

The Fiji National University Decree 2009
(Decree No. 39 of 2009),
Revised
as per The Fiji National University (Amendment) Decree 2010)

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GOVERNMENT OF FIJI
THE FIJI NATIONAL UNIVERSITY DECREE 2009, as amended, 2010

IN exercise of the powers vested in me as Vice-President of the Republic of Fiji by virtue of the office of the Vice-President and Succession Decree, 2009, I hereby make the following Decree—

Part 1—PRELIMINARY

Short title and commencement

1.—(1) This Decree may be cited as the Fiji National University Decree 2009.

(2) — (i) This Decree comes into force on the date gazetted by the Minister for Education.

(ii) The Minister may declare different commencement dates for different sections of this law.

Object of the Decree

2. The Object of this Decree is to establish the Fiji National University to serve the needs of the Post-Secondary Educational requirements for the Republic of Fiji.

Interpretation

3.—(1) In this Decree, unless the context otherwise requires—

"Academic staff, of the university, means—

(a) the university's teaching and research staff, other than research assistants; and

(b) staff of the university whose instrument of appointment states they are members

"appointed member" means a member of the council appointed under section 14.

"apprentice" means a person being trained under the apprenticeship scheme.

"appropriately qualified", for a delegation of a power, includes having the qualifications, experience or standing appropriate to exercise the power.

"Chancellor" means the chancellor of the university.

"college" means a college established under section 35.

"conviction" means a conviction other than a spent conviction.

co-opted member means a member of the council appointed under section 16

"Council" means the council of the university.

"deputy chancellor" means the deputy chancellor of the university.

"elected member" means a member of the council elected under section 15;

"general staff of the university, means staff of the university, other than academic staff.

"higher education award" means—

(a) a degree, status, title or description of certificate, diploma, associate, bachelor, master or doctor; or

(b) any other award, if the course of study relating to it classified as higher education under any University Course or program.

"land "of the university, means land and buildings owned by or under the control of the university.

"Levy" refers to the funds generated under the Levy Order under section 42A of this Decree.

"Levy Order" refers to the order made by the Minister under section 42A of this Decree

"Minister" refers to the minister responsible for tertiary education in the Republic of Fiji Islands.

"National Training and Productivity Centre" means the National Training and Productivity Centre established by section 35A of this Decree.

"official member" means a person who is an official member of the council under section 12.

"Senate" means the body composed under section 32 of this Decree
"student" means a student enrolled in the university.
"University" means the Fiji National University.
"university regulation" means a university regulation made under section 40.
"vice-chancellor" means the vice-chancellor of the university.

Part II: THE UNIVERSITY AND ITS COUNCIL

Establishment of the University

4.—(1) This section constitutes and founds for the communities of the Republic of Fiji Islands and any other overseas communities that may wish to receive tertiary education, a University with the name and style of "The Fiji National University".

(2) The University shall be a body corporate with perpetual succession and a common seal by the name and style of "The Fiji National University" with power and capacity in that name to sue and be sued, to take, purchase, hold, charge, sell, exchange, demise or otherwise dispose of real and personal property, to invest, lend or borrow money, to enter into contracts, to appoint agents and attorneys, to engage consultants, to fix charges and other terms for services and other facilities it supplies, and subject to this Decree, to perform such other acts as by law bodies corporate that are created by law may do, and the University shall have the constitution and powers and be subject to the provisions in this Decree.

(3) Without limiting subsection (2), the university has the powers given to it under this Decree.

(4) The University may exercise its powers inside or outside the Republic of Fiji Islands.

Object of the University

5.—(1) The object of the University shall be to promote scholarship, research, free inquiry, academic excellence, and trade competence and in this process create, disseminate, maintain, and advance knowledge and productivity by teaching, training and other means, for the welfare and needs of the communities mentioned in 4(1) above.

(2) The University shall be concerned with education and training at the post-secondary levels, including education and training at the technical and vocational levels, consistent with international standards of teaching, research, and other academic activities in institutions styled as institutions of higher learning.

Functions and Powers of the University

6.—(1) The University's functions are—

- (a) to provide for, and encourage the creation, advancement and dissemination of knowledge, through scholarship, research and teaching to the standards acceptable by the Council;
- (b) to provide courses of study or instruction, at the levels of achievement the Council considers appropriate, to meet the needs of the community, including technical and vocational education and training;
- (c) to confer higher education awards and awards at other levels as determined by the Council;

- (d) to provide, arrange for or regulate the appropriate training of persons or classes of persons, whether by way of apprenticeship or otherwise, to assist such persons or classes of persons in connection with employment;
- (e) to assist and contribute towards the cost of training, and the promotion of training, of any person or class of persons;
- (f) to participate in community discourse through the application of knowledge generated and advanced at the university to society, industry, and government in an environment where the rights of all are respected;
- (g) to perform other functions given to the university under this Decree or under another Decree, or as determined by the Council.

