



Tonga

**TONGA NATIONAL UNIVERSITY ACT
2021**

Act 13 of 2021



TONGA NATIONAL UNIVERSITY ACT 2021

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TONGA NATIONAL UNIVERSITY ACT 2021

Act 13 of 2021

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE TONGA NATIONAL UNIVERSITY AND FOR RELATED MATTERS

I assent,
TUPOU VI,
5th May 2022.

BE IT ENACTED by the King and Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

1 Short Title and commencement

- (1) This Act shall be cited as the Tonga National University Act 2021.
- (2) This Act shall come into force on a date proclaimed by Cabinet, except for –
 - (a) Part II (Establishment of the University); and
 - (b) Part III (Faculties and Schools),

which shall come into force on a date proclaimed by the Minister and published in the Gazette.

2 Interpretation

In this Act unless the context otherwise requires —

“**Council**” means the Council of the University established under section 20(1) of this Act;

- “Dean”** means a Dean of a faculty appointed under section 33(1) of this Act;
- “faculty members”** for the purposes of this Act refers to the academic and teaching staff of the University as well as the professional and administrative staff of a faculty;
- “Gazette”** means the Tonga Government Gazette;
- “Minister”** means the Minister responsible for education and training;
- “Ministry”** means the Ministry responsible for education and training;
- “national accreditation authority”** means the Tonga National Qualifications and Accreditation Board established under the Tonga National Qualifications and Accreditation Board Act (CAP.13.07), or any other authority established under any subsequent legislation which is assigned the responsibility for the registration and accreditation of post-secondary providers or programmes;
- “official insignia”** for the purposes of this Act refers to the name, slogan, logo, special initiative logo and common seal of the University;
- “policies of the University”** means the policies of the institution adopted under section 36 of this Act;
- “Senate”** means the University Senate established under subsection 25(1);
- “University”** means the University established under section 4 of this Act;
- “University Staff Association”** means the Association established under section 53 of this Act; and
- “University Students’ Association”** means the Association established under section 53 of this Act.

3 Administration

The Minister is responsible for the administration of this Act.

PART II – ESTABLISHMENT OF THE UNIVERSITY

4 Establishment of the University

- (1) The Tonga National University is hereby established.
- (2) At the commencement of this Act, the government owned institutions known as –
 - (a) Tonga Institute of Education;
 - (b) Tonga Institute for Higher Education;
 - (c) Tonga Institute of Science and Technology;
 - (d) Tonga Maritime Polytechnic Institute;

- (e) Queen Salote Institute of Nursing and Allied Health; and
- (f) Tonga Police College,

shall merge into and operate as one entity and shall constitute the University for the purposes of this Act.

- (3) No later than 12 months following the commencement of this Part, the University shall establish the faculties and schools established by section 11 of this Act.

5 Chancellor

- (1) The King of Tonga shall be the Chancellor of the University.
- (2) The Chancellor shall be the titular head of the University.

6 Legal status

- (1) The University is a body corporate with perpetual succession.
- (2) The University shall be capable of –
 - (a) entering into contracts;
 - (b) acquiring, holding and disposing of property;
 - (c) suing and being sued; and
 - (d) doing all other things that a body corporate may lawfully do.

7 Common seal

- (1) The University shall have a common seal.
- (2) The common seal shall be in a form approved by a written resolution of the Council.
- (3) At all times, the common seal shall be kept in the custody of the secretary to the Council.
- (4) The common seal shall be affixed to a document pursuant to a resolution of the Council to that effect.

8 Objectives

- (1) The objectives of the University are to –
 - (a) preserve, extend and disseminate knowledge in the Tonga through teaching, research, scholarship, consultancy or any other means;
 - (b) provide academic, technical and vocational training and continuing education that is responsive and appropriate to the needs of the people of Tonga;

- (c) foster and facilitate –
 - (i) the study of the Tongan language and culture and all matters pertaining to this; and
 - (ii) research into subjects of relevance or significance to Tonga;
 - (d) facilitate the economic and social development of Tonga through educational pathways that foster innovation and sustainable use of resources; and
 - (e) achieve the vision, mission and goals of the University set out in its Annual Corporate Plan.
- (2) The University shall –
- (a) operate in accordance with and be based on Tongan values and principles;
 - (b) strive for excellence in teaching and research and the attainment of the highest standards in education;
 - (c) promote intellectual independence and autonomy as foundation principles of the University; and
 - (d) establish an educational system that is accessible, inclusive, relevant and sustainable for Tonga.
- (3) The University shall offer academic, technical and vocational programmes and qualifications from certificate to post-doctorate level.
- (4) Programmes of the University shall promote –
- (a) knowledge of the Tongan language and culture through focussed research, teaching and publications;
 - (b) respect for the environment through initiatives that strengthen climate resilience and ensure sustainable use of resources; and
 - (c) dual use of the Tongan and English languages.

9 Powers

For the purposes of achieving its objectives, the University shall have the following powers, which shall be exercised in accordance with regulations made under this Act or policies of the University –

- (a) *Appointments* –
- (i) appoint a person to or remove a person from an office established under this Act and prescribe a person's conditions of service;
 - (ii) institute a Professorship, Lectureship or office of any kind, whether academic or not, as the University may consider appropriate;
 - (iii) accord the status of a member of the academic or administrative staff of the University to a person for such purpose or period as the University may from time to time determine;

