

# THE MWALIMU NYERERE MEMORIAL ACADEMY ACT, 2005

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THE UNITED REPUBLIC OF TANZANIA



No. 6 OF 2005

I ASSENT,

*Benjamin W. Mkapa*

President

*6<sup>th</sup> June, 2005.*

**An Act to establish the Mwalimu Nyerere Memorial Academy, to provide for the functioning of the Academy and for matters connected therewith.**

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I**

**PRELIMINARY PROVISIONS**

1. This Act may be cited as the Mwalimu Nyerere Memorial Academy Act, 2005 and shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint.

Short title and commencement

Interpreta-  
tion

2. In this Act unless the context otherwise requires -

- “Academy” means the Mwalimu Nyerere Memorial Academy established under section 3 of the Act;
- “Academic Committee” means a Committee established under section 9;
- “academic staff” means staff engaged by the Academy for the purposes of teaching, research and consultancy;
- “award” includes certificates, diplomas, degrees, postgraduate diplomas, post graduate degrees, honorary degrees and any other award as may be determined by the Governing Board and approved by the National Council for Technical Education;
- “course” includes a planned series of instruction periods based on an approved syllabus and forming part of a curriculum or a programme designed for award;
- “Chairman” means the Chairman of the Governing Board appointed under section 6;
- “Governing Board” means the council established under section 6;
- “Deputy Principal” means a Deputy Principal appointed under section 12;
- “financial year” means the financial year of the Academy as determined under section 16;
- “former Academy” means the Kivukoni Academy of Social Sciences incorporated in 1992 under the Companies Ordinance;
- “member” in relation to the Council means a member of the Governing Board and includes the Chairman;
- “Minister” means the Minister responsible for higher education;
- “Principal” means the Principal of the Academy appointed under section 11;
- “Registrar” means the Registrar appointed under section 13;
- “staff” includes academic, technical and administrative staff employed by the Academy;
- “student” means any person admitted to an Academy as a candidate for a degree, diploma, certificate or other award of the Academy and includes a distance, part-time and an occasional or short term student.

## PART II

## MWALIMU NYERERE MEMORIAL ACADEMY

3.-(1) There is hereby established an academy to be known as the Mwalimu Nyerere Memorial Academy.

Establishment of a Mwalimu Nyerere Memorial Academy

- (2) The Academy shall be a body corporate and shall-
- (a) have perpetual succession and common seal;
  - (b) in its corporate name be capable of suing and being sued;
  - (c) be capable of purchasing or otherwise acquiring, and of alienating or disposing of any movable or immovable property;
  - (d) have power to lend or borrow any sums of money which it may require for its purposes;
  - (e) be capable of entering into contracts; and
  - (f) have power to perform all such other acts and things which are necessary for the proper performance of its functions or which may be performed under this Act.

4.-(1) The functions of the Academy shall be -

- (a) to provide facilities for study and training in social sciences, leadership and continuing education;
- (b) to conduct training programmes in the disciplines specified in paragraph (a);
- (c) to engage in research and development in the disciplines specified in paragraph (a) and to evaluate the results achieved by the Academy training programmes;
- (d) to provide consultancy services to the public and private sectors in specified fields as prescribed in this Act;
- (e) to sponsor, arrange, facilitate and provide facilities for conferences, symposia, meetings, seminars and workshop, for discussion of matters relating to social sciences, leadership and continuing education;

Functions of the Academy

- (f) to conduct examinations and grant awards of the Academy as approved by the National Council for Technical Education;
- (g) to arrange for publication and general dissemination of materials produced in connection with the work and activities of the Academy;
- (h) to engage in income generating activities for effective financing and promotion of entrepreneurship;
- (i) to establish and foster close association with the Universities and other institutions of higher education and promote international cooperation with similar institutions;
- (j) to do all such acts and transactions as are in the opinion of the Governing Board expedient or necessary for the proper and efficient discharge of the functions of the Academy;
- (k) to perform such other functions as the Minister or the Governing Board may assign to the Academy, or as are incidental or conducive to the exercise by the Academy of all or any of the preceding functions.

