial Controller;

- (g) the Confucius Institute, as the Director of that Institute;
- (h) the Language Institute, as the Director of that Institute.

(2) The Heads of Divisions and Institutes shall be appointed and hold office on such terms and conditions as may be specified in the Statutes.

PART VI – FINANCIAL PROVISIONS AND ACCOUNTS

20. General Fund

(1) The Open University shall set up and operate a General Fund to which shall be credited –

- (a) its income from fees, grants, donations, loans and gifts;
- (b) endowments and all monies from any other source.

(2) The amounts credited to the General Fund pursuant to subsection (1) shall be applied towards meeting the expenses incurred by or on behalf of the Open University in the discharge of its functions and the exercise of its powers.

21. Accounts and audit

(1) The Board shall maintain proper accounts and other relevant records and prepare an annual statement of accounts, including a balance sheet, in such form and manner as may be required by the Tertiary Education Commission.

(2) The Tertiary Education Commission may, at any time, demand the production of books, accounts, and connected vouchers and other documents and papers and inspect the offices of the Open University.

(3) The Board shall, not later than 3 months after the end of every financial year, submit the accounts referred to in subsection (1) to the Director of Audit.

(4) The accounts referred to in subsection (3) shall be audited annually by the Director of Audit who shall forward a report thereon to the Board in accordance with the Financial Reporting Act.

(5) The Board shall prepare an annual report on the activities of the Open University every year and forward it, together with the report of the Director of Audit on the accounts, to the Minister not later than one month from the date of receipt of the report of the Director of Audit on the accounts.

(6) The Minister shall cause a copy of the annual report, together with the report of the Director of Audit on the accounts referred to in subsection (5), to be laid on the table of the Assembly.

22. Exemptions

(1) Notwithstanding any other enactment, the Open University shall be exempt from payment of –

- (a) any registration duty, fee or charge in respect of any document under which the Open University is the sole beneficiary; and
- (b) any other duty, rate, charge or fee.

(2) Article 910 of the Code Civil Mauricien shall not apply to the Open University.

PART VII – STATUTES, REGULATIONS AND RULES

23. Statutes of Open University

The Statutes of the Open University shall provide for all or any of the following matters –

- (a) the constitution, powers and duties, and the procedure at meetings, of the Board, the Academic Council, the Planning and Monitoring Committee, the Finance Committee, the Human Resource Committee and other committees, the quorum at such meetings and the procedure to be followed in the conduct of their business;
- (b) partnerships and collaborations with other institutions, local and overseas, which would assist in attaining any of the objects of the Open University;
- (c) the holding of a Convocation to confer degrees and the conferment of honorary degrees;
- (d) the setting up of Divisions, Institutes, Schools, Centres, and any programme units, and other academic and supporting units;
- (e) the setting up of regional and study centres;
- (f) the institution of fellowships, scholarships, medals and awards;
- (g) the manner of appointment and the terms and conditions of the Director-General and Heads of Divisions;
- (h) the manner of appointment and the terms and conditions of academic and general staff;
- (i) the operation of associations of learners; and
- (j) any other matter which, by this Act, is to be or may be provided for in the Statutes.

24. Regulations and rules

(1) The Board may make such regulations as it thinks fit for the purposes of this Act, and any such regulations may provide for –

- (a) the admission of learners;
- (b) the courses of study leading to degrees, diplomas and other academic, vocational and professional qualifications;
- (c) the conditions on which learners shall be admitted to courses of study leading to degrees, diplomas and other academic qualifications;
- (d) the conduct of examinations and the conditions under which examinations may take place;
- (e) the manner in which exemption resulting in the admission of students to examinations may be given;
- (f) the conditions and mode of appointment and duties of examining bodies and examiners;
- (g) the equivalence of examinations and qualifications of any other institution or examination board for the purposes of admitting a learner;
- (h) the assessment, evaluation and grading of students' performance;
- (i) the award of degrees, diplomas and other qualifications;
- (j) the maintenance of discipline among the staff and the learners;
- (k) the fees to be charged by the Open University;
- (l) the use of and access to any place of learning or research or resource within the Open University;
- (m) the Open University academic dress; and
- (n) the amendment of the Statutes.

(2) (a) The Academic Council may, with the approval of the Board, make rules for the purposes of this Act.