- (b) *Administer admission* –
prescribe the conditions under which a person or categories of persons may be admitted to the University for pursuing any programme or course of study;
- (c) *Provide instruction and training* –
provide instruction or training at such level or levels and by such means as the University may from time to time determine;
- (d) *Institute and confer awards* –
- (i) institute and confer an award including a fellowship, scholarship, bursary, prize or other aid to study and research;
 - (ii) grant and confer a degree, diploma, certificate or other distinction or award, to or on a person who has pursued a programme or course of study approved by the University and has qualified for such grant;
 - (iii) confer a distinction, including an honorary degree, on an approved person;
 - (iv) deprive a person of or revoke a degree, diploma, certificate or other distinction or award granted or conferred by the University;
- (e) *Research and other services* –
establish research, design, development, testing or advisory services of the University and for these purposes, enter into such arrangements with other institutions or bodies as the University may from time to time determine, charging the users of those services such fees as the University may consider appropriate;
- (f) *Recognise qualifications* –
consider examinations passed and periods of study spent at other universities and other institutions or bodies as equivalent to such examinations and periods of study at the University and to revoke such acceptance at any time;
- (g) *Discipline staff and students* –
provide for the discipline of staff and students of the University;
- (h) *Establish networks and affiliations* –
- (i) affiliate, associate or co-operate with any other institution or body in Tonga or abroad, for the better provision of education, training, consultancy and research to benefit Tonga, and in doing so the University may –
 - (aa) recognise selected members of staff as members of the academic staff of the University;
 - (bb) admit elected members to any of the privileges of the University;
or
 - (cc) recognise attendance for the purposes of programmes and courses of study in the University;

- (ii) revoke or terminate any affiliation, association, co-operation, appointment, recognition, admission or acceptance;
- (i) *Foster consultancies and research* –
provide for consultancy and research and for the maintenance, advancement and dissemination of knowledge in such manner as the University may determine;
- (j) *Publications* –
provide for one or more publications as the University may consider appropriate, in furtherance of its objectives;
- (k) *Impose fees and procure funds* –
 - (i) determine, demand and receive fees;
 - (ii) raise money for and procure contributions to the funds of the University, in such manner and for such purposes as the University may from time to time determine;
 - (iii) act as a trustee or manager of any property, legacy, endowment, bequest or gift held by the University in furtherance of the objects of the University and to invest any funds representing the same;
- (l) *Purchase or sell property* –
 - (i) purchase, construct, maintain, manage, deal with or dispose of property or buildings;
 - (ii) establish, maintain, administer and govern institutions for the residence of students;
 - (iii) license and supervise institutions and other places of residence established by the University;
- (m) *Reward or reimburse staff* –
 - (i) to the extent that the University may consider expedient and consistent with its objectives, provide for the reward or otherwise of members of the University and their families, guests and where appropriate, for members of the public;
 - (ii) pay travelling allowances and expenses to a member of –
 - (aa) the Council or the Senate; or
 - (bb) a committee of the Council or the Senate,in respect of any authorised expenses arising out of and in the course of the performance of a member's functions; and
- (n) *All other such things* –
do any or all such other acts and things as the University may consider to be necessary or expedient in furtherance of its objectives under this Act.

10 Policy directives

- (1) The Council shall be an independent body, exercising its powers subject to this Act and the following requirements -
 - (a) on or before 31 August of each year the Government shall, through the Minister, provide to the Council short term policy directives for the University for the next academic year, which the Council shall take into account in exercising its functions; and
 - (b) the Council shall, in its Annual Report provided under section 52, outline how it has sought to achieve the policy directives of the Government and the extent to which those directives have been achieved.
- (2) The policy directives of the Government in subsection 1(a) shall be by way of a Cabinet decision conveyed by the Minister to the chair of the Council, on or before the prescribed time.

PART III – FACULTIES AND SCHOOLS

11 Faculties and Schools

The Council in consultation with the Minister and with the consent of Cabinet shall establish the faculties and schools of the University.

12 Establishment of additional faculties and schools

The Minister in consultation with the Council and with the consent of Cabinet may from time to time –

- (a) establish a new faculty or school of the University under this Act; or
- (b) close down, modify or rename a new or existing faculty or school of the University.

13 Academic freedom

- (1) The University shall ensure that the principles of academic freedom are preserved and advanced.
- (2) The principles of academic freedom include –
 - (a) freedom of faculty members and students to –
 - (i) engage in research;
 - (ii) engage in intellectual debate without fear of censorship or retaliation;

- (iii) within the law, question existing knowledge and theories and to put forward new ideas or to state controversial or unpopular opinions; or
 - (iv) express their views without fear of sanction, unless the manner of expression substantially impairs the rights of others or, in the case of faculty members, those views demonstrate that they are professionally ignorant, incompetent, or dishonest with regard to their discipline or fields of expertise;
- (b) freedom of the University to appoint and retain its own staff;
 - (c) a guarantee that serious charges brought against a faculty member will be heard before a committee of his peers, providing the right to due process, including the assumption that the burden of proof lies with the person who brought the charges; and
 - (d) subject to this Act and the Annual Corporate Plan, the freedom of the University to –
 - (i) regulate its courses and subject matter of courses taught at the University; and
 - (ii) teach and assess students in a manner that it considers best promotes learning.

14 Self accreditation

- (1) The University shall be subject to the applicable law of the national accreditation authority.
- (2) Notwithstanding subsection (1), the University may apply for self-accreditation in accordance with applicable requirements of the national accreditation authority.

PART IV – OFFICERS OF THE UNIVERSITY

15 Pro Chancellor

- (1) The Council, with consent of Cabinet, shall appoint a Pro Chancellor of the University.
- (2) The Pro Chancellor shall be the chair of the Council and shall preside over all of the meetings of the Council.
- (3) The appointment and functions of the Pro Chancellor shall be set out in bylaws made under this Act.
- (4) Notwithstanding subsection (1), at the commencement of this Act, an interim Pro Chancellor shall be appointed in accordance with section 57(1).

16 Vice-Chancellor

- (1) The Council shall appoint a Vice-Chancellor of the University.
- (2) The Vice-Chancellor shall be the chief academic and administrative officer of the University and shall preside over all meetings of the Senate.
- (3) The appointment and functions of the Vice-Chancellor shall be set out in bylaws made under this Act.
- (4) Notwithstanding subsection (1), at the commencement of this Act, an interim Vice Chancellor shall be appointed in accordance with section 57(1).