(2) The University shall have the powers—

- (a) to provide facilities, resources and institutional governance structures that ensure the integrity of the University's academic programmes, and promote the well being of the university's staff, students and other persons undertaking study and research at the university.
- (b) To prescribe the conditions under which students and persons or categories of persons shall be admitted to the University for the purpose of pursuing any programme or course of study therein, and to ensure that provision is made for the maintenance of the discipline of the students of the University.
- (c) To appoint persons to and to remove them from such offices instituted, to prescribe the conditions of service of staff and to provide for their discipline.
- (d) To institute Professorships and other offices of any kind as the University may consider appropriate.
- (e) To make provision for consultancy, research, design, development, testing and advisory services and for the dissemination of the same in such manner as the University may determine including entering into arrangements with other institutions, bodies, or companies as the University may consider desirable.
- (f) To affiliate, associate or cooperate with other institutions or bodies with regard to matters pertaining to the well-being of the University and other institutions as may be appropriate in particular situations.
- (g) To enter into any agreement for the incorporation in the University of any other institution or body and for taking over the rights, properties, and liabilities thereof.
- (h) To enter into any agreement for the academic association with the University of any other institution or body.
- (i) To establish awards such as Fellowships, Scholarships, Prizes and other aids for study and research.
- (j) To examine and accept where appropriate qualifications gained, examinations passed or periods of study spent at other universities and institutions as equivalent to such examinations and periods of study in the University as the University may determine.
- (k) To grant and confer Degrees, Diplomas, Certificates and other distinctions or awards of study approved by the University to those who have qualified for such grants in accordance with the requirements of the University, and to confer distinctions including Honorary Degrees on approved persons, according to procedures established by the University.
- (l) To revoke or deprive any persons of Degrees, Diplomas, Certificates, or other distinctions or awards granted or conferred by the University on foundations that the University shall consider to be good cause.
- (m) To do all such other acts and things whether incidental to the powers aforesaid or not as the University may consider being necessary or expedient in order to further its objects.

Council

7. The Council of the University is hereby established.

Functions of the Council

8. The Council is the university's governing body, and may exercise on behalf of the University, all powers conferred on the University by this Decree.

Powers of the Council

9.—(1) The Council may do anything necessary or convenient to be done for its functions, and for this purpose—

- (a) shall have the custody, control and disposition of all property, funds, fees and investments of the University;
- (b) shall strive to ensure that the University attains the highest standards of excellence in education, training and research;
- (c) shall, from time to time, in respect of the University, prepare, for the approval of the Minister, a statement of objectives, including a corporate plan, and proposed funding for such objectives and plan;
- (d) shall ensure that the University is managed in accordance with the law, and the general principles of good governance and transparency;
- (e) may engage in such joint venture activities as will enable the University to improve its provision of facilities, including the provision of halls of residence, to students;
- (f) may determine fees to be paid or charges to be levied, in respect of programmes and courses or otherwise;
- (g) shall, for the purposes of responsible, effective and efficient use of resources, ensure that systems are established for the co-ordination of activities of the University and for accountability;
- (h) shall provide for maintaining the seal of the University, and make provisions for the use of the seal; and
- (i) shall, subject to the provisions of this Decree, carry out any activity as by law bodies corporate that are created by law carry out do, and do such other things as appear to the Council necessary or expedient for furthering the interests of the University.

Council to promote university's interests

10. The council must act in the way that appears to it most likely to promote the university's interests.

Delegation

11.—(1) Subject to this Decree, there shall be constituted such other institutions or bodies and such committees as the Council may from time to time consider necessary or expedient for the administration of the affairs of the University.

(2) The Council may delegate any of its powers, duties and functions to such institutions and committees or to the Vice Chancellor of the University.

(3) No delegation may prevent the Council from performing any of the functions or exercising any of the powers of the Council. All such delegation is revocable by will.

(4) The Council may, subject to subsection (5) of this section, delegate its powers under this Decree to—

- (a) an appropriately qualified member of the council; or
- (b) an appropriately qualified committee that includes 1 or more members of the council; or
- (c) an appropriately qualified member of the university's staff.

(5) (a) The Council may appoint such boards or committees from time to time and on such terms as it may consider fit to hold office for such terms as it deems fit to advise the Council on any matter or matters arising out of the proper discharge of its functions.

(b) Any such board or committee shall, in addition to any member of the Council appointed, consist of such persons who in the opinion of the Council can make a contribution to the work of that board or committee, provided that such board or committee may invite such other persons as it considers desirable to attend its meetings and give advice, but such persons shall not be entitled to vote.

(c) In the discharge of its functions, the Council shall give due consideration to the advice or recommendations of any such board or committee.

(6) The council may not delegate its power to make university statutes or rules

Membership of the Council

12(1). The council consists of official members, appointed members, elected members, and co-opted members.

(2) Members of the Council and of any board or, committee appointed by it shall be paid by the Council such allowances and expenses as the Minister may from time to time determine.

Official members

13.—(1) There shall be 4 official members.