(b) The Board may, by resolution passed by a majority of not less than two thirds of its members present at that meeting, modify or refuse to approve any rules submitted by the Academic Council to it for approval.

PART VIII – MISCELLANEOUS

25. Intellectual property

(1) Without prejudice to any other enactment, all intellectual property arising out of any teaching material produced by or on behalf of the Open University shall vest in the Open University.

(2) Any intellectual property vested in the Open University may be made available for use on such terms as the Board may agree.

26. Legal proceedings and execution of documents

(1) The Open University shall act, sue and be sued, implead or be impleaded under its corporate name.

(2) Service of process by or on the Open University shall be sufficient if made on behalf of or on the Registrar.

(3) Every deed, cheque, act or document relating to the Open University shall be signed by the Chairperson and one other person authorised in that behalf by the Board.

27. Repeal

The following enactments are repealed –

- (a) the Mauritius College of the Air Act;
- (b) the Open University of Mauritius Act.

28. Consequential amendments

(1) The Public Procurement Act is amended in Part II of the Schedule by inserting, in the appropriate alphabetical order, the following new item –

Open University of Mauritius

(2) (a) Subject to paragraphs (b) and (c), the Statutory Bodies (Accounts and Audit) Act is amended in the Schedule –

- (i) in Part I, by inserting, in the appropriate alphabetical order, the following new item –

Open University of Mauritius

(ii) in Part II, by deleting the following item –

Mauritius College of the Air

(b) For the purposes of the Statutory Bodies (Accounts and Audit) Act, the period extending from the commencement of this Act to 31 December next following shall be deemed to be the first financial year of the Open University.

(c) Section 7(1) of the Statutory Bodies (Account and Audit) Act shall not apply to the first financial year of the Open University.

(3) The Tertiary Education Commission Act is amended in the Schedule by –

(a) deleting the following item –

Mauritius College of the Air

(b) inserting, in the appropriate alphabetical order, the following new item –

Open University of Mauritius

29. Saving and transitional provisions

(1) In this section, “College” means the Mauritius College of the Air established under section 3 of the repealed Mauritius College of the Air Act.

(2) Notwithstanding any other enactment, every person employed by the College shall be dealt with in accordance with this section.

(3) Every person who, at the commencement of this Act, is employed on the permanent and pensionable establishment of the College shall be entitled to be transferred to the permanent and pensionable establishment of the Open University on terms and conditions which shall be not less favourable than those of his previous employment.

(4) The period of service of every person employed on the permanent and pensionable establishment of the College, who is transferred to the Open University under subsection (3), shall be deemed to be an unbroken period of service with the Open University.

(5) No person employed on the permanent and pensionable establishment of the College shall, on account of his transfer to the Open University or any resulting change in his job title, be entitled to claim that his employment has been terminated or adversely affected in breach of any enactment.

(6) Any person employed on the permanent and pensionable establishment of the College who, within 28 days of the commencement of this Act, does not accept to be transferred to the Open University may –

- (a) at his request, be redeployed, so far as is practicable, to another statutory body, where vacancies in similar positions are available; or
- (b) opt for retirement on the ground of abolition of office and be paid his pension benefits in accordance with the Statutory Bodies Pension Funds Act and regulations made thereunder.

(7) (a) Subject to subsection (8), any person employed on the permanent and pensionable establishment of the College, against whom any disciplinary inquiry, investigation or proceedings are pending or in process at the commencement of this Act –

- (i) who is not interdicted, shall be transferred to the permanent and pensionable establishment of the Open University on terms and conditions which shall be not less favourable than those of his previous employment;
- (ii) who is interdicted, may opt to –
 - (A) be transferred to the permanent and pensionable establishment of the Open University on terms and conditions which shall be not less favourable than those of his previous employment;
 - (B) retire on the ground of abolition of office and be paid pension benefits in accordance with the Statutory Bodies Pension Funds Act and regulations made thereunder,

where no disciplinary charge is subsequently found proved against him.

(b) For the purposes of paragraph (a)(ii)(B), the date of retirement on ground of abolition of office shall be deemed to be the date of coming into operation of this Act.

(8) Any disciplinary inquiry, investigation or proceedings, pending or in process at the commencement of this Act, against any person employed on the permanent and pensionable establishment of the College, shall be taken up, continued or completed by the Open University and any resulting order or decision shall have the same force and effect as if made by the College.