Departments

5.—(1) The Academy shall consist of such Departments as the Governing Board may determine.

(2) The Academy shall establish a Branch in Zanzibar and may, for the purposes of extending its services, establish other branches, campuses or other departments as may be required.

### PART III

#### THE GOVERNING BOARD

Establishment of the Governing Board

6.—(1) There shall be a Governing Board of the Academy which shall consist of—

- (a) a Chairman who shall be appointed by the President;
- (b) the Director of Higher Education;
- (c) one member representing the Ministry of Finance;
- (d) one member representing the Workers' Council other than members of the Management Team;
- (e) one member recommended by National Assembly from amongst its members;

- (f) one legally qualified member representing the Attorney General;
- (g) one member representing the Academic Staff Assembly at the Academy;
- (h) one member elected by the students organization from amongst its members;
- (i) two members one representing the House of Representatives and one representing the Revolutionary Government of Zanzibar; and
- (j) the Principal of the Academy who shall be the Secretary of the Governing Board.

(2) Except for the Chairman and the Principal, all members of the Governing Board shall be appointed by the Minister after they have been nominated or elected by the persons or institutions whom they are each to represent in the Governing Board.

(3) The provisions of the Schedule to this Act shall have effect as to the tenure of office of members, termination of their appointment, the proceedings of the Governing Board and other matters relating to the Governing Board and its members.

(4) The Governing Board may co-opt any person to attend any deliberations of the meeting as an expert but that co-opted person shall not be entitled to vote.

(5) The Minister may by Notice published in the *Gazette*, amend, vary, alter or replace any or all of the provisions of the Schedule.

7.—(1) The duties of the Governing Board shall be—

- (a) to govern and control the Academy;
- (b) to administer both movable and immovable properties of the Academy;
- (c) to administer the funds and other assets of the Academy;
- (d) to formulate policies of the Academy;
- (e) to signify the acts of the Academy by using the common seal;
- (f) to receive and give grants, gifts, donations or other moneys on behalf of the Academy;

Power  
and  
duties of  
the  
Governing  
Board

- (g) to establish committees as the Governing Board may deem fit;
- (h) to establish a search committee;
- (i) to receive, consider and make determination on reports and recommendation from the committees;
- (j) to set fees of the Academy;
- (k) to do all such acts as may be provided for in this Act or as may in the opinion of the Council be necessary or expedient for the proper discharge of its functions.

(2) There shall be established the Human Resource Development and Disciplinary Committee, Finance and Planning Committee and Students' Disciplinary Appeals Committee of the Governing Board.

(3) The Governing Board may establish such other committees and subject to this Act, may delegate to such committees the exercise of any function conferred upon the Governing Board.

8.-(1) There shall be a Search Committee for making recommendations to the Governing Board for appointment of the Principal.

(2) The Search Committee shall consist of three members who shall be nominated by the Governing Board, and the Principal or as the case may be, the Deputy Principal shall cause such Committee to convene.

#### PART IV

##### THE ACADEMIC COMMITTEE

9.-(1) There shall be an Academic Committee for the Mwalimu Nyerere Memorial Academy which shall consist of -

- (a) the Principal, who shall be the Chairman;
- (b) the Deputy Principal;
- (c) all Heads of Academic Departments;
- (d) two representatives of the Students Organisation;
- (e) Head of Library and Publications;
- (f) one representative from the faculty of Social Sciences of accredited University;

Search  
Com-  
mittee

Academic  
Com-  
mittee



- (g) one representative from the Ministry responsible for higher education;
- (h) one representative from the Governing Board;
- (i) the Quality Assurance Officer;
- (j) the Examination Officer;
- (k) the Registrar who shall be the Secretary to the Committee.

(2) The minimum and maximum number of members and the tenure of members of the Academic Committee shall be as may be determined by the Governing Board.

10.-(1) The Academic Committee shall be—

- (a) responsible to the Governing Board for the control and general regulation of the instruction, education and research in the institution, and subject to the provisions of this Act, shall be the supreme organ in all academic matters within the Academy; and
- (b) the principal decision making organ in respect of all academic matters of the Academy.