(2) The official members are—

- (a) the Chancellor
- (b) the Deputy Chancellor;
- (c) the Vice-Chancellor; and
- (d) the Chief Executive Officer of the Ministry responsible for tertiary education.

(3) The official members shall hold office for so long as they continue to occupy the positions by virtue of which they became members.

Appointed Members

14.—(1) There shall be 10 members appointed by the Minister in consultation with the official members, from lists of nominees submitted by the Fiji Institute of Engineers, Fiji Institute of Valuers, Fiji Institute of Accountants, Fiji Hotel Association, Fiji Medical Association, Chamber of Commerce, Fiji Law Society, Fiji Institute of Applied Studies, Fiji Principals Association and Fiji Nurses, Midwives and Nurses Practitioners Board.

(2) There shall be 2 members appointed by the Minister from a list of nominees submitted by the national employer bodies;

(3) There shall be 2 members appointed by the Minister from a list of nominees submitted by the registered trade union confederations.

(4) The Minister shall call for a list of nominees from each group mentioned in sub-sections 14(1) to 14(3) prior to appointments.

(5) The term of the appointed members of the Council shall be three years.

Elected members

15.—(1) There shall be 8 elected members, comprising—

- (a) 2 heads of the University's Colleges, elected by all the heads of the Colleges;
- (b) 2 members of the university's full-time professorial staff;
- (c) 2 members of the university's full-time non-professorial academic staff; and
- (d) 2 representatives of the University's full-time students, other than persons eligible for membership under paragraph (a) or (b).

(2) Each elected member is to be elected by a ballot at which—

- (a) for elected members mentioned in subsection (1)(a) all the members of the full-time professorial staff may vote; or
- (b) for elected members mentioned in subsection (1)(b) all the members of the full-time academic staff may vote; or
- (c) for elected members mentioned in subsection (1)(c) and (d) all the full-time students may vote.

(3) The term of elected members under subsection 1(a) and 1(b) shall be three years, and for the elected members under subsection 1(c) and 1(d) shall be one year, from the first scheduled meeting after the date of election. An elected member may be re-elected for subsequent periods.

Co-opted members

16.—(1) There shall be up to 6 co-opted members who must not be students or full-time members of the University's academic or general staff, but who shall be persons of commercial, academic and professional eminence.

(2) Co-opted members shall have the same rights and privileges as official, appointed or elected members.

(3) The term of co-opted members of the Council shall be three years from the first scheduled meeting after the date of appointment. The term of a co-opted member may be renewed by the Council for a maximum of two additional terms.

Failure to Make Nominations in accordance to section 14(2)

17. If an entity empowered to make nominations to the Minister under section 14(2) does not make any nomination by the date fixed by the Minister by a reminder letter given to the entity, the Minister, in consultation with the Council, may appoint to the Council any member of the entity in place of the nominated member.

Failure to Elect Elected Members

18. If a group permitted to elect elected members under section 15(2), does not elect any or enough persons or elected members by a date fixed by the Council by written notice given to the group, the Minister, on the advice of the Council, may appoint equal number of such members.

Dealing with casual vacancy

19.—(1) If a casual vacancy arises in the office of an appointed member, the Minister shall appoint a replacement from the list of nominees called by the Minister from the group from which the departing member was appointed.

(2) If a casual vacancy arises in the office of an elected member and the elected member was elected by a ballot under section 15(2), the Council must appoint to the office the one person, if any, who received the highest number of votes of all the candidates who were not elected if the candidate is willing to perform the functions of a member.

(3) A person appointed or elected to fill a casual vacancy in the office of a member is appointed or elected for the balance of the term of office of the person's predecessor.

Ineligibility for Membership of Council

20. A person is not eligible to become a co-opted, appointed or elected member if —

- (a) the person was duly declared bankrupt by the Courts, or
- (b) the person has been duly convicted and jailed for a period exceeding 9 months.

Vacation of Office

21. The office of an appointed, elected or co-opted member becomes vacant if—

- (a) the member dies; or
- (b) for the co-opted or elected member the member ceases to be an eligible person for the entity that elected or appointed the person; or
- (c) the member is absent without the Council's leave and without reasonable excuse from every meeting of the Council in a period of 9 months; or
- (d) the member becomes an official member; or
- (e) the member resigns from office by signed written notice given to the appointing authority if an appointed member or to the Chairperson of the Council if an elected or a co-opted member, or
- (f) the member is removed from office under section 23.

Member's Function and Obligations

22.—(1) A member has the function of ensuring the council performs its functions and exercises its powers appropriately, effectively and efficiently.

(2) In performing the function, a member is obliged to each of the following—

- (a) act honestly and in the best interests of the University;
- (b) exercise reasonable skill, care and diligence;
- (c) disclose to the Council any conflict that may arise between the member's personal interests and the interests of the University;

(d) not make improper use of his or her position as a member, or of information acquired because of his or her position as a member, to gain, directly or indirectly, an advantage for the member or another person.