17 Deputy vice-chancellor

- (1) The Council shall appoint one or more Deputy Vice-Chancellors of the University.
- (2) In the absence of the Vice-Chancellor, a Deputy Vice-Chancellor shall exercise such powers and perform such duties of the Vice-Chancellor as the Council may, by written resolution, designate.
- (3) The appointment and functions of a Deputy Vice-Chancellor shall be set out in bylaws made under this Act.

18 Registrar

- (1) The Council shall appoint a Registrar of the University.
- (2) Under the direction of the Vice-Chancellor, the Registrar shall be responsible for the administration of the University, or aspects of that administration, as the Council may, by written resolution, determine.
- (3) The appointment and functions of the Registrar shall be set out in bylaws made under this Act.

19 Staff of the University

- (1) Except for the positions in sections 15(1), 16(1), 17(1) and 18(1) which are appointed by the Council, a staff member of the University shall be appointed by the Vice Chancellor in accordance with this Act and by-laws made under this Act.
- (2) Terms and conditions for the employment of a staff member shall be set out in by-laws made under this Act and policies of the University.
- (3) A staff member of the University shall be engaged under a written contract.

PART V – THE COUNCIL

20 Establishment of the Council

- (1) The Tonga National University Council is hereby established.
- (2) The Council is the governing body of the University.
- (3) All acts done or things carried out in the name of the Council shall be deemed to have been done by the University.

21 Composition of the Council

- (1) The Council shall be comprised of the following members –
 - (a) Pro Chancellor (chair);
 - (b) Vice-Chancellor;
 - (c) one representative of the Ministry, nominated by the Minister;
 - (d) one representative of the Ministry of Finance, nominated by the Minister of Finance;
 - (e) two members of the Senate, nominated by the Deans of Faculties and Heads of Schools of the University;
 - (f) one representative of the University Staff Association, nominated by that body; and
 - (g) one representative of the University Students' Association, nominated by that body.
- (2) The Council may, from time to time, co-opt up to four additional members to the Council, provided that a co-opted member –
 - (a) shall possess such specialised skills, knowledge or experience that are relevant to the work of the Council; and
 - (b) shall not be entitled to vote on any matter before the Council.
- (3) The Council shall, by written resolution, appoint a deputy chair.
- (4) The Council shall engage a secretary who is not a member of staff of the University or a member of the Council.
- (5) The term for each member of the Council shall be –
 - (a) for a person holding an ex-officio position, for as long as that person holds his position;
 - (b) for a representative of the Ministry and the Ministry of Finance, for the period that their respective Ministers advise the Council, in writing;
 - (c) for a representative of the Senate, a term of 1 year with the possibility of re-appointment for one additional term by the nominating body;

- (d) for a representative of the University Staff Association or University Students' Association, a term of 1 year with the possibility of reappointment for one additional term by the nominating body; and
 - (e) for a co-opted member, a term of 3 years, with the possibility of reappointment for one additional term by the nominating body.
- (6) At the first meeting of each year, a permanent member of the Council shall nominate an alternate and the Council shall consider and approve the list of alternates that will sit in place of permanent members for that year.
- (7) Rules of Procedure of the Council are in Schedule 1.
- (8) The Council may, from time to time, with the consent of the Minister, amend its Rules of Procedure.

22 Functions of the Council

- (1) Subject to this Act, the Council has the following functions –
- (a) appoint, promote, demote, transfer, second, suspend, discipline or terminate staff members of the University for the positions in sections 15(1), 16(1), 17(1) and 18(1);
 - (b) appoint an independent auditor of the University;
 - (c) approve a five yearly strategic plan for the University in consultation with the Ministry and other relevant stakeholders;
 - (d) oversee the governance and management of the University, including the oversight of finances, accounts, investments, property, business and all affairs of the University, including and without limitation, all matters in relation to staff entitlements and student fees;
 - (e) ensure that the University has in place appropriate risk management strategies and mechanisms;
 - (f) prescribe forms of official and academic dress;
 - (g) approve one or more qualifications to be issued by the University and conferred by the Chancellor;
 - (h) enter into any agreement that is binding on the University, including an agreement in relation to –
 - (i) any loan, acquisition or sale of a property or acceptance of a donation or legacy; and
 - (ii) academic or scientific cooperation such as with any tertiary institution, governmental or non-governmental organization, public or private body or person to carry out any of its missions; and
 - (i) perform any other function which is conferred on the Council by this Act or regulations made under this Act.

- (2) Notwithstanding subsection (1)(a), the Vice Chancellor shall have the power to appoint promote, demote, transfer, second, suspend, discipline or terminate any other officer or staff member of the University not included in subsection (1)(a).
- (3) The independent auditor of the University appointed under subsection (1)(b) of this section shall be –
 - (a) a qualified person with extensive experience in the audit of academic institutions; and
 - (b) engaged for such period and upon such terms as are included in a written contract with the University.

23 Powers of the Council

- (1) The Council shall have the power to do all such things that are necessary or expedient to be done for or in connection with the performance of its functions under section 22 of this Act.
- (2) Without limiting the generality of subsection (1), the Council shall have the power to –
 - (a) make rules to govern the University;
 - (b) establish, suspend or cancel an academic course, program or unit;
 - (c) establish a fee of the University, including tuition and student fees;
 - (d) establish a service of the University and charge for such services;
 - (e) enter into an agreement or contract which is relevant to the functions of the Council;
 - (f) acquire, hold, deal with or dispose of real or personal property;
 - (g) acquire copyright on behalf of the University, in accordance with applicable law;
 - (h) prescribe procedures of the University, including procedures for staff and student discipline; and
 - (i) invest surplus funds of the University as appropriate, in accordance with the approved investment policy of the University.

24 Delegation and revocation of delegation

- (1) The Council may, in writing, delegate one or more of its functions to –
 - (a) a member of the Council;
 - (b) a staff member of the University; or
 - (c) a committee of the Council or Senate.
- (2) A delegation shall not derogate from the power of the Council to act in any matter.
- (3) The Council may, in writing, revoke a delegation under subsection (1).