(9) Notwithstanding any other enactment, the contract of every person employed on a fixed term performance contract by the College, which is valid at the

commencement of this Act, shall be deemed to have been entered into by the Open University and shall remain governed by its existing terms and conditions.

(10) The assets, funds and records of the College shall, at the commencement of this Act, vest in the Open University.

(11) All rights, obligations and liabilities subsisting in favour of or against the College shall, at the commencement of this Act, continue to exist under the same terms and conditions in favour of or against the Open University.

(12) All proceedings, judicial or otherwise, commenced before and pending at the commencement of this Act, by or against the College, shall be deemed to have been commenced, and may be continued, by or against the Open University.

(13) Notwithstanding section 7(2), every person who, at the commencement of this Act, is registered for education and training purposes at the College shall be enrolled as a learner.

(14) Where this Act does not make provision for any transition, the Minister may make such regulations as may be necessary for such transition.

30. Commencement

(1) Subject to subsection (2), this Act shall come into operation on a date to be fixed by Proclamation.

(2) Different dates may be fixed for the coming into operation of different sections of this Act.

SCHEDULE
[Sections 2 and 23]

STATUTES OF THE OPEN UNIVERSITY OF MAURITIUS

1. Meetings of Board

(1) Subject to this paragraph, the Board may regulate its proceedings in such manner as it thinks fit.

(2) In the absence of the Chairperson at a meeting of the Board, a member of the Board elected by the members present shall preside at that meeting.

(3) Where a member of the Board has an interest in a matter being considered or about to be considered by the Board, he shall –

- (a) as soon as practicable after the relevant facts have come to his knowledge, declare the nature of his interest; and
- (b) not be present during any deliberation, nor vote with respect to that matter.

(4) A quorum shall be constituted by 6 members of the Board and no business may be transacted at a meeting of the Board unless there is a quorum.

(5) Each member present at a meeting of the Board shall be entitled to one vote on a matter arising for decision at the meeting, and the person presiding the meeting shall, in the event of an equality of votes, have a casting vote.

(6) A decision carried by a majority of the votes cast by the members present and voting at a meeting shall be a decision of the Board.

(7) The Board shall meet at least 6 times in one calendar year.

2. The Academic Council

(1) The Academic Council shall consist of –

- (a) the Director-General, who shall be the chairperson;
- (b) the Executive Director of the Tertiary Education Commission or his representative;
- (c) a representative of the University of Mauritius;
- (d) a representative of the University of Technology, Mauritius;

- (e) the Chief Technical Officer of the Ministry responsible for the subject of education or his representative;
- (f) 2 representatives of public tertiary level institutions having developed partnerships with the Open University, to be nominated by the Minister;
- (g) the Directors of the Academic Affairs, Multimedia and ICT Services, Quality Assurance and Capacity Building Divisions and the Directors of the Confucius Institute and Language Institute;
- (h) 3 Heads of Schools, Centres or Units of the Open University, to be nominated by the Director-General;
- (i) a representative of learners, to be nominated by the Board;
- (j) a representative of the academic staff elected by and from the academic staff;
- (k) such other members, not exceeding 3 in number, as may be co-opted by the Board, including one person with experience and interest in research.

(2) The Registrar shall be Secretary to the Academic Council.

(3) (a) The members referred to in subparagraph (1)(f), (h) and (i) shall hold office for a term of 3 years and shall be eligible for re-nomination for not more than one further term of 3 years.

(b) The member referred to in subparagraph (1)(j) shall hold office for a term of 3 years.

(4) A person shall cease to be member of the Academic Council upon –

- (a) the completion of his term of office;
- (b) his resignation or removal from office;
- (c) his ceasing to be a member of the academic staff of the Open University; or
- (d) his ceasing to be a learner,

as the case may be.

(5) Where a vacancy occurs in the membership of the Academic Council, the vacancy shall be filled by a person who shall hold office for the remainder of the term of the office of the member in whose place he has been nominated or elected.