(3) All members of the Council, and of any board or committee appointed by the Council, shall fully declare to the Council any financial or other interest with which they may at any time • directly or indirectly be connected and shall, Unless the Council so decides, refrain from voting at meetings of the Council or of such board or committee on any matter related thereto provided that such interest, if so declared, shall not disqualify such member for the purpose of constituting a quorum.

(4) Any member of the Council or of a board or committee thereof and any employee of the Council who discloses any material information acquired in the course of his obligations under this Decree (other than as lawfully required to do so) commits an offence.

Council may Remove a Member from Office

23.—(1) Any member of the Council, other than the members of the staff of the University, may be removed from office by the Council for good cause.

(2) "Good cause" when used in reference to removal from office means:

(a) the member has not complied with section 22(2)

(b) conviction for any offence which the Council considers to be such as to render the person concerned unfit for the execution of the duties of his office; or

(c) any physical or mental incapacity which the Council considers to be such as to render the person concerned unfit to continue to hold his office, or

(d) conduct of a nature which the Council considers to be such as to render the person concerned unfit to continue to hold his office; or

(e) conduct which the Council considers to be such as to constitute failure or inability of the person concerned to perform the duties of his office or to comply with the conditions of his office.

(3) To remove a person as a member of the Council, a two-thirds majority of the Council members should agree to the removal in a duly constituted meeting called where the removal of the member is listed as an agenda item and where the member is given a reasonable opportunity to be heard by the Council before the vote on the matter.

(4) If the Council decides to remove a member from office under subsection (3), the Council must as soon as practicable but no later than 14 days from the date of the decision, inform the appointing authority if the member was an appointed member, or the body electing the member if the member was an elected member.

Meetings of the Council

24.—(1) The Chancellor must preside at meetings of the Council. In the absence of the Chancellor from a meeting of the Council or if the office is vacant, the Deputy Chancellor shall preside at the meeting. If both, the Chancellor and the Deputy Chancellor are absent from a meeting of the Council, or the offices are vacant, the members present must elect a member to preside at the meeting.

Conduct of meetings

25.—(1) A quorum exists at a meeting of the Council if at least half its members, of which at least 2 shall be official members, at least 5 shall be appointed members and at least 2 shall be elected members, are present.

(2) The Council may otherwise regulate its proceedings as it considers appropriate.

(3) No decision of the Council or act done in pursuance to section 25(1) and (2) shall be invalid by reason of vacancy in the office of a member of the Council or on the ground of any defect in the election, nomination, or appointment of any such member.

Protection of members of the Council

26.—(1) No action, suit or other proceeding shall be instituted against any member of the Council personally in respect of any act done in good faith or made by the member in execution or intended execution of any function of the Council under this Decree.

(2) Where a member of the Council is exempt from liability for an act or omission by reason only of subsection (1), the Council shall be liable for the act or omission to the extent that it would be if the member were the Council's employee or agent.

Part III—OFFICERS OF THE UNIVERSITY

Members of the University

27.—(1) The following persons shall be members of the University—

- (a) The Chancellor, the Deputy Chancellor, and the Vice Chancellor
- (b) The Members of the Council;
- (c) The Members of the Senate;
- (d) The Members of the Academic Staff;
- (e) Such administrative and technical staff as the Council may determine;
- (f) The Graduates of the University;
- (g) The Students of the University;

The Chancellor

28.—(1) There shall be a Chancellor of the University who shall be the Chairperson of the University Council.

(2) The Chancellor shall be appointed by the Minister, in consultation with the Council, and shall hold office for terms of up to 3 years. The Chancellor shall be eligible for reappointment, but shall not hold office for more than 3 consecutive terms.

The Deputy Chancellor

29.—(1) There shall be a Deputy Chancellor of the University, who shall be appointed by the Council.

(2) The Deputy Chancellor shall hold office for a period of 3 years. The Deputy Chancellor

shall be eligible for reappointment, but shall not hold office for more than 3 consecutive terms.

(3) If a person who is not a member of the Council is appointed to be the Deputy Chancellor, he or she shall on appointment become a member of the Council.

(4) The Deputy Chancellor shall be the vice-chairman of the University Council.

The Vice-Chancellor

30.—(1) The Vice-Chancellor shall be appointed by the Council and shall hold office for such period and under such terms and conditions as the Council may determine.

(2) The Vice-Chancellor is the chief executive officer of the university and may exercise the powers and perform the functions conferred on the Vice-Chancellor by this Decree or another Act or by the Council. The Vice-Chancellor shall have a general responsibility to the Council for managing the University, and for maintaining and promoting the efficiency and good order of the University. He or she shall make a report annually to the Council on the working of the University.

(3) Subject to the directions of the Council, for the purposes of carrying out the daily functions of the Council under this Decree, the Vice Chancellor has the power to appoint, discipline, suspend or dismiss staff based on reasonable grounds.

(4) The Vice-Chancellor shall be empowered to draw up regulations in the interest of good governance, ethical standards and good name of the University in situations of emergencies, and take action on behalf of the University Council that is urgent in nature.