- (4) A delegation shall be in the form prescribed in Schedule 2.
- (5) A revocation of delegation shall be in the form prescribed in Schedule 3.

PART VI – THE SENATE

25 Establishment of the Senate

- (1) The Tonga National University Senate is hereby established.
- (2) The Senate is the academic and research governing body of the University.

26 Composition of the Senate

- (1) The Senate shall be comprised of the following members –
 - (a) the Vice-Chancellor (chair);
 - (b) Deputy Vice-Chancellor (Academic) (deputy chair);
 - (c) three representatives of the faculties, to be nominated by the Deans of Faculties;
 - (d) one representative of the Ministry, to be nominated by the Minister;
 - (e) one representative of the Tonga National Qualifications and Accreditation Board, to be nominated by the Board; and
 - (f) one representative of the University Students' Association, nominated by the Association.
- (2) The Senate may, from time to time, co-opt up to two additional members to the Senate, provided that a co-opted member –
 - (a) shall be a noted academic with such skills, knowledge or experience as may be required from time to time, to assist the Senate to discharge its functions; and
 - (b) shall not be entitled to vote on any matter before the Senate.
- (3) The Senate shall, by written resolution, appoint the secretary of the Senate from among its members.
- (4) The term for each member of the Senate shall be –
 - (a) for a person holding an ex-officio position, for as long as that person holds his position;
 - (b) for a representative of the Ministry, for the period that the Minister advises the Senate, in writing;
 - (c) for the representative of the University Students' Association, a term of 1 year with the possibility of reappointment for one additional term by the nominating body; and

- (d) for a co-opted member, a term of 2 years, with the possibility of reappointment for one additional term by the Senate.
- (5) A member of the Senate who is appointed or nominated under subsections (1)(c) or (1)(f) or subsection (2) shall not concurrently be a member of the Council.
- (6) Rules of Procedure of the Senate are in Schedule 4.
- (7) The Senate may from time to time, with the consent of the Council, amend its Rules of Procedure.

27 Functions of the Senate

Subject to this Act, the Senate has the following functions—

- (a) approve –
 - (i) academic calendar of the University;
 - (ii) one or more academic training programmes;
 - (iii) one or more procedures for assessment;
 - (iv) rules for the composition of Academic Boards; and
 - (v) the list of persons that have qualified for an award or conferment of a degree, diploma, certificate or other distinction or award;
- (b) regulate and control –
 - (i) a teaching programme or course of study;
 - (ii) conditions under which a person may qualify for a degree, diploma, certificate, or other distinctions or award of the University;
 - (iii) the admission of a person or categories of persons to the University for the purpose of pursuing any programme or course of study and to regulate a person's continuance in a programme or course of study;
 - (iv) examinations, tests and methods of assessment, if examinations, tests or other methods of assessment are necessary under requirements prescribed by the Senate for the granting of degrees, diplomas, certificates and other distinctions and awards;
- (c) regulate and oversee –
 - (i) operations of the Academic and Assessment Board;
- (d) recommend to the Council for approval –
 - (i) establishment of degrees, diplomas, certificates and other distinctions and awards in line with international standards;
 - (ii) requirements under which any institution or body may affiliate to the University;
 - (iii) appropriate provision for the academic support, personal development and well-being of the students;

- (iv) establishment or discontinuance of any academic unit, whether or not consequent upon any review of the academic organisation and development of the University;
- (e) accept –
 - (i) examinations passed and periods of study spent at other universities or other institutions or bodies as equivalent to such examinations and periods of study in the University;
 - (ii) awards such as fellowships, scholarships, bursaries, prizes and other aids to study and research;
- (f) determine –
 - (i) prerequisites for access to each university program;
 - (ii) formalities for the conferment of degrees, diplomas, certificates and other distinctions and awards;
- (g) develop –
 - (i) accredited undergraduate (University Diploma and Degree level), Postgraduate (Diploma, Master and PhD) programs and courses in line with Government priorities and aligned with international standards;
 - (ii) methods for evaluating teaching and research;
 - (iii) pedagogical or scientific cooperation agreements with any governmental or non-governmental organization, public or private body or person to carry out any of its missions;
- (h) promote research in line with Government priorities and encourage publication of such research;
- (i) revoke the approval given for the grant of an award or conferment on a person pursuant to subsection (a)(v);
- (j) cross credit a programme or course of study which was conducted in or awarded by any other institution or body;
- (k) assist the University Students' Association and any other association of the University; and
- (l) undertake any other function that is conferred on the Senate by the Council or by this Act.

28 Powers of the Senate

- (1) The Senate shall have the power to do all such things that are necessary or expedient to be done for or in connection with the performance of its functions under this Act.
- (2) Without limiting the generality of subsection (1), the Senate may–

- (a) recruit one or more faculty members, researchers or administrative staff of the University, whether by contract, secondment or such other arrangement that may be determined appropriate;
- (b) discipline staff and students of the University in accordance with regulations made under this Act; or
- (c) appoint one or more examiners, assessors or moderators, whether internal or external.

PART VII – COMMITTEES OR BOARDS OF THE SENATE

29 Senate may appoint a committee, board or other entity

- (1) The Senate may, from time to time, establish a committee, board or other entity as the Senate determines necessary to carry out such functions and to exercise such powers as the Senate may delegate under this Act.
- (2) The Vice-Chancellor or a nominee of the Vice-Chancellor shall be a member of each committee, board or other entity established by the Senate under this section.
- (3) Subject to this Act, a committee, board or other entity established under this section may determine and regulate its own procedures.