- (6) Half of the members of the Academic Council shall form a quorum.
- (7) The Academic Council may otherwise regulate its proceedings as it thinks fit.
- (8) The functions and powers of the Academic Council shall, in addition to those set out in the Act, be to –
- (a) advise the Board on –
 - (i) all academic matters including the control, general direction and management of any research or resource centre or other teaching and research facility;
 - (ii) the institution, alteration, suspension or suppression of academic posts and the qualifications and experience of the academic staff;
 - (b) make recommendations to the Board regarding –
 - (i) postgraduate teaching and research;
 - (ii) the qualifications to be presented for teaching;
 - (iii) the conferment of honorary degrees or other distinctions;
 - (iv) the institution and award of fellowships, scholarships, prizes and medals;
 - (v) the promotion of collaboration between the private and public sectors and the Open University;
 - (vi) the schemes to set up such Schools, Centres and Academic Support Units as may be necessary for academic purposes of the Open University;
 - (vii) the setting up of local and overseas regional centres, study centres and such other Centres for purposes of advising, counselling and providing other assistance required by learners;
 - (c) appoint external examiners;
 - (d) issue instructions to examiners;

- (e) approve the results of examinations and the award of degrees, diplomas and other academic qualifications in accordance with the Statutes and the regulations;
- (f) report to the Board on any matter referred to it by the Board.

(9) The representative of learners shall not participate in the deliberations of the Academic Council on any matter pertaining to –

- (a) examinations;
- (b) staffing.

3. Partnership and collaboration with other institutions

The Board, on the recommendations of the Academic Council, may enter into partnership and collaboration with local and overseas institutions for such purposes and on such terms and conditions as it thinks fit for the attainment of the objects and performance of the functions of the Open University.

4. Planning and Monitoring Committee

(1) The Planning and Monitoring Committee set up under section 14 of the Act shall consist of –

- (a) a chairperson and 3 other members chosen by the Board from among its members;
- (b) the Director-General; and
- (c) the Director of the Quality Assurance and Capacity Building Division, who shall be the Secretary.

(2) The Planning and Monitoring Committee shall make recommendations to the Board on –

- (a) immediate, medium and long-term plans of the Open University, taking into account the present and future needs of Mauritius;
- (b) monitoring the execution of all plans of the Open University and suggesting measures for quality assurance;
- (c) such other matters on which it may be requested by the Board to report.

(3) The Planning and Monitoring Committee shall meet at least 3 times a year.

5. Finance Committee

- (1) The Finance Committee shall consist of –
- (a) a chairperson and 3 other members chosen by the Board from among its members;
 - (b) the Director-General; and
 - (c) the Financial Controller, who shall be the Secretary.
- on –
- (2) The Finance Committee shall make recommendations to the Board
- (a) the financial position of the Open University from time to time;
 - (b) all other matters relating to finance; and
 - (c) such other matters on which it may be requested by the Board to report.
- (3) The Finance Committee shall meet at least 3 times a year.

6. Human Resource Committee

- (1) The Human Resource Committee shall consist of –
- (a) a chairperson and 3 other members chosen by the Board from among its members;
 - (b) the Director-General;
 - (c) such other persons as may, in the opinion of the Human Resource Committee, be co-opted to assist in the deliberations of the Committee; and
 - (d) the Registrar, who shall be the Secretary to the Committee.
- (2) The Human Resource Committee shall –
- (a) make recommendations to the Board for appointments to any office in the Open University, other than that of Director-General;
 - (b) be responsible for staff matters, including conditions of service, criteria for the appointment, promotion, transfer of staff, discipline, welfare, staff development and training programmes; and
 - (c) appoint such disciplinary committee as may have to be set up.

7. Convocation Procedure

(1) The Chairperson shall confer degrees, diplomas and other academic qualifications upon persons entitled to receive them at Convocation.

(2) A Convocation may be held on such date and time as the Board may determine.

(3) The Chairperson or, in his absence, the Director-General shall declare each Convocation open and closed.

(4) The proceedings of any Convocation shall otherwise be determined by the Board on the recommendation of the Academic Council.

8. Schools, Centres, programme units and academic units

The Board may, on the recommendation of the Academic Council, set up such Schools, Centres, programme units or other academic units as it thinks fit, in addition to those provided for in this Act, and determine their functions.

9. The Director-General

(1) The Director-General shall –

- (a) be the chief academic and executive officer of the Open University;
- (b) hold office for a period of 5 years, renewable for further periods of 3 years and on such terms and conditions as the Board may determine;
- (c) in the absence of the Chairperson, preside at a Convocation and confer degrees, diplomas or other academic qualifications upon persons entitled to receive them;
- (d) exercise control over the affairs of the Open University;
- (e) ensure the faithful observance of the provisions of this Act, the Statutes and the rules and regulations.