(5) The Vice-Chancellor may delegate powers of the Vice-Chancellor under this Decree or another Act to an appropriately qualified member of the University's staff.

(6) The Vice-Chancellor may resign by giving due written notice to the Council as stipulated in his/her terms and conditions of employment.

Other Officers

31. The Council must ensure that policies are put in place to appoint such other officers as necessary for efficient functioning of the University, including, but not restricted to, the appointment of an officer with responsibility for ensuring at all times an appropriate balance between academic education and technical/vocational education and training.

Part IV—BODIES OF OR CONNECTED WITH THE UNIVERSITY

Establishment of the University Senate

32.—(1) This section establishes the University Senate.

(2) Subject to the powers, duties and functions of the Council as provided in this Decree, the Senate shall be responsible for the teaching, research and other academic work of the University and for the regulation and superintendence of the education, training and discipline

of the students of the University.

(3) The Senate must—

- (a) advise the Council about teaching, scholarship and research matters concerning the university;
- (b) formulate proposals for the academic policies of the University;
- (c) monitor the academic activities of the University; and
- (d) promote and encourage scholarship and research at the University.

(4) The Senate may establish academic boards for colleges, faculties and schools to regulate the academic affairs of the respective college, faculty and school, and to advise the Senate on academic affairs of the colleges, faculties and schools.

(5) The membership of the Senate shall be as approved by the Council on the recommendation of the Vice-Chancellor, but shall, in all cases, include—

- (a) the Vice-Chancellor
- (b) all officers of the University responsible for academic affairs of the University who are above the rank of a head of a college.
- (c) all heads of the University's Colleges, Faculties, Schools, and Centres and Institutes and heads of the sections delivering the training, apprenticeship, trade testing and productivity programmes formally appointed at the National Training and Productivity Centre.
- (d) a number, to be determined by the Council periodically, of professors of the University to be elected by the full-time professorial staff of the University on a biennial basis;
- (e) the University Librarian;
- (f) 2 non-professorial members of the full-time academic staff elected by the full-time academic staff of the University on a biennial basis.
- (g) 2 student representatives elected from amongst the community of full-time University students by the full-time students of the University on a biennial basis.
- (h) The officer responsible for the administration of the Academic Office of the University. Chairperson of the Senate

33. The Senate shall be chaired by the Vice Chancellor.

Establishment of Colleges

34.—(1) The Council may establish such Colleges, Faculties, Schools, and Institutes of the University as are necessary to achieve the objects of the University.

(2) The Council may affiliate existing or new colleges or academic institutions with the University by resolution.

(3) The Council may establish an advisory board for each College, Faculty, School, Centre or Institute, and determine the membership and functions of the respective Boards.

Academic Structure of the University

35.—(1) There shall be Faculties and/or Divisions and/or Colleges in the University as the Council shall approve.

(2) The Senate shall determine from time to time the composition of each School or Faculty or Division or College and its academic and administrative organisation.

(3) There shall be such Institutes and Centres of the University as the Council after consultation with the Senate shall from time to time determine.

(4) There may be such other academic units as the Senate shall from time to time determine.

Establishment of a National Training and Productivity Centre

35A—(I) There shall be a National Training and Productivity Centre at the University.

(2) The functions of the National Training and Productivity Centre shall be to

- (a) ensure that the in-service training needs of industries in Fiji is met at all times
- (b) manage a quality apprenticeship system in Fiji,
- (c) promote productivity and business excellence programmes in industry and act as the National Productivity Organisation for Fiji on behalf of the Government;
- (d) be responsible for training grants within the budgetary provisions and financial policies of the University;
- (e) carry out such trade tests as are necessary for fulfilling the objective of training for national development, and
- (f) carry out such other responsibilities relating to industry training needs as are delegated to the National Centre by the Senate or the Vice-Chancellor.

(3) The Council shall establish a Board of the National Centre that shall consider and advise the Council on industry training needs.

(4) The Board shall comprise—

- (a) three members representing the employers, of which two are appointed by the Minister under section 14(2) and one appointed by the Council
- (b) three members representing the employees of which two are appointed by the Minister under section 14(3) of this Decree; and
- (c) three members representing the Government appointed by the Minister.

Part V—UNIVERSITY FINANCES

Funds of the University

36.—(1) The funds of the University shall consist of—

- (a) moneys appropriated by Parliament to finance the University;
- (b) moneys earned by the University through fees, fines and charges, and in consequence of its entrepreneurial activities;
- (c) monies earned by the University through the implementation of the Levy Order;
- (d) donations or contributions from any source;
- (e) moneys borrowed by the University; and
- (f) interest on investments.

(2) The Vice Chancellor shall be the accounting officer for the University.

Budget

37.—(1) The Council shall, in each year, adopt a budget for the University for the next year.

(2) The Council shall ensure that the University operates within its budget, and under no circumstance becomes insolvent or financially paralysed.

(3) The funds collected under the Levy Order shall be used primarily for in-service training of employees of levy-payers, managing apprenticeship schemes, trade testing, productivity promotion, and education and training in the national interest.