PART VIII – ADMINISTRATION OF FACULTIES AND SCHOOLS

30 Establishment of a Management Committee

- (1) The Senate shall establish a Management Committee to be responsible for administering each faculty of the University.
- (2) A Management Committee shall be comprised of the following members –
 - (a) Dean of the faculty (chair);
 - (b) Head of a school within the faculty;
 - (c) the Vice-Chancellor or a representative of the Vice-Chancellor;
 - (d) two members appointed by the Cabinet, one of whom shall represent a sector relevant to the school; and
 - (e) two co-opted non-voting members from one or more relevant professional associations, nominated by the Management Committee and endorsed by the Vice-Chancellor.
- (3) A Management Committee shall, by written resolution, appoint a secretary for the Management Committee.

- (4) The term for each member of a Management Committee shall be, for a –
 - (a) person holding an ex-officio position, for as long as that person holds the position;
 - (b) government representative, the period that the Cabinet advises the Management Committee, in writing; and
 - (c) co-opted person, a term of 2 years, with the possibility of reappointment for one additional term by the Management Committee.
- (5) A person shall not be nominated to a Management Committee unless he has –
 - (a) knowledge of or experience in any of the schools established under the University; or
 - (b) specialised skills or knowledge that are relevant to the functions of the Management Committee.
- (6) Except with the written approval of the Council or Senate, a member of a Management Committee shall not concurrently be a member of the Council or Senate.
- (7) Subject to this Act, a Management Committee may regulate its own procedures.

31 Functions of a Management Committee

- (1) A Management Committee shall have the following functions–
 - (a) set the strategic direction for each faculty in accordance with the national development strategic plan of government and other documents of the University;
 - (b) oversee the effective and efficient administration of each faculty and schools within each faculty;
 - (c) determine the allocation of teaching and learning resources;
 - (d) determine the allocation of academic and administrative workload of staff;
 - (e) recommend to the Senate –
 - (i) training programmes and methods of assessment;
 - (ii) schedule of teaching and schedule of examinations;
 - (iii) distribution of technical staff between the services of teaching and research;
 - (iv) job description for or in relation to any position created within each faculty; and
 - (v) any international co-operation agreement for or involving the faculty, including for a student mobility programme;
 - (f) examine all questions concerning the viability and effectiveness of courses;

- (g) as appropriate, examine and prepare applications for the accreditation of courses of study; and
- (h) any other function that the Senate may confer on a Management Committee from time to time.

32 Powers of a Management Committee

A Management Committee shall have the power to do all such things that are necessary or convenient to be done for or in connection with the performance of its functions under this Act.

33 Dean of a faculty

- (1) The Dean of a faculty shall be appointed by the Council on the recommendation of the Senate.
- (2) A Dean shall have the following functions –
 - (a) manage and oversee the –
 - (i) effective administration of the faculty;
 - (ii) human, financial and material resources of the faculty;
 - (b) determine the allocation of responsibilities to lecturers;
 - (c) preside at and convene meetings of the management committee;
 - (d) oversee the implementation of decisions of the Council or Senate;
 - (e) prepare and submit to the Council, through the Senate –
 - (i) the annual budget of the faculty; and
 - (ii) one or more reports on the management and operation of the faculty; and
 - (f) undertake such other functions as are conferred on the Dean by this Act.

PART IX – POWER TO REGULATE

34 Power to make regulations

- (1) The Minister, on the recommendation of the Council and with the consent of Cabinet may make Regulations for the implementation of this Act, which shall include but not limited to -
 - (a) governance and administration of the University including –
 - (i) management and organisation of the University;

- (ii) co-operation between the University and any other university, college or educational institution in Tonga or abroad, and the affiliation of educational institutions with the University;
 - (iii) imposition, collection, application and administration of prescribed fees in relation to anything done by the University;
 - (iv) abatement or waiver of prescribed fees; and
 - (v) establishment and administration of a fund for the purpose of assisting students in financial hardship;
- (b) establishing terms and conditions for the appointment of officers, faculty members and employees of the University, including –
- (i) terms and conditions upon which the Chancellor, Pro Chancellor, the Vice Chancellor or any other member of the Council, or officer or employee of the University, holds office; and
 - (ii) appointment and dismissal of staff of the University; and
- (c) any other matter affecting the administration of the University.

35 Power to make by-laws

- (1) The Council shall, make by-laws for the implementation of this Act, which shall include but not be limited to –
- (a) establishing terms and conditions for the appointment of officers, faculty members and employees of the University, including –
 - (i) terms and conditions upon which the Chancellor, Pro Chancellor, the Vice Chancellor or any other member of the Council, or officer or employee of the University, holds office; and
 - (ii) appointment and dismissal of staff of the University;
 - (b) maintenance of good order and discipline in the University;
 - (c) establishment of residential accommodation for students and licensing of boarding houses for students;
 - (d) regulate and control the use of the official insignia of the University;
 - (e) establish academic requirements and criteria including –
 - (i) qualifications required for admission to any course of education provided by the University and the credits to be given for the purposes of any such course in respect of work completed elsewhere;
 - (ii) conferring of fellowships, degrees, diplomas, certificates, scholarships, exhibitions, prizes or other awards;
 - (iii) courses of instruction, lectures and classes to be provided by the University; and
 - (iv) examinations and other methods of assessing the academic attainments and performance of students; and

- (f) prohibit persons from trespassing on the University grounds, and to provide for the removal of trespassers from those grounds;
 - (g) prevent damage to the University grounds including any fixtures, chattels, trees, shrubs, bushes, flowers, gardens and lawns on those grounds;
 - (h) provide for the recovery by the University on complaint compensation for any damage done to the University grounds or any property of the University;
 - (i) regulate the conduct of meetings on the University grounds;
 - (j) prevent the interruption of lectures, classes or meetings by noise or unseemly behaviour (whether within or outside buildings) and to prevent undue noise from motor vehicles;
 - (k) regulate, restrict or prohibit within the University grounds the consumption or use of alcoholic liquor, tobacco or other substances, and the bringing of alcoholic liquor, tobacco or other substances onto those grounds, and to provide for the removal of intoxicated persons from those grounds by persons authorised in writing by the Council;
 - (l) prohibit disorderly or offensive behaviour on the University grounds and to provide for the removal from those grounds of persons guilty of disorderly or offensive behaviour; and
 - (l) restrict or prohibit the driving of any vehicle on the University grounds;
 - (m) regulate the parking of vehicles on University grounds, and as appropriate, provide for their removal;
 - (n) prescribe fees for the parking of motor vehicles on the University grounds and provide for the recovery of those fees;
 - (o) prescribe any other matter expedient for the maintenance of good order on the University grounds or for the protection of property or for the prevention of hindrance to or interference with any activities conducted on the University grounds.
- (2) A by-law shall apply generally to the University grounds and premises unless its operation is expressly or by necessary implication limited to a particular part or particular parts of the University grounds or premises.