(2) (a) The Director-General may delegate any of his powers and duties to any person or body of persons.

(b) In the absence of the Director-General, the Board may appoint a person, whether or not a member of the Board, to act as Director-General, under such terms and conditions as may be decided by the Board.

(c) The Acting Director-General shall have all the powers and duties of the Director-General.

10. Registrar

(1) The Board shall, on the recommendation of the Human Resource Committee, appoint a Registrar on such terms and conditions as it thinks fit.

(2) The duties of the Registrar shall be to –

- (a) act as Secretary to the Board and the Academic Council, and to keep minutes;
- (b) be the custodian of the records, the common seal, and such other property of the Open University as the Board shall commit to his charge;
- (c) arrange for the conduct of examinations;
- (d) issue any advice convening meetings of the Board, the Human Resource Committee, the Academic Council, Boards of Examiners and of any committees appointed by the Open University;
- (e) conduct the official correspondence of the Board and the Academic Council; and
- (f) perform such other duties as may be specified in the Statutes or the Regulations or may be required from time to time by the Board or the Director-General.

(3) The Registrar may delegate any of his duties to any member of the staff.

11. The Financial Controller

(1) The Board shall, on the recommendation of the Human Resource Committee, appoint a Financial Controller on such terms and conditions as it thinks fit.

(2) The duties of the Financial Controller shall be to –

- (a) prepare for the consideration of the Board the estimates of income and expenditure of the Open University, for each financial year;
- (b) collect all fees, and other monies due to the Open University, give receipts for the same and account for all sums so received in such form as the Board may from time to time direct;
- (c) exercise general supervision over the funds and advise the Board as regards its financial policy;

- (d) arrange for the annual, and any special, auditing of the accounts;
- (e) call for explanations for any unauthorised expenditure or other financial irregularity and suggest disciplinary action against persons at fault;
- (f) call from any office or unit for any information or return that he may consider necessary for the performance of his duties; and
- (g) perform such other financial functions as may be assigned to him by the Board, the Director-General or as may be provided for in the Statutes.

12. Heads of Divisions and Institutes

(1) The Board shall, on the recommendation of the Human Resource Committee, appoint Heads of Divisions and Institutes on such terms and conditions as it thinks fit.

(2) The duties of the Heads shall be determined by the Board.

(3) In the absence of Heads of Divisions or Institutes, the Board may appoint suitable persons to act as Heads of Divisions or Institutes on such terms and conditions as may be decided by the Board.

13. Heads of Schools, Centres, programme units and other academic units

(1) The Board may, on the recommendations of the Human Resource Committee, appoint Heads of Schools, Centres, programme units and other academic units.

(2) Their duties shall be determined by the Board on the recommendations of the Academic Council.

14. Conduct of ballots

(1) Any election to membership of the bodies referred to in this Act or the Statutes shall be carried out at such appropriate time as may be fixed by the Registrar.

(2) For each election, a returning officer shall be designated by the Registrar.

(3) Any person entitled to be nominated and to vote in any election referred to in subparagraph (1) shall be an eligible person.

(4) (a) Not less than 4 weeks before the date of an election, the Registrar shall invite persons entitled to vote in that election to submit nominations of persons eligible to stand for election in writing.

(b) Nominations shall be in the hands of the Registrar not less than 3 weeks before the date of the election.

(5) If the number of valid nominations exceeds the number of vacancies, there shall be an election. Voting shall be by secret ballot and shall be organised by the Registrar.

(6) Electors shall vote by placing the same number of crosses on the ballot paper as there are vacancies. Ballot papers with more or fewer crosses shall be invalid. Counting shall be done by the returning officer who shall also announce the result.

(7) In the event of a tie, the returning officer shall decide by lot between the candidates tying, without disclosing that there has been a tie. The returning officer shall not disclose the number of votes cast, either in whole or for any candidate.

(8) If the number of valid nominations is less than the number of vacancies, the candidates shall be declared elected and the remaining vacancies shall be filled by appointment by the Board.

15. Association of learners

(1) Any group of learners wishing to form an association which is to be recognised by the Board as representative of their interests shall forward to the Board a copy of the proposed rules of the association for approval.

(2) The association shall forward any proposed amendment to the approved rules to the Board for approval.