University's Financial Year

38. The University's financial year is a calendar year.

Auditing of accounts and annual reports

39.—(1) The Council shall cause proper accounts of the financial affairs of the University to be maintained and has the power to appoint an auditor to carry out an annual auditing of its accounts and other financial statements.

(2) The Council shall prepare an annual report of the University for its operations for the preceding year and shall submit the report, including its audited accounts, to the Minister before 30 June in each year.

(3) The Minister shall, as soon as practicable after receiving the report of the Council, lay such report before both Houses of the Parliament.

Part VI—MISCELLANEOUS

Making of University Regulations

40. Subject to the provisions of this Decree and any other law in Fiji, the Council may make regulations for the efficient management and good governance of the academic, administrative and financial affairs of the University.

Regulations

40A— The Minister on the advice of the Council may make regulations for the purpose of carrying out the provisions of this Decree.

Non-Discrimination

41. No person shall be discriminated against based on his or her religion, ethnic, gender or political alliance, to prevent such person from being entitled to be admitted as a member, professor, teacher or student of the University, or to hold office therein, or to graduate or to hold any advantage or privilege attached.

Academic freedom

42.—(1) The Council must ensure that academic freedom is preserved and enhanced at the University.

- (2) "Academic freedom" means the freedom of the University, within the law, including the best traditions of the academia, and the highest ethical standards—
- (a) to employ and to determine the terms and conditions of its staff;
 - (b) for the University to regulate the content of subjects taught at the University, and to determine the mode of teaching and assessment that best promotes learning, and
 - (c) for staff and students to question and test received wisdom, to put forward new ideas and to state controversial or unpopular opinions within the best traditions of advancing such ideas, and to engage in research and publication.
- (3) In the performance of their functions, the Council and Management of the University, as well as policy, and authorities and agents of the state, shall always act in ways that are consistent with promoting academic freedom at the University.

Part VII – Levy Order and Apprentices

Levy Order

- 42A —(1) The Minister may, from time to time, after consultation with the Council make, in such form and containing such details (including provisions for the payment of interest) as he may determine, a Levy Order imposing a Levy on any employer or class of employers, and the amount payable under any such Levy Order shall be paid to the Council at the time and in the manner specified in such Levy Order, and a Levy Order may make different provisions in relation to different classes of employers.
- (2) The Minister may from time to time, after consultation with the Council, revoke or amend a Levy Order.
- (3) The Council shall ensure that the University always has in place an effective system for collecting the amount payable under a Levy Order.
- (4) The amount payable under a Levy Order shall be deemed to be a simple contract debt due from the employer and shall be recoverable accordingly by the Council in any court.
- (5) Proceedings under subsection (4) may be instituted by—
- (a) the Vice-Chancellor or
 - (b) by any servant or agent of the Council authorised by the Vice-Chancellor in writing for that purpose:
- and the Vice-Chancellor or any such servant or agent may conduct proceedings whether or not he was the person instituting them.
- (6) Any employer who fails to pay to the Council any amount payable as a Levy Order at the time and in the manner specified is guilty of an offence.

Consequences upon failure to comply with the Levy Order

- 42B—(I) The Council may require an employer or class of employers to furnish such returns, provide such information and keep such records as shall be approved by it to produce them for inspection by or on behalf of the Council to enable it carry out its functions under this Decree.

(2) Any employer who refuses or fails to comply without reasonable cause with any requirement of the Council made under subsection (1) shall be guilty of an offence.

(3) Any employer who—

- (a) knowingly or recklessly furnishes, in pursuance of any requirement made under subsection (1), any return, information or record which is false in a material particular; or
- (b) wilfully makes a false entry in any record required to be produced and kept under the provisions of this Decree or, with intent to deceive, makes use of any such entry which he knows to be false; is guilty of an offence.

(4) Where an offence has been committed under the provisions of subsection (3) by an employer (other than the Government) being a body corporate, every officer, including any director, manager, secretary or other servant and any other person purporting to act in such capacity of the employer, who knowingly and wilfully authorised or permitted the contravention mentioned in this section shall, in addition to the employer, be guilty of an offence and on conviction liable to the same fine.

(5) Where an offence has been committed under the provisions of subsection (3) by an employer being the Government, every public officer who furnishes the returns, provides the information or keeps the records required by subsection (1), or any person or persons purporting to do so, who knowingly and wilfully authorised or permitted the contravention mentioned in this section is guilty of an offence.

Apprenticeship and Training

42C - The Minister may after consultation with the Council make orders, known as Training Orders regulating the employment, training and minimum remuneration of apprentices in any particular trade or occupation and prescribing forms, fees, matters and things which are required, permitted or contemplated by this Part to be prescribed which appear to the Minister to be necessary or convenient for the purpose of more effectively carrying out the objects and operation of this Part.