36 Policies of the University

- (1) The Council may establish such policies as are necessary to give effect to this Act.
- (2) The Council may from time to time, amend, repeal or replace a policy.

37 Annual Corporate plan

- (1) The Council shall be responsible for developing the annual Corporate Plan of the University.
- (2) The Annual Corporate Plan of the University shall be approved by the Minister before it comes into effect.

PART X – FINANCIAL MATTERS**38 Funds of the University**

- (1) Funds of the University shall include, but not be limited to —
 - (a) monies approved by the Legislative Assembly;
 - (b) grants (including research grants) received from the Government and other sources;
 - (c) monies received by the University by way of prescribed fees and charges;
 - (d) monies received by the University through donations, legacies or lump sum contributions; and
 - (e) funds received by the University from any other source.
- (2) Notwithstanding any other Act to the contrary, a fine recovered by the University in respect of an offence against a regulation or by-law under this Act, shall be paid into a bank account of the University established under section 39.

39 Bank accounts

- (1) By a written resolution of the Council, the Vice-Chancellor shall open and maintain one or more bank accounts for the University as the Council considers necessary.
- (2) Funds of the University which are allocated or received under section 38 shall be deposited into such bank accounts of the University as the Council determines and in accordance with approved financial policies of the University.
- (3) The Council shall not borrow money on behalf of the University, except at a rate of interest and subject to such conditions as are approved by the Minister and Cabinet.
- (4) The Council shall establish a fund to be applied towards assisting students of the University who are in difficult circumstances.

40 Financial year

The financial year of the University shall end on the 31st day of December each year or on such day that the Council may determine.

Provided that any change to the financial year of the University shall be notified in advance in the Gazette.

41 Public Finance Management Act

The Public Finance Management Act shall apply in respect of public funds received by the University.

42 Accounts and auditing

- (1) The Vice-Chancellor shall –
 - (a) keep proper accounts and accounting records in relation to the financial affairs of the University;
 - (b) ensure that the annual statement of accounts of the University are prepared for each financial year and, within four months of the end of the financial year, audited by the independent auditor appointed under section 22(1)(b) of this Act; and
 - (c) ensure that a copy of the audited financial accounts of the University are presented to the Council and to the Minister within six months of the end of the financial year.
- (2) Subject to this Act, the Auditor General shall be entitled to audit the records of the University in relation to public funds received by the University under section 38.

PART XI – PROPERTY AND ASSETS

43 Protection of proprietary interests of the University

- (1) The University has a proprietary interest in all official insignia of the University.
- (2) A person shall not, without the consent of the Council, in the course of a trade or business—
 - (a) use a name in which the University has a proprietary interest under this section for the purpose of promoting the sale of services or the provision of any benefits;
 - (b) sell goods marked with official insignia; or
 - (c) use official insignia for the purpose of promoting the sale of goods or services.

- (3) A person shall not, without the consent of the Council, assume a name or description that consists of, or includes, official insignia of the University.
- (4) A person who breaches subsections (2) or (3) of this section is liable to an offence.
- (5) A consent of Council under subsections (2) or (3) —
 - (a) may be given with or without conditions (including conditions requiring payment to the University);
 - (b) shall be given in writing addressed to the applicant;
 - (c) may, by notice in writing addressed to the person who has the benefit of the consent, be revoked by the Council at any time for a breach of a condition provided under subsection 5(a).

44 Dean to maintain register of assets

- (1) The Dean of a faculty shall establish and maintain a register of property and assets of the faculty.
- (2) Information in the register of property and assets shall be incorporated into the University's main register in section 51.

45 Maintenance of buildings

The Council shall be responsible for the establishment and maintenance of buildings of the University.

46 Disposal

- (1) The Council shall establish appropriate procedures for the disposal of property and assets of the University.
- (2) The University's main register in section 51 shall be updated periodically to reflect the disposal of assets in subsection (1).

47 Sustainable use of resources

- (1) Notwithstanding section 46, the University shall adopt policies to –
 - (a) ensure the sustainability of use of assets of the University; and
 - (b) promote the recycled use of resources.
- (2) Where assets are to be disposed, the University shall, prior to disposal, offer those assets to and for the use of schools, community groups or other entities.

PART XII – OFFENCES AND PENALTIES

48 Unauthorised use of the official insignia of the University

- (1) A person who violates section 43(2) of this Act shall, upon conviction, be liable to a maximum fine of \$20,000.
- (2) A person who violates section 43(3) of this Act shall, upon conviction, be liable to a maximum fine of \$20,000.
- (3) The Supreme Court may, on the application of the University, grant an injunction to restrain a breach of section 43(2) or 43(3).
- (4) The court by which a person is convicted of an offence against this section may, on the application of the University, order the convicted person to pay compensation of an amount fixed by the court to the University.
- (5) Subsections (3) and (4) do not derogate from any civil remedy that may be available to the University apart from those subsections.

49 Regulatory offences

A person who commits an offence under a regulation made under this Act shall, upon conviction, be liable to a fine not exceeding \$5,000 or a term of imprisonment of up to 2 months, or both.