Functions  
of the  
Academic  
Com-  
mittee

(2) Without prejudice to the generality of subsection (1), the Academic Committee shall have the following specific functions—

- (a) to satisfy itself regarding the content and academic standard of any course of study offered by the Academy;
- (b) with the consent of the Governing Board to make regulations regarding—
  - (i) the eligibility of persons for admission to courses for a degree, diploma, certificate or other award as may be determined by the Governing Board;
  - (ii) the standard of proficiency to be attained in each examination for a degree, diploma, certificate or other award as may be determined by the Governing Board;
- (c) to regulate the conduct of examinations of the Academy;
- (d) to decide whether any candidate for a degree, diploma, certificate or other award of the Academy has attained the standard of proficiency prescribed in the regulations made under paragraph (b);
- (e) to consider recommendations made by the established department;

(f) to make proposals to the Academy on matters relating to the Academic affairs;

(g) to perform such other functions as are conferred upon the Academic Committee by this Act.

(3) The regulations made under paragraph (b) of subsection (1) shall be published in the *Gazette*.

## PART V

### ADMINISTRATION

The  
Principal

11.—(1) There shall be a Principal of the Academy who shall be appointed by the President upon recommendation by the Minister after consultation with the Governing Board, from amongst a list of not more than three names of persons submitted by a Search Committee.

(2) The Principal shall be the Chief Executive Officer of the Academy and shall be responsible to the Governing Board—

(a) for the proper administration of the Academy in accordance with the policy laid down by the Governing Board;

(b) for the enforcement of by-laws and regulations made by the Governing Board;

(c) as the accounting officer; and

(d) for exercising such other functions and powers as are conferred on him by or under the Act.

(3) The Principal shall unless he sooner dies, resigns or otherwise ceases to hold office, hold office for a term of five years, upon such terms and conditions as shall be specified in the instrument of his appointment, and may be reappointed for a further term of five years.

Deputy  
Principal

12.—(1) The Governing Board may, on such terms and conditions as it may determine, appoint a Deputy Principal.

(2) The functions of the Deputy Principal appointed under subsection (1), shall be to assist the Principal on matters pertaining to academic activities and welfare of the Academy as assigned to him by the Governing Board, Principal or conferred upon him by or under the Act.

(3) The Deputy Principal may, where the Principal is unable to perform his functions by reason of illness, infirmity or absence from the Academy, act as the Principal.

(4) The Deputy Principal shall hold office for a term of five years, and may be reappointed for one more term of three years.

13.-(1) There shall be a Registrar of the Academy who shall be appointed by the Governing Board upon recommendation of the Principal and shall be a person who, in the opinion of the Governing Board, has proven or provable administrative experience and is otherwise able to act effectively in the office.

Registrar

(2) The Registrar shall hold office for such period and upon such terms and conditions as the Governing Board may, upon advice by the Principal determine, or as may be specified in the instrument of his appointment.

(3) The Registrar shall -

- (a) be the principal assistant and chief adviser to the Principal in all matters pertaining to the administration of the Academy including the administration of the funds and other assets of the Academy; and
- (b) have and perform such other functions as are conferred upon him by or under this Act.

14.-(1) The Governing Board may, on such terms and conditions as it may deem necessary, appoint such number of academic and non-academic staff of the Academy.

Staff

(2) Notwithstanding the provisions of sections 12 and 13 and subsection (1) of this section, the Governing Board may, subject to such conditions and restrictions as it may impose, delegate to any person or body of persons the power of appointment of any members or category of academic staff or other staff of the Academy

## PART VI

### FINANCIAL PROVISIONS

15. The funds and resources of the Academy shall consist of -

Funds of the Academy

- (a) such sums which may be appropriated by Parliament for the purpose of the Academy;

- (b) any sums which may be payable to the Academy by way of donations, gifts, grants, loans or bequests from any source within or outside the United Republic;
- (c) any sums accruing from the academy's investments;
- (d) any sums which the Academy may after consultation with the Minister for Finance borrow for the purposes of the Academy; and
- (e) any sums which may in any manner become payable to or vested in the Academy as a result or in the course of discharging its functions under this Act.