Apprentices

42D—(I) Any apprentice in any particular trade or occupation shall, notwithstanding any agreement to the contrary, be deemed to be employed under an agreement made between the Vice-Chancellor or his nominee on behalf of the Council and—

- (a) the apprentice or (if he is under 18 years of age) a parent, guardian or a person in loco parentis to him; and
- (b) the employer whereby the employer agrees to employ the apprentice, and the apprentice agrees to serve the employer, for the period of training specified in the rules.

(2) Notwithstanding the provisions of subsection (1), the Council may where appropriate—

- (a) release any employer or apprentice from their respective obligations to each other; or
- (b) transfer the benefits and obligations of the employer under any apprenticeship agreement to another employer who is willing to undertake them.

Arrangements where apprentice not engaged

42E—The Council may make such arrangements as it thinks proper for safeguarding the continued training of any apprentice if such person is not, for any reason other than his own wilful default, engaged in employment in his particular trade or occupation.

Exemptions

42F—The Council may, if it deems it necessary in any particular case, in regard to the employment of an apprentice, exempt any person from any of the provisions of any rule, order or regulation made by the Council thereunder.

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Training orders for other persons

42G— The Minister may, after consultation with the Council from time to time make orders known as Training Orders, in relation to or regulating the employment and training of persons other than apprentices, and may make rules prescribing forms, fees, matters and things which appear to the Minister to be necessary or convenient for the purpose of more effectively carrying out the objects and operation of this Part.

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Obstruction

42H—Any person who does any act Or thing for the purpose either of preventing or obstructing the Council, or any employer from carrying out any arrangement made by the Council under the provisions of this Decree is guilty of an offence.

Authorised officers

42I— (1) The University may appoint such persons as it thinks necessary, to be authorised officers for all or any of the purposes of this Part.

Powers of authorised officers

(2) An authorised officer may -

- (a) at any reasonable time enter any premises in which he has reasonable cause to believe a particular trade or occupation is carried out, or where any apprentice is or has within the previous six months been or is believed to have been employed and examine the methods used on such premises in the training, of apprentices and give advice in such training;
- (b) with respect to matters under section 21, examine any person whom he finds on premises entered under the provisions of subparagraph (a) and any apprentice, and require any such person or apprentice to appear before him at a reasonable time and place and to answer such questions as he may put touching such matters:

Provided that no person shall be required by virtue of this subsection to answer any questions or to give any evidence tending to incriminate himself,

- (c) at any reasonable time enter any premises and examine the methods used in the training of any person whom he finds employed in a trade or occupation the subject of a training order made under the provisions of section 25 and give advice in such training;
- (d) require the production or delivery up of any of the records required to be kept by an employer by or under the provisions of this Decree or of any orders or regulations made thereunder, and to examine and make extracts from, and copies of, any such records.

(3) An authorised officer may, by notice in writing served on any employer, or in respect of whom a Levy order has been made or carrying on a designated trade or occupation or having a person in training or employing an apprentice, require him to keep and to furnish to him within a time or times and in a manner to be specified, such report or particulars as shall be specified with respect to the persons or any apprentice employed by him.

(4) An authorised officer shall be supplied by the Council with a certificate of his appointment and when exercising or seeking to exercise any of the powers lawfully conferred on him shall produce the certificate on demand.

(5) Any person who—

- (a) refuses or fails to comply without reasonable cause with any requirement made by an authorised officer under the provisions of this Decree; or
- (b) obstructs or hinders an authorised officer in the exercise of his powers under the provisions of this Decree, is guilty of an offence.

Penalties

42J -Any person who commits an offence under this Part is liable on conviction to a fine not exceeding 50 penalty points or to imprisonment for a period not exceeding one year or both.

Part VIII—TRANSITIONAL PROVISIONS

Operation of the Fiji University Constituent Institutions to Commencement Date

43.—(1) The Fiji School of Medicine Act 1997 and Fiji Institute of Technology Act 2006 shall be deemed to be repealed on the commencement date of this Decree.

(2) Any term or condition of appointment of a member of the Council or Board of the Fiji Institute of Technology and the Fiji School of Medicine, and any appointment made to any committee or sub-committee of the Fiji Institute of Technology Council or the Fiji School of Medicine Council, shall be deemed to lapse on the commencement date of this Decree.

(3) This Decree deems the academic and administrative decisions made by the Councils of the Fiji Institute of Technology and the Fiji School of Medicine to the commencement date of this Decree, as made under the provisions of this Decree to the extent that the decisions are not inconsistent with the provisions of this Decree or do not undermine the decision making powers conferred on the Council, the Senate or other officers of the University established under this Decree.

Assets and Liabilities

44. Within one year after the commencement date —

- (a) the assets and liabilities of the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, the Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College shall be vested as the assets and liabilities of the Fiji National University;
- (b) the transfer of all leases on which the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, the Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College shall be deemed to have taken place without any compensation to be paid to the constituent institution.

Contracts

45. Any contract, all guarantees, undertakings and securities entered into by or on behalf of the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College

immediately before the commencement date, are taken to have been entered into or given by or to the Fiji National University and may be enforced against or by the Fiji National University.