50 Breach of by-laws

- (1) The Council may direct that a member of staff or student of the University who is alleged to have committed an offence against a by-law of the University be tried by a tribunal established in accordance with regulations made under this Act.
- (2) If it is proved that an offence was committed, the member of staff or student shall be dealt with appropriately, in accordance with applicable regulations made under this Act.
- (3) In any proceedings relating to an offence against a by-law –
 - (a) it will be presumed conclusively that the by-law or purported by-law was duly made;
 - (b) an allegation in a complaint that any place constitutes part of the University grounds will be taken to be proved in the absence of evidence to the contrary;
 - (c) an allegation in a complaint that a person named in the complaint was the owner of a specified vehicle on a specified day will be taken to be proved in the absence of evidence to the contrary; and

- (d) where it is proved that a vehicle was parked on the University grounds in contravention of a by-law, it will be presumed, in the absence of evidence to the contrary, that the vehicle was parked by the owner of the vehicle.
- (4) A fine recovered in relation to the breach of a by-law shall be deposited into a bank account of the University established under section 38.

PART XIII – REGISTERS

51 Registers to be established

- (1) The Vice-Chancellor shall establish and maintain the following registers of the University –
- (a) register of enrolment of students at the University;
 - (b) register of staff and student profiles;
 - (c) register of leases, properties and assets of the University;
 - (d) register of transcripts and academic outcomes of students;
 - (e) register of courses of study, programmes and qualifications offered by the University (including those accredited and unaccredited);
 - (f) register of delegated powers and functions and persons or bodies to whom those powers and functions have been delegated;
 - (g) register of all matters on appeal and decisions of appellate bodies;
 - (h) outcomes of all legal proceedings under this Act; and
 - (i) any other register that the Vice-Chancellor deems necessary for the proper administration of this Act.
- (2) To the extent possible, registers of the University shall be maintained electronically.

PART XIV – MISCELLANEOUS

52 Annual report

- (1) The Vice-Chancellor shall, within six months following the end of each financial year, furnish the Annual Report of the University to the Minister relating to the operations of the University in the preceding year.
- (2) The Annual Report shall include a copy of the audited accounts of the University.
- (3) The Annual Report shall be presented by the Minister to Cabinet on an annual basis.

53 Staff and Student Associations

- (1) The following entities are hereby established –
 - (a) Tonga National University Staff Association; and
 - (b) Tonga National University Students' Association.
- (2) Each Association in subsection (1) shall be comprised, respectively, of members elected by staff or students of the University in accordance with regulations made under this Act.
- (3) Notwithstanding subsection (1), the Council may approve the establishment of additional associations of the University in accordance with the process outlined in regulations made under this Act.
- (4) An association established under this section shall –
 - (a) adopt a Constitution which has been approved by the Council; and
 - (b) be established for the purpose of promoting the interests of staff, students or other groups of the University.
- (5) The Constitution of an association shall only be deemed to be adopted, amended or repealed when it has been so effected by a written resolution of the Council.

54 Adoption of University logo or slogan

- (1) The Minister shall, with the approval of Council and by notice in the Gazette, declare a logo, special initiative logo or slogan to be part of the official insignia of the University.
- (2) The official insignia of the University shall be maintained and used in accordance with this Act and regulations made under this Act.

55 Intellectual property

Subject to applicable laws of Tonga and except where the University has entered into a written agreement expressing the contrary, the University shall hold any and all intellectual property rights in the work of a faculty member or employee of the University.

56 Protection from liability

No action shall be taken against any officer, faculty member, employee, or member of any entity or body established under this Act, for any act which is done in good faith or is purported to be done by the officer in the performance of the officer's duties or in the discharge of the officer's functions under this Act.

PART XV – TRANSITIONAL MATTERS

57 Transitional matters

(1) *Establishment of the Council –*

On the commencement of this Act –

- (a) The Cabinet shall appoint –
 - (i) a person to be the interim Pro-Chancellor of the University, until the permanent Pro-Chancellor is appointed; and
 - (ii) a person to be the interim Vice-Chancellor of the University, until the permanent Vice-Chancellor is appointed,

provided that permanent appointments to those positions shall be made within 1 year of the commencement of the Act.

- (b) the Cabinet shall appoint two full members of the Council in accordance with section 21 of this Act, and these members shall, together with the interim Pro-Chancellor and the interim Vice-Chancellor, lawfully constitute the Council for the purposes of this Act.
- (c) the members of the Council appointed under subsection (1) and subsection (2), shall exercise all the powers of the Council under this Act and be responsible for discharging the functions of the Council until the full Council membership is appointed.
- (d) except as otherwise determined by Cabinet, the initial budget of the Council shall be provided by a special allocation approved by Government.
- (e) on the joint recommendation of the Minister and Minister of Finance, the initial budget of the Council and the list of authorised expenditures shall be submitted to Cabinet for approval, prior to funds being expended.

(2) *Land, Property and Assets of existing institutions*

Lands, property and assets of the former government owned institutions in section 4(2) shall be deemed to be the lands, property and assets of the University, subject to the application for formal transfer of those titles to the University by the Council or Ministry.

(3) *Faculty members and staff of existing institutions*

Faculty members and staff of the former government owned institutions in section 4(2) shall be offered the following options by the Council –

- (i) apply for employment by the University in a position and with terms and conditions to be determined by the Council;
- (ii) remain employed by the Ministry in the current position or in another position and with terms and conditions to be determined by the Ministry; or

(iii) any other option that the Council may deem appropriate.

Passed by the Legislative Assembly this **25th** day of **August** 2021.

SCHEDULE 1*(Section 21(8))***RULES OF PROCEDURE OF THE COUNCIL****1 Duty of Council members**

- (1) A member of the Council shall at all times, in the performance of his functions –
 - (a) exercise a high degree of care and diligence; and
 - (b) act in the best interests of the University.
- (2) A member of the Council shall not improperly use his position to gain an advantage for himself or any other person, whether within or outside Tonga.

2 Conflict of interest

A member who has a direct or indirect interest on any matter before the Council shall declare his interest in the matter at the beginning of the meeting and shall not vote or be part of any deliberation on that matter.