Annual  
budget  
estimates

16.— (1) The Academy shall prepare its income and expenditure estimates for the succeeding financial year and submit them to the Minister for scrutiny and submission to the National Assembly for approval.

(2) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular

- (a) for promotion of teaching of research and consultancy services;
- (b) for the payment of salaries, allowances and other charges in respect of the staff and the Governing Board;
- (c) for the payment of construction, improvement, maintenance and replacement of any building or other immovable property of the Academy;
- (d) for the proper maintenance and replacement of the furniture, equipment and other supplies of the Academy;
- (e) for the creation of such reserve funds to meet future contingent liabilities as the Governing Board may deem fit; and
- (f) for any other activity intended to promote the growth and development of the Academy.

(3) No expenditure shall be incurred for the purposes of the Academy except in accordance with the provisions of the annual budget estimates or any supplementary estimates approved by the Governing Board.

(4) A copy of annual estimates and of every supplementary estimates, if any, shall immediately after approval by the Governing Board be forwarded to the Minister for onward submission to the National Assembly.

17. Investment of the money shall be done by the Board in any viable venture as it may consider appropriate having regard to the economic and commercial viability.

Power to invest

18.—(1) The Governing Board shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of money by, and other financial transactions of the Academy and assets and liabilities of the Academy, and shall cause to be made out for every financial year a balance sheet and statement of income and expenditure.

Accounts and audit

(2) Within three months after the close of each financial year, the accounts shall be submitted for auditing to a firm approved by the office of the Controller and Auditor General.

(3) As soon as the accounts of the Academy have been audited and in any case not later than six months after the close of the financial year, the Governing Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report made by the Auditor approved by the office of the Controller and Auditor General on the Statement of Accounts.

19. The Minister shall as soon as practicable after receiving the report, lay it before the National Assembly together with a report containing -

Financial report to be laid before the National Assembly

- (a) a copy of the audited accounts of the Academy;
- (b) a copy of the audit report on the account; and
- (c) a report on the activities of the Academy in the preceding financial year.

## PART VII

### MISCELLANEOUS PROVISIONS

20. The Governing Board may with the consent of the Minister, issue directives prescribing fees and allowances payable to the members of the Governing Board.

Fees and allowances

21. The Minister may give to the Governing Board directions of a general or specific character which directions shall be consistent with the purposes and provisions of this Act, as to the performance by the Governing Board of any of its functions under this Act and the Governing Board shall give effect to every such direction given by the Minister.

Minister may give directions

Protection  
of  
members

**22.** A member of the Governing Board or a staff of the Academy shall not be personally liable for anything done or omitted to be done *bonafide* in the execution or purported execution of any duty as a member of the Governing Board or a member of Academy.

Vesting  
of assets  
and  
liabilities

**23.**—(1) Upon dissolution of the former Academy, all the assets and liabilities of the former Academy at Kivukoni and Zanzibar shall, with effect from the date of commencement of this Act and without further assurance vest in the Academy.

(2) The Academy shall be granted a right of occupancy over the site previously occupied by the former Academy at Kivukoni, Zanzibar or other place upon such terms and conditions as the President may approve.

Transi-  
tional  
provisions

**24.** The Academy shall carry out and continue the functions of the former Academy in accordance with the provisions of this Act and all the students who immediately before the date of commencement of this Act were the students of the former Academy shall, as from the date of commencement of this Act continue to be students of the Academy.

Employees  
of the  
former  
Academy

**25.**—(1) Salaries, remunerations and other benefits of the former Academy employees shall be maintained until such time as may be preferred for change by the Governing Board.

(2) Subject to the provisions of subsection (1), the Governing Board shall formulate the manner or procedure in which to deal with the employees of the former Academy.

Regula-  
tions

**26.**—(1) The Minister may after consultation with the Governing Board make regulations for the better carrying out of the purposes and provisions of this Act and without prejudice to the generality of this subsections, may make regulations -

- (a) fixing the fees, rate and other charges for or in connection with the provisions by the Academy of any facilities or services;
- (b) providing for proper management and control of administration of the Academy;
- (c) providing for and regulating discipline amongst staff and the students of the Academy and disciplinary action against them;

- (d) prescribing terms and conditions of services, appointment, salary of the members of the Academy;
- (e) providing for the manner in which the Search Committee may conduct its business; and
- (f) providing for any matter which may be prescribed under this Act.

(2) Regulations made under this section shall be published in the *Gazette*.

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SCHEDULE

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*(Made under section 6(3))*

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1.-(1) The Chairman of the Governing Board shall hold office for a period of four years from the date of his appointment.

Tenure of office

(2) Subject to the provisions of this Schedule, the term of office of members of the Governing Board other than the Chairman and members appointed under paragraphs (e) and (i) of section 6 (1), shall be three years.

(3) In case of a member appointed under paragraphs (e) and (i) of section 6(1) of the Act, he shall cease to be a member upon ceasing to be a member or representative of the trade union, or as the case may be, the students' organization.

2. Where any member absents himself from three consecutive meetings of the Governing Board without reasonable excuse, the Governing Board shall advise the appointing authority of the fact and the appointing authority may, if it deems fit so to do, terminate the appointment of the member and appoint or, as the case may be elect another member in his place.

Absent from three consecutive meetings

3.-(1) Where any member of the Governing Board ceases to be such a member by resignation or death, or by virtue of the operation of paragraph 1(2), or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 2 or paragraph 3, the appointing authority may appoint or, as the case may be, elect another member in his place and the member elected shall, subject to the provisions of this Schedule hold office for the remainder of the term of his predecessor.

Appointing Authority may appoint

(2) Where in the opinion of the appointing authority, the absence or infirmity of any member is of a temporary nature only, it may appoint or, as the case may be, elect a temporary member to take his place, and such temporary member shall have, so long as he remains a temporary member all the powers and functions of a member of the Governing Board:

Provided that, on the resumption of office by the substantive member, the temporary member shall cease to hold such office.

Vice-Chairman

4. The Governing Board shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member hold office of Vice-Chairman for a term of one year from the date of his election, and shall be eligible to be re-elected.

Powers of Chairman and Vice-Chairman

5. -(1) The Chairman shall preside at all meetings of the Governing Board.

(2) Where at any meeting of the Governing Board, the Chairman is absent the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Governing Board, the members present may, from amongst their number, elect a temporary Chairman who shall preside at that meeting.

Meetings of Governing Board

6.-(1) The Governing Board shall meet not less than four times during every financial year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman:

Provided that, the Chairman or, if he is absent from the United Republic or is unable for any reason to act, the Vice-Chairman shall, at the request of at least eight members convene a meeting of the Governing Board within thirty days of such requests being made to him in writing.

(2) The Secretary of the Governing Board shall give to each member not less than fourteen days notice of the time and place of meeting.

Quorum

7.-(1) At any meeting of the Governing Board not less than one half of the members in office for the time being shall constitute a quorum.

(2) If a quorum is not present within half an hour of the time appointed for the meeting, the members present, or the majority of them, or any one member or if the only one present is the Secretary and no member is present, the Secretary may adjourn the meeting to any time not later than fourteen days from the adjournment.

The Seal of the Governing Board

8.-(1) The Seal of the Academy shall be of such shape, size and form as the Governing Board may determine.

(2) The Seal shall be affixed in the presence of -

(a) the Principal; or

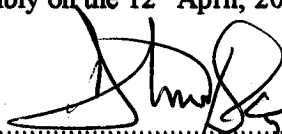
(b) the Deputy Principal, or;

(c) such person or persons appointed in writing by the Principal in that behalf, and the person or persons present shall sign over or underneath the sealing witness thereof.

Governing Board may regulate its proceedings

9. Subject to the provisions of this Schedule the Governing Board may regulate its own meetings.

Passed in the National Assembly on the 12<sup>th</sup> April, 2005.



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Clerk of the National Assembly