Staff Rights and Entitlements

46.—(1) On the commencement date, all tenured/permanent employees of the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, the Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College shall be deemed to be employed by the Fiji National University on the same terms and conditions on which each such person was employed prior to the commencement date.

(2) On the commencement date, all contracted employees of the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, the Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College shall be deemed to be employed by the University for the balance of their contractual terms on the same terms and conditions on which the person was employed by the former entity, and thereafter, to be employed under the terms and conditions of employment of the University.

(3) All rights, including leave entitlements, accrued or accruing to the person as a staff member of the former entity up to the commencement date, shall be maintained by the staff after the commencement date if at the commencement date, the staff member of the former entity chooses to maintain employment with the University.

(4) Section 46 subsections (1) to (3) are valid to the extent that there is no change in terms and conditions of any category of staff, including leave entitlements, that are outside the respective institution's budgetary and financial provisions, or that are designed to take advantage of the merger of the institutions.

(5) The Minister may give policy directives to the Council, as he or she deems necessary, in relation to the terms and conditions of employment of the staff of the Fiji Institute of Technology, Fiji School of Medicine, Fiji School of Nursing, the Fiji College of Agriculture, the Fiji College of Advanced Education and the Lautoka Teachers College on the commencement date of the University.

Training and Productivity Authority of Fiji

46A— (1) At the commencement of this Decree any reference in any written law to Fiji National Training Council or Training and Productivity Authority of Fiji or Authority in its context is for all purposes deemed to be replaced and read as a reference to the Fiji National University.

(2) All real and personal property which immediately before the commencement of this Decree was vested in or belonged to the Training and Productivity Authority of Fiji, without conveyance transfer or assignment and, subject to this Decree becomes the property of the University.

(3) The Registrar of Titles or any person responsible for the keeping of any register under any written law must, on the written request of the University and on payment of the appropriate fee make entries in the register and on any outstanding documents of title and generally do all things necessary to give effect to this Decree

(4) At the commencement of this Decree, all contracts, guarantees, undertakings and securities entered into by or on behalf of the Training and Productivity Authority of Fiji immediately before the commencement date, is taken to have been entered into or given by or to the University and may be enforced against or by the University.

(5) This Decree deems the decisions made by the Councils of the Training and Productivity Authority of Fiji prior to the commencement of this Decree, as being made under the provisions of the Fiji National University Decree 2009 to the extent that the decisions are not inconsistent with the provisions of the Fiji National University Decree 2009 and do not undermine the decision making powers conferred on the Council the Senate or other Offices of the University established under the Fiji National University Decree 2009

(6) On the commencement date, all tenured or permanent employees of the Training and Productivity Authority of Fiji shall be deemed to be employed by the University on the same terms and conditions on which each such person was employed prior to the commencement of this Decree

(7) At the commencement of this Decree, all contracted employees of the Training and Productivity Authority of Fiji shall be deemed to be employed by the University for the balance of their contractual terms on the same terms and conditions on which the person was employed by the former entity, and thereafter, to be employed under the terms and conditions of employment of the University.

(8) All rights, including leave entitlements, accrued or accruing to the person as a staff member of the Training and Productivity Authority of Fiji up to the commencement date, shall be retained by the staff member after the commencement of this Decree

(9) Section 46A subsections (6) to (8) are valid to the extent that there is no change in terms and conditions of any category of staff member, including leave entitlements, which is outside the respective institution's budgetary and financial provisions, or that are designed to take advantage of the merger of the Training and Productivity Authority of Fiji with the University.

(10) The Minister may before or after the commencement of this Decree give policy directives to the Council as he deems necessary in relation to the terms and conditions of employment of the staff of the Training and Productivity Authority of Fiji at the commencement of this Decree

(11) All subsidiary laws of the Training and Productivity Authority of Fiji Act are hereby deemed, in context to become the subsidiary laws of the Fiji National University (Amendment) Decree 2010 mutatis mutandis

Transitory Council

47.—(1) During the period from the commencement date up until December 2011, the Minister may appoint a Transitory Council of the University that may consist of—

- (i) the members of the Interim Council to deal with the establishment of the Fiji National University;
- (ii) the Industry and Institutional representatives on the Councils appointed under the Fiji Institute of Technology Act 2006 and Fiji School of Medicine Act 1997;
- (iii) the ministerial representatives on the Councils appointed under the Fiji Institute of Technology Act 2006 and Fiji School of Medicine Act 1997;

- (iv) the members of the Council of the Training and Productivity Authority of Fiji appointed under section 4 of the Training and Productivity Authority Act, and,
- (v) any other person or persons that the Minister may determine to be appointed as members.

(2) the Transitory Council shall appoint its own chairperson, and determine the procedures for the conduct of its activities.

Repeals

47A—The Training and Productivity Authority Act 2002 is repealed on the commencement of this Decree.

Promulgated: FNU Decree - 27th day of October 2009
FNU (Amendment) Decree – 25 November 2009.

E. NAILATIKAU
Vice-President of the Republic of Fiji