3 Removal and resignation of members

- (1) The Council may, by written resolution, remove a member of the Council.
- (2) Grounds for the removal of a member of Council shall be established in regulations made under this Act.
- (3) A member of the Council may resign at any time by providing his written resignation to the chair.

4 Vacancies and acting members

- (1) If there is a vacancy in the membership of the Council, the Council shall ensure that the vacancy is filled as soon as possible.
- (2) A decision of the Council shall not be made void merely by a vacancy in the membership of the Council.

5 Sitting allowance for member

A member of the Council is entitled to a sitting allowance as may be determined in writing by the Cabinet.

6 Meetings

- (1) The Council shall meet at least two times per year and may hold such other meetings as are necessary, in person or by teleconference, for the proper performance of its functions.
- (2) The chair of the Council may convene a meeting of the Council on the written request of at least four members of the Council.
- (3) A meeting shall be convened within 14 days after the chair has received a written request for a meeting.
- (4) A member present at a meeting of the Council has one vote.
- (5) General questions arising at a meeting of the Council shall be determined by a consensus of members, and if no consensus is reached, a decision shall be taken by a simple majority of votes.
- (6) Notwithstanding sub-article (5), regulations made under this Act shall determine issues where a unanimous decision is required by the Council.
- (7) Where voting at a meeting is equal, the chair shall have the final and casting vote.

7 Quorum

- (1) The quorum for a meeting of the Council is a majority of permanent members of the Council.
- (2) The Council may meet despite any vacancies in its membership, so long as a quorum is present.

8 Common seal

- (1) The affixture of the common seal of the University to a document shall be witnessed by the following signatures—
 - (a) in the case of an academic award—the Pro Chancellor or the Vice-Chancellor; or
 - (b) in any other case—both the Pro Chancellor and the Vice-Chancellor (or their nominees).
- (2) Where an apparently genuine document purports to bear the common seal of the University and appears to be duly witnessed, in any legal proceeding, in the absence of proof to the contrary, it will be presumed that the common seal was duly affixed to the document.

9 By-laws of the University

- (1) The Council may only make a by-law—
 - (a) at a meeting of the Council of which at least 14 days prior notice has been given in writing to each member of the Council setting out the proposed by-law; and
 - (b) on a resolution supported by a simple majority of the total number of permanent members of the Council.

SCHEDULE 2

(Section 24(4))

INSTRUMENT OF DELEGATION

[UNIVERSITY LOGO]

Pursuant to section 24(1) of the Tonga National University Act 2021, the Council hereby delegates the following functions or powers to [state name of person or body] –

Powers delegated

Section xx – Power to [insert]

Section xx – Power to [insert]

Conditions of delegation

The above-named powers are to be exercised on the following conditions:

.....

.....

Period of delegation

These powers are delegated on this day of 20..... and shall end on the day of, 20..... unless an instrument of revocation is issued sooner by the Council pursuant to section 24(5) of the Tonga National University Act.

.....

Signed

Pro Chancellor

Tonga National University

SCHEDULE 3

(Section 24(5))

INSTRUMENT OF REVOCATION

[UNIVERSITY LOGO]

Pursuant to section 24(5) of the Tonga National University Act 2021, the Council hereby revokes the delegation of the following functions or powers to [state name of person or body] –

Powers revoked

Section xx – Power to [insert]

Section xx – Power to [insert]

Effective date of revocation

The revocation of the above-named power(s) shall be effective on this day of 20.....

.....

Signed

Pro Chancellor

Tonga National University

SCHEDULE 4*(Section 26(6))***RULES OF PROCEDURE OF THE SENATE****1 Duty of Senate members**

- (1) A member of the Senate shall at all times, in the performance of his functions –
- (a) exercise a high degree of care and diligence; and
 - (b) act in the best interests of the University.
- (2) A member of the Senate shall not improperly use his position to gain an advantage for himself or any other person, whether within or outside Tonga.

2 Conflict of interest

A member who has a direct or indirect interest on any matter before the Senate shall declare his interest in the matter at the beginning of the meeting and shall not vote or be part of any deliberation on that matter.

3 Removal and resignation of members

- (1) The Senate may, by written resolution, remove a member of the Senate.
- (2) Grounds for the removal of a member of Senate shall be established in regulations made under this Act.
- (3) A member of the Senate may resign at any time by providing his written resignation to the chair.

4 Vacancies and acting members

- (1) If there is a vacancy in the membership of the Senate, the Senate shall ensure that the vacancy is filled as soon as possible.
- (2) A decision of the Senate shall not be made void merely by a vacancy in the membership of the Senate.

5 Sitting allowance for member

A member of the Senate is entitled to a sitting allowance as may be determined in writing by the Cabinet

6 Meetings

- (1) The Senate shall meet at least three times per year and may hold such other meetings as are necessary, in person or by teleconference, for the proper performance of its functions.
- (2) The chair of the Senate may convene a meeting of the Senate on the written request of at least four members of the Senate.
- (3) A meeting shall be convened within 14 days after the chair has received a written request for a meeting.
- (4) A member present at a meeting of the Senate has one vote.
- (5) General questions arising at a meeting of the Senate shall be determined by a consensus of members, and if no consensus is reached, a decision shall be taken by a simple majority of votes.
- (6) Notwithstanding sub-article (5), regulations made under this Act shall determine issues where a unanimous decision is required by the Senate.
- (7) Where voting at a meeting is equal, the chair shall have the final and casting vote.

7 Quorum

- (1) The quorum for a meeting of the Senate is a majority of permanent members of the Senate.
- (2) The Senate may meet despite any vacancies in its membership, so long as a quorum is present.

8 Regulations, by-laws and policies of the University

- (1) The Senate shall ensure that students and staff of the University have free access to a copy of the regulations and by-laws of the University.
- (2) The Dean of each faculty shall ensure that the staff of each faculty is familiar with the regulations, by-laws and policies of